

SB0123S02 compared with SB0123

~~deleted text~~ shows text that was in SB0123 but was deleted in SB0123S02.

inserted text shows text that was not in SB0123 but was inserted into SB0123S02.

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Senator Wayne A. Harper proposes the following substitute bill:

BOARDS AND COMMISSIONS MODIFICATIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: _____

LONG TITLE

General Description:

This bill repeals and amends provisions related to certain boards and commissions.

Highlighted Provisions:

This bill:

- ▶ repeals the following entities and amends provisions related to the following entities:
 - the Residential Child Care Licensing Advisory Committee;
 - the Dietitian Board;
 - the Genetic Counselors Licensing Board;
 - the Landscape Architects Board;
 - the Online Prescribing, Dispensing, and Facilitation Licensing Board;
 - the Professional Geologist Licensing Board;

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- the Licensed Direct Entry Midwife Board;
- the Naturopathic Physicians Licensing Board;
- the Utah Health Advisory Council;

~~{~~ ~~• the Geographic Names Board;~~

- ~~}~~
- the Small Business Compliance Advisory Panel;
 - the Transparency Advisory Board;
 - the Bail Bond Oversight Board;

~~{~~ ~~• the Horse Racing Commission;~~

~~• the Horse Racing Commission Board of Stewards;~~

~~}~~ • the Title and Escrow Commission; and

- the Western States Transportation Alliance;

▶ modifies provisions related to the Motor Carrier Advisory Board;

▶ modifies provisions related to the Geographic Names Board;

▶ renames and modifies provisions related to the Child Care Center Licensing Committee; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

9-9-113, as enacted by Laws of Utah 2021, Chapter 189

19-1-201, as last amended by Laws of Utah 2020, Chapter 256

19-2-109.1, as last amended by Laws of Utah 2020, Chapter 256

26-1-2, as last amended by Laws of Utah 2022, Chapter 255

26-39-102, as last amended by Laws of Utah 2022, Chapters 21, 255

26-39-200, as last amended by Laws of Utah 2022, Chapter 255

26-39-203, as last amended by Laws of Utah 2016, Chapter 74

26B-1-204, as renumbered and amended by Laws of Utah 2022, Chapter 255

31A-19a-209, as last amended by Laws of Utah 2015, Chapters 312, 330

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31A-23a-105, as last amended by Laws of Utah 2014, Chapters 290, 300
31A-23a-106, as last amended by Laws of Utah 2015, Chapter 330
31A-23a-108, as last amended by Laws of Utah 2014, Chapters 290, 300
31A-23a-204, as last amended by Laws of Utah 2015, Chapter 330
31A-23a-402, as last amended by Laws of Utah 2019, Chapter 193
31A-23a-406, as last amended by Laws of Utah 2021, Chapter 252
31A-23a-415, as last amended by Laws of Utah 2020, Chapter 32
31A-23a-1001, as last amended by Laws of Utah 2020, Chapter 448
31A-26-203, as last amended by Laws of Utah 2012, Chapter 253
31A-26-204, as last amended by Laws of Utah 2009, Chapter 349
31A-35-102, as last amended by Laws of Utah 2016, Chapter 234
31A-35-301, as last amended by Laws of Utah 2016, Chapter 234
31A-35-405, as last amended by Laws of Utah 2019, Chapter 193
31A-35-406, as last amended by Laws of Utah 2021, Chapter 252
31A-35-407, as last amended by Laws of Utah 2016, Chapter 234
31A-41-102, as last amended by Laws of Utah 2013, Chapter 319
31A-41-202, as last amended by Laws of Utah 2016, Chapter 138
58-49-2, as last amended by Laws of Utah 1993, Chapter 297
58-49-4, as last amended by Laws of Utah 2020, Chapter 339
58-49-6, as enacted by Laws of Utah 1986, Chapter 192
58-53-102, as renumbered and amended by Laws of Utah 1998, Chapter 191
58-53-103, as last amended by Laws of Utah 2013, Chapter 400
58-53-302, as last amended by Laws of Utah 2009, Chapter 183
58-53-304, as renumbered and amended by Laws of Utah 1998, Chapter 191
58-53-601, as enacted by Laws of Utah 1998, Chapter 191
58-71-102, as last amended by Laws of Utah 2022, Chapter 440
58-71-203, as enacted by Laws of Utah 2022, Chapter 440
58-71-302, as last amended by Laws of Utah 2020, Chapter 339
58-71-304, as last amended by Laws of Utah 2001, Chapter 268
58-71-304.2, as enacted by Laws of Utah 1996, Chapter 282
58-71-601, as last amended by Laws of Utah 2013, Chapter 364

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58-71-802, as enacted by Laws of Utah 1996, Chapter 282
58-71-803, as enacted by Laws of Utah 1996, Chapter 282
58-75-102, as last amended by Laws of Utah 2008, Chapter 382
58-75-303, as enacted by Laws of Utah 2001, Chapter 100
58-76-102, as enacted by Laws of Utah 2002, Chapter 218
58-76-103, as last amended by Laws of Utah 2011, Chapter 303
58-76-302, as last amended by Laws of Utah 2020, Chapter 339
58-76-601, as enacted by Laws of Utah 2002, Chapter 218
58-76-603, as enacted by Laws of Utah 2002, Chapter 218
58-77-102, as last amended by Laws of Utah 2017, Chapter 114
58-77-302, as last amended by Laws of Utah 2020, Chapter 339
58-83-102, as last amended by Laws of Utah 2022, Chapter 415
58-83-302, as last amended by Laws of Utah 2022, Chapter 415
58-83-401, as last amended by Laws of Utah 2022, Chapter 415
61-2c-301, as last amended by Laws of Utah 2020, Chapter 72
61-2f-401, as last amended by Laws of Utah 2022, Chapter 204
61-2g-502, as last amended by Laws of Utah 2020, Chapter 72
63A-16-107, as enacted by Laws of Utah 2021, Chapter 84
63I-1-226, as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255,
347, and 451
63I-1-263, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236,
249, 274, 296, 313, 361, 362, 417, 419, and 472
63I-2-219, as last amended by Laws of Utah 2022, Chapter 95
72-9-201, as last amended by Laws of Utah 2017, Chapter 96

~~{ENACTS:~~

~~———— 9-23-412, Utah Code Annotated 1953~~

~~}RENUMBERS AND AMENDS:~~

~~{ ——— 9-23-401, (Renumbered from 4-38-102, as last amended by Laws of Utah 2019,
Chapter 239)~~

~~———— 9-23-402, (Renumbered from 4-38-104, as last amended by Laws of Utah 2019,
Chapter 239)~~

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- ~~9-23-403~~, (Renumbered from ~~4-38-201~~, as last amended by Laws of Utah 2019, Chapter 239)
- ~~9-23-404~~, (Renumbered from ~~4-38-203~~, as last amended by Laws of Utah 2019, Chapter 239)
- ~~9-23-405~~, (Renumbered from ~~4-38-301~~, as last amended by Laws of Utah 2019, Chapter 239)
- ~~9-23-406~~, (Renumbered from ~~4-38-302~~, as renumbered and amended by Laws of Utah 2017, Chapter 345)
- ~~9-23-407~~, (Renumbered from ~~4-38-303~~, as renumbered and amended by Laws of Utah 2017, Chapter 345)
- ~~9-23-408~~, (Renumbered from ~~4-38-304~~, as renumbered and amended by Laws of Utah 2017, Chapter 345)
- ~~9-23-409~~, (Renumbered from ~~4-38-401~~, as last amended by Laws of Utah 2019, Chapter 239)
- ~~9-23-410~~, (Renumbered from ~~4-38-402~~, as renumbered and amended by Laws of Utah 2017, Chapter 345)
- ~~9-23-411~~, (Renumbered from ~~4-38-501~~, as renumbered and amended by Laws of Utah 2017, Chapter 345)
- ‡ **31A-23a-119**, (Renumbered from 31A-2-405, as enacted by Laws of Utah 2007, Chapter 325)

REPEALS:

- { ~~4-38-101~~, as renumbered and amended by Laws of Utah 2017, Chapter 345
- ~~4-38-103~~, as renumbered and amended by Laws of Utah 2017, Chapter 345
- ~~4-38-105~~, as renumbered and amended by Laws of Utah 2017, Chapter 345
- ~~4-38-106~~, as renumbered and amended by Laws of Utah 2017, Chapter 345
- ~~4-38-202~~, as last amended by Laws of Utah 2019, Chapter 239
- ‡ **19-2-109.2**, as last amended by Laws of Utah 2015, Chapter 154
- 26-1-7.5**, as last amended by Laws of Utah 2011, Chapter 297
- 26-39-201**, as last amended by Laws of Utah 2022, Chapter 255
- 31A-2-401**, as enacted by Laws of Utah 2005, Chapter 185
- 31A-2-402**, as last amended by Laws of Utah 2015, Chapter 330

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31A-2-403, as last amended by Laws of Utah 2022, Chapter 198
31A-2-404, as last amended by Laws of Utah 2016, Chapter 193
31A-35-201, as last amended by Laws of Utah 2016, Chapter 234
31A-35-202, as last amended by Laws of Utah 2016, Chapter 234
41-23-1, as last amended by Laws of Utah 2011, Chapter 202
41-23-2, as last amended by Laws of Utah 2011, Chapter 202
58-49-1, as enacted by Laws of Utah 1986, Chapter 192
58-49-3, as repealed and reenacted by Laws of Utah 1993, Chapter 297
58-53-101, as renumbered and amended by Laws of Utah 1998, Chapter 191
58-53-201, as renumbered and amended by Laws of Utah 1998, Chapter 191
58-71-201, as last amended by Laws of Utah 1997, Chapter 10
58-75-101, as enacted by Laws of Utah 2001, Chapter 100
58-75-201, as enacted by Laws of Utah 2001, Chapter 100
58-76-101, as enacted by Laws of Utah 2002, Chapter 218
58-76-201, as enacted by Laws of Utah 2002, Chapter 218
58-77-201, as last amended by Laws of Utah 2013, Chapter 167
58-83-101, as enacted by Laws of Utah 2010, Chapter 180
58-83-201, as enacted by Laws of Utah 2010, Chapter 180
63A-18-102, as enacted by Laws of Utah 2021, Chapter 84
63A-18-201, as renumbered and amended by Laws of Utah 2021, Chapter 84
63A-18-202, as enacted by Laws of Utah 2021, Chapter 84

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

Section 1. Section **9-9-113** is amended to read:

9-9-113. Geographic place names -- Role of division -- Report.

(1) As used in this section[:], "location name referring to American Indians" means the name of a place in the state that uses American Indian related terms.

~~[(a) "Location name referring to American Indians" means the name of a place in the state that uses American Indian related terms.]~~

~~[(b) "Utah Committee on Geographic Names" means the committee created by executive order of the governor that has a primary function to act as the state's liaison with the~~

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~~United States Board on Geographic Names and to review geographic name changes and additions in Utah.]~~

(2) (a) To facilitate the United States Board on Geographic Names' application process for changing a location name referring to American Indians, the division may create an application template~~[, in consultation with the Utah Committee on Geographic Names,]~~ for the following to use:

(i) a county in which a place with a location name referring to American Indians is located;

(ii) an Indian tribe that is connected to the geographic location referring to American Indians for which the Indian tribe seeks to change the name;

(iii) a local community in and around a place with a location name referring to American Indians; or

(iv) another person identified by the division ~~[in consultation with the Utah Committee on Geographic Names]~~.

(b) The application template described in Subsection (2)(a) shall encourage an applicant to solicit feedback from the one or more tribal governments that are connected to the geographic location for which the applicant is proposing to change the location name referring to American Indians.

(c) If the division assists a person applying to change the location name referring to American Indians, the division shall direct the person to consult with any tribal government that is connected to the geographic location for which the location name referring to American Indians is proposed to be changed so that a tribal government has an opportunity to provide an official response.

(d) The division may bring proposed name changes to location names referring to American Indians to tribal leaders to solicit input from the Indian tribes.

(3) The division shall provide on the division's website resources for applicants and information about proposed changes to location names referring to American Indians.

(4) In accordance with Section 9-9-107, the division shall annually report to the Native American Legislative Liaison Committee on the division's activities under this section.

Section 2. ~~{ Section 9-23-401, which is renumbered from Section 4-38-102 is renumbered and amended to read:~~

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~~Part 4. Utah Horse Regulation Act~~

~~———— [4-38-102]. — 9-23-401. Definitions.~~

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

~~———— [(1) "Commission" means the Utah Horse Racing Commission created by this chapter.]~~

~~———— [(2) "Executive director" means the executive director of the commission.]~~

~~———— (1) "Licensee" means a person licensed under this part.~~

~~———— [(3)] (2) "Mixed meet" means a race meet that includes races by more than one breed of horse:~~

~~———— [(4)] (3) "Race meet" means the entire period of time for which a licensee has been approved to hold horse races:~~

~~———— [(5)] (4) "Racetrack facility" means a racetrack within Utah approved by the commission for the racing of horses, including the track surface, grandstands, clubhouse, all animal housing and handling areas, and other areas in which a person may enter only upon payment of an admission fee or upon presentation of authorized credentials:~~

~~———— [(6)] (5) "Recognized race meet" means a race meet recognized by a national horse breed association:~~

~~———— [(7)] (6) "Utah bred horse" means a horse that is sired by a stallion standing in Utah at the time the dam was bred:~~

~~———— Section 3. Section 9-23-402, which is renumbered from Section 4-38-104 is renumbered and amended to read:~~

~~———— [4-38-104]. — 9-23-402. Powers and duties of commission.~~

~~———— (1) The commission shall:~~

~~———— (a) license, regulate, and supervise the persons involved in the racing of horses as provided in this [chapter] part;~~

~~———— (b) license, regulate, and supervise the recognized race meets held in this state under the terms of this [chapter] part;~~

~~———— (c) cause the various places where recognized race meets are held to be visited and inspected at least once a year;~~

~~———— (d) assist in procuring public liability insurance coverage from a private insurance company for those licensees unable to otherwise obtain the insurance required under this [chapter] part;~~

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- ~~—— (e) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to govern race meets, including rules:~~
- ~~—— (i) to resolve scheduling conflicts and settle disputes among licensees;~~
- ~~—— (ii) to supervise, discipline, suspend, fine, and bar from events a person required to be licensed by this [chapter] part;~~
- ~~—— (iii) to exclude a horse from a racetrack facility in this state, or prohibit a horse from participating in a horse race or race meet; and~~
- ~~—— (iv) to hold, conduct, and operate all recognized race meets conducted pursuant to this [chapter] part;~~
- ~~—— (f) determine which persons participating, directly or indirectly, in recognized race meets require licenses;~~
- ~~—— (g) announce the time, place, and duration of a recognized race meet for which a license is required; and~~
- ~~—— (h) establish reasonable fees for all licenses provided for under this [chapter] part.~~
- ~~—— (2) The commission may:~~
- ~~—— (a) grant, suspend, or revoke licenses issued under this [chapter] part;~~
- ~~—— (b) impose fines as provided in this [chapter] part;~~
- ~~—— (c) access criminal history record information for the licensees and commission or contracted employees;~~
- ~~—— (d) exclude from any racetrack facility in this state a person, including an owner, who:~~
- ~~—— (i) the commission considers detrimental to the best interests of racing; or~~
- ~~—— (ii) violates this [chapter] part or any rule or order of the commission; and~~
- ~~—— (e) exclude from a racetrack facility in this state, or prohibit from participating in a horse race or race meet, a horse that is owned, in full or part by a person:~~
- ~~—— (i) who the commission considers detrimental to the best interests of racing; or~~
- ~~—— (ii) who violates this [chapter] part or a rule or order of the commission.~~
- ~~—— (3) (a) For purposes of Subsection (2)(e), ownership includes a horse for which an individual or entity has a beneficial or other interest, as defined by rule.~~
- ~~—— (b) The period of time a horse may be excluded or prohibited from racing under Subsection (2)(e) may not exceed one calendar year from the date of the initial oral or written ruling [by the stewards].~~

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~~—— (c) A change in ownership or beneficial interest in a horse excluded or prohibited from racing under Subsection (2)(e) does not affect the horse's exclusion from a racetrack or prohibition from racing unless otherwise determined by the commission.~~

~~—— (4) The commission may contract, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, with a person to issue a license required under Subsection (1)(a) or (b).~~

~~—— (5) Any member of the commission who has a personal or private interest in any matter proposed or pending before the commission shall publicly disclose this fact to the commission and may not vote on the matter.~~

~~—— (6) Any member of the commission who owns or who has any interest, or whose spouse or member of his or her immediate family has any interest, in a horse participating in a race shall disclose that interest and may not participate in any commission decision involving that race.~~

~~—— Section 4. Section **9-23-403**, which is renumbered from Section 4-38-201 is renumbered and amended to read:~~

~~—— **[4-38-201]. 9-23-403. Licenses -- Fees -- Duties of licensees.**~~

~~—— (1) The commission may grant, or contract under Subsection [4-38-104(4)] **9-23-402(4)** for the granting of a license, for participation in racing and other activities associated with a racetrack.~~

~~—— (2) The commission shall establish a schedule of fees for the application for and renewal and reinstatement of licenses issued under this [chapter] part.~~

~~—— (3) A person holding a license under this [chapter] part shall comply with this [chapter] part and with the rules issued and the orders issued by the commission under this [chapter] part.~~

~~—— (4) A person who holds a recognized race meet or who participates directly or indirectly in a recognized race meet without being first licensed as required under this [chapter] part and any person violating this [chapter] part is subject to penalties under Section [4-2-304] **9-23-412**.~~

~~—— Section 5. Section **9-23-404**, which is renumbered from Section 4-38-203 is renumbered and amended to read:~~

~~—— **[4-38-203]. 9-23-404. Race meets -- Licenses -- Fairs.**~~

~~—— (1) A person making application for a license to hold a race meet under this [chapter]~~

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~~part shall file an application that sets forth the time, place, and number of days the race meet will continue, and other information the commission may require.~~

~~—— (2) A person who has been convicted of a crime involving moral turpitude may not be issued a license to hold a race meet.~~

~~—— (3) (a) The license issued shall specify the kind and character of the race meet to be held, the number of days the race meet shall continue, and the number of races per day.~~

~~—— (b) The licensee shall pay in advance of the scheduled race meet to the commission a fee of not less than \$25. If unforeseen obstacles arise that prevent the holding or completion of any race meet, the license fee held may be refunded to the licensee if the commission considers the reason for failure to hold or complete the race meet sufficient.~~

~~—— (4) (a) An unexpired license held by any person who violates this [chapter] part, or fails to pay to the commission any fees required under this [chapter] part, is subject to cancellation and revocation by the commission.~~

~~—— (b) This cancellation shall be made only after a summary hearing before the commission, of which seven days notice in writing shall be given the licensee, specifying the grounds for the proposed cancellation. At the hearing, the licensee shall be given an opportunity to be heard in opposition to the proposed cancellation.~~

~~—— (5) (a) A fair board or fair district that conducts a race meet in connection with a regularly scheduled annual fair is exempt from payment of the fees provided in this section, unless the fair board or fair district sponsors a race in which the speed indexes are officially recognized under breed requirements.~~

~~—— (b) A race meet in connection with a fair is limited to 14 race days, unless otherwise permitted by a unanimous vote of the commission.~~

~~—— (6) The exemption from the payment of fees under Subsection (5)(a) does not apply to a race meet qualifying for official speed index races.~~

~~—— Section 6. Section ~~9-23-405~~, which is renumbered from Section 4-38-301 is renumbered and amended to read:~~

~~—— ~~[4-38-301].~~ **9-23-405. Investigation -- License denial and suspension -- Grounds for revocation -- Fines.**~~

~~—— (1) The commission [or board of stewards of a recognized race meet], upon their own motion may, and upon verified complaint in writing of any person shall, investigate the~~

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~~activities of a licensee within the state or a licensed person upon the premises of a racetrack facility:~~

~~—— (2) The commission [or board of stewards] may fine, suspend a license, or deny an application for a license.~~

~~—— (3) A person with whom the commission contracts under Subsection [4-38-104(4)] 9-23-402(4) may deny an application for a license.~~

~~—— (4) The commission may revoke a license, if the licensee has committed any of the following violations:~~

~~—— (a) substantial or willful misrepresentation;~~

~~—— (b) disregard for or violation of this [chapter] part or of a rule issued by the commission;~~

~~—— (c) conviction of a felony under the laws of this or any other state or of the United States, a true and correct copy of the judgment of the court of conviction of which shall be presumptive evidence of the conviction in any hearing held under this section;~~

~~—— (d) fraud, willful misrepresentation, or deceit in racing;~~

~~—— (e) falsification, misrepresentation, or omission of required information in a license application;~~

~~—— (f) failure to disclose to the commission a complete ownership or beneficial interest in a horse entered to be raced;~~

~~—— (g) misrepresentation or attempted misrepresentation in connection with the sale of a horse or other matter pertaining to racing or registration of racing animals;~~

~~—— (h) failure to comply with an order or ruling of the commission, [the stewards,] or a racing official pertaining to a racing matter;~~

~~—— (i) ownership of any interest in or participation by any manner in any bookmaking, pool-selling, touting, bet solicitation, or illegal enterprise;~~

~~—— (j) being unqualified by experience or competence to perform the activity permitted by the license possessed or being applied for;~~

~~—— (k) employment or harboring of any unlicensed person on the premises of a racetrack facility if a license is required by this [chapter] part or rule;~~

~~—— (l) discontinuance of or ineligibility for the activity for which the license was issued;~~

~~—— (m) being currently under suspension or revocation of a racing license in another racing~~

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jurisdiction;

~~—— (n) possession on the premises of a racetrack facility of:~~

~~—— (i) firearms; or~~

~~—— (ii) a battery, buzzer, electrical device, or other appliance other than a whip which could be used to alter the speed of a horse in a race or while working out or schooling;~~

~~—— (o) possession, on the premises of a racetrack facility, by a person other than a licensed veterinarian of a hypodermic needle, hypodermic syringe, or other similar device that may be used in administering medicine internally in a horse, or any substance, compound items, or combination of any medicine, narcotic, stimulant, depressant, or anesthetic which could alter the normal performance of a horse unless:~~

~~—— (i) specifically authorized by a commission-approved veterinarian; or~~

~~—— (ii) as otherwise allowed by the [stewards] commission for the conditions of that horse race or race meet;~~

~~—— (p) cruelty to or neglect of a horse;~~

~~—— (q) offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person having any connection with the outcome of a race, or failure to report knowledge of such act immediately to the [stewards, the] patrol judges, or the commission;~~

~~—— (r) causing, attempting to cause, or participation in any way in any attempt to cause the prearrangement of a race result, or failure to report knowledge of such act immediately to the [stewards, the] patrol judges, or the commission;~~

~~—— (s) entering, or aiding and abetting the entry of, a horse ineligible or unqualified for the race entered;~~

~~—— (t) willfully or unjustifiably entering or racing any horse in any race under any name or designation other than the name or designation assigned to the animal by and registered with the official recognized registry for that breed of animal, or willfully setting on foot, instigating, engaging in, or in any way furthering any act by which any horse is entered or raced in any race under any name or designation other than the name or designation duly assigned by and registered with the official recognized registry for the breed of animal; or~~

~~—— (u) racing at a racetrack facility without having that horse registered to race at that racetrack facility.~~

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~~—— (5) (a) A person who fails to pay in a timely manner a fine imposed pursuant to this [chapter] part shall pay, in addition to the fine due, a penalty amount equal to the fine.~~

~~—— (b) A person who submits to the commission a check in payment of a fine or license fee requirement imposed pursuant to this [chapter] part, which is not honored by the financial institution upon which the check is drawn, shall pay, in addition to the fine or fee due, a penalty amount equal to the fine.~~

~~—— Section 7. Section 9-23-406, which is renumbered from Section 4-38-302 is renumbered and amended to read:~~

~~—— [4-38-302]. 9-23-406. Stimulation or retardation of animals prohibited -- Tests.~~

~~—— (1) Any person who uses or permits the use of any mechanical or electrical device, or drug of any kind, to stimulate or retard any animal in any race authorized by this [chapter] part, except as prescribed by the commission, is guilty of a class A misdemeanor.~~

~~—— (2) A commission member [or race steward] may cause tests to be made that the commission considers proper to determine whether any animal has been stimulated or retarded. Tests performed in furtherance of this section shall be conducted by or under the supervision of a licensed Utah veterinarian.~~

~~—— Section 8. Section 9-23-407, which is renumbered from Section 4-38-303 is renumbered and amended to read:~~

~~—— [4-38-303]. 9-23-407. Bribery and touting prohibited.~~

~~—— Any person who gives or promises or attempts to give, or any person who receives or agrees to receive or attempts to receive, any money, bribe, or thing of value with intent to influence any person to dishonestly umpire, manage, direct, judge, preside, officiate at, or participate in any race conducted under this [chapter] part with the intent or purpose that the result of the race will be affected or influenced thereby, is guilty of a felony of the third degree and subject to a fine of not more than \$10,000.~~

~~—— Section 9. Section 9-23-408, which is renumbered from Section 4-38-304 is renumbered and amended to read:~~

~~—— [4-38-304]. 9-23-408. Gambling disclaimer.~~

~~—— Nothing in this [chapter] part may be construed to legalize or permit any form of gambling.~~

~~—— Section 10. Section 9-23-409, which is renumbered from Section 4-38-401 is~~

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renumbered and amended to read:

~~———— [4-38-401]. — 9-23-409. Race meet money.~~

~~———— (1) The commission shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to determine how all the added money and money from payment races shall be collected and disbursed.~~

~~———— (2) Payment deposits shall be made in a timely manner determined by the commission, and each licensee shall provide proof of deposits as required by the commission.~~

~~———— Section 11. Section 9-23-410, which is renumbered from Section 4-38-402 is renumbered and amended to read:~~

~~———— [4-38-402]. — 9-23-410. **Horse Racing Account created — Contents — Use of account money.**~~

~~———— (1) There is created within the General Fund a restricted account known as the Horse Racing Account.~~

~~———— (2) The Horse Racing Account consists of:~~

~~———— (a) license fees collected under this chapter;~~

~~———— (b) revenue from fines imposed under this chapter; and~~

~~———— (c) interest on account money.~~

~~———— (3) Upon appropriation by the Legislature, money from the account shall be used for the administration of this [chapter] part, including paying the costs of:~~

~~———— (a) public liability insurance;~~

~~———— [(b) stewards;]~~

~~———— [(c)] (b) veterinarians; and~~

~~———— [(d)] (c) drug testing.~~

~~———— Section 12. Section 9-23-411, which is renumbered from Section 4-38-501 is renumbered and amended to read:~~

~~———— [4-38-501]. — 9-23-411. **Hearings.**~~

~~———— (1) Except as otherwise provided in this section, all proceedings before the commission or the commission's hearing officer with respect to the denial, suspension, or revocation of licenses or the imposition of fines shall be conducted pursuant to Title 63G, Chapter 4, Administrative Procedures Act.~~

~~———— (2) (a) These proceedings shall be held in the county where the commission has an~~

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~~office or in any other place the commission designates:~~

~~—— (b) The commission shall notify the applicant or licensee by mailing, by first class mail, a copy of the written notice required to the last address furnished by the application or licensee to the commission at least seven days in advance of the hearing:~~

~~—— (3) The commission may delegate the commission's authority to conduct hearings with respect to the denial or suspension of licenses or the imposition of a fine to a hearing officer:~~

~~—— [(4) Proceedings before the board of stewards need not be governed by the procedural or other requirements of Title 63G, Chapter 4, Administrative Procedures Act, but rather shall be conducted in accordance with rules adopted by the commission.]~~

~~—— [(5)] (4) The commission [and the board of stewards] may administer oaths and affirmations, sign and issue subpoenas, order the production of documents and other evidence, and regulate the course of the hearing pursuant to rules adopted by the commission:~~

~~—— [(6) (a) Any person aggrieved by a final order or ruling issued by a board of stewards may appeal the order or ruling to the commission pursuant to procedural rules adopted by the commission.]~~

~~—— [(b) The aggrieved party may petition the commission for a stay of execution pending appeal to the commission.]~~

~~—— Section 13. Section ~~9-23-412~~ is enacted to read:~~

~~—— **9-23-412. Civil and criminal penalties -- Costs -- Civil liability.**~~

~~—— (1) (a) Except as otherwise provided by this part, any person, or the officer or employee of any person, who violates this part or any lawful notice or order issued pursuant to this part shall be assessed a penalty not to exceed \$5,000 per violation in a civil proceeding, and is guilty of a class B misdemeanor in a criminal proceeding:~~

~~—— (b) A subsequent criminal violation within two years is a class A misdemeanor:~~

~~—— (2) Any person, or the officer or employee of any person, shall be liable for any expenses incurred by the commission in abating any violation of this part:~~

~~—— (3) A penalty assessment or criminal conviction under this part does not relieve the person assessed or convicted from civil liability for claims arising out of any act that was also a violation:~~

~~—— Section 14.} Section ~~19-1-201~~ is amended to read:~~

~~**19-1-201. Powers and duties of department -- Rulemaking authority --**~~

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Committee -- Monitoring environmental impacts of inland port.

(1) The department shall:

(a) enter into cooperative agreements with the Department of Health and Human Services to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(b) consult with the Department of Health and Human Services and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(c) coordinate implementation of environmental programs to maximize efficient use of resources by developing, in consultation with local health departments, a Comprehensive Environmental Service Delivery Plan that:

(i) recognizes that the department and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually;

(d) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as follows:

(i) for a board created in Section 19-1-106, rules regarding:

(A) board meeting attendance; and

(B) conflicts of interest procedures; and

(ii) procedural rules that govern:

(A) an adjudicative proceeding, consistent with Section 19-1-301; and

(B) a special adjudicative proceeding, consistent with Section 19-1-301.5;

(e) ensure that training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State

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Training and Certification Requirements, if the training or certification is required:

- (i) under this title;
- (ii) by the department; or
- (iii) by an agency or division within the department; and

(f) subject to Subsection (2), establish annual fees that conform with Title V of the Clean Air Act for each regulated pollutant as defined in Section 19-2-109.1, applicable to a source subject to the Title V program.

(2) (a) A fee established under Subsection (1)(f) is in addition to a fee assessed under Subsection (6)(i) for issuance of an approval order.

(b) In establishing a fee under Subsection (1)(f), the department shall comply with Section 63J-1-504 that requires a public hearing and requires the established fee to be submitted to the Legislature for the Legislature's approval as part of the department's annual appropriations request.

(c) A fee established under this section shall cover the reasonable direct and indirect costs required to develop and administer the Title V program [~~and the small business assistance program established under Section 19-2-109.2~~].

(d) A fee established under Subsection (1)(f) shall be established for all sources subject to the Title V program and for all regulated pollutants.

(e) An emission fee may not be assessed for a regulated pollutant if the emissions are already accounted for within the emissions of another regulated pollutant.

(f) An emission fee may not be assessed for any amount of a regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

(g) An emission fee shall be based on actual emissions for a regulated pollutant unless a source elects, before the issuance or renewal of a permit, to base the fee during the period of the permit on allowable emissions for that regulated pollutant.

(h) The fees collected by the department under Subsection (1)(f) and penalties collected under Subsection 19-2-109.1(4) shall be deposited into the General Fund as the Air Pollution Operating Permit Program dedicated credit to be used solely to pay for the reasonable direct and indirect costs incurred by the department in developing and administering the program [~~and the small business assistance program under Section 19-2-109.2~~].

- (3) The department shall establish a committee that consists of:

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- (a) the executive director or the executive director's designee;
 - (b) two representatives of the department appointed by the executive director; and
 - (c) three representatives of local health departments appointed by a group of all the local health departments in the state.
- (4) The committee established in Subsection (3) shall:
- (a) review the allocation of environmental quality resources between the department and the local health departments;
 - (b) evaluate department policies that affect local health departments;
 - (c) consider policy changes proposed by the department or by local health departments;
 - (d) coordinate the implementation of environmental quality programs to maximize environmental quality resources; and
 - (e) review each department application for any grant from the federal government that affects a local health department before the department submits the application.
- (5) The committee shall create bylaws to govern the committee's operations.
- (6) The department may:
- (a) investigate matters affecting the environment;
 - (b) investigate and control matters affecting the public health when caused by environmental hazards;
 - (c) prepare, publish, and disseminate information to inform the public concerning issues involving environmental quality;
 - (d) establish and operate programs, as authorized by this title, necessary for protection of the environment and public health from environmental hazards;
 - (e) use local health departments in the delivery of environmental health programs to the extent provided by law;
 - (f) enter into contracts with local health departments or others to meet responsibilities established under this title;
 - (g) acquire real and personal property by purchase, gift, devise, and other lawful means;
 - (h) prepare and submit to the governor a proposed budget to be included in the budget submitted by the governor to the Legislature;
 - (i) in accordance with Section 63J-1-504, establish a schedule of fees that may be

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assessed for actions and services of the department that are reasonable, fair, and reflect the cost of services provided;

(j) for an owner or operator of a source subject to a fee established by Subsection (6)(i) who fails to timely pay that fee, assess a penalty of not more than 50% of the fee, in addition to the fee, plus interest on the fee computed at 12% annually;

(k) prescribe by rule reasonable requirements not inconsistent with law relating to environmental quality for local health departments;

(l) perform the administrative functions of the boards established by Section 19-1-106, including the acceptance and administration of grants from the federal government and from other sources, public or private, to carry out the board's functions;

(m) upon the request of a board or a division director, provide professional, technical, and clerical staff and field and laboratory services, the extent of which are limited by the money available to the department for the staff and services; and

(n) establish a supplementary fee, not subject to Section 63J-1-504, to provide service that the person paying the fee agrees by contract to be charged for the service to efficiently use department resources, protect department permitting processes, address extraordinary or unanticipated stress on permitting processes, or make use of specialized expertise.

(7) In providing service under Subsection (6)(n), the department may not provide service in a manner that impairs another person's service from the department.

(8) (a) As used in this Subsection (8):

(i) "Environmental impacts" means:

(A) impacts on air quality, including impacts associated with air emissions; and

(B) impacts on water quality, including impacts associated with storm water runoff.

(ii) "Inland port" means the same as that term is defined in Section 11-58-102.

(iii) "Inland port area" means the area in and around the inland port that bears the environmental impacts of destruction, construction, development, and operational activities within the inland port.

(iv) "Monitoring facilities" means:

(A) for monitoring air quality, a sensor system consisting of monitors to measure levels of research-grade particulate matter, ozone, and oxides of nitrogen, and data logging equipment with internal data storage that are interconnected at all times to capture air quality readings and

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store data; and

(B) for monitoring water quality, facilities to collect groundwater samples, including in existing conveyances and outfalls, to evaluate sediment, metals, organics, and nutrients due to storm water.

(b) The department shall:

(i) develop and implement a sampling and analysis plan to:

(A) characterize the environmental baseline for air quality and water quality in the inland port area;

(B) characterize the environmental baseline for only air quality for the Salt Lake International Airport; and

(C) define the frequency, parameters, and locations for monitoring;

(ii) establish and maintain monitoring facilities to measure the environmental impacts in the inland port area arising from destruction, construction, development, and operational activities within the inland port;

(iii) publish the monitoring data on the department's website; and

(iv) provide at least annually before November 30 a written report summarizing the monitoring data to:

(A) the Utah Inland Port Authority board, established under Title 11, Chapter 58, Part 3, Port Authority Board; and

(B) the Legislative Management Committee.

Section ~~15-2-3~~3. Section **19-2-109.1** is amended to read:

19-2-109.1. Operating permit required -- Fees -- Implementation.

(1) As used in this section and [~~Sections 19-2-109.2 and 19-2-109.3~~] Section 19-2-109.3:

(a) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.

(b) "EPA" means the federal Environmental Protection Agency.

(c) "Operating permit" means a permit issued by the director to sources of air pollution that meet the requirements of Titles IV and V of the 1990 Clean Air Act.

(d) "Program" means the air pollution operating permit program established under this section to comply with Title V of the 1990 Clean Air Act.

(e) "Regulated pollutant" means the same as that term is defined in Title V of the 1990

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Clean Air Act and implementing federal regulations.

(2) A person may not operate a source of air pollution required to have a permit under Title V of the 1990 Clean Air Act without having obtained an operating permit from the director under procedures the board establishes by rule.

(3) (a) Operating permits issued under this section shall be for a period of five years unless the director makes a written finding, after public comment and hearing, and based on substantial evidence in the record, that an operating permit term of less than five years is necessary to protect the public health and the environment of the state.

(b) The director may issue, modify, or renew an operating permit only after providing public notice, an opportunity for public comment, and an opportunity for a public hearing.

(c) The director shall, in conformity with the 1990 Clean Air Act and implementing federal regulations, revise the conditions of issued operating permits to incorporate applicable federal regulations in conformity with Section 502(b)(9) of the 1990 Clean Air Act, if the remaining period of the permit is three or more years.

(d) The director may terminate, modify, revoke, or reissue an operating permit for cause.

(4) If the owner or operator of a source subject to this section fails to timely pay a fee established under Subsection 19-1-201(1)(f), the director may:

(a) impose a penalty of not more than 50% of the fee, in addition to the fee, plus interest on the fee computed at 12% annually; or

(b) revoke the operating permit.

(5) The owner or operator of a source subject to this section may contest a fee assessment or associated penalty in an adjudicative hearing under the Title 63G, Chapter 4, Administrative Procedures Act, and Section 19-1-301, as provided in this Subsection (5).

(a) The owner or operator shall pay the fee under protest before being entitled to a hearing. Payment of a fee or penalty under protest is not a waiver of the right to contest the fee or penalty under this section.

(b) A request for a hearing under this Subsection (5) shall be made after payment of the fee and within six months after the fee was due.

(6) To reinstate an operating permit revoked under Subsection (4) the owner or operator shall pay the outstanding fees, a penalty of not more than 50% of outstanding fees, and

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interest on the outstanding fees computed at 12% annually.

(7) Failure of the director to act on an operating permit application or renewal is a final administrative action only for the purpose of obtaining judicial review by any of the following persons to require the director to take action on the permit or the permit's renewal without additional delay:

- (a) the applicant;
- (b) a person who participated in the public comment process; or
- (c) a person who could obtain judicial review of that action under applicable law.

Section ~~{16}~~4. Section **26-1-2** is amended to read:

26-1-2. Definitions.

As used in this title:

~~[(1) "Council" means the Utah Health Advisory Council.]~~

~~[(2)]~~ (1) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

~~[(3)]~~ (2) "Executive director" means the executive director of the department appointed under Section 26B-1-203.

~~[(4)]~~ (3) "Public health authority" means an agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, an Indian tribe, or a person acting under a grant of authority from or contract with such an agency, that is responsible for public health matters as part of its official mandate.

Section ~~{17}~~5. Section **26-39-102** is amended to read:

26-39-102. Definitions.

As used in this chapter:

~~[(1) "Advisory committee" means the Residential Child Care Licensing Advisory Committee created in Section 26B-1-204.]~~

~~[(2)]~~ (1) "Capacity limit" means the maximum number of qualifying children that a regulated provider may care for at any given time, in accordance with rules made by the department.

~~[(3)]~~ (2) (a) "Center based child care" means child care provided in a facility or program that is not the home of the provider.

(b) "Center based child care" does not include:

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- (i) residential child care; or
- (ii) care provided in a facility or program exempt under Section 26-39-403.

~~[(4)]~~ (3) "Certified provider" means a person who holds a certificate from the department under Section 26-39-402.

~~[(5)]~~ (4) "Child care" means continuous care and supervision of a qualifying child, that is:

- (a) in lieu of care ordinarily provided by a parent in the parent's home;
- (b) for less than 24 hours a day; and
- (c) for direct or indirect compensation.

~~[(6)]~~ (5) "Child care program" means a child care facility or program operated by a regulated provider.

~~[(7)]~~ (6) "Exempt provider" means a person who provides care described in Subsection 26-39-403(2).

~~[(8)]~~ (7) "Licensed provider" means a person who holds a license from the department under Section 26-39-401.

~~[(9)]~~ (8) "Licensing committee" means the Child Care ~~[Center]~~ Provider Licensing Committee created in Section 26B-1-204.

~~[(10)]~~ (9) "Public school" means:

(a) a school, including a charter school, that:

- (i) is directly funded at public expense; and
- (ii) provides education to qualifying children for any grade from first grade through twelfth grade; or

(b) a school, including a charter school, that provides:

(i) preschool or kindergarten to qualifying children, regardless of whether the preschool or kindergarten is funded at public expense; and

(ii) education to qualifying children for any grade from first grade through twelfth grade, if each grade, from first grade to twelfth grade, that is provided at the school, is directly funded at public expense.

~~[(11)]~~ (10) "Qualifying child" means an individual who is:

- (a) (i) under the age of 13 years old; or
- (ii) under the age of 18 years old, if the person has a disability; and

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(b) a child of:

(i) a person other than the person providing care to the child;

(ii) a regulated provider, if the child is under the age of four; or

(iii) an employee or owner of a licensed child care center, if the child is under the age of four.

~~[(12)]~~ (11) "Regulated provider" means a licensed provider or certified provider.

~~[(13)]~~ (12) "Residential child care" means child care provided in the home of the provider.

Section ~~[(18)]~~6. Section 26-39-200 is amended to read:

26-39-200. Child Care Provider Licensing Committee.

(1) (a) The licensing committee shall be comprised of ~~[seven]~~ eleven members appointed by the governor and approved by the Senate in accordance with this subsection.

(b) The governor shall appoint ~~[three]~~ two members who:

(i) have at least five years of experience as an owner in or director of a for profit or not-for-profit center based child care; and

(ii) hold an active license as a child care center from the department to provide center based child care.

(c) The governor shall appoint two members who hold an active license as a residential child care provider and one member who is a certified residential child care provider.

~~[(e)]~~ (d) (i) The governor shall appoint one member to represent each of the following:

(A) a parent with a child in a licensed center based child care facility;

(B) a parent with a child in a residential based child care facility;

~~[(B)]~~ (C) a child development expert from the state system of higher education;

~~[(e)]~~ (D) except as provided in Subsection ~~[(1)(e)]~~ (1)(f), a pediatrician licensed in the state; ~~[and]~~

(E) a health care provider; and

~~[(D)]~~ (F) an architect licensed in the state.

(ii) Except as provided in Subsection ~~[(1)(e)(i)(B)]~~ (1)(d)(i)(C), a member appointed under Subsection ~~[(1)(e)(i)]~~ (1)(d)(i) may not be an employee of the state or a political subdivision of the state.

~~[(d)]~~ (e) At least one member described in Subsection (1)(b) shall at the time of

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appointment reside in a county that is not a county of the first class.

~~[(c)]~~ (f) For the appointment described in Subsection ~~[(1)(c)(i)(C)]~~ (1)(d)(i)(D), the governor may appoint a health care professional who specializes in pediatric health if:

(i) the health care professional is licensed under:

(A) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice nurse practitioner; or

(B) Title 58, Chapter 70a, Utah Physician Assistant Act; and

(ii) before appointing a health care professional under this Subsection ~~[(1)(c)]~~ (1)(f), the governor:

(A) sends a notice to a professional physician organization in the state regarding the opening for the appointment described in Subsection ~~[(1)(c)(i)(C)]~~ (1)(d)(i)(D); and

(B) receives no applications from a pediatrician who is licensed in the state for the appointment described in Subsection ~~[(1)(c)(i)(C)]~~ (1)(d)(i)(D) within 90 days after the day on which the governor sends the notice described in Subsection ~~[(1)(c)(ii)(A)]~~ (1)(f)(ii)(A).

(2) (a) Except as required by Subsection (2)(b), as terms of current members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the licensing committee is appointed every two years.

(c) Upon the expiration of the term of a member of the licensing committee, the member shall continue to hold office until a successor is appointed and qualified.

(d) A member may not serve more than two consecutive terms.

(e) Members of the licensing committee shall annually select one member to serve as chair who shall establish the agenda for licensing committee meetings.

(3) When a vacancy occurs in the membership for any reason, the governor, with the advice and consent of the Senate, shall appoint a replacement for the unexpired term.

(4) (a) The licensing committee shall meet at least every two months.

(b) The director may call additional meetings:

(i) at the director's discretion;

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- (ii) upon the request of the chair; or
- (iii) upon the written request of three or more members.

(5) [~~Three~~] Six members of the licensing committee constitute a quorum for the transaction of business.

(6) A member of the licensing committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section ~~{19}~~7. Section **26-39-203** is amended to read:

26-39-203. Duties of the Child Care Provider Licensing Committee.

- (1) The licensing committee shall:
 - (a) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that govern center based child care and residential child care as necessary to protect qualifying children's common needs for a safe and healthy environment, to provide for:
 - (i) adequate facilities and equipment; and
 - (ii) competent caregivers considering the age of the children and the type of program offered by the licensee;
 - (b) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out the purposes of this chapter that govern center based child care and residential child care, in the following areas:
 - (i) requirements for applications, the application process, and compliance with other applicable statutes and rules;
 - (ii) documentation and policies and procedures that providers shall have in place in order to be licensed, in accordance with Subsection (1);
 - (iii) categories, classifications, and duration of initial and ongoing licenses;
 - (iv) changes of ownership or name, changes in licensure status, and changes in operational status;
 - (v) license expiration and renewal, contents, and posting requirements;

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(vi) procedures for inspections, complaint resolution, disciplinary actions, and other procedural measures to encourage and assure compliance with statute and rule; and

(vii) guidelines necessary to assure consistency and appropriateness in the regulation and discipline of licensees;

(c) advise the department on the administration of a matter affecting center based child care and residential child care;

(d) advise and assist the department in conducting center based child care provider seminars and residential child care seminars; and

(e) perform other duties as provided under Section 26-39-301.

(2) (a) The licensing committee may not enforce the rules adopted under this section.

(b) The department shall enforce the rules adopted under this section in accordance with Section 26-39-301.

Section ~~20~~8. Section **26B-1-204** is amended to read:

26B-1-204. Creation of boards, divisions, and offices -- Power to organize department.

(1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law for:

(a) the administration and government of the department;

(b) the conduct of the department's employees; and

(c) the custody, use, and preservation of the records, papers, books, documents, and property of the department.

(2) The following policymaking boards, councils, and committees are created within the Department of Health and Human Services:

(a) Board of Aging and Adult Services;

(b) Utah State Developmental Center Board;

(c) Health Advisory Council;

(d) Health Facility Committee;

(e) State Emergency Medical Services Committee;

(f) Air Ambulance Committee;

(g) Health Data Committee;

(h) Utah Health Care Workforce Financial Assistance Program Advisory Committee;

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~~[(f) Residential Child Care Licensing Advisory Committee;]~~

[(f)] (i) Child Care [Center] Provider Licensing Committee;

~~[(k)]~~ (j) Primary Care Grant Committee;

[(f)] (k) Adult Autism Treatment Program Advisory Committee;

~~[(m)]~~ (l) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention

Committee; and

~~[(n)]~~ (m) any boards, councils, or committees that are created by statute in:

(i) this title;

(ii) Title 26, Utah Health Code; or

(iii) Title 62A, Utah Human Services Code.

(3) The following divisions are created within the Department of Health and Human

Services:

(a) relating to operations:

(i) the Division of Finance and Administration;

(ii) the Division of Licensing and Background Checks;

(iii) the Division of Customer Experience;

(iv) the Division of Data, Systems, and Evaluation; and

(v) the Division of Continuous Quality Improvement;

(b) relating to healthcare administration:

(i) the Division of Integrated Healthcare, which shall include responsibility for:

(A) the state's medical assistance programs; and

(B) behavioral health programs described in Title 62A, Chapter 15, Substance Abuse

and Mental Health Act;

(ii) the Division of Aging and Adult Services; and

(iii) the Division of Services for People with Disabilities; and

(c) relating to community health and well-being:

(i) the Division of Child and Family Services;

(ii) the Division of Family Health;

(iii) the Division of Population Health;

(iv) the Division of Juvenile Justice and Youth Services; and

(v) the Office of Recovery Services.

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(4) The executive director may establish offices and bureaus to facilitate management of the department as required by, and in accordance with:

- (a) this title;
- (b) Title 26, Utah Health Code; and
- (c) Title 62A, Utah Human Services Code.

(5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in:

- (a) this title;
- (b) Title 26, Utah Health Code; or
- (c) Title 62A, Utah Human Services Code.

Section ~~{21}~~9. Section **31A-19a-209** is amended to read:

31A-19a-209. Special provisions for title insurance.

(1) (a) (i) The [~~Title and Escrow Commission~~] commissioner shall adopt rules subject to Section [~~31A-2-404~~] 31A-2-201, establishing rate standards and rating methods for individual title insurance producers and agency title insurance producers.

(ii) The commissioner shall determine compliance with rate standards and rating methods for title insurers, individual title insurance producers, and agency title insurance producers.

(b) In addition to the considerations in determining compliance with rate standards and rating methods as set forth in Sections 31A-19a-201 and 31A-19a-202, including for title insurers, the commissioner [~~and the Title and Escrow Commission~~] shall consider the costs and expenses incurred by title insurers, individual title insurance producers, and agency title insurance producers peculiar to the business of title insurance including:

- (i) the maintenance of title plants; and
- (ii) the examining of public records to determine insurability of title to real redevelopment property.

(2) (a) A title insurer, an agency title insurance producer, or an individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer shall file with the commissioner:

- (i) a schedule of the escrow charges that the title insurer, individual title insurance

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producer, or agency title insurance producer proposes to use in this state for services performed in connection with the issuance of policies of title insurance; and

(ii) any changes to the schedule of the escrow charges described in Subsection (2)(a)(i).

~~[(b) Except for a schedule filed by a title insurer under this Subsection (2), a schedule filed under this Subsection (2) is subject to review by the Title and Escrow Commission.]~~

~~[(c)]~~ (b) (i) The schedule of escrow charges required to be filed by Subsection (2)(a)(i) takes effect on the day on which the schedule of escrow charges is filed.

(ii) Any changes to the schedule of the escrow charges required to be filed by Subsection (2)(a)(ii) take effect on the day specified in the change to the schedule of escrow charges except that the effective date may not be less than 30 calendar days after the day on which the change to the schedule of escrow charges is filed.

(3) A title insurer, individual title insurance producer, or agency title insurance producer may not file or use any rate or other charge relating to the business of title insurance, including rates or charges filed for escrow that would cause the title insurance company, individual title insurance producer, or agency title insurance producer to:

(a) operate at less than the cost of doing:

(i) the insurance business; or

(ii) the escrow business; or

(b) fail to adequately underwrite a title insurance policy.

(4) (a) All or any of the schedule of rates or schedule of charges, including the schedule of escrow charges, may be changed or amended at any time, subject to the limitations in this Subsection (4).

(b) Each change or amendment shall:

(i) be filed with the commissioner~~[- subject to review by the Title and Escrow Commission];~~ and

(ii) state the effective date of the change or amendment, which may not be less than 30 calendar days after the day on which the change or amendment is filed.

(c) Any change or amendment remains in force for a period of at least 90 calendar days from the change or amendment's effective date.

(5) While the schedule of rates and schedule of charges are effective, a copy of each shall be:

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(a) retained in each of the offices of:

(i) the title insurer in this state;

(ii) the title insurer's individual title insurance producers or agency title insurance producers in this state; and

(b) upon request, furnished to the public.

(6) Except in accordance with the schedules of rates and charges filed with the commissioner, a title insurer, individual title insurance producer, or agency title insurance producer may not make or impose any premium or other charge:

(a) in connection with the issuance of a policy of title insurance; or

(b) for escrow services performed in connection with the issuance of a policy of title insurance.

Section ~~{22}~~10. Section **31A-23a-105** is amended to read:

31A-23a-105. General requirements for individual and agency license issuance and renewal.

(1) (a) The commissioner shall issue or renew a license to a person described in Subsection (1)(b) to act as:

(i) a producer;

(ii) a surplus lines producer;

(iii) a limited line producer;

(iv) a consultant;

(v) a managing general agent; or

(vi) a reinsurance intermediary.

(b) The commissioner shall issue or renew a license under Subsection (1)(a) to a person who, as to the license type and line of authority classification applied for under Section 31A-23a-106:

(i) satisfies the application requirements under Section 31A-23a-104;

(ii) satisfies the character requirements under Section 31A-23a-107;

(iii) satisfies applicable continuing education requirements under Section 31A-23a-202;

(iv) satisfies applicable examination requirements under Section 31A-23a-108;

(v) satisfies applicable training period requirements under Section 31A-23a-203;

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(vi) if an applicant for a resident individual producer license, certifies that, to the extent applicable, the applicant:

(A) is in compliance with Section 31A-23a-203.5; and

(B) will maintain compliance with Section 31A-23a-203.5 during the period for which the license is issued or renewed;

(vii) has not committed an act that is a ground for denial, suspension, or revocation as provided in Section 31A-23a-111;

(viii) if a nonresident:

(A) complies with Section 31A-23a-109; and

(B) holds an active similar license in that person's home state;

(ix) if an applicant for an individual title insurance producer or agency title insurance producer license, satisfies the requirements of Section 31A-23a-204;

(x) if an applicant for a license to act as a life settlement provider or life settlement producer, satisfies the requirements of Section 31A-23a-117; and

(xi) pays the applicable fees under Section 31A-3-103.

(2) (a) This Subsection (2) applies to the following persons:

(i) an applicant for a pending:

(A) individual or agency producer license;

(B) surplus lines producer license;

(C) limited line producer license;

(D) consultant license;

(E) managing general agent license; or

(F) reinsurance intermediary license; or

(ii) a licensed:

(A) individual or agency producer;

(B) surplus lines producer;

(C) limited line producer;

(D) consultant;

(E) managing general agent; or

(F) reinsurance intermediary.

(b) A person described in Subsection (2)(a) shall report to the commissioner:

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(i) an administrative action taken against the person, including a denial of a new or renewal license application:

(A) in another jurisdiction; or

(B) by another regulatory agency in this state; and

(ii) a criminal prosecution taken against the person in any jurisdiction.

(c) The report required by Subsection (2)(b) shall:

(i) be filed:

(A) at the time the person files the application for an individual or agency license; and

(B) for an action or prosecution that occurs on or after the day on which the person

files the application:

(I) for an administrative action, within 30 days of the final disposition of the administrative action; or

(II) for a criminal prosecution, within 30 days of the initial appearance before a court; and

(ii) include a copy of the complaint or other relevant legal documents related to the action or prosecution described in Subsection (2)(b).

(3) (a) The department may require a person applying for a license or for consent to engage in the business of insurance to submit to a criminal background check as a condition of receiving a license or consent.

(b) A person, if required to submit to a criminal background check under Subsection (3)(a), shall:

(i) submit a fingerprint card in a form acceptable to the department; and

(ii) consent to a fingerprint background check by:

(A) the Utah Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) For a person who submits a fingerprint card and consents to a fingerprint background check under Subsection (3)(b), the department may request:

(i) criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

(ii) complete Federal Bureau of Investigation criminal background checks through the national criminal history system.

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(d) Information obtained by the department from the review of criminal history records received under this Subsection (3) shall be used by the department for the purposes of:

- (i) determining if a person satisfies the character requirements under Section 31A-23a-107 for issuance or renewal of a license;
- (ii) determining if a person has failed to maintain the character requirements under Section 31A-23a-107; and
- (iii) preventing a person who violates the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033, from engaging in the business of insurance in the state.

(e) If the department requests the criminal background information, the department shall:

- (i) pay to the Department of Public Safety the costs incurred by the Department of Public Safety in providing the department criminal background information under Subsection (3)(c)(i);
- (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of Investigation in providing the department criminal background information under Subsection (3)(c)(ii); and
- (iii) charge the person applying for a license or for consent to engage in the business of insurance a fee equal to the aggregate of Subsections (3)(e)(i) and (ii).

(4) To become a resident licensee in accordance with Section 31A-23a-104 and this section, a person licensed as one of the following in another state who moves to this state shall apply within 90 days of establishing legal residence in this state:

- (a) insurance producer;
- (b) surplus lines producer;
- (c) limited line producer;
- (d) consultant;
- (e) managing general agent; or
- (f) reinsurance intermediary.

(5) (a) The commissioner may deny a license application for a license listed in Subsection (5)(b) if the person applying for the license, as to the license type and line of authority classification applied for under Section 31A-23a-106:

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- (i) fails to satisfy the requirements as set forth in this section; or
- (ii) commits an act that is grounds for denial, suspension, or revocation as set forth in

Section 31A-23a-111.

(b) This Subsection (5) applies to the following licenses:

- (i) producer;
- (ii) surplus lines producer;
- (iii) limited line producer;
- (iv) consultant;
- (v) managing general agent; or
- (vi) reinsurance intermediary.

~~[(6) Notwithstanding the other provisions of this section, the commissioner may:]~~

~~[(a) issue a license to an applicant for a license for a title insurance line of authority only with the concurrence of the Title and Escrow Commission; and]~~

~~[(b) renew a license for a title insurance line of authority only with the concurrence of the Title and Escrow Commission.]~~

Section ~~{23}~~11. Section **31A-23a-106** is amended to read:

31A-23a-106. License types.

(1) (a) A resident or nonresident license issued under this chapter shall be issued under the license types described under Subsection (2).

(b) A license type and a line of authority pertaining to a license type describe the type of licensee and the lines of business that a licensee may sell, solicit, or negotiate. A license type is intended to describe the matters to be considered under any education, examination, and training required of a license applicant under Sections 31A-23a-108, 31A-23a-202, and 31A-23a-203.

(2) (a) A producer license type includes the following lines of authority:

- (i) life insurance, including a nonvariable contract;
- (ii) variable contracts, including variable life and annuity, if the producer has the life insurance line of authority;
- (iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

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- (iv) property insurance;
- (v) casualty insurance, including a surety or other bond;
- (vi) title insurance under one or more of the following categories:
 - (A) title examination, including authority to act as a title marketing representative;
 - (B) escrow, including authority to act as a title marketing representative; and
 - (C) title marketing representative only; and
- (vii) personal lines insurance.
- (b) A surplus lines producer license type includes the following lines of authority:
 - (i) property insurance, if the person holds an underlying producer license with the property line of insurance; and
 - (ii) casualty insurance, if the person holds an underlying producer license with the casualty line of authority.
 - (c) A limited line producer license type includes the following limited lines of authority:
 - (i) limited line credit insurance;
 - (ii) travel insurance, as set forth in Part 9, Travel Insurance Act;
 - (iii) motor club insurance;
 - (iv) car rental related insurance;
 - (v) legal expense insurance;
 - (vi) crop insurance;
 - (vii) self-service storage insurance;
 - (viii) bail bond producer;
 - (ix) guaranteed asset protection waiver; and
 - (x) portable electronics insurance.
 - (d) A consultant license type includes the following lines of authority:
 - (i) life insurance, including a nonvariable contract;
 - (ii) variable contracts, including variable life and annuity, if the consultant has the life insurance line of authority;
 - (iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

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(iv) property insurance;

(v) casualty insurance, including a surety or other bond; and

(vi) personal lines insurance.

(e) A managing general agent license type includes the following lines of authority:

(i) life insurance, including a nonvariable contract;

(ii) variable contracts, including variable life and annuity, if the managing general agent has the life insurance line of authority;

(iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) property insurance;

(v) casualty insurance, including a surety or other bond; and

(vi) personal lines insurance.

(f) A reinsurance intermediary license type includes the following lines of authority:

(i) life insurance, including a nonvariable contract;

(ii) variable contracts, including variable life and annuity, if the reinsurance intermediary has the life insurance line of authority;

(iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) property insurance;

(v) casualty insurance, including a surety or other bond; and

(vi) personal lines insurance.

(g) A person who holds a license under Subsection (2)(a) has the qualifications necessary to act as a holder of a license under Subsection (2)(c), except that the person may not act under Subsection (2)(c)(viii) or (ix).

(3) (a) The commissioner may by rule recognize other producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary lines of authority as to kinds of insurance not listed under Subsections (2)(a) through (f).

(b) Notwithstanding Subsection (3)(a), for purposes of title insurance the ~~[Title and Escrow Commission may by rule, with the concurrence of the commissioner and subject to~~

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~~Section 31A-2-404]~~ commissioner may by rule, subject to Section 31A-2-201, recognize other categories for an individual title insurance producer or agency title insurance producer line of authority not listed under Subsection (2)(a)(vi).

(4) The variable contracts line of authority requires:

(a) for a producer, licensure by the Financial Industry Regulatory Authority as a:

(i) registered broker-dealer; or

(ii) broker-dealer agent, with a current registration with a broker-dealer; and

(b) for a consultant, registration with the Securities and Exchange Commission or

licensure by the Utah Division of Securities as an:

(i) investment adviser; or

(ii) investment adviser representative, with a current association with an investment adviser.

(5) A surplus lines producer is a producer who has a surplus lines license.

Section ~~{24}~~ 12. Section **31A-23a-108** is amended to read:

31A-23a-108. Examination requirements.

(1) (a) The commissioner may require an applicant for a particular license type under Section 31A-23a-106 to pass a line of authority examination as a requirement for a license, except that an examination may not be required of an applicant for:

(i) a license under Subsection 31A-23a-106(2)(c); or

(ii) another limited line license line of authority recognized by the commissioner [~~or the Title and Escrow Commission~~] by rule as provided in Subsection 31A-23a-106(3).

(b) The examination described in Subsection (1)(a):

(i) shall reasonably relate to the line of authority for which it is prescribed; and

(ii) may be administered by the commissioner or as otherwise specified by rule.

(2) The commissioner shall waive the requirement of an examination for a nonresident applicant who:

(a) applies for an insurance producer license in this state within 90 days of establishing legal residence in this state;

(b) has been licensed for the same line of authority in another state; and

(c) (i) is licensed in the state described in Subsection (2)(b) at the time the applicant applies for an insurance producer license in this state; or

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(ii) if the application is received within 90 days of the cancellation of the applicant's previous license:

(A) the prior state certifies that at the time of cancellation, the applicant was in good standing in that state; or

(B) the state's producer database records maintained by the National Association of Insurance Commissioners or the National Association of Insurance Commissioner's affiliates or subsidiaries, indicates that the producer is or was licensed in good standing for the line of authority requested.

(3) This section's requirement may only be applied to an applicant who is a natural person.

Section ~~{25}~~13. Section **31A-23a-119**, which is renumbered from Section 31A-2-405 is renumbered and amended to read:

~~[31A-2-405]~~. **31A-23a-119. Dual licensing of title licensee.**

(1) As used in this section, "dual licensed title licensee" means a title licensee who holds:

(a) an individual title insurance producer license as a title licensee; and

(b) a license or certificate under:

(i) Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;

(ii) Title 61, Chapter 2f, Real Estate Licensing and Practices Act; or

(iii) Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

~~[(1)]~~ (2) A dual licensed title licensee may provide a title insurance product or service under this title only if before providing that title insurance product or service the dual licensed title licensee obtains approval as provided in this section.

~~[(2)]~~ (3) (a) ~~[Except as provided in Subsection (3), a]~~ A dual licensed title licensee shall obtain approval from the commissioner by filing under penalty of perjury with the department:

(i) a statement that includes:

(A) a description of the title insurance product or service to be provided;

(B) the names of the principals anticipated to be involved in the provision or receipt of the title insurance product or service;

(C) a legal description of the property to be involved in the provision or receipt of the

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title insurance product or service;

(D) whether or not the dual licensed title licensee received any consideration from a person described in Subsection ~~[(2)(a)(i)(B)]~~ (3)(a)(i)(B) within 18 months prior to the day on which the dual licensed title licensee files the statement; and

(E) any other information the ~~[commission]~~ commissioner requires by rule made in accordance with this section and Section ~~[31A-2-404]~~ 31A-2-201; and

(ii) the fee applicable under Section 31A-3-103.

(b) The commissioner shall approve the provision of a title insurance product or service under this section if the commissioner finds that the dual licensed title licensee:

(i) completed the filing required by Subsection ~~[(2)(a)]~~ (3)(a);

(ii) is acting in good faith; and

(iii) has not received consideration from a person described in Subsection ~~[(2)(a)(i)(B)]~~ (3)(a)(i)(B) within the 18-month period described in Subsection ~~[(2)(a)(i)(D)]~~ (3)(a)(i)(D).

(c) If the commissioner does not deny approval under this section, the commissioner is considered to have approved the provision of the title insurance product or service the earlier of:

(i) the day on which the commissioner issues the commissioner's approval in writing;

or

(ii) 15 days after the day on which the dual licensed title licensee completes the filing under Subsection ~~[(2)(a)]~~ (3)(a).

~~[(3) Notwithstanding Subsection (2), a dual licensed title licensee may obtain approval from the chair of the commission if:]~~

~~[(a) the dual licensed title licensee completes the filing under Subsection (2)(a);]~~

~~[(b) the dual licensed title licensee establishes a need for expedited approval; and]~~

~~[(c) the chair of the commission issues approval in writing after making the findings described in Subsection (2)(b).]~~

(4) The commissioner shall revoke the license under this title of a dual licensed title licensee if the dual licensed title licensee:

(a) provides a title insurance product or service without the approval required by this section; or

(b) knowingly provides false or misleading information in the statement required by

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Subsection [(2)] (3).

(5) The [~~commission~~] commissioner may make rules, subject to Section [~~31A-2-404~~] 31A-2-201, to implement the filing requirements under Subsection [(2)] (3), including the definition of terms.

Section ~~{26}~~14. Section **31A-23a-204** is amended to read:

31A-23a-204. Special requirements for title insurance producers and agencies.

An individual title insurance producer or agency title insurance producer shall be licensed in accordance with this chapter, with the additional requirements listed in this section.

(1) (a) A person that receives a new license under this title as an agency title insurance producer shall at the time of licensure be owned or managed by at least one individual who is licensed for at least three of the five years immediately preceding the date on which the agency title insurance producer applies for a license with both:

- (i) a title examination line of authority; and
- (ii) an escrow line of authority.

(b) An agency title insurance producer subject to Subsection (1)(a) may comply with Subsection (1)(a) by having the agency title insurance producer owned or managed by:

- (i) one or more individuals who are licensed with the title examination line of authority for the time period provided in Subsection (1)(a); and
- (ii) one or more individuals who are licensed with the escrow line of authority for the time period provided in Subsection (1)(a).

(c) A person licensed as an agency title insurance producer shall at all times during the term of licensure be owned or managed by at least one individual who is licensed for at least three years within the preceding five-year period with both:

- (i) a title examination line of authority; and
- (ii) an escrow line of authority.

(d) The [~~Title and Escrow Commission~~] commissioner may by rule, subject to Section [~~31A-2-404~~] 31A-2-201, ~~{}~~ exempt an attorney with real estate experience from the experience requirements in Subsection (1)(a).

(e) An individual who satisfies the requirements of this Subsection (1) is known as a "qualifying licensee." At any given time, an individual may be a qualifying licensee for not more than two agency title insurance producers.

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(2) (a) An individual title insurance producer or agency title insurance producer appointed by an insurer shall maintain:

- (i) a fidelity bond;
- (ii) a professional liability insurance policy; or
- (iii) a financial protection:
 - (A) equivalent to that described in Subsection (2)(a)(i) or (ii); and
 - (B) that the commissioner considers adequate.

(b) The bond, insurance, or financial protection required by this Subsection (2):

(i) shall be supplied under a contract approved by the commissioner to provide protection against the improper performance of any service in conjunction with the issuance of a contract or policy of title insurance; and

(ii) be in a face amount no less than \$250,000.

(c) The [~~Title and Escrow Commission~~] commissioner may by rule, subject to Section [~~31A-2-404~~] 31A-2-201, exempt individual title insurance producer or agency title insurance producers from the requirements of this Subsection (2) upon a finding that, and only so long as, the required policy or bond is generally unavailable at reasonable rates.

(3) An individual title insurance producer or agency title insurance producer appointed by an insurer may maintain a reserve fund to the extent money was deposited before July 1, 2008, and not withdrawn to the income of the individual title insurance producer or agency title insurance producer.

(4) An examination for licensure shall include questions regarding the examination of title to real property.

(5) An individual title insurance producer may not perform the functions of escrow unless the individual title insurance producer has been examined on the fiduciary duties and procedures involved in those functions.

(6) The [~~Title and Escrow Commission~~] commissioner may adopt rules, establishing an examination for a license that will satisfy this section, subject to Section [~~31A-2-404~~] 31A-2-201, and after consulting with the commissioner's test administrator.

(7) A license may be issued to an individual title insurance producer or agency title insurance producer who has qualified:

- (a) to perform only examinations of title as specified in Subsection (4);

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(b) to handle only escrow arrangements as specified in Subsection (5); or

(c) to act as a title marketing representative.

(8) (a) A person licensed to practice law in Utah is exempt from the requirements of Subsections (2) and (3) if that person issues 12 or less policies in any 12-month period.

(b) In determining the number of policies issued by a person licensed to practice law in Utah for purposes of Subsection (8)(a), if the person licensed to practice law in Utah issues a policy to more than one party to the same closing, the person is considered to have issued only one policy.

(9) A person licensed to practice law in Utah, whether exempt under Subsection (8) or not, shall maintain a trust account separate from a law firm trust account for all title and real estate escrow transactions.

Section ~~{27}~~15. Section **31A-23a-402** is amended to read:

31A-23a-402. Unfair marketing practices -- Communication -- Unfair discrimination -- Coercion or intimidation -- Restriction on choice.

(1) (a) (i) Any of the following may not make or cause to be made any communication that contains false or misleading information, relating to an insurance product or contract, any insurer, or any licensee under this title, including information that is false or misleading because it is incomplete:

(A) a person who is or should be licensed under this title;

(B) an employee or producer of a person described in Subsection (1)(a)(i)(A);

(C) a person whose primary interest is as a competitor of a person licensed under this title; and

(D) a person on behalf of any of the persons listed in this Subsection (1)(a)(i).

(ii) As used in this Subsection (1), "false or misleading information" includes:

(A) assuring the nonobligatory payment of future dividends or refunds of unused premiums in any specific or approximate amounts, but reporting fully and accurately past experience is not false or misleading information; and

(B) with intent to deceive a person examining it:

(I) filing a report;

(II) making a false entry in a record; or

(III) wilfully refraining from making a proper entry in a record.

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(iii) A licensee under this title may not:

(A) use any business name, slogan, emblem, or related device that is misleading or likely to cause the insurer or other licensee to be mistaken for another insurer or other licensee already in business; or

(B) use any name, advertisement, or other insurance promotional material that would cause a reasonable person to mistakenly believe that a state or federal government agency and the Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act:

(I) is responsible for the insurance sales activities of the person;

(II) stands behind the credit of the person;

(III) guarantees any returns on insurance products of or sold by the person; or

(IV) is a source of payment of any insurance obligation of or sold by the person.

(iv) A person who is not an insurer may not assume or use any name that deceptively implies or suggests that person is an insurer.

(v) A person other than persons licensed as health maintenance organizations under Chapter 8, Health Maintenance Organizations and Limited Health Plans, may not use the term "Health Maintenance Organization" or "HMO" in referring to itself.

(b) A licensee's violation creates a rebuttable presumption that the violation was also committed by the insurer if:

(i) the licensee under this title distributes cards or documents, exhibits a sign, or publishes an advertisement that violates Subsection (1)(a), with reference to a particular insurer:

(A) that the licensee represents; or

(B) for whom the licensee processes claims; and

(ii) the cards, documents, signs, or advertisements are supplied or approved by that insurer.

(2) (a) A title insurer, individual title insurance producer, or agency title insurance producer or any officer or employee of the title insurer, individual title insurance producer, or agency title insurance producer may not pay, allow, give, or offer to pay, allow, or give, directly or indirectly, as an inducement to obtaining any title insurance business:

(i) any rebate, reduction, or abatement of any rate or charge made incident to the

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issuance of the title insurance;

(ii) any special favor or advantage not generally available to others;

(iii) any money or other consideration, except if approved under Section ~~[31A-2-405]~~

31A-23a-119; or

(iv) material inducement.

(b) "Charge made incident to the issuance of the title insurance" includes escrow charges, and any other services that are prescribed in rule by the ~~[Title and Escrow Commission after consultation with the]~~ commissioner and subject to Section ~~[31A-2-404]~~ 31A-2-201.

(c) An insured or any other person connected, directly or indirectly, with the transaction may not knowingly receive or accept, directly or indirectly, any benefit referred to in Subsection (2)(a), including:

(i) a person licensed under Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;

(ii) a person licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act;

(iii) a builder;

(iv) an attorney; or

(v) an officer, employee, or agent of a person listed in this Subsection (2)(c)(iii).

(3) (a) An insurer may not unfairly discriminate among policyholders by charging different premiums or by offering different terms of coverage, except on the basis of classifications related to the nature and the degree of the risk covered or the expenses involved.

(b) Rates are not unfairly discriminatory if they are averaged broadly among persons insured under a group, blanket, or franchise policy, and the terms of those policies are not unfairly discriminatory merely because they are more favorable than in similar individual policies.

(4) (a) This Subsection (4) applies to:

(i) a person who is or should be licensed under this title;

(ii) an employee of that licensee or person who should be licensed;

(iii) a person whose primary interest is as a competitor of a person licensed under this title; and

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(iv) one acting on behalf of any person described in Subsections (4)(a)(i) through (iii).

(b) A person described in Subsection (4)(a) may not commit or enter into any agreement to participate in any act of boycott, coercion, or intimidation that:

(i) tends to produce:

(A) an unreasonable restraint of the business of insurance; or

(B) a monopoly in that business; or

(ii) results in an applicant purchasing or replacing an insurance contract.

(5) (a) (i) Subject to Subsection (5)(a)(ii), a person may not restrict in the choice of an insurer or licensee under this chapter, another person who is required to pay for insurance as a condition for the conclusion of a contract or other transaction or for the exercise of any right under a contract.

(ii) A person requiring coverage may reserve the right to disapprove the insurer or the coverage selected on reasonable grounds.

(b) The form of corporate organization of an insurer authorized to do business in this state is not a reasonable ground for disapproval, and the commissioner may by rule specify additional grounds that are not reasonable. This Subsection (5) does not bar an insurer from declining an application for insurance.

(6) A person may not make any charge other than insurance premiums and premium financing charges for the protection of property or of a security interest in property, as a condition for obtaining, renewing, or continuing the financing of a purchase of the property or the lending of money on the security of an interest in the property.

(7) (a) A licensee under this title may not refuse or fail to return promptly all indicia of agency to the principal on demand.

(b) A licensee whose license is suspended, limited, or revoked under Section 31A-2-308, 31A-23a-111, or 31A-23a-112 may not refuse or fail to return the license to the commissioner on demand.

(8) (a) A person may not engage in an unfair method of competition or any other unfair or deceptive act or practice in the business of insurance, as defined by the commissioner by rule, after a finding that the method of competition, the act, or the practice:

(i) is misleading;

(ii) is deceptive;

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- (iii) is unfairly discriminatory;
- (iv) provides an unfair inducement; or
- (v) unreasonably restrains competition.

(b) Notwithstanding Subsection (8)(a), for purpose of the title insurance industry, the [~~Title and Escrow Commission~~] commissioner shall make rules, subject to Section [~~31A-2-404~~] 31A-2-201, that define an unfair method of competition or unfair or deceptive act or practice after a finding that the method of competition, the act, or the practice:

- (i) is misleading;
- (ii) is deceptive;
- (iii) is unfairly discriminatory;
- (iv) provides an unfair inducement; or
- (v) unreasonably restrains competition.

Section ~~{28}~~16. Section **31A-23a-406** is amended to read:

31A-23a-406. Title insurance producer's business.

(1) An individual title insurance producer or agency title insurance producer may do escrow involving real property transactions if all of the following exist:

(a) the individual title insurance producer or agency title insurance producer is licensed with:

- (i) the title line of authority; and
- (ii) the escrow subline of authority;

(b) the individual title insurance producer or agency title insurance producer is appointed by a title insurer authorized to do business in the state;

(c) except as provided in Subsection (3), the individual title insurance producer or agency title insurance producer issues one or more of the following as part of the transaction:

- (i) an owner's policy offering title insurance;
- (ii) a lender's policy offering title insurance; or

(iii) if the transaction does not involve a transfer of ownership, an endorsement to an owner's or a lender's policy offering title insurance;

(d) money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow is deposited:

- (i) in a federally insured depository institution, as defined in Section 7-1-103, that:

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(A) has an office in this state, if the individual title insurance producer or agency title insurance producer depositing the money is a resident licensee; and

(B) is authorized by the depository institution's primary regulator to engage in trust business, as defined in Section 7-5-1, in this state; and

(ii) in a trust account that is separate from all other trust account money that is not related to real estate transactions;

(e) money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow is the property of the one or more persons entitled to the money under the provisions of the escrow; and

(f) money deposited with the individual title insurance producer or agency title insurance producer in connection with an escrow is segregated escrow by escrow in the records of the individual title insurance producer or agency title insurance producer;

(g) earnings on money held in escrow may be paid out of the escrow account to any person in accordance with the conditions of the escrow;

(h) the escrow does not require the individual title insurance producer or agency title insurance producer to hold:

(i) construction money; or

(ii) money held for exchange under Section 1031, Internal Revenue Code; and

(i) the individual title insurance producer or agency title insurance producer shall maintain a physical office in Utah staffed by a person with an escrow subline of authority who processes the escrow.

(2) Notwithstanding Subsection (1), an individual title insurance producer or agency title insurance producer may engage in the escrow business if:

(a) the escrow involves:

(i) a mobile home;

(ii) a grazing right;

(iii) a water right; or

(iv) other personal property authorized by the commissioner; and

(b) the individual title insurance producer or agency title insurance producer complies with this section except for Subsection (1)(c).

(3) (a) Subsection (1)(c) does not apply if the transaction is for the transfer of real

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property from the School and Institutional Trust Lands Administration.

(b) This subsection does not prohibit an individual title insurance producer or agency title insurance producer from issuing a policy described in Subsection (1)(c) as part of a transaction described in Subsection (3)(a).

(4) Money held in escrow:

(a) is not subject to any debts of the individual title insurance producer or agency title insurance producer;

(b) may only be used to fulfill the terms of the individual escrow under which the money is accepted; and

(c) may not be used until the conditions of the escrow are met.

(5) Assets or property other than escrow money received by an individual title insurance producer or agency title insurance producer in accordance with an escrow shall be maintained in a manner that will:

(a) reasonably preserve and protect the asset or property from loss, theft, or damages; and

(b) otherwise comply with the general duties and responsibilities of a fiduciary or bailee.

(6) (a) A check from the trust account described in Subsection (1)(d) may not be drawn, executed, or dated, or money otherwise disbursed unless the segregated escrow account from which money is to be disbursed contains a sufficient credit balance consisting of collected and cleared money at the time the check is drawn, executed, or dated, or money is otherwise disbursed.

(b) As used in this Subsection (6), money is considered to be "collected and cleared," and may be disbursed as follows:

(i) cash may be disbursed on the same day the cash is deposited;

(ii) a wire transfer may be disbursed on the same day the wire transfer is deposited; and

(iii) the proceeds of one or more of the following financial instruments may be disbursed on the same day the financial instruments are deposited if received from a single party to the real estate transaction and if the aggregate of the financial instruments for the real estate transaction is less than \$10,000:

(A) a cashier's check, certified check, or official check that is drawn on an existing

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account at a federally insured financial institution;

(B) a check drawn on the trust account of a principal broker or associate broker licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, if the individual title insurance producer or agency title insurance producer has reasonable and prudent grounds to believe sufficient money will be available from the trust account on which the check is drawn at the time of disbursement of proceeds from the individual title insurance producer or agency title insurance producer's escrow account;

(C) a personal check not to exceed \$500 per closing; or

(D) a check drawn on the escrow account of another individual title insurance producer or agency title insurance producer, if the individual title insurance producer or agency title insurance producer in the escrow transaction has reasonable and prudent grounds to believe that sufficient money will be available for withdrawal from the account upon which the check is drawn at the time of disbursement of money from the escrow account of the individual title insurance producer or agency title insurance producer in the escrow transaction.

(c) A check or deposit not described in Subsection (6)(b) may be disbursed:

(i) within the time limits provided under the Expedited Funds Availability Act, 12 U.S.C. Sec. 4001 et seq., as amended, and related regulations of the Federal Reserve System; or

(ii) upon notification from the financial institution to which the money has been deposited that final settlement has occurred on the deposited financial instrument.

(7) An individual title insurance producer or agency title insurance producer shall maintain a record of a receipt or disbursement of escrow money.

(8) An individual title insurance producer or agency title insurance producer shall comply with:

(a) Section 31A-23a-409;

(b) Title 46, Chapter 1, Notaries Public Reform Act; and

(c) any rules adopted by the [~~Title and Escrow Commission~~] commissioner, subject to Section [~~31A-2-404~~] 31A-2-201, that govern escrows.

(9) If an individual title insurance producer or agency title insurance producer conducts a search for real estate located in the state, the individual title insurance producer or agency title insurance producer shall conduct a reasonable search of the public records.

Section ~~{29}~~17. Section **31A-23a-415** is amended to read:

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31A-23a-415. Assessment on agency title insurance producers or title insurers --

Account created.

(1) For purposes of this section:

(a) "Premium" is as described in Subsection 59-9-101(3).

(b) "Title insurer" means a person:

(i) making any contract or policy of title insurance as:

(A) insurer;

(B) guarantor; or

(C) surety;

(ii) proposing to make any contract or policy of title insurance as:

(A) insurer;

(B) guarantor; or

(C) surety; or

(iii) transacting or proposing to transact any phase of title insurance, including:

(A) soliciting;

(B) negotiating preliminary to execution;

(C) executing of a contract of title insurance;

(D) insuring; and

(E) transacting matters subsequent to the execution of the contract and arising out of the contract.

(c) "Utah risks" means insuring, guaranteeing, or indemnifying with regard to real or personal property located in Utah, an owner of real or personal property, the holders of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of:

(i) liens or encumbrances upon, defects in, or the unmarketability of the title to the property; or

(ii) invalidity or unenforceability of any liens or encumbrances on the property.

(2) (a) The commissioner may assess each title insurer, each individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer, and each agency title insurance producer an annual assessment[:], in accordance with this Subsection (2), to be used for the purposes described in Subsection (3).

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~~[(i) determined by the Title and Escrow Commission:]~~

~~[(A) after consultation with the commissioner, and]~~

~~[(B) in accordance with this Subsection (2); and]~~

~~[(ii) to be used for the purposes described in Subsection (3).]~~

(b) An agency title insurance producer and individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer shall be assessed up to:

(i) \$250 for the first office in each county in which the agency title insurance producer or individual title insurance producer maintains an office; and

(ii) \$150 for each additional office the agency title insurance producer or individual title insurance producer maintains in the county described in Subsection (2)(b)(i).

(c) A title insurer shall be assessed up to:

(i) \$250 for the first office in each county in which the title insurer maintains an office;

(ii) \$150 for each additional office the title insurer maintains in the county described in Subsection (2)(c)(i); and

(iii) an amount calculated by:

(A) aggregating the assessments imposed on:

(I) agency title insurance producers and individual title insurance producers under Subsection (2)(b); and

(II) title insurers under Subsections (2)(c)(i) and (2)(c)(ii);

(B) subtracting the amount determined under Subsection (2)(c)(iii)(A) from the total costs and expenses determined under Subsection (2)(d); and

(C) multiplying:

(I) the amount calculated under Subsection (2)(c)(iii)(B); and

(II) the percentage of total premiums for title insurance on Utah risk that are premiums of the title insurer.

(d) Notwithstanding Section 31A-3-103 and subject to Section ~~[31A-2-404]~~ 31A-2-201, the ~~[Title and Escrow Commission]~~ commissioner by rule shall establish the amount of costs and expenses described under Subsection (3) that will be covered by the assessment, except the costs or expenses to be covered by the assessment may not exceed the cost of one full-time equivalent position.

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(e) (i) An individual licensed to practice law in Utah is exempt from the requirements of this Subsection (2) if that person issues 12 or less policies during a 12-month period.

(ii) In determining the number of policies issued by an individual licensed to practice law in Utah for purposes of Subsection (2)(e)(i), if the individual issues a policy to more than one party to the same closing, the individual is considered to have issued only one policy.

(3) (a) Money received by the state under this section shall be deposited into the Title Licensee Enforcement Restricted Account.

(b) There is created in the General Fund a restricted account known as the "Title Licensee Enforcement Restricted Account."

(c) The Title Licensee Enforcement Restricted Account shall consist of the money received by the state under this section.

(d) The commissioner shall administer the Title Licensee Enforcement Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Title Licensee Enforcement Restricted Account only to pay for a cost or expense incurred by the department in the administration, investigation, and enforcement of laws governing individual title insurance producers, agency title insurance producers, or title insurers.

(e) An appropriation from the Title Licensee Enforcement Restricted Account is nonlapsing.

(4) The assessment imposed by this section shall be in addition to any premium assessment imposed under Subsection 59-9-101(3).

Section ~~30~~18. Section **31A-23a-1001** is amended to read:

31A-23a-1001. Definitions.

As used in this part:

(1) "Affiliated business" means the gross transaction revenue of a title entity's title insurance business in the state that is the result of an affiliated business arrangement.

(2) "Affiliated business arrangement" means the same as that term is defined in 12 U.S.C. Sec. 2602, except the services that are the subject of the arrangement do not need to involve a federally related mortgage loan.

(3) "Applicable percentage" means:

(a) on February 1, 2020, through January 31, 2021, 0.5%;

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- (b) on February 1, 2021, through January 31, 2022, 1%;
 - (c) on February 1, 2022, through January 31, 2023, 1.5%;
 - (d) on February 1, 2023, through January 31, 2024, 2%;
 - (e) on February 1, 2024, through January 31, 2025, 2.5%;
 - (f) on February 1, 2025, through January 31, 2026, 3%;
 - (g) on February 1, 2026, through January 31, 2027, 3.5%;
 - (h) on February 1, 2027, through January 31, 2028, 4%; and
 - (i) on February 1, 2028, through January 31, 2029, 4.5%.
- (4) "Associate" means the same as that term is defined in 12 U.S.C. Sec. 2602.
- (5) "Division" means the Division of Real Estate created in Section 61-2-201.
- (6) "Essential function" means:
- (a) examining and evaluating, based on relevant law and title insurance underwriting principles and guidelines, title evidence to determine the insurability of a title and which items to include or exclude in a title commitment or title insurance policy to be issued;
 - (b) preparing and issuing a title commitment or other document that:
 - (i) discloses the status of the title as the title is proposed to be insured;
 - (ii) identifies the conditions that must be met before a title insurance policy will be issued; and
 - (iii) obligates the insurer to issue a title insurance policy if the conditions described in Subsection (6)(b)(ii) are met;
 - (c) clearing underwriting objections and taking the necessary steps to satisfy any conditions to the issuance of a title insurance policy;
 - (d) preparing the issuance of a title insurance policy; or
 - (e) handling the closing or settlement of a real estate transaction when:
 - (i) it is customary for a title entity to handle the closing or settlement; and
 - (ii) the title entity's compensation for handling the closing or settlement is customarily part of the payment or retention from the insurer.
- (7) "New or newly affiliated title entity" means a title entity that:
- (a) is licensed as a title entity for the first time on or after May 14, 2019; or
 - (b) (i) is licensed as a title entity before May 14, 2019; and
 - (ii) enters into an affiliated business arrangement for the first time on or after May 14,

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2019.

(8) "Producer" means the same as the term "person who is in a position to refer settlement service business" is defined in 12 C.F.R. Sec. 1024.15(c).

(9) "RESPA" means the federal Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601 et seq. and any rules made thereunder.

(10) "Section 8 of RESPA" means 12 U.S.C. Sec. 2607 and any rules promulgated thereunder.

(11) "Sufficient capital and net worth" means:

(a) for a new or newly affiliated title entity:

(i) \$100,000 for the first five years after becoming a new or newly affiliated title entity;

or

(ii) after the first five years after becoming a new or newly affiliated title entity, the greater of:

(A) \$50,000; or

(B) on February 1 of each year, an amount equal to 5% of the title entity's average annual gross revenue over the preceding two calendar years, up to \$150,000; or

(b) for a title entity licensed before May 14, 2019, who is not a new or newly affiliated title entity:

(i) for the time period beginning on February 1, 2020, and ending on January 31, 2029, the lesser of:

(A) an amount equal to the applicable percentage of the title entity's average annual gross revenue over the two calendar years immediately preceding the February 1 on which the applicable percentage first applies; or

(B) \$150,000; and

(ii) beginning on February 1, 2029, the greater of:

(A) \$50,000; or

(B) an amount equal to 5% of the title entity's average annual gross revenue over the preceding two calendar years, up to \$150,000.

(12) "Title entity" means:

(a) a title licensee as defined in [~~Section 31A-2-402~~] this section; or

(b) a title insurer as defined in Section 31A-23a-415.

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(13) (a) "Title evidence" means a written or electronic document that identifies and describes or compiles the documents, records, judgments, liens, and other information from the public records relevant to the history and current condition of a title to be insured.

(b) "Title evidence" does not include a pro forma commitment.

(14) "Title licensee" means:

(a) an agency title insurance producer with a title insurance line of authority;

(b) an individual title insurance producer with:

(i) a general title insurance line of authority; or

(ii) a specific category of authority for title insurance; or

(c) a title insurance adjuster.

Section ~~31~~19. Section **31A-26-203** is amended to read:

31A-26-203. Adjuster's license required.

(1) The commissioner shall issue a license to act as an independent adjuster or public adjuster to a person who, as to the license classification applied for under Section 31A-26-204:

(a) satisfies the character requirements under Section 31A-26-205;

(b) satisfies the applicable continuing education requirements under Section 31A-26-206;

(c) satisfies the applicable examination requirements under Section 31A-26-207;

(d) has not committed an act that is a ground for denial, suspension, or revocation provided for in Section 31A-26-213;

(e) if a nonresident, complies with Section 31A-26-208; and

(f) pays the applicable fees under Section 31A-3-103.

(2) (a) This Subsection (2) applies to the following persons:

(i) an applicant for:

(A) an independent adjuster's license; or

(B) a public adjuster's license;

(ii) a licensed independent adjuster; or

(iii) a licensed public adjuster.

(b) A person described in Subsection (2)(a) shall report to the commissioner:

(i) an administrative action taken against the person, including a denial of a new or renewal license application:

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- (A) in another jurisdiction; or
- (B) by another regulatory agency in this state; and
- (ii) a criminal prosecution taken against the person in any jurisdiction.

(c) The report required by Subsection (2)(b) shall:

(i) be filed:

(A) at the time the person applies for an adjustor's license; and

(B) if an action or prosecution occurs on or after the day on which the person applies

for an adjustor's license:

(I) for an administrative action, within 30 days of the final disposition of the administrative action; or

(II) for a criminal prosecution, within 30 days of the initial appearance before a court; and

(ii) include a copy of the complaint or other relevant legal documents related to the action or prosecution described in Subsection (2)(b).

(3) (a) The department may require a person applying for a license or for consent to engage in the business of insurance to submit to a criminal background check as a condition of receiving a license or consent.

(b) A person, if required to submit to a criminal background check under Subsection (3)(a), shall:

(i) submit a fingerprint card in a form acceptable to the department; and

(ii) consent to a fingerprint background check by:

(A) the Utah Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) For a person who submits a fingerprint card and consents to a fingerprint background check under Subsection (3)(b), the department may request concerning a person applying for an independent or public adjuster's license:

(i) criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

(ii) complete Federal Bureau of Investigation criminal background checks through the national criminal history system.

(d) Information obtained by the department from the review of criminal history records

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received under this Subsection (3) shall be used by the department for the purposes of:

- (i) determining if a person satisfies the character requirements under Section 31A-26-205 for issuance or renewal of a license;
- (ii) determining if a person has failed to maintain the character requirements under Section 31A-26-205; and
- (iii) preventing a person who violates the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033, from engaging in the business of insurance in the state.

(e) If the department requests the criminal background information, the department shall:

- (i) pay to the Department of Public Safety the costs incurred by the Department of Public Safety in providing the department criminal background information under Subsection (3)(c)(i);
- (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of Investigation in providing the department criminal background information under Subsection (3)(c)(ii); and
- (iii) charge the person applying for a license or for consent to engage in the business of insurance a fee equal to the aggregate of Subsections (3)(e)(i) and (ii).

(4) The commissioner may deny a license application to act as an independent adjuster or public adjuster to a person who, as to the license classification applied for under Section 31A-26-204:

- (a) fails to satisfy the requirements in this section; or
- (b) commits an act that is a ground for denial, suspension, or revocation provided for in Section 31A-26-213.

~~[(5) Notwithstanding the other provisions of this section, the commissioner may:]~~

~~[(a) issue a license to an applicant for a license for a title insurance classification only with the concurrence of the Title and Escrow Commission; or]~~

~~[(b) renew a license for a title insurance classification only with the concurrence of the Title and Escrow Commission.]~~

Section ~~32~~20. Section **31A-26-204** is amended to read:

31A-26-204. License classifications.

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A resident or nonresident license issued under this chapter shall be issued under the classifications described under Subsections (1), (2), and (3). A classification describes the matters to be considered under a prerequisite education or examination required of license applicants under Sections 31A-26-206 and 31A-26-207.

(1) Independent adjuster license classifications include:

(a) accident and health insurance, including related service insurance under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(b) property and casualty insurance, including a surety or other bond;

(c) crop insurance; and

(d) workers' compensation insurance.

(2) Public adjuster license classifications include:

(a) accident and health insurance, including related service insurance under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(b) property and casualty insurance, including a surety or other bond;

(c) crop insurance; and

(d) workers' compensation insurance.

(3) ~~[(a)]~~ The commissioner may by rule:

~~[(i)]~~ (a) recognize other independent adjuster or public adjuster license classifications as to other kinds of insurance not listed under Subsection (1); and

~~[(ii)]~~ (b) create license classifications that grant only part of the authority arising under another license class.

~~[(b) Notwithstanding Subsection (3)(a), for purpose of title insurance, the Title and Escrow Commission may make the rules provided for in Subsection (3)(a), subject to Section 31A-2-404.]~~

Section ~~{33}~~21. Section **31A-35-102** is amended to read:

31A-35-102. Definitions.

As used in this chapter:

(1) "Bail bond" means a bail bond insurance product for a specified monetary amount that is:

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(a) executed by a bail bond producer licensed in accordance with Section 31A-35-401;
and

(b) issued to a court, magistrate, or authorized officer to secure:

(i) the release of a person from incarceration; and

(ii) the appearance of the released person at court hearings the person is required to attend.

(2) "Bail bond agency" means any sole proprietor or entity that:

(a) is licensed under Subsection 31A-35-404(1) or (2);

(b) (i) is the agent of a surety insurer that sells a bail bond in connection with judicial proceedings;

(ii) pledges the assets of a letter of credit from a Utah depository institution for a bail bond in connection with judicial proceedings; or

(iii) pledges personal or real property, or both, as security for a bail bond in connection with judicial proceedings; and

(c) receives or is promised money or other things of value for a service described in Subsection (2)(b).

(3) "Bail bond producer" means an individual who:

(a) is appointed by:

(i) a surety insurer that sells bail bonds; or

(ii) a bail bond agency licensed under this chapter;

(b) is appointed to execute or countersign undertakings of bail in connection with judicial proceedings; and

(c) receives or is promised money or other things of value for engaging in an act described in Subsection (3)(b).

(4) "Bail enforcement agent" means the same as that term is defined in Section 53-11-102.

~~[(5) "Board" means the Bail Bond Oversight Board created in Section 31A-35-201.]~~

~~[(6)]~~ (5) "Certificate" means a certificate of authority issued under this chapter to allow an insurer to operate as a surety insurer.

~~[(7)]~~ (6) "Indemnitor" means an entity or natural person that enters into an agreement with a bail bond agency to hold the bail bond agency harmless from loss incurred as a result of

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executing a bail bond.

~~[(8)]~~ (7) "Liquid assets" means financial holdings that can be converted into cash in a timely manner without the loss of principal.

~~[(9)]~~ (8) "Premium" means the specified monetary amount used to purchase a bail bond.

~~[(10)]~~ (9) "Principal" means a person that:

- (a) guarantees the performance of a bail bond; or
- (b) owns not less than 10% of the bail bond agency.

~~[(11)]~~ (10) "Surety insurer" means an insurer that:

- (a) is licensed under Chapter 4, Insurers in General, Chapter 5, Domestic Stock and Mutual Insurance Corporations, or Chapter 14, Foreign Insurers;
- (b) receives a certificate under this title; and
- (c) sells bail bonds in connection with judicial proceedings.

~~[(12)]~~ (11) "Utah depository institution" means a depository institution, as defined in Section 7-1-103, that:

- (a) has Utah as its home state; or
- (b) operates a branch in Utah.

Section ~~{34}~~22. Section **31A-35-301** is amended to read:

31A-35-301. The commissioner's authority.

- (1) The commissioner shall:
 - (a) make rules as necessary for the administration of this chapter;
 - (b) ~~[with information as provided by the board;]~~ issue or deny licensure under this chapter;
 - (c) take action regarding a license, including suspension or revocation; and
 - (d) maintain and publish a current list of licensed bail bond agencies and bail bond producers.

(2) The commissioner may establish fees for the issuance, renewal, and reinstatement of a bail bond agency license in accordance with Section 63J-1-504.

Section ~~{35}~~23. Section **31A-35-405** is amended to read:

31A-35-405. Issuance of license -- Denial -- Right of appeal.

- (1) After the commissioner receives a complete application, fee, and any additional

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information in accordance with Section 31A-35-401, the [~~board~~] commissioner shall determine whether the applicant meets the requirements for issuance of a license under this chapter.

(2) (a) If the [~~board~~] commissioner determines that the applicant meets the requirements for issuance of a license under this chapter, the commissioner shall issue to that person a bail bond agency license.

(b) If the [~~board~~] commissioner determines that the applicant does not meet the requirements for issuance of a license under this chapter, the commissioner shall make a final determination as to whether to issue a license under this chapter.

(3) (a) If the commissioner denies an application for a bail bond agency license under this chapter, the commissioner shall provide prompt written notification of the denial by commencing an informal adjudicative proceeding in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(b) An applicant may request a hearing on a denial of an application for a bail bond agency license within 15 days after the day on which the commissioner issues the denial.

(c) The commissioner shall hold a hearing no later than 60 days after the day on which the commissioner receives a request for a hearing described in Subsection (3)(b).

Section ~~36~~24. Section **31A-35-406** is amended to read:

31A-35-406. Initial licensing, license renewal, and license reinstatement.

(1) An applicant for an initial bail bond agency license shall:

- (a) complete and submit to the department an application;
- (b) submit to the department, as applicable, a copy of the applicant's:
 - (i) irrevocable letter of credit, as required under Subsection 31A-35-404(1);
 - (ii) verified financial statement, as required under Subsection 31A-35-404(2); or
 - (iii) qualifying power of attorney, as required under Subsection 31A-35-404(3); and
- (c) pay the department the applicable renewal fee established in accordance with

Section 31A-3-103.

(2) (a) A license under this chapter expires annually effective at midnight on August 14.

(b) To renew a bail bond agency license issued under this chapter, on or before July 15, the bail bond agency shall:

- (i) complete and submit to the department a renewal application that includes

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certification that[:] as of May 1, the agency complies with aggregate bond limits established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

~~[(A) a principal of the agency attended or participated by telephone in at least one entire board meeting during the 12-month period before July 15; and]~~

~~[(B) as of May 1, the agency complies with aggregate bond limits established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;]~~

(ii) submit to the department, as applicable, a copy of the applicant's:

(A) irrevocable letter of credit, as required under Subsection 31A-35-404(1);

(B) verified financial statement, as required under Subsection 31A-35-404(2); or

(C) qualifying power of attorney, as required under Subsection 31A-35-404(3); and

(iii) pay the department the applicable renewal fee established in accordance with Section 31A-3-103.

(c) A bail bond agency shall renew the bail bond agency's license under this chapter annually as established by department rule, regardless of when the license is issued.

(3) (a) A bail bond agency may apply for reinstatement of an expired bail bond agency license within one year after the day on which the license expires by complying with the renewal requirements described in Subsection (2).

(b) If a bail bond agency license has been expired for more than one year, the person applying for reinstatement of the bail bond agency license shall comply with the initial licensing requirements described in Subsection (1).

(4) If a bail bond agency license is suspended, the applicant may not submit an application for a bail bond agency license until after the day on which the period of suspension ends.

(5) The department shall deposit a fee collected under this section in the restricted account created in Section 31A-35-407.

Section ~~37~~25. Section **31A-35-407** is amended to read:

31A-35-407. Restricted account.

(1) There is created within the General Fund a restricted account known as the "Bail Bond Administration Account."

(2) (a) The account shall be funded from the fees imposed under this chapter.

(b) The department shall deposit all fees collected under this part into the account.

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(c) The funds in the account shall be used by the department to administer this chapter.

(d) The account shall earn interest, which shall be deposited into the account.

~~[(3) The department shall, at the end of each quarter, provide to the board an itemized accounting that includes the balances at the beginning and the end of the quarter. The department shall provide the report no later than the 30th day of the month subsequent to the last month of the required quarterly report.]~~

Section ~~{38}~~26. Section **31A-41-102** is amended to read:

31A-41-102. Definitions.

As used in this chapter:

~~[(1) "Commission" means the Title and Escrow Commission created in Section 31A-2-403.]~~

~~[(2)]~~ (1) "Fund" means the Title Insurance Recovery, Education, and Research Fund created in Section 31A-41-201.

~~[(3)]~~ (2) "Title insurance licensee" means:

- (a) an agency title insurance producer; or
- (b) an individual title insurance producer.

Section ~~{39}~~27. Section **31A-41-202** is amended to read:

31A-41-202. Assessments.

(1) An agency title insurance producer licensed under this title shall pay an annual assessment determined by the ~~[commission]~~ commissioner by rule made in accordance with Section ~~[31A-2-404]~~ 31A-2-201, except that the annual assessment:

- (a) may not exceed \$1,000; and
- (b) shall be determined on the basis of title insurance premium volume.

(2) An individual who applies for a license or renewal of a license as an individual title insurance producer, shall pay in addition to any other fee required by this title, an assessment not to exceed \$20, as determined by the ~~[commission]~~ commissioner by rule made in accordance with Section ~~[31A-2-404]~~ 31A-2-201, except that if the individual holds more than one license, the total of all assessments under this Subsection (2) may not exceed \$20 in a fiscal year.

(3) (a) To be licensed as an agency title insurance producer, a person shall pay to the department an assessment of \$1,000 before the day on which the person is licensed as a title

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insurance agency.

(b) (i) The department shall assess on a licensed agency title insurance producer an amount equal to the greater of:

(A) \$1,000; or

(B) subject to Subsection (3)(b)(ii), 2% of the balance in the agency title insurance producer's reserve account described in Subsection 31A-23a-204(3).

(ii) The department may assess on an agency title insurance producer an amount less than 2% of the balance described in Subsection (3)(b)(i)(B) if:

(A) before issuing the assessments under this Subsection (3)(b) the department determines that the total of all assessments under Subsection (3)(b)(i) will exceed \$250,000;

(B) the amount assessed on the agency title insurance producer is not less than \$1,000; and

(C) the department reduces the assessment in a proportionate amount for agency title insurance producers assessed on the basis of the 2% of the balance described in Subsection (3)(b)(i)(B).

(iii) An agency title insurance producer assessed under this Subsection (3)(b) shall pay the assessment by no later than August 1.

(4) The department may not assess a title insurance licensee an assessment for purposes of the fund if that assessment is not expressly provided for in this section.

Section ~~{40}~~28. Section **58-49-2** is amended to read:

58-49-2. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

~~[(1) "Board" means the Dietitian Board created in Section 58-49-3.]~~

~~[(2)]~~ (1) "Certified dietitian" means a person who is certified by the division as meeting the certification requirements provided in this chapter.

~~[(3)]~~ (2) "Commission on Dietetic Registration" means the credentialing component of the American Dietetic Association.

~~[(4)]~~ (3) "Dietetics" means the integration and application of principles derived from the sciences of food for the development, management, and provision of dietary services for individuals and groups for meeting their health care needs. "Dietetics" includes:

(a) the evaluation of a person's dietary status;

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- (b) the advising and education of persons on dietary needs; and
- (c) the evaluation of needs, implementation of systems to support needs, and maintenance of appropriate standards of quality in food and dietary service for individuals, groups, or patients in licensed institutional facilities or in private office settings.

~~[(5)]~~ (4) "Unprofessional conduct" as defined in Section 58-1-501 and as may be further defined by rule includes failing to maintain a level of professional practice consistent with all initial and subsequent requirements by which certification is achieved or maintained under this chapter.

Section ~~{41}~~29. Section **58-49-4** is amended to read:

58-49-4. Qualifications for certification -- Fee.

Each applicant for certification under this chapter shall provide proof satisfactory to the division that the applicant:

- (1) holds a baccalaureate or post-baccalaureate degree conferred by a college or university approved by the division at the time the degree was conferred with a major course of study in the sciences of food, dietetics, food systems management, or an equivalent major course of study;
- (2) has completed an internship or preplanned professional baccalaureate or post-baccalaureate experience in a dietetic program under the supervision of a certified dietitian who is certified under this chapter or certified, registered, or licensed under the laws of another state or territory of the United States;
- (3) has satisfactorily passed a competency examination, approved by or given at the direction of the ~~[board in collaboration with the]~~ division; and
- (4) has paid the appropriate fees determined by the Department of Commerce. The fee assessed by the Department of Commerce shall be fair and reasonable and shall reflect the cost of services provided.

Section ~~{42}~~30. Section **58-49-6** is amended to read:

58-49-6. Certification of persons qualified in other jurisdictions.

Upon receipt of an application and application fee~~], and upon the recommendation of the board,~~] the division may waive the examination requirement for an applicant who, at the time of application:

- (1) holds a valid dietitian license or certificate issued by another state or territory of the

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United States, provided his qualifications meet the requirements of this chapter; or

(2) is registered by the Commission on Dietetic Registration.

Section ~~(43)~~31. Section **58-53-102** is amended to read:

58-53-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

~~[(1) "Board" means the Landscape Architects Board created in Section 58-53-201.]~~

~~[(2)]~~ (1) "Fund" means the Landscape Architects Education and Enforcement Fund created in Section 58-53-103.

~~[(3)]~~ (2) "Practice of landscape architecture" means rendering or offering to render any of the following services:

(a) production of a site plan which may include the design of any of the following:

- (i) sprinkler irrigation systems;
- (ii) landscape grading and drainage plans; or
- (iii) parking lots;

(b) design of any of the following structures incidental to the production of a site plan:

- (i) retaining walls; or
- (ii) raised platforms, decks, and walkways;

(c) design of any of the following structures incidental to the production of a site plan when the structure does not exceed 1,000 square feet:

- (i) covered pavilions;
- (ii) gazebos;
- (iii) restrooms;
- (iv) storage and maintenance facilities; or
- (v) other accessory structures; or

(d) collaboration with architects and professional engineers in the design of roads, bridges, buildings, and structures with respect to the functional and aesthetic requirements of the area in which they are to be placed.

~~[(4)]~~ (3) "Principal" means a licensed landscape architect having responsible charge of a landscape architectural practice.

~~[(5)]~~ (4) "Supervision" with respect to the supervision of an employee of a landscape architect, means that a licensed landscape architect is responsible for and personally reviews,

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corrects when necessary, and approves work performed by any employee under the direction of the landscape architect, and may be further defined by rule of the division in collaboration with the board.

~~[(6)]~~ (5) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-53-501.

~~[(7)]~~ (6) "Unprofessional conduct" is as defined in Section 58-1-501 and as may be further defined by rule of the division in collaboration with the board.

Section ~~{44}~~32. Section **58-53-103** is amended to read:

58-53-103. Education and enforcement fund.

(1) There is created an expendable special revenue fund known as the "Landscape Architects Education and Enforcement Fund."

(2) The fund consists of money from:

(a) a surcharge placed on application fees for initial, renewal, and reinstatement licensure under this chapter, in an amount established by the division [~~with the collaboration of the board~~] in accordance with Section 63J-1-504, not to exceed 50% of the respective fee; and

(b) administrative penalties collected pursuant to this chapter.

(3) The fund shall earn interest, and all interest earned on fund money shall be deposited into the fund.

(4) The director may~~[-with concurrence of the board;]~~ make distributions from the fund for the following purposes:

(a) education and training of licensees under this chapter;

(b) education and training of the public or other interested persons in matters concerning landscape architectural laws and practices; and

(c) enforcement of this chapter by:

(i) investigating unprofessional or unlawful conduct; and

(ii) providing legal representation to the division when the division takes legal action against a person engaging in unprofessional or unlawful conduct.

(5) If the balance in the fund exceeds \$100,000 at the close of any fiscal year, the excess shall be transferred to the General Fund.

(6) The division shall report annually to the appropriate appropriations subcommittee of the Legislature concerning the fund.

Section ~~{45}~~33. Section **58-53-302** is amended to read:

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58-53-302. Qualifications for licensure.

(1) Each applicant for licensure as a landscape architect shall:

(a) submit an application in a form prescribed by the division;

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

(c) provide satisfactory evidence of good moral character;

(d) (i) have graduated and received an earned bachelors or masters degree from a landscape architecture program meeting criteria established by rule by the division [~~in collaboration with the board~~]; or

(ii) have completed not less than eight years of supervised practical experience in landscape architecture which meets the requirements established by rule by the division [~~in collaboration with the board~~]; and

(e) have successfully passed examinations established by rule by the division [~~in collaboration with the board~~].

(2) Satisfactory completion of each year of a landscape architectural program described in Subsection (1)(d)(i) is equivalent to one year of experience for purposes of Subsection (1)(d)(ii).

Section ~~{46}~~34. Section **58-53-304** is amended to read:

58-53-304. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following may engage in the stated limited acts or practices without being licensed under this chapter:

(1) a person preparing a site plan as defined in Subsection [~~58-53-102(3)~~ 58-53-102(2)], for a one-, two-, three-, or four-family residence not exceeding two stories in height, exclusive of the basement;

(2) a person designing sprinkler irrigation systems when licensed as a landscape contractor under Title 58, Chapter 55, Utah Construction Trades Licensing Act;

(3) a person licensed to practice professional engineering or professional structural engineering under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(4) a person licensed to practice architecture under Title 58, Chapter 3a, Architects Licensing Act;

(5) unlicensed employees of a person licensed under this chapter while preparing site

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plans as defined in Subsection ~~[58-53-102(3)]~~ 58-53-102(2), under the supervision of a landscape architect; and

(6) an organization engaged in the practice of landscape architecture, provided that:

(a) the organization employs a principal; and

(b) all individuals employed by the organization, who are engaged in the practice of landscape architecture, are licensed or exempt from licensure under this chapter.

Section ~~{47}~~35. Section **58-53-601** is amended to read:

58-53-601. Seal -- Design and implementation.

Every landscape architect shall have a seal, the design and implementation of which shall be established by rule by the division ~~[in collaboration with the board]~~.

Section ~~{48}~~36. Section **58-71-102** is amended to read:

58-71-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Acupuncture" means the same as that term is defined in Section 58-72-102.

(2) "Administrative penalty" means a monetary fine imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

~~[(3) "Board" means the Naturopathic Physicians Licensing Board created in Section 58-71-201.]~~

~~[(4) (3) "Controlled substance" means the same as that term is defined in Section 58-37-2.]~~

~~[(5) (4) "Diagnose" means:~~

(a) to examine in any manner another individual, parts of an individual's body, substances, fluids, or materials excreted, taken, or removed from an individual's body, or produced by an individual's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

(b) to attempt to conduct an examination or determination described under Subsection ~~[(5)(a)]~~ (4)(a);

(c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection ~~[(5)(a)]~~ (4)(a); or

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(d) to make an examination or determination as described in Subsection [~~(5)(a)~~] (4)(a) upon or from information supplied directly or indirectly by another individual, whether or not in the presence of the individual the examination or determination concerns.

[~~(6)~~] (5) "Local anesthesia" means an agent, whether a natural medicine or nonscheduled prescription drug, which:

(a) is applied topically or by injection associated with the performance of minor office procedures;

(b) has the ability to produce loss of sensation to a targeted area of an individual's body;

(c) does not cause loss of consciousness or produce general sedation; and

(d) is part of the competent practice of naturopathic medicine during minor office procedures.

[~~(7)~~] (6) "Medical naturopathic assistant" means an unlicensed individual working under the direct and immediate supervision of a licensed naturopathic physician and engaged in specific tasks assigned by the licensed naturopathic physician in accordance with the standards and ethics of the profession.

[~~(8)~~] (7) (a) "Minor office procedures" means:

(i) the use of operative, electrical, or other methods for repair and care of superficial lacerations, abrasions, and benign lesions;

(ii) removal of foreign bodies located in the superficial tissues, excluding the eye or ear;

(iii) the use of antiseptics and local anesthetics in connection with minor office surgical procedures; and

(iv) percutaneous injection into skin, tendons, ligaments, muscles, and joints with:

(A) local anesthesia or a prescription drug described in Subsection [~~(9)(d)~~] (8)(d); or

(B) natural substances.

(b) "Minor office procedures" does not include:

(i) general or spinal anesthesia;

(ii) office procedures more complicated or extensive than those set forth in Subsection [~~(8)(a)~~] (7)(a);

(iii) procedures involving the eye; and

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(iv) any office procedure involving nerves, veins, or arteries.

~~[(9)]~~ (8) "Natural medicine" means any:

(a) food, food extract, dietary supplement as defined by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., homeopathic remedy, or plant substance that is not designated a prescription drug or controlled substance;

(b) over-the-counter medication;

(c) other nonprescription substance, the prescription or administration of which is not otherwise prohibited or restricted under federal or state law; or

(d) prescription drug:

(i) the prescription of which is consistent with the competent practice of naturopathic medicine;

(ii) that is not a controlled substance except for testosterone; and

(iii) that is not any of the following as determined by the federal Food and Drug Administration's general drug category list:

(A) an anticoagulant for the management of a bleeding disorder;

(B) an anticonvulsant;

(C) an antineoplastic;

(D) an antipsychotic;

(E) a barbiturate;

(F) a cytotoxic;

(G) a sedative;

(H) a sleeping drug;

(I) a tranquilizer; or

(J) any drug category added after April 1, 2022, unless the division determines the drug category to be consistent with the practice of naturopathic medicine under Section 58-71-203.

~~[(10)]~~ (9) (a) "Naturopathic childbirth" means uncomplicated natural childbirth assisted by a naturopathic physician.

(b) "Naturopathic childbirth" includes the use of:

(i) natural medicines; and

(ii) uncomplicated episiotomy.

(c) "Naturopathic childbirth" does not include the use of:

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- (i) forceps delivery;
- (ii) general or spinal anesthesia;
- (iii) caesarean section delivery; or
- (iv) induced labor or abortion.

~~[(11)]~~ (10) (a) "Naturopathic mobilization therapy" means manually administering mechanical treatment of body structures or tissues for the purpose of restoring normal physiological function to the body by normalizing and balancing the musculoskeletal system of the body;

(b) "Naturopathic mobilization therapy" does not mean manipulation or adjustment of the joints of the human body beyond the elastic barrier; and

(c) "Naturopathic mobilization therapy" does not include manipulation as used in Title 58, Chapter 73, Chiropractic Physician Practice Act.

~~[(12)]~~ (11) (a) "Naturopathic physical medicine" means the use of the physical agents of air, water, heat, cold, sound, light, and electromagnetic nonionizing radiation, and the physical modalities of electrotherapy, acupuncture, diathermy, ultraviolet light, ultrasound, hydrotherapy, naturopathic mobilization therapy, and exercise.

(b) "Naturopathic physical medicine" does not include the practice of physical therapy or physical rehabilitation.

~~[(13)]~~ (12) "Practice of naturopathic medicine" means:

(a) a system of primary health care for the prevention, diagnosis, and treatment of human health conditions, injuries, and diseases that uses education, natural medicines, and natural therapies, to support and stimulate the patient's intrinsic self-healing processes by:

(i) using naturopathic childbirth, but only if:

(A) the licensee meets standards of the American College of Naturopathic Obstetricians (ACNO) or ACNO's successor as determined by the division in collaboration with the board; and

(B) the licensee follows a written plan for naturopathic physicians practicing naturopathic childbirth approved by the division in collaboration with the board, which includes entering into an agreement with a consulting physician and surgeon or osteopathic physician, in cases where the scope of practice of naturopathic childbirth may be exceeded and specialty care and delivery is indicated, detailing the guidelines by which the naturopathic

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physician will:

- (I) refer patients to the consulting physician; and
 - (II) consult with the consulting physician;
 - (ii) using naturopathic mobilization therapy;
 - (iii) using naturopathic physical medicine;
 - (iv) using minor office procedures;
 - (v) prescribing or administering natural medicine;
 - (vi) prescribing medical equipment and devices, diagnosing by the use of medical equipment and devices, and administering therapy or treatment by the use of medical devices necessary and consistent with the competent practice of naturopathic medicine;
 - (vii) prescribing barrier devices for contraception;
 - (viii) using dietary therapy;
 - (ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and physiological function tests;
 - (x) taking of body fluids for clinical laboratory tests and using the results of the tests in diagnosis;
 - (xi) taking of a history from and conducting of a physical examination upon a human patient; and
 - (xii) administering local anesthesia during the performance of a minor office procedure;
 - (b) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection [~~(13)(a)~~] (12)(a), whether or not for compensation; or
 - (c) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions, in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "naturopathic physician," "naturopathic doctor," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy," "naturopathic medical doctor," "naturopathic medicine," "naturopathic health care," "naturopathy," "N.D.," "N.M.D.," or any combination of these designations in any manner that might cause a reasonable person to believe the individual using the designation is a licensed naturopathic physician.
- [~~(14)~~] (13) "Prescribe" means to issue a prescription:

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(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

~~[(15)]~~ (14) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person licensed under this chapter or exempt from licensure under this chapter.

~~[(16)]~~ (15) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

~~[(17)]~~ (16) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-71-501.

~~[(18)]~~ (17) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-71-502, and as may be further defined by division rule.

Section ~~{49}~~37. Section **58-71-203** is amended to read:

58-71-203. Drug category review.

(1) As used in this section, "FDA" means the federal Food and Drug Administration.

(2) After April 1, 2022, if the FDA adds a new drug category to the FDA's general drug category list, the division shall determine whether the drug category is consistent with the practice of naturopathic medicine.

(3) To make the determination described in Subsection (2), the division shall consult with~~[:]~~ the board described in Section 58-67-201.

~~[(a) the board; and]~~

~~[(b) the board described in Section 58-67-201.]~~

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to implement this section.

Section ~~{50}~~38. Section **58-71-302** is amended to read:

58-71-302. Qualifications for licensure.

(1) An applicant for licensure as a naturopathic physician, except as set forth in Subsection (2), shall:

(a) submit an application in a form prescribed by the division, which may include:

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(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant; and

(ii) a record of professional liability claims made against the applicant and settlements paid by or in behalf of the applicant;

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

(c) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a naturopathic physician, as evidenced by having received an earned degree of doctor of naturopathic medicine from:

(i) a naturopathic medical school or college accredited by the Council of Naturopathic Medical Education or its successor organization approved by the division;

(ii) a naturopathic medical school or college that is a candidate for accreditation by the Council of Naturopathic Medical Education or its successor organization, and is approved by the division [~~in collaboration with the board~~], upon a finding there is reasonable expectation the school or college will be accredited; or

(iii) a naturopathic medical school or college which, at the time of the applicant's graduation, met current criteria for accreditation by the Council of Naturopathic Medical Education or its successor organization approved by the division;

(d) provide satisfactory documentation of having successfully completed, after successful completion of the education requirements set forth in Subsection (1)(c), 12 months of clinical experience in naturopathic medicine in a residency program recognized by the division and associated with an accredited school or college of naturopathic medicine, and under the preceptorship of a licensed naturopathic physician, physician and surgeon, or osteopathic physician;

(e) pass the licensing examination sequence required by division rule [~~established in collaboration with the board~~];

(f) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the [~~board~~] division if requested by the [~~board~~] division; and

(g) meet with [~~the board and~~] representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure.

(2) (a) In accordance with Subsection (2)(b), an applicant for licensure as a

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naturopathic physician under the endorsement provision of Section 58-1-302 shall:

(i) meet the requirements of Section 58-1-302;

(ii) document having met all requirements for licensure under Subsection (1) except the clinical experience requirement of Subsection (1)(d);

(iii) have passed the examination requirements established under Subsection (1)(e) that:

(A) the applicant has not passed in connection with licensure in another state or jurisdiction; and

(B) are available to the applicant to take without requiring additional professional education;

(iv) have been actively engaged in the practice of a naturopathic physician for not less than 6,000 hours during the five years immediately preceding the date of application for licensure in Utah; and

(v) meet with [~~the board and~~] representatives of the division for the purpose of evaluating the applicant's qualifications for licensure.

(b) The division may rely, either wholly or in part, on one or more credentialing associations designated by division rule[~~, made in collaboration with the board,~~] to document and certify in writing to the satisfaction of the division that an applicant has met each of the requirements of this Subsection (2), including the requirements of Section 58-1-302, and that:

(i) the applicant holds a current license;

(ii) the education, experience, and examination requirements of the foreign country or the state, district, or territory of the United States that issued the applicant's license are, or were at the time the license was issued, equal to those of this state for licensure as a naturopathic physician; and

(iii) the applicant has produced evidence satisfactory to the division of the applicant's qualifications, identity, and good standing as a naturopathic physician.

Section ~~{51}~~39. Section **58-71-304** is amended to read:

58-71-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule, complete qualified continuing professional education requirements in accordance with the number of hours and standards

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defined by division rule [~~made in collaboration with the board~~].

(2) If a renewal period is extended or shortened under Section 58-71-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

Section ~~{52}~~40. Section **58-71-304.2** is amended to read:

58-71-304.2. Temporary license.

(1) The division may issue a temporary license to an individual who:

(a) meets all qualifications for licensure except completion of the 12 month clinical experience required under Section 58-71-302; and

(b) presents a plan acceptable to the division [~~and the board~~] under which the applicant will practice under the direct supervision of a licensed naturopathic physician, physician and surgeon, or osteopathic physician, who supervises not more than three naturopathic physicians in an approved clinical experience program.

(2) A temporary license issued under this section expires on the date the licensee completes the clinical experience program, but not more than 18 months from the original date of issue.

(3) A temporary license under this section may be issued only once to an individual.

Section ~~{53}~~41. Section **58-71-601** is amended to read:

58-71-601. Mentally incompetent or incapacitated naturopathic physician.

(1) As used in this section:

(a) "Incapacitated person" means a person who is incapacitated, as defined in Section 75-1-201.

(b) "Mental illness" is as defined in Section 62A-15-602.

(2) If a court of competent jurisdiction determines a naturopathic physician is an incapacitated person or that the physician has a mental illness and is unable to safely engage in the practice of medicine, the director shall immediately suspend the license of the naturopathic physician upon the entry of the judgment of the court, without further proceedings under Title 63G, Chapter 4, Administrative Procedures Act, regardless of whether an appeal from the court's ruling is pending. The director shall promptly notify the naturopathic physician, in writing, of the suspension.

(3) (a) If the division [~~and a majority of the board find~~] finds reasonable cause to

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believe a naturopathic physician, who is not determined judicially to be an incapacitated person or to have a mental illness, is incapable of practicing medicine with reasonable skill regarding the safety of patients, because of illness, excessive use of drugs or alcohol, or as a result of any mental or physical condition, [~~the board shall recommend that~~] the director shall ~~file~~ file a petition with the division, and cause the petition to be served upon the naturopathic physician with a notice of hearing on the sole issue of the capacity of the naturopathic physician to competently and safely engage in the practice of medicine.

(b) The hearing shall be conducted under Section 58-1-109, and Title 63G, Chapter 4, Administrative Procedures Act, except as provided in Subsection (4).

(4) (a) Every naturopathic physician who accepts the privilege of being licensed under this chapter gives consent to:

(i) submitting at the physician's own expense to an immediate mental or physical examination when directed in writing by the division [~~and a majority of the board~~] to do so; and

(ii) the admissibility of the reports of the examining physician's testimony or examination, and waives all objections on the ground the reports constitute a privileged communication.

(b) The examination may be ordered by the division [~~with the consent of a majority of the board,~~] only upon a finding of reasonable cause to believe:

(i) the naturopathic physician has a mental illness, is incapacitated, or otherwise unable to practice medicine with reasonable skill and safety; and

(ii) immediate action by the division [~~and the board~~] is necessary to prevent harm to the naturopathic physician's patients or the general public.

(c) (i) Failure of a naturopathic physician to submit to the examination ordered under this section is a ground for the division's immediate suspension of the naturopathic physician's license by written order of the director.

(ii) The division may enter the order of suspension without further compliance with Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to submit to the examination ordered under this section was due to circumstances beyond the control of the naturopathic physician and was not related directly to the illness or incapacity of the naturopathic physician.

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(5) (a) A naturopathic physician whose license is suspended under Subsection (2) or (3) has the right to a hearing to appeal the suspension within 10 days after the license is suspended.

(b) The hearing held under this subsection shall be conducted in accordance with Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists for the continuance of the order of suspension in order to prevent harm to the naturopathic physician's patients or the general public.

(6) A naturopathic physician whose license is revoked, suspended, or in any way restricted under this section may request the division [~~and the board~~] to consider, at reasonable intervals, evidence presented by the naturopathic physician, under procedures established by division rule, regarding any change in the naturopathic physician's condition, to determine whether:

(a) the physician is or is not able to safely and competently engage in the practice of medicine; and

(b) the physician is qualified to have the physician's license to practice under this chapter restored completely or in part.

Section ~~{54}~~42. Section **58-71-802** is amended to read:

58-71-802. Form of practice.

(1) A naturopathic physician licensed under this chapter may engage in practice as a naturopathic physician, or in the practice of naturopathic medicine only as an individual licensee; but as an individual licensee, [~~he~~] the naturopathic physician may be:

(a) an individual operating as a business proprietor;

(b) an employee of another person;

(c) a partner in a lawfully organized partnership;

(d) a lawfully formed professional corporation;

(e) a lawfully organized limited liability company;

(f) a lawfully organized business corporation; or

(g) any other form of organization recognized by the state which is not prohibited by rule adopted by division rules [~~made in collaboration with the board~~].

(2) Regardless of the form in which a licensee engages in the practice of medicine, the licensee may only permit the practice of medicine in that form of practice to be conducted by

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an individual:

(a) licensed in Utah as a naturopathic physician under Section 58-71-301, a physician and surgeon, or as an osteopathic physician and surgeon; and

(b) who is able to lawfully and competently engage in the practice of medicine.

Section ~~{55}~~43. Section **58-71-803** is amended to read:

58-71-803. Medical records -- Electronic records.

(1) Medical records maintained by a licensee shall:

(a) meet the standards and ethics of the profession; and

(b) be maintained in accordance with division rules [~~made in collaboration with the board~~].

(2) Medical records under this section may be maintained by an electronic means if the records comply with Subsection (1).

Section ~~{56}~~44. Section **58-75-102** is amended to read:

58-75-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

~~[(1) "Board" means the Genetic Counselors Licensing Board created in Section 58-75-201.]~~

~~[(2)]~~ (1) "Genetic counselor" means a person licensed under this chapter to engage in the practice of genetic counseling.

~~[(3)]~~ (2) "Practice of genetic counseling" means the communication process which deals with the human problems associated with the occurrence, or the risk of occurrence, of a genetic disorder in a family, including the provision of services to help an individual or family:

(a) comprehend the medical facts, including the diagnosis, probable cause of the disorder, and the available management;

(b) appreciate the way heredity contributes to the disorder and the risk of occurrence in specified relatives;

(c) understand the alternatives for dealing with the risk of occurrence;

(d) choose the course of action which seems appropriate to them in view of their risk, their family goals, and their ethical and religious standards, and to act in accordance with that decision; and

(e) make the best possible psychosocial adjustment to the disorder in an affected family

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member or to the risk of occurrence of that disorder.

~~[(4)]~~ (3) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-75-501.

~~[(5)]~~ (4) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-75-502 and as may be further defined by rule by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section ~~{57}~~45. Section **58-75-303** is amended to read:

58-75-303. Term of license -- Expiration -- Renewal.

(1) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles it administers.

(2) Each licensee shall, at the time of applying for renewal, demonstrate compliance with continuing education requirements established by rule by the division [~~in collaboration with the board~~].

(3) Each license automatically expires on the expiration date shown on the license unless the licensee renews it in accordance with Section 58-1-308.

Section ~~{58}~~46. Section **58-76-102** is amended to read:

58-76-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

~~[(1)]~~ "Board" means the Professional Geologist Licensing Board created in Section ~~58-76-201~~;

~~[(2)]~~ (1) "Geology" means the science, which treats the study of the earth in general, the earth's processes and history, investigation of the earth's crust and the rocks and other materials of which it is composed, and the applied science of utilizing knowledge of the earth's history, processes, constituent rocks, minerals, liquids, gases, and other materials for the use of mankind.

~~[(3)]~~ (2) "Practice of geology before the public" means the performance of geology including but not limited to consultation, investigation, evaluation, planning, geologic mapping, interpretation of geologic data, preparation of geologic reports, geologic cross-sections and geologic maps, inspection of geological work, and the responsible supervision thereof, the performance of which is relevant to public welfare or the safeguarding of life, health, property, and the environment, except as otherwise specifically provided by this

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chapter.

[(4)] (3) "Professional geologist" means a person licensed under this chapter to engage in the practice of geology before the public.

[(5)] (4) "Responsible charge" means the independent control and direction by use of initiative, skill, and independent judgment of geological work or the supervision of the work.

[(6)] (5) "Subordinate" means any individual who practices geology or assists a professional geologist in the practice of geology before the public without assuming the responsible charge for the work.

[(7)] (6) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-76-501.

[(8)] (7) "Unprofessional conduct" is as defined in Section 58-1-501 and as may be further defined by rule by the division [~~in collaboration with the board~~].

Section ~~{59}~~47. Section **58-76-103** is amended to read:

58-76-103. Professional Geologist Education and Enforcement Account.

(1) There is created a restricted account within the General Fund known as the "Professional Geologist Education and Enforcement Account."

(2) The restricted account shall consist of money from:

(a) a surcharge fee established by the department in accordance with Section 63J-1-504, placed on initial, renewal, and reinstatement licensure fees under this chapter not to exceed 50% of the respective initial, renewal, or reinstatement licensure fee;

(b) administrative penalties collected pursuant to this chapter; and

(c) interest earned on money in the account.

(3) Money in the account may be appropriated by the Legislature for the following purposes:

(a) education and training of licensees under this chapter;

(b) education and training of the public or other interested persons in matters concerning geology laws and practices; and

(c) enforcement of this chapter by:

(i) investigating unprofessional or unlawful conduct;

(ii) providing legal representation to the division when legal action is taken against a person engaging in unprofessional or unlawful conduct; and

(iii) monitoring compliance of renewal requirements[~~; and~~].

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~~[(d) education and training of board members.]~~

Section ~~{60}~~48. Section **58-76-302** is amended to read:

58-76-302. Qualifications for licensure.

Each applicant for licensure as a professional geologist shall:

- (1) submit an application in a form as prescribed by the division;
- (2) pay a fee as determined by the department under Section 63J-1-504;
- (3) provide satisfactory evidence of:
 - (a) a bachelors or graduate degree in the geosciences granted through an institution of higher education that is accredited by a regional or national accrediting agency with a minimum of 30 semester or 45 quarter hours of course work in the geosciences; or
 - (b) completion of other equivalent educational requirements as determined by the division ~~[in collaboration with the board]~~;
- (4) provide satisfactory evidence of:
 - (a) with a bachelors degree, a specific record of five years of active professional practice in geological work of a character satisfactory to the division, indicating the applicant is competent to be placed in a responsible charge of the work;
 - (b) with a masters degree, a specific record of three years of active professional practice in geological work of a character satisfactory to the division, indicating the applicant is competent to be placed in a responsible charge of the work; or
 - (c) with a doctorate degree, a specific record of one year of active professional practice in geological work of a character satisfactory to the division, indicating the applicant is competent to be placed in a responsible charge of the work; and
- (5) after January 1, 2004, meet the examination requirement established by rule by the division ~~[in collaboration with the board]~~.

Section ~~{61}~~49. Section **58-76-601** is amended to read:

58-76-601. Seal -- Design and implementation.

Every professional geologist shall have a seal, the design and implementation of which shall be established by rule by the division ~~[in collaboration with the board]~~.

Section ~~{62}~~50. Section **58-76-603** is amended to read:

58-76-603. Seal -- Authorized use.

A professional geologist may only affix the licensee's seal to a geologic map,

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cross-section, sketch, drawing, plan, or report if the geologic map, cross-section, sketch, drawing, plan, or report:

(1) was personally prepared by the licensee;

(2) was prepared by an employee, subordinate, associate, or drafter under the supervision of a licensee, provided the licensee or a principal affixing his seal assumes responsibility;

(3) was prepared by a licensed professional geologist in this state or any other state provided:

(a) the licensee in this state affixing the seal performs a thorough review of all work for compliance with all applicable laws and rules and the standards of the profession; and

(b) makes any necessary corrections before submitting the final plan, specification, or report:

(i) to a public authority; or

(ii) to a client who has contracted with a professional geologist for the geologic map, cross-section, or report to be complete and final;

(4) was prepared in part by a licensed professional geologist in this state or any other state provided:

(a) the licensee in this state clearly identifies that portion of the geologic map, cross-section, or report for which the licensee is responsible;

(b) the licensee in this state affixing the seal performs a thorough review of that portion of the geologic map, cross-section, or report for which the licensee is responsible for compliance with the standards of the profession; and

(c) makes any necessary corrections before submitting the final geologic map, cross-section, or report for which the licensee is responsible:

(i) to a public authority; or

(ii) to a client who has contracted with a professional geologist for the geologic map, cross-section, or report to be complete and final;

(5) was prepared by a person exempt from licensure as a professional geologist provided that:

(a) the licensee in this state affixing the seal performs a thorough review for compliance with all applicable laws and rules and the standards of the profession; and

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(b) makes any necessary corrections before submitting the final geologic map, cross-section, or report:

(i) to a public authority; or

(ii) to a client who has contracted with a professional geologist for the geologic map, cross-section, or report to be complete and final; or

(6) meets any additional requirements established by rule by the division ~~in collaboration with the board~~.

Section ~~63~~51. Section **58-77-102** is amended to read:

58-77-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

~~[(1) "Board" means the Licensed Direct-entry Midwife Board created in Section 58-77-201.]~~

~~[(2)]~~ (1) "Certified nurse-midwife" means a person licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act.

~~[(3)]~~ (2) "Client" means a woman and her fetus or newborn baby under the care of a direct-entry midwife.

~~[(4)]~~ (3) "Direct-entry midwife" means an individual who is engaging in the practice of direct-entry midwifery.

~~[(5)]~~ (4) "Licensed direct-entry midwife" means a person licensed under this chapter.

~~[(6)]~~ (5) "Low risk" means a labor and delivery and postpartum, newborn, and interconceptual care that does not include a condition that requires a mandatory transfer under administrative rules adopted by the division.

~~[(7)]~~ (6) "Physician" means an individual licensed as a physician and surgeon, osteopathic physician, or naturopathic physician.

~~[(8)]~~ (7) "Practice of direct-entry midwifery" means the practice of providing the necessary supervision, care, and advice to a client during essentially normal pregnancy, labor, delivery, postpartum, and newborn periods that is consistent with national professional midwifery standards and that is based upon the acquisition of clinical skills necessary for the care of a pregnant woman and a newborn baby, including antepartum, intrapartum, postpartum, newborn, and limited interconceptual care, and includes:

(a) obtaining an informed consent to provide services;

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- (b) obtaining a health history, including a physical examination;
- (c) developing a plan of care for a client;
- (d) evaluating the results of client care;
- (e) consulting and collaborating with and referring and transferring care to licensed health care professionals, as is appropriate, regarding the care of a client;
- (f) obtaining medications, as specified in this Subsection [~~(8)(f)~~] (7)(f), to administer to a client, including:
 - (i) prescription vitamins;
 - (ii) Rho D immunoglobulin;
 - (iii) sterile water;
 - (iv) one dose of intramuscular oxytocin after the delivery of a baby to minimize a client's blood loss;
 - (v) an additional single dose of oxytocin if a hemorrhage occurs, in which case the licensed direct-entry midwife must initiate transfer if a client's condition does not immediately improve;
 - (vi) oxygen;
 - (vii) local anesthetics without epinephrine used in accordance with Subsection [~~(8)(f)~~] (7)(l);
 - (viii) vitamin K to prevent hemorrhagic disease of a newborn baby;
 - (ix) as required by law, eye prophylaxis to prevent ophthalmia neonatorum; and
 - (x) any other medication approved by a licensed health care provider with authority to prescribe that medication;
- (g) obtaining food, food extracts, dietary supplements, as defined by the federal Food, Drug, and Cosmetic Act, homeopathic remedies, plant substances that are not designated as prescription drugs or controlled substances, and over-the-counter medications to administer to clients;
- (h) obtaining and using appropriate equipment and devices such as a Doppler, a blood pressure cuff, phlebotomy supplies, instruments, and sutures;
- (i) obtaining appropriate screening and testing, including laboratory tests, urinalysis, and ultrasound scans;
- (j) managing the antepartum period;

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(k) managing the intrapartum period, including:

(i) monitoring and evaluating the condition of a mother and a fetus;

(ii) performing an emergency episiotomy; and

(iii) delivering a baby in any out-of-hospital setting;

(l) managing the postpartum period, including the suturing of an episiotomy and the suturing of first and second degree natural perineal and labial lacerations, including the administration of a local anesthetic;

(m) managing the newborn period, including:

(i) providing care for a newborn baby, including performing a normal newborn baby examination; and

(ii) resuscitating a newborn baby;

(n) providing limited interconceptual services in order to provide continuity of care, including:

(i) breastfeeding support and counseling;

(ii) family planning, limited to natural family planning, cervical caps, and diaphragms; and

(iii) pap smears, where each client with an abnormal result is to be referred to an appropriate licensed health care provider; and

(o) executing the orders of a licensed health care professional, if the orders are within the education, knowledge, and skill of the direct-entry midwife.

~~[(9)]~~ (8) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-77-501.

~~[(10)]~~ (9) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-77-502 and as may be further defined by rule.

Section ~~(64)~~ 52. Section **58-77-302** is amended to read:

58-77-302. Qualifications for licensure.

Each applicant for licensure as a licensed direct-entry midwife shall:

(1) submit an application in a form prescribed by the division;

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

(3) hold a Certified Professional Midwife certificate in good standing with the North American Registry of Midwives or equivalent certification approved by the division [in

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~~collaboration with the board];~~

(4) hold current adult and infant CPR and newborn resuscitation certifications through an organization approved by the division [~~in collaboration with the board~~]; and

(5) provide documentation of successful completion of an approved pharmacology course as defined by division rule.

Section ~~(65)~~53. Section **58-83-102** is amended to read:

58-83-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

~~[(1) "Board" means the Online Prescribing, Dispensing, and Facilitation Licensing Board created in Section 58-83-201.]~~

~~[(2)]~~ (1) "Branching questionnaire" means an adaptive and progressive assessment tool [~~approved by the board~~].

~~[(3)]~~ (2) "Delivery of online pharmaceutical services" means the process in which a prescribing practitioner diagnoses a patient and prescribes one or more of the drugs authorized by Section 58-83-306, using:

(a) a branching questionnaire or other assessment tool approved by the division for the purpose of diagnosing and assessing a patient's health status;

(b) an Internet contract pharmacy to:

(i) dispense the prescribed drug; or

(ii) transfer the prescription to another pharmacy; and

(c) an Internet facilitator to facilitate the practices described in Subsections ~~[(3)(a) and (b)]~~ (2)(a) and (b).

~~[(4)]~~ (3) "Division" means the Division of Professional Licensing.

~~[(5)]~~ (4) "Internet facilitator" means a licensed provider of a web-based system for electronic communication between and among an online prescriber, the online prescriber's patient, and the online contract pharmacy.

~~[(6)]~~ (5) "Online contract pharmacy" means a pharmacy licensed and in good standing under Chapter 17b, Pharmacy Practice Act, as either a Class A Retail Pharmacy or a Class B Closed Door Pharmacy and licensed under this chapter to fulfill prescriptions issued by an online prescriber through a specific Internet facilitator.

~~[(7)]~~ (6) "Online prescriber" means a person:

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- (a) licensed under another chapter of this title;
 - (b) whose license under another chapter of this title includes assessing, diagnosing, and prescribing authority for humans; and
 - (c) who has obtained a license under this chapter to engage in online prescribing.
- ~~[(8)]~~ (7) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-83-501.
- ~~[(9)]~~ (8) "Unprofessional conduct" is as defined in Sections 58-1-203 and 58-83-502, and as further defined by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section ~~54~~54. Section **58-83-302** is amended to read:

58-83-302. Qualifications for licensure.

- (1) Each applicant for licensure as an online prescriber under this chapter shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504;
 - (c) document that the applicant holds a Utah license that is active and in good standing and authorizes the licensee to engage in the assessment, diagnosis, and treatment of human ailments and the prescription of medications;
 - (d) document that any other professional license the applicant possesses from other jurisdictions is in good standing;
 - (e) (i) submit to the division an outline of the applicant's proposed online assessment, diagnosis, and prescribing tool, such as a branching questionnaire; and
 - (ii) demonstrate the proposed online assessment, diagnosis, and prescribing tool to the ~~[board]~~ division and establish to the ~~[board's]~~ division's satisfaction that the utilization of that assessment tool to facilitate the prescription of the drugs approved for online prescribing under Section 58-83-305 does not compromise the public's health, safety, or welfare;
 - (f) submit policies and procedures that address patient confidentiality, including measures that will be taken to ensure that the age and other identifying information of the person completing the online branching questionnaire are accurate;
 - (g) describe the mechanism by which the online prescriber and patient will communicate with one another, including electronic and telephonic communication;
 - (h) describe how the online prescriber/patient relationship will be established and maintained;

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(i) submit the name, address, and contact person of the Internet facilitator with whom the online prescriber has contracted to provide services that the online prescriber will use to engage in online assessment, diagnosis, and prescribing; and

(j) submit documentation satisfactory to the [board] division regarding public health, safety, and welfare demonstrating:

(i) how the online prescriber will comply with the requirements of Section 58-83-305;

(ii) the contractual services arrangement between the online prescriber and:

(A) the Internet facilitator; and

(B) the online contract pharmacy; and

(iii) how the online prescriber will allow and facilitate the division's ability to conduct audits in accordance with Section 58-83-308.

(2) An online prescriber may not use the services of an Internet facilitator or online contract pharmacy whose license is not active and in good standing.

(3) Each applicant for licensure as an online contract pharmacy under this chapter shall:

(a) be licensed in good standing in Utah as a Class A Retail Pharmacy or a Class B Closed Door Pharmacy;

(b) submit a written application in the form prescribed by the division;

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

(d) submit any contract between the applicant and the Internet facilitator with which the applicant is or will be affiliated;

(e) submit proof of liability insurance acceptable to the division that expressly covers all activities the online contract pharmacy will engage in under this chapter, which coverage shall be in a minimum amount of \$1,000,000 per occurrence with a policy limit of not less than \$3,000,000;

(f) submit a signed affidavit to the division attesting that the online contract pharmacy will not dispense a drug that is prescribed by an online prescriber engaged in the delivery of online pharmaceutical services under the provisions of this chapter unless:

(i) the drug is specifically approved by the division under Section 58-83-306; and

(ii) both the prescribing and the dispensing of the drug were facilitated by the Internet facilitator with whom the Internet contract pharmacy is associated under Subsection (3)(d);

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(g) document that any other professional license the applicant possesses from other jurisdictions is active and in good standing; and

(h) demonstrate to the division that the applicant has satisfied any background check required by Section 58-17b-307, and each owner, officer, or manager of the applicant online contract pharmacy has not engaged in any act, practice, or omission, which when considered with the duties and responsibilities of a licensee under this chapter indicates there is cause to believe that issuing a license under this chapter is inconsistent with the public's health, safety, or welfare.

(4) Each applicant for licensure as an Internet facilitator under this chapter shall:

(a) submit a written application in the form prescribed by the division;

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

(c) submit any contract between the applicant and the following with which the applicant will be affiliated:

(i) each online prescriber; and

(ii) the single online contract pharmacy;

(d) submit written policies and procedures satisfactory to the division that:

(i) address patient privacy, including compliance with 45 C.F.R. Parts 160, 162, and 164, Health Insurance Portability and Accountability Act of 1996;

(ii) ensure compliance with all applicable laws by health care personnel and the online prescriber who will process patient communications;

(iii) list the hours of operation;

(iv) describe the types of services that will be permitted electronically;

(v) describe the required patient information to be included in the communication, such as patient name, identification number, and type of transaction;

(vi) establish procedures for archiving and retrieving information; and

(vii) establish quality oversight mechanisms;

(e) submit written documentation of the applicant's security measures to ensure the confidentiality and integrity of any user-identifiable medical information;

(f) submit a description of the mechanism for:

(i) patients to access, supplement, and amend patient-provided personal health information;

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- (ii) back-up regarding the Internet facilitator electronic interface;
- (iii) the quality of information and services provided via the interface; and
- (iv) patients to register complaints regarding the Internet facilitator, the online prescriber, or the online contract pharmacy;
- (g) submit a copy of the Internet facilitator's website;
- (h) sign an affidavit attesting that:
 - (i) the applicant will not access any medical records or information contained in the medical record except as necessary to administer the website and the branching questionnaire; and
 - (ii) the applicant and its principals, and any entities affiliated with them, will only use the services of a single online contract pharmacy named on the license approved by the division; and
- (i) submit any other information required by the division.

Section ~~67~~55. Section 58-83-401 is amended to read:

**58-83-401. Grounds for denial of license -- Disciplinary proceedings --
Termination of authority to prescribe -- Immediate and significant danger.**

(1) Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public reprimand to a licensee, and for issuing a cease and desist order:

- (a) shall be in accordance with Section 58-1-401; and
- (b) includes:
 - (i) prescribing, dispensing, or facilitating the prescribing or dispensing of a drug not approved by the ~~[board]~~ division under Section 58-83-306; or
 - (ii) any other violation of this chapter.
- (2) The termination or expiration of a license under this chapter for any reason does not limit the division's authority to start or continue any investigation or adjudicative proceeding.
- (3) (a) Because of the working business relationship between and among the online prescriber, the Internet facilitator, and the online contract pharmacy, each entity's ability to comply with this chapter may depend in some respects on the actions of the others.
 - (b) It is possible that a particular action or inaction by the online prescriber, the Internet

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facilitator, or the online contract pharmacy could have the effect of causing the other licensed entities to be out of compliance with this chapter, and each entity may, therefore, be held accountable for any related party's non-compliance, if the party knew or reasonably should have known of the other person's non-compliance.

(4) (a) An online prescriber may lose the practitioner's professional license to prescribe any drug under this title if the online prescriber knew or reasonably should have known that the provisions of this chapter were violated by the online prescriber, the Internet facilitator, or the online contract pharmacy.

(b) It is not a defense to an alleged violation under this chapter that the alleged violation was a result of an action or inaction not by the charged party but by the related online prescriber, the online contract pharmacy, or the Internet facilitator.

(5) The following actions may result in an immediate suspension of the online prescriber's license, the online contract pharmacy's license, or the Internet facilitator's license, and each is considered an immediate and significant danger to the public health, safety, or welfare requiring immediate action by the division pursuant to Section 63G-4-502 to terminate the delivery of online pharmaceutical services by the licensee:

(a) online prescribing, dispensing, or facilitation with respect to:

(i) a person who is younger than 18 years old;

(ii) a legend drug not authorized by the division in accordance with Section 58-83-306;

and

(iii) any controlled substance;

(b) violating this chapter after having been given reasonable opportunity to cure the violation;

(c) using the name or official seal of the state, the department, or the division, or their boards, in an unauthorized manner; or

(d) failing to respond to a request from the division within the time frame requested for:

(i) an audit of the website; or

(ii) records of the online prescriber, the Internet facilitator, or the online contract pharmacy.

Section ~~68~~56. Section **61-2c-301** is amended to read:

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61-2c-301. Prohibited conduct -- Violations of the chapter.

(1) A person transacting the business of residential mortgage loans in this state may not:

- (a) violate Section 8 of RESPA;
- (b) charge a fee in connection with a residential mortgage loan transaction:
 - (i) that is excessive; or
 - (ii) without providing to the loan applicant a written statement signed by the loan

applicant:

- (A) stating whether or not the fee or deposit is refundable; and
- (B) describing the conditions, if any, under which all or a portion of the fee or deposit

will be refunded to the loan applicant;

- (c) act incompetently in the transaction of the business of residential mortgage loans

such that the person fails to:

- (i) safeguard the interests of the public; or
- (ii) conform to acceptable standards of the residential mortgage loan industry;
- (d) do any of the following as part of a residential mortgage loan transaction, regardless

of whether the residential mortgage loan closes:

- (i) make a false statement or representation;
- (ii) cause false documents to be generated; or
- (iii) knowingly permit false information to be submitted by any party;

(e) give or receive compensation or anything of value, or withhold or threaten to withhold payment of an appraiser fee, to influence the independent judgment of an appraiser in reaching a value conclusion in a residential mortgage loan transaction, except that it is not a violation of this section for a licensee to withhold payment because of a bona fide dispute regarding a failure of the appraiser to comply with the licensing law or the Uniform Standards of Professional Appraisal Practice;

- (f) violate or not comply with:

- (i) this chapter;
- (ii) an order of the commission or division; or
- (iii) a rule made by the division;

- (g) fail to respond within the required time period to:

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- (i) a notice or complaint of the division; or
- (ii) a request for information from the division;
- (h) make false representations to the division, including in a licensure statement;
- (i) engage in the business of residential mortgage loans with respect to the transaction if the person also acts in any of the following capacities with respect to the same residential mortgage loan transaction:
 - (i) appraiser;
 - (ii) escrow agent;
 - (iii) real estate agent;
 - (iv) general contractor; or
 - (v) title insurance producer;
 - (j) engage in unprofessional conduct as defined by rule;
 - (k) engage in an act or omission in transacting the business of residential mortgage loans that constitutes dishonesty, fraud, or misrepresentation;
 - (l) engage in false or misleading advertising;
 - (m) (i) fail to account for money received in connection with a residential mortgage loan;
 - (ii) use money for a different purpose from the purpose for which the money is received; or
 - (iii) except as provided in Subsection (4), retain money paid for services if the services are not performed;
 - (n) fail to provide a prospective borrower a copy of each appraisal and any other written valuation developed in connection with an application for credit that is to be secured by a first lien on a dwelling in accordance with Subsection (5);
 - (o) engage in an act that is performed to:
 - (i) evade this chapter; or
 - (ii) assist another person to evade this chapter;
 - (p) recommend or encourage default, delinquency, or continuation of an existing default or delinquency, by a mortgage applicant on an existing indebtedness before the closing of a residential mortgage loan that will refinance all or part of the indebtedness;
 - (q) in the case of the lending manager of an entity or a branch office of an entity, fail to

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exercise reasonable supervision over the activities of:

- (i) unlicensed staff; or
- (ii) a mortgage loan originator who is affiliated with the lending manager;
- (r) pay or offer to pay an individual who does not hold a license under this chapter for work that requires the individual to hold a license under this chapter;
- (s) in the case of a dual licensed title licensee as defined in Section [~~31A-2-402~~]

31A-23a-119:

(i) provide a title insurance product or service without the approval required by Section [~~31A-2-405~~] 31A-23a-119; or

(ii) knowingly provide false or misleading information in the statement required by Subsection [~~31A-2-405(2)~~] 31A-23a-119(3);

(t) represent to the public that the person can or will perform any act of a mortgage loan originator if that person is not licensed under this chapter because the person is exempt under Subsection 61-2c-105(4), including through:

- (i) advertising;
- (ii) a business card;
- (iii) stationery;
- (iv) a brochure;
- (v) a sign;
- (vi) a rate list; or
- (vii) other promotional item;

(u) (i) engage in an act of loan modification assistance without being licensed under this chapter;

(ii) engage in an act of foreclosure rescue that requires licensure as a real estate agent or real estate broker under Chapter 2, Division of Real Estate, without being licensed under that chapter;

(iii) engage in an act of loan modification assistance without entering into a written agreement specifying which one or more acts of loan modification assistance will be completed;

(iv) request or require a person to pay a fee before obtaining:

(A) a written offer for a loan modification from the person's lender or servicer; and

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(B) the person's written acceptance of the offer from the lender or servicer;

(v) induce a person seeking a loan modification to hire the licensee to engage in an act of loan modification assistance by:

(A) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or

(B) falsely representing or advertising that the licensee is acting on behalf of:

(I) a government agency;

(II) the person's lender or loan servicer; or

(III) a nonprofit or charitable institution;

(vi) recommend or participate in a loan modification that requires a person to:

(A) transfer title to real property to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;

(B) make a mortgage payment to a person other than the person's loan servicer; or

(C) refrain from contacting the person's:

(I) lender;

(II) loan servicer;

(III) attorney;

(IV) credit counselor; or

(V) housing counselor; or

(vii) for an agreement for loan modification assistance entered into on or after May 11, 2010, engage in an act of loan modification assistance without offering in writing to the person entering into the agreement for loan modification assistance a right to cancel the agreement within three business days after the day on which the person enters the agreement;

(v) sign or initial a document on behalf of another person, except for in a circumstance allowed by the division by rule, with the concurrence of the commission, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(w) violate or fail to comply with a provision of Title 57, Chapter 28, Utah Reverse Mortgage Act; or

(x) engage in any act or practice that violates appraisal independence as defined in 15 U.S.C. Sec. 1639e or in the policies and procedures of:

(i) the Federal Home Loan Mortgage Corporation; or

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(ii) the Federal National Mortgage Association.

(2) Regardless of whether the crime is related to the business of residential mortgage loans, it is a violation of this chapter for a licensee or a person who is a certified education provider to:

(a) be convicted of:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(b) plead guilty or nolo contendere to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor; or

(c) enter into a plea in abeyance agreement in relation to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor.

(3) A lending manager does not violate Subsection (1)(q) if:

(a) in contravention of the lending manager's written policies and instructions, an affiliated licensee of the lending manager violates:

(i) this chapter; or

(ii) rules made by the division under this chapter;

(b) the lending manager established and followed reasonable procedures to ensure that affiliated licensees receive adequate supervision;

(c) upon learning of a violation by an affiliated licensee, the lending manager attempted to prevent or mitigate the damage;

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(d) the lending manager did not participate in or ratify the violation by an affiliated licensee; and

(e) the lending manager did not attempt to avoid learning of the violation.

(4) Notwithstanding Subsection (1)(m)(iii), a licensee may, upon compliance with Section 70D-2-305, charge a reasonable cancellation fee for work done originating a mortgage if the mortgage is not closed.

(5) (a) Except as provided in Subsection (5)(b), a person transacting the business of residential mortgage loans in this state shall provide a prospective borrower a copy of each appraisal and any other written valuation developed in connection with an application for credit that is to be secured by a first lien on a dwelling on or before the earlier of:

(i) as soon as reasonably possible after the appraisal or other valuation is complete; or

(ii) three business days before the day of the settlement.

(b) Subject to Subsection (5)(c), unless otherwise prohibited by law, a prospective borrower may waive the timing requirement described in Subsection (5)(a) and agree to receive each appraisal and any other written valuation:

(i) less than three business days before the day of the settlement; or

(ii) at the settlement.

(c) (i) Except as provided in Subsection (5)(c)(ii), a prospective borrower shall submit a waiver described in Subsection (5)(b) at least three business days before the day of the settlement.

(ii) Subsection (5)(b) does not apply if the waiver only pertains to a copy of an appraisal or other written valuation that contains only clerical changes from a previous version of the appraisal or other written valuation and the prospective borrower received a copy of the original appraisal or other written valuation at least three business days before the day of the settlement.

(d) If a prospective borrower submits a waiver described in Subsection (5)(b) and the transaction never completes, the person transacting the business of residential mortgage loans shall provide a copy of each appraisal or any other written valuation to the applicant no later than 30 days after the day on which the person knows the transaction will not complete.

Section ~~69~~57. Section **61-2f-401** is amended to read:

61-2f-401. Grounds for disciplinary action.

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The following acts are unlawful and grounds for disciplinary action for a person licensed or required to be licensed under this chapter:

- (1) (a) making a substantial misrepresentation, including in a licensure statement;
 - (b) making an intentional misrepresentation;
 - (c) pursuing a continued and flagrant course of misrepresentation;
 - (d) making a false representation or promise through an agent, sales agent, advertising, or otherwise; or
 - (e) making a false representation or promise of a character likely to influence, persuade, or induce;
- (2) acting for more than one party in a transaction without the informed written consent of the parties;
- (3) (a) acting as an associate broker or sales agent while not affiliated with a principal broker;
- (b) representing or attempting to represent a principal broker other than the principal broker with whom the person is affiliated; or
- (c) representing as sales agent or having a contractual relationship similar to that of sales agent with a person other than a principal broker;
- (4) (a) failing, within a reasonable time, to account for or to remit money that belongs to another and comes into the person's possession;
- (b) commingling money described in Subsection (4)(a) with the person's own money;
- or
- (c) diverting money described in Subsection (4)(a) from the purpose for which the money is received;
- (5) paying or offering to pay valuable consideration to a person not licensed under this chapter, except that valuable consideration may be shared:
- (a) with a principal broker of another jurisdiction; or
 - (b) as provided under:
 - (i) Title 16, Chapter 10a, Utah Revised Business Corporation Act;
 - (ii) Title 16, Chapter 11, Professional Corporation Act; or
 - (iii) Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405;

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(6) for a principal broker, paying or offering to pay a sales agent or associate broker who is not affiliated with the principal broker at the time the sales agent or associate broker earned the compensation;

(7) being incompetent to act as a principal broker, associate broker, or sales agent in such manner as to safeguard the interests of the public;

(8) failing to voluntarily furnish a copy of a document to the parties before and after the execution of a document;

(9) failing to keep and make available for inspection by the division a record of each transaction, including:

(a) the names of buyers and sellers or lessees and lessors;

(b) the identification of real estate;

(c) the sale or rental price;

(d) money received in trust;

(e) agreements or instructions from buyers and sellers or lessees and lessors; and

(f) any other information required by rule;

(10) failing to disclose, in writing, in the purchase, sale, or rental of real estate, whether the purchase, sale, or rental is made for that person or for an undisclosed principal;

(11) regardless of whether the crime is related to the business of real estate:

(a) be convicted of:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(b) plead guilty or nolo contendere to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(c) enter into a plea in abeyance agreement in relation to:

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- (i) a felony; or
- (ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:
 - (A) a class A misdemeanor;
 - (B) a class B misdemeanor; or
 - (C) a criminal offense comparable to a class A or class B misdemeanor;
- (12) advertising the availability of real estate or the services of a licensee in a false, misleading, or deceptive manner;
- (13) in the case of a principal broker or a branch broker, failing to exercise active and reasonable supervision, as the commission may define by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, over the activities of the principal broker's or branch broker's licensed or unlicensed staff;
 - (14) violating or disregarding:
 - (a) this chapter;
 - (b) an order of the commission; or
 - (c) the rules adopted by the commission and the division;
 - (15) breaching a fiduciary duty owed by a licensee to the licensee's principal in a real estate transaction;
 - (16) any other conduct which constitutes dishonest dealing;
 - (17) having one of the following suspended, revoked, surrendered, or cancelled on the basis of misconduct in a professional capacity that relates to character, honesty, integrity, or truthfulness:
 - (a) a real estate license, registration, or certificate issued by another jurisdiction; or
 - (b) another license, registration, or certificate to engage in an occupation or profession issued by this state or another jurisdiction;
 - (18) failing to respond to a request by the division in an investigation authorized under this chapter within 10 days after the day on which the request is served, including:
 - (a) failing to respond to a subpoena;
 - (b) withholding evidence; or
 - (c) failing to produce documents or records;
 - (19) in the case of a dual licensed title licensee as defined in Section ~~[31A-2-402]~~ 31A-23a-119:

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- (a) providing a title insurance product or service without the approval required by Section [~~31A-2-405~~] 31A-23a-119; or
- (b) knowingly providing false or misleading information in the statement required by Subsection [~~31A-2-405(2)~~] 31A-23a-119(3);
- (20) violating an independent contractor agreement between a principal broker and a sales agent or associate broker as evidenced by a final judgment of a court;
- (21) (a) engaging in an act of loan modification assistance that requires licensure as a mortgage officer under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act, without being licensed under that chapter;
- (b) engaging in an act of foreclosure rescue without entering into a written agreement specifying what one or more acts of foreclosure rescue will be completed;
- (c) inducing a person who is at risk of foreclosure to hire the licensee to engage in an act of foreclosure rescue by:
 - (i) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or
 - (ii) falsely representing or advertising that the licensee is acting on behalf of:
 - (A) a government agency;
 - (B) the person's lender or loan servicer; or
 - (C) a nonprofit or charitable institution; or
 - (d) recommending or participating in a foreclosure rescue that requires a person to:
 - (i) transfer title to real estate to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;
 - (ii) make a mortgage payment to a person other than the person's loan servicer; or
 - (iii) refrain from contacting the person's:
 - (A) lender;
 - (B) loan servicer;
 - (C) attorney;
 - (D) credit counselor; or
 - (E) housing counselor;
- (22) taking or removing from the premises of a main office or a branch office, or otherwise limiting a real estate brokerage's access to or control over, a record that:

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- (a) (i) the real estate brokerage's licensed staff, unlicensed staff, or affiliated independent contractor prepared; and
- (ii) is related to the business of:
- (A) the real estate brokerage; or
- (B) an associate broker, a branch broker, or a sales agent of the real estate brokerage; or
- (b) is related to the business administration of the real estate brokerage;
- (23) as a principal broker, placing a lien on real property, unless authorized by law;
- (24) as a sales agent or associate broker, placing a lien on real property for an unpaid commission or other compensation related to real estate brokerage services; or
- (25) failing to timely disclose to a buyer or seller an affiliated business arrangement, as defined in Section 31A-23a-1001, in accordance with the federal Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601 et seq. and any rules made thereunder.

Section ~~70~~58. Section **61-2g-502** is amended to read:

61-2g-502. Disciplinary action -- Grounds.

- (1) (a) The board may order disciplinary action, with the concurrence of the division, against a person:
- (i) registered, licensed, or certified under this chapter; or
- (ii) required to be registered, licensed, or certified under this chapter.
- (b) On the basis of a ground listed in Subsection (2) for disciplinary action, board action may include:
- (i) revoking, suspending, or placing a person's registration, license, or certification on probation;
- (ii) denying a person's original registration, license, or certification;
- (iii) denying a person's renewal license, certification, or registration;
- (iv) in the case of denial or revocation of a registration, license, or certification, setting a waiting period for an applicant to apply for a registration, license, or certification under this chapter;
- (v) ordering remedial education;
- (vi) imposing a civil penalty upon a person not to exceed the greater of:
- (A) \$5,000 for each violation; or
- (B) the amount of any gain or economic benefit from a violation;

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(vii) issuing a cease and desist order;

(viii) modifying an action described in Subsections (1)(b)(i) through (vii) if the board, with the concurrence of the division, finds that the person complies with court ordered restitution; or

(ix) doing any combination of Subsections (1)(b)(i) through (viii).

(c) (i) If the board or division issues an order that orders a fine or educational requirements as part of the disciplinary action against a person, including a stipulation and order, the board or division shall state in the order the deadline by which the person shall comply with the fine or educational requirements.

(ii) If a person fails to comply with a stated deadline:

(A) the person's license, certificate, or registration is automatically suspended:

(I) beginning on the day specified in the order as the deadline for compliance; and

(II) ending the day on which the person complies in full with the order; and

(B) if the person fails to pay a fine required by an order, the division may begin a collection process:

(I) established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(II) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.

(2) The following are grounds for disciplinary action under this section:

(a) procuring or attempting to procure a registration, license, or certification under this chapter:

(i) by fraud; or

(ii) by making a false statement, submitting false information, or making a material misrepresentation in an application filed with the division;

(b) paying money or attempting to pay money other than a fee provided for by this chapter to a member or employee of the division to procure a registration, license, or certification under this chapter;

(c) an act or omission in the practice of real estate appraising that constitutes dishonesty, fraud, or misrepresentation;

(d) entry of a judgment against a registrant, licensee, or certificate holder on grounds of fraud, misrepresentation, or deceit in the making of an appraisal of real estate;

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(e) regardless of whether the crime is related to the appraisal business, to:

(i) be convicted of a felony;

(ii) be convicted of any of the following involving fraud, misrepresentation, theft, or

dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(iii) plead guilty or nolo contendere to a felony;

(iv) plead guilty or nolo contendere to any of the following involving fraud,

misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(v) enter into a plea in abeyance agreement involving a felony; or

(vi) enter into a plea in abeyance agreement involving any of the following involving

fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(f) engaging in the business of real estate appraising under an assumed or fictitious

name not properly registered in this state;

(g) paying a finder's fee or a referral fee to a person not licensed or certified under this chapter in connection with an appraisal of real estate or real property in this state;

(h) making a false or misleading statement in:

(i) that portion of a written appraisal report that deals with professional qualifications;

or

(ii) testimony concerning professional qualifications;

(i) violating or disregarding:

(i) this chapter;

(ii) an order of:

(A) the board; or

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(B) the division, in a case when the board delegates to the division the authority to make a decision on behalf of the board; or

(iii) a rule issued under this chapter;

(j) violating the confidential nature of governmental records to which a person registered, licensed, or certified under this chapter gained access through employment or engagement as an appraiser by a governmental agency;

(k) accepting a contingent fee for performing an appraisal if in fact the fee is or was contingent upon:

(i) the appraiser reporting a predetermined analysis, opinion, or conclusion;

(ii) the analysis, opinion, conclusion, or valuation reached; or

(iii) the consequences resulting from the appraisal assignment;

(l) unprofessional conduct as defined by statute or rule;

(m) in the case of a dual licensed title licensee as defined in Section ~~[31A-2-402]~~

31A-23a-119:

(i) providing a title insurance product or service without the approval required by Section ~~[31A-2-405]~~ 31A-23a-119; or

(ii) knowingly providing false or misleading information in the statement required by Subsection ~~[31A-2-405(2)]~~ 31A-23a-119(3); or

(n) other conduct that constitutes dishonest dealing.

(3) A person previously licensed, certified, or registered under this chapter remains responsible for, and is subject to disciplinary action for, an act that the person committed, while the person was licensed, certified, or registered, in violation of this chapter or an administrative rule in effect at the time that the person committed the act, regardless of whether the person is currently licensed, certified, or registered.

Section ~~{71}~~59. Section **63A-16-107** is amended to read:

63A-16-107. Utah Open Data Portal Website.

(1) As used in this section:

(a) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

(b) "Public information" means:

(i) a record of a state governmental entity, a local governmental entity, or an

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independent entity that is classified as public under Title 63G, Chapter 2, Government Records Access and Management Act; or

(ii) subject to any specific limitations and requirements regarding the provision of financial information from the entity under Section 67-3-12, for an entity that is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(c) "Private, controlled, or protected information" means information classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) "Website" means the Utah Open Data Portal Website created in this section.

(2) There is created the Utah Open Data Portal Website to be administered by the division.

(3) The website shall serve as a point of access for public information.

(4) The division shall:

(a) establish and maintain the website~~[, guided by the principles described in Subsection 63A-18-202(2)]~~;

(b) provide equipment, resources, and personnel as needed to establish and maintain the website;

(c) provide a mechanism for a governmental entity to gain access to the website for the purpose of posting and modifying public information; and

(d) maintain an archive of all public information posted to the website.

(5) The timing for posting and the content of the public information posted to the website is the responsibility of the governmental entity posting the public information.

(6) A governmental entity may not post private, controlled, or protected information to the website.

(7) A person who negligently discloses private, controlled, or protected information is not criminally or civilly liable for improper disclosure of the information if the information is disclosed solely as a result of the preparation or publication of the website.

Section ~~{72}~~60. Section **63I-1-226** is amended to read:

63I-1-226. Repeal dates: Titles 26 through 26B.

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~~[(1) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.]~~

~~[(2) (1) Section 26-1-40 is repealed July 1, 2022.]~~

~~[(3) (2) Section 26-1-41 is repealed July 1, 2026.]~~

~~[(4) (3) Section 26-1-43 is repealed December 31, 2025.]~~

~~[(5) (4) Section 26-7-10 is repealed July 1, 2025.]~~

~~[(6) (5) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.]~~

~~[(7) (6) Section 26-7-14 is repealed December 31, 2027.]~~

~~[(8) (7) Section 26-8a-603 is repealed July 1, 2027.]~~

~~[(9) (8) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.]~~

~~[(10) (9) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.]~~

~~[(11) (10) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.]~~

~~[(12) (11) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed July 1, 2022.]~~

~~[(13) (12) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.]~~

~~[(14) (13) Section 26-18-27 is repealed July 1, 2025.]~~

~~[(15) (14) Section 26-18-28 is repealed June 30, 2027.]~~

~~[(16) (15) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.]~~

~~[(17) (16) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.]~~

~~[(18) (17) Section 26-33a-117 is repealed December 31, 2023.]~~

~~[(19) (18) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.]~~

~~[(20) (19) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.]~~

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~~[(21)]~~ (20) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

~~[(22)]~~ (21) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

~~[(23)] Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.]~~

~~[(24)]~~ (22) Section 26-39-405, Drinking water quality in child care centers, is repealed July 1, 2027.

~~[(25)]~~ (23) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

~~[(26)]~~ (24) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

~~[(27)]~~ (25) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

~~[(28)]~~ (26) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

~~[(29)]~~ (27) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

~~[(30)]~~ (28) Section 26-69-406 is repealed July 1, 2025.

~~[(31)] Subsection 26B-1-204(2)(i), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.]~~

~~[(32)]~~ (29) Subsection 26B-1-204(2)(k), related to the Primary Care Grant Committee, is repealed July 1, 2025.

Section ~~{73}~~61. Section **63I-1-263** is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

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~~[(4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:]~~

~~[(a) Section 63A-18-102 is repealed;]~~

~~[(b) Section 63A-18-201 is repealed; and]~~

~~[(c) Section 63A-18-202 is repealed.]~~

~~[(5) (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.~~

~~[(6) (5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.~~

~~[(7) (6) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.~~

~~[(8) (7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.~~

~~[(9) (8) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.~~

~~[(10) (9) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.~~

~~[(11) (10) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.~~

~~[(12) (11) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.~~

~~[(13) (12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.~~

~~[(14) (13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.~~

~~[(15) (14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.~~

~~[(16) (15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.~~

~~[(17) (16) Subsection 63J-1-602.1(17), relating to the Nurse Home Visiting Restricted Account, is repealed July 1, 2026.~~

~~[(18) (17) Subsection 63J-1-602.2(6), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.~~

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~~[(19)]~~ (18) Subsection 63J-1-602.2(7), referring to the Trip Reduction Program, is repealed July 1, 2022.

~~[(20)]~~ (19) Subsection 63J-1-602.2(26), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

~~[(21)]~~ (20) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

~~[(22)]~~ (21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d)."

~~[(23)]~~ (22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

~~[(24)]~~ (23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

~~[(25)]~~ (24) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

~~[(26)]~~ (25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

~~[(27)]~~ (26) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

~~[(28)]~~ (27) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

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~~[(29)]~~ (28) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

~~[(30)]~~ (29) In relation to the Rural Employment Expansion Program, on July 1, 2023:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

~~[(31)]~~ (30) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

~~[(32)]~~ (31) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section ~~{74}~~62. Section **63I-2-219** is amended to read:

63I-2-219. Repeal dates: Title 19.

~~[(1) Subsections 19-2-109.2(2) through (10), related to the Compliance Advisory Panel, are repealed July 1, 2023. (2)]~~ Section 19-2a-102.5, addressing a study and recommendations for a diesel emission reduction program, is repealed July 1, 2024.

Section ~~{75}~~63. Section **72-9-201** is amended to read:

72-9-201. Motor Carrier Advisory Board created -- Appointment -- Terms -- Meetings -- Per diem and expenses -- Duties.

(1) There is created within the department the Motor Carrier Advisory Board consisting of five members appointed by the ~~[governor]~~ department.

(2) Each member of the board shall:

(a) represent experience and expertise in the areas of motor carrier transportation, commerce, agriculture, economics, shipping, or highway safety;

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(b) be selected at large on a nonpartisan basis; and

(c) have been a legal resident of the state for at least one year immediately preceding the date of appointment.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the [governor] department shall appoint each new member or reappointed member to a four-year term.

(b) The [governor] department shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A member shall serve from the date of appointment until a replacement is appointed.

(4) When a vacancy occurs in the membership for any reason, the [governor] department shall appoint the replacement to serve for the remainder of the unexpired term beginning the day following the day on which the vacancy occurs.

(5) The board shall elect its own chair and vice chair at the first regular meeting of each calendar year.

(6) The board shall meet at least twice per year or as needed when called by the chair.

(7) Any three voting members constitute a quorum for the transaction of business that comes before the board.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) The board shall advise the department and the commission on interpretation, adoption, and implementation of this chapter and other motor carrier related issues.

(10) The department shall provide staff support to the board.

Section ~~{76}~~64. **Repealer.**

This bill repeals:

~~{~~ Section 4-38-101, Title:

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~~Section 4-38-103, Utah Horse Racing Commission.~~

~~Section 4-38-105, Executive director.~~

~~Section 4-38-106, Public records.~~

~~Section 4-38-202, Stewards.~~

‡ Section 19-2-109.2, Small business assistance program.

Section 26-1-7.5, Health advisory council.

Section 26-39-201, Residential Child Care Licensing Advisory Committee.

Section 31A-2-401, Title.

Section 31A-2-402, Definitions.

Section 31A-2-403, Title and Escrow Commission created.

Section 31A-2-404, Duties of the commissioner and Title and Escrow Commission.

Section 31A-35-201, Bail Bond Oversight Board.

Section 31A-35-202, Board responsibilities.

Section 41-23-1, Enactment.

Section 41-23-2, Text.

Section 58-49-1, Short title.

Section 58-49-3, Board created -- Duties.

Section 58-53-101, Title.

Section 58-53-201, Creation of board -- Duties.

Section 58-71-201, Board.

Section 58-75-101, Title.

Section 58-75-201, Board.

Section 58-76-101, Title.

Section 58-76-201, Board.

Section 58-77-201, Board.

Section 58-83-101, Title.

Section 58-83-201, Board.

Section 63A-18-102, Definitions.

Section 63A-18-201, Utah Transparency Advisory Board -- Creation --

Membership -- Duties.

Section 63A-18-202, Utah Transparency Advisory Board -- Duties.

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