SB0206S01 compared with SB0206

~~{deleted text}~~ shows text that was in SB0206 but was deleted in SB0206S01.

inserted text shows text that was not in SB0206 but was inserted into SB0206S01.

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

Representative Raymond P. Ward proposes the following substitute bill:

HEALTH AND HUMAN SERVICES RECODIFICATION ~~{~}~-

CROSS REFERENCES, TITLES ~~{4-31A}~~4-31A

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill updates ~~{cross-references}~~cross references to the Utah Health and Human Services Code in Titles 4 through 31A.

Highlighted Provisions:

This bill:

- makes technical updates in Titles 4 through 31A to cross references to the Utah Health and Human Services Code that are renumbered and amended in:
  - S.B. 38, Health and Human Services Recodification - Administration, Licensing, and Recovery Services;
  - S.~~{B. 39, Health and Human Services Recodification - Prevention, Supports,~~

~~Substance Use and Mental Health;~~

- ~~S.~~B. ~~{40}~~39, Health and Human Services Recodification - Health Care Assistance and Data;~~{ and}~~
- S.B. ~~{41}~~40, Health and Human Services Recodification - Health Care Delivery and Repeals; and
- S.B. 41, Health and Human Services Recodification - Prevention, Supports, Substance Use and Mental Health; and

- makes technical and corresponding changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

4-5-501, as last amended by Laws of Utah 2019, Chapter 32

4-41-103.3, as last amended by Laws of Utah 2022, Chapter 290

4-41-402, as last amended by Laws of Utah 2022, Chapter 290

4-41a-102, as last amended by Laws of Utah 2022, Chapters 290, 452

4-41a-103, as last amended by Laws of Utah 2020, Chapter 12

4-41a-201, as last amended by Laws of Utah 2022, Chapter 290

4-41a-204, as last amended by Laws of Utah 2021, Chapter 350

4-41a-403, as last amended by Laws of Utah 2021, Chapter 350

4-41a-404, as last amended by Laws of Utah 2020, Chapter 12

4-41a-406, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

7-1-1006, as last amended by Laws of Utah 2011, Chapter 344

7-26-102, as enacted by Laws of Utah 2020, Chapter 228

10-2-419, as last amended by Laws of Utah 2021, First Special Session, Chapter 15

10-2-425, as last amended by Laws of Utah 2019, Chapter 159

10-8-41.6, as last amended by Laws of Utah 2022, Chapter 255

10-8-84.6, as enacted by Laws of Utah 2022, Chapter 21

10-8-85.5, as last amended by Laws of Utah 2012, Chapter 289

10-8-90, as last amended by Laws of Utah 2018, Chapter 467

10-9a-103, as last amended by Laws of Utah 2022, Chapters 355, 406

10-9a-520, as last amended by Laws of Utah 2013, Chapter 309

10-9a-528, as last amended by Laws of Utah 2021, Chapter 60

11-46-102, as enacted by Laws of Utah 2011, Chapter 130

11-48-101.5, as enacted by Laws of Utah 2021, Chapter 265

11-48-103, as enacted by Laws of Utah 2021, Chapter 265

13-5b-103, as enacted by Laws of Utah 2007, Chapter 172

13-59-102, as enacted by Laws of Utah 2021, Chapter 138

13-60-102, as enacted by Laws of Utah 2021, Chapter 361

13-60-103, as enacted by Laws of Utah 2021, Chapter 361

13-61-101 (Effective 12/31/23), as enacted by Laws of Utah 2022, Chapter 462

15-4-1, as last amended by Laws of Utah 2017, Chapter 340

15-4-6.7, as last amended by Laws of Utah 2017, Chapter 340

15A-1-208, as enacted by Laws of Utah 2011, Chapter 14

15A-2-105, as enacted by Laws of Utah 2011, Chapter 14

15A-3-102, as last amended by Laws of Utah 2019, Chapter 20

15A-3-103, as last amended by Laws of Utah 2020, Chapters 243, 441

15A-5-202, as last amended by Laws of Utah 2022, Chapter 28

15A-5-203, as last amended by Laws of Utah 2022, Chapter 350

17-22-2.5, as last amended by Laws of Utah 2018, Chapter 86

17-27a-103, as last amended by Laws of Utah 2022, Chapter 406

17-27a-519, as last amended by Laws of Utah 2013, Chapter 309

17-27a-525, as last amended by Laws of Utah 2021, Chapter 60

17-27a-1102, as enacted by Laws of Utah 2021, Chapter 244

17-43-102, as last amended by Laws of Utah 2022, Chapter 255

17-43-201, as last amended by Laws of Utah 2022, Chapter 255

17-43-204, as last amended by Laws of Utah 2016, Chapter 113

17-43-301, as last amended by Laws of Utah 2022, Chapter 255

17-43-303, as last amended by Laws of Utah 2004, Chapter 80

17-43-306, as enacted by Laws of Utah 2003, Chapter 100

17-50-318, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8

17-50-333, as last amended by Laws of Utah 2022, Chapter 255

17-50-339, as enacted by Laws of Utah 2022, Chapter 21

17B-2a-818.5, as last amended by Laws of Utah 2022, Chapter 421

17B-2a-902, as last amended by Laws of Utah 2014, Chapter 189

18-1-3, as last amended by Laws of Utah 2007, Chapter 22

19-1-205, as enacted by Laws of Utah 1991, Chapter 112

19-1-206, as last amended by Laws of Utah 2022, Chapters 421, 443

19-4-115, as enacted by Laws of Utah 2022, Chapter 194

19-6-902, as last amended by Laws of Utah 2015, Chapter 451

20A-2-104, as last amended by Laws of Utah 2021, Chapter 100

20A-2-306, as last amended by Laws of Utah 2022, Chapter 121

20A-11-1202, as last amended by Laws of Utah 2020, Chapter 365

23-19-5.5, as last amended by Laws of Utah 2022, Chapter 58

23-19-14, as last amended by Laws of Utah 2018, Chapter 39

~~{**26-18-413**}~~**26-8a-102**, as last amended by Laws of Utah ~~{2020}~~2022, ~~{Chapter 225}~~Chapters 255, 351, and 404

~~{**26-60-102**}~~**26-8a-104**, as last amended by Laws of Utah ~~{2020, Chapter 119~~ ~~**26-60-104**}~~2021, Chapters 237 and 265

26-8a-204, as enacted by Laws of Utah 1999, Chapter 141

26-8a-205, as enacted by Laws of Utah 1999, Chapter 141

26-8a-206, as last amended by Laws of Utah ~~{2022}~~2021, ~~{Chapters 255, 415}~~Chapter 208

26A-1-102, as last amended by Laws of Utah 2022, Chapter 255

26A-1-114, as last amended by Laws of Utah 2022, Chapters 39, 415 and 430

26A-1-116, as last amended by Laws of Utah 1991, Chapter 112 and renumbered and amended by Laws of Utah 1991, Chapter 269

26A-1-121, as last amended by Laws of Utah 2022, Chapter 255

26A-1-126, as last amended by Laws of Utah 2022, Chapter 415

26A-1-128, as last amended by Laws of Utah 2020, Chapter 347

30-1-12, as last amended by Laws of Utah 2022, Chapter 231

30-2-5, as last amended by Laws of Utah 2008, Chapter 3

30-3-5, as last amended by Laws of Utah 2022, Chapter 263

30-3-5.1, as last amended by Laws of Utah 1997, Chapter 232

30-3-5.4, as last amended by Laws of Utah 2022, Chapter 263

30-3-10, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

30-3-10.5, as last amended by Laws of Utah 2008, Chapter 3

30-3-38, as last amended by Laws of Utah 2022, Chapter 335

31A-1-301, as last amended by Laws of Utah 2022, Chapter 198

31A-4-106, as last amended by Laws of Utah 2018, Chapter 281

31A-4-107.5, as last amended by Laws of Utah 2018, Chapter 443

31A-8-104, as last amended by Laws of Utah 2018, Chapter 319

31A-15-103, as last amended by Laws of Utah 2019, Chapter 341

31A-22-305, as last amended by Laws of Utah 2022, Chapter 163

31A-22-305.3, as last amended by Laws of Utah 2022, Chapters 163, 198

31A-22-604, as last amended by Laws of Utah 2001, Chapter 116

31A-22-610, as last amended by Laws of Utah 2018, Chapter 443

31A-22-610.5, as last amended by Laws of Utah 2020, Chapter 32

31A-22-610.6, as last amended by Laws of Utah 2011, Chapter 284

31A-22-613.5, as last amended by Laws of Utah 2019, Chapter 439

RENUMBERS AND AMENDS:

13-60-104, (Renumbered from 13-60-201, as enacted by Laws of Utah 2021, Chapter 361)

13-60-105, (Renumbered from 13-60-202, as enacted by Laws of Utah 2021, Chapter 361)

13-60-106, (Renumbered from 13-60-301, as enacted by Laws of Utah 2021, Chapter 361)

13-60-203, (Renumbered from 26-45-102, as last amended by Laws of Utah 2022, Chapter 434)

13-60-204, (Renumbered from 26-45-103, as last amended by Laws of Utah 2022,

Chapter 434)

13-60-205, (Renumbered from 26-45-104, as last amended by Laws of Utah 2022, Chapter 434)

13-60-206, (Renumbered from 26-45-105, as last amended by Laws of Utah 2022, Chapter 434)

13-60-207, (Renumbered from 26-45-106, as enacted by Laws of Utah 2002, Chapter 120)

Utah Code Sections Affected by Coordination Clause:

4-41a-201, as last amended by Laws of Utah 2022, Chapter 290

10-9a-528, as last amended by Laws of Utah 2021, Chapter 60

17-27a-525, as last amended by Laws of Utah 2021, Chapter 60

26-8a-102, as last amended by Laws of Utah 2022, Chapters 255, 351, and 404

26-8a-104, as last amended by Laws of Utah 2021, Chapters 237 and 265

26-8a-204, as enacted by Laws of Utah 1999, Chapter 141

26-8a-205, as enacted by Laws of Utah 1999, Chapter 141

26-8a-206, as last amended by Laws of Utah 2021, Chapter 208

26-8a-211, as enacted by Laws of Utah 2020, Chapter 215

53-2d-206, Utah Code Annotated 1953

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

Section 1. Section **4-5-501** is amended to read:

4-5-501. Cottage food operations.

(1) For purposes of this chapter:

(a) "Cottage food operation" means a person who produces a cottage food product in a home kitchen .

(b) "Cottage food product" means a nonpotentially hazardous baked good, jam, jelly, or other nonpotentially hazardous food produced in a home kitchen.

(c) "Home kitchen" means a kitchen:

(i) designed and intended for use by the residents of a home; and

(ii) used by a resident of the home for the production of a cottage food product.

(d) "Potentially hazardous food" means:

(i) a food of animal origin;

(ii) raw seed sprouts; or

(iii) a food that requires time or temperature control, or both, for safety to limit pathogenic microorganism growth or toxin formation, as identified by the department in rule.

(2) The department shall adopt rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to protect public health and ensure a safe food supply.

(3) Rules adopted pursuant to Subsection (2) may not require:

(a) the use of a commercial surface such as a stainless steel counter or cabinet;

(b) the use of a commercial grade:

(i) sink;

(ii) dishwasher; or

(iii) oven;

(c) a separate kitchen for the cottage food operation; or

(d) the submission of plans and specifications before construction of, or remodel of, a cottage food production operation.

(4) The operator of a cottage food operation shall:

(a) register with the department as a cottage food operation before operating as a cottage food operation;

(b) hold a valid food handler's permit; and

(c) package a cottage food product with a label, as specified by the department in rule.

(5) Notwithstanding the provisions of Subsections 4-5-301(1)(a) and (c), the department shall issue a registration to an applicant for a cottage food operation if the applicant for the registration:

(a) pays the fees required by the department; and

(b) meets the requirements of this section.

(6) Notwithstanding the provisions of Section 26A-1-114, a local health department:

(a) does not have jurisdiction to regulate the production of food at a cottage food operation operating in compliance with this section, as long as the products are not offered to the public for consumption on the premises; and

(b) does have jurisdiction to investigate a cottage food operation in an investigation

into the cause of a foodborne illness outbreak.

(7) A food service establishment as defined in Section [~~26-15a-102~~] 26B-7-401 may not use a product produced in a cottage food operation as an ingredient in a food that is prepared by the food establishment and offered by the food establishment to the public for consumption.

Section 2. Section **4-41-103.3** is amended to read:

4-41-103.3. Industrial hemp retailer permit.

(1) Except as provided in Subsection (4), a retailer permittee of the department may market or sell industrial hemp products.

(2) A person seeking an industrial hemp retailer permit shall provide to the department:

(a) the name of the person that is seeking to market or sell an industrial hemp product;

(b) the address of each location where the industrial hemp product will be sold; and

(c) written consent allowing a representative of the department to enter all premises where the person is selling an industrial hemp product for the purpose of:

(i) conducting a physical inspection; or

(ii) ensuring compliance with the requirements of this chapter.

(3) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp retailer permit.

(4) Any marketing for an industrial hemp product shall include a notice to consumers that the product is hemp and is not cannabis or medical cannabis, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201.

Section 3. Section **4-41-402** is amended to read:

4-41-402. Cannabinoid sales and use authorized.

(1) The sale or use of a cannabinoid product is prohibited:

(a) except as provided in this chapter; or

(b) unless the United States Food and Drug Administration approves the product.

(2) The department shall keep a list of registered cannabinoid products that the department has determined, in accordance with Section 4-41-403, are safe for human consumption.

(3) (a) A person may sell or use a cannabinoid product that is in the list of registered cannabinoid products described in Subsection (2).

(b) An individual may use cannabidiol or a cannabidiol product that is not in the list of registered cannabinoid products described in Subsection (2) if:

(i) the individual purchased the product outside the state; and

(ii) the product's contents do not violate Title 58, Chapter 37, Utah Controlled Substances Act.

(4) Any marketing for a cannabinoid product shall include a notice to consumers that the product is hemp or CBD and is not cannabis or medical cannabis, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201.

Section 4. Section **4-41a-102** is amended to read:

4-41a-102. Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) toxins; or

(f) foreign matter.

(2) "~~{~~}Cannabis Research Review Board" means the Cannabis Research Review Board created in Section [~~26-61-201~~] 26B-1-420.

(3) "Cannabis" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(4) "Cannabis concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and

(b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state.

(5) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

(6) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

(7) "Cannabis cultivation facility agent" means an individual who:

(a) is an employee of a cannabis cultivation facility; and

(b) holds a valid cannabis production establishment agent registration card.

(8) "Cannabis derivative product" means a product made using cannabis concentrate.

(9) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

(10) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

(11) "Cannabis processing facility agent" means an individual who:

(a) is an employee of a cannabis processing facility; and

(b) holds a valid cannabis production establishment agent registration card.

(12) "Cannabis product" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(13) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

(14) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

(15) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

(16) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(17) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

(18) "Department" means the Department of Agriculture and Food.

(19) "Derivative cannabinoid" means any cannabinoid that has been intentionally created using a process to convert a naturally occurring cannabinoid into another cannabinoid.

(20) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

(21) (a) "Independent cannabis testing laboratory" means a person that:

(i) conducts a chemical or other analysis of cannabis or a cannabis product; or

(ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(b) "Independent cannabis testing laboratory" includes a laboratory that the department or a research university operates in accordance with Subsection 4-41a-201(14).

(22) "Independent cannabis testing laboratory agent" means an individual who:

(a) is an employee of an independent cannabis testing laboratory; and

(b) holds a valid cannabis production establishment agent registration card.

(23) "Industrial hemp waste" means:

(a) a cannabinoid concentrate; or

(b) industrial hemp biomass.

(24) "Inventory control system" means a system described in Section 4-41a-103.

(25) "Licensing board" or "board" means the Cannabis Production Establishment Licensing Advisory Board created in Section 4-41a-201.1.

(26) "Medical cannabis" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(27) "Medical cannabis card" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(28) "Medical cannabis pharmacy" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(29) "Medical cannabis pharmacy agent" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(30) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

(31) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

(32) "Medical cannabis treatment" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(33) "Medicinal dosage form" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(34) "Qualified medical provider" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(35) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

(36) "Recommending medical provider" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(37) "Research university" means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

(38) "State electronic verification system" means the system described in Section [~~26-61a-103~~] 26B-4-202.

(39) "Synthetic cannabinoid" means any cannabinoid that:

(a) was chemically synthesized from starting materials other than a naturally occurring cannabinoid; and

(b) is not a derivative cannabinoid.

(40) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

(41) "THC analog" means the same as that term is defined in Section 4-41-102.

(42) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

(43) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section 4-41-102.

Section 5. Section **4-41a-103** is amended to read:

4-41a-103. Inventory control system.

(1) Each cannabis production establishment and each medical cannabis pharmacy shall maintain an inventory control system that meets the requirements of this section.

(2) A cannabis production establishment and a medical cannabis pharmacy shall ensure that the inventory control system maintained by the establishment or pharmacy:

(a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall and has a root ball until the cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card;

(b) maintains in real time a record of the amount of cannabis and cannabis products in the possession of the establishment or pharmacy;

(c) includes a video recording system that:

(i) tracks all handling and processing of cannabis or a cannabis product in the establishment or pharmacy;

(ii) is tamper proof; and

(iii) stores a video record for at least 45 days; and

(d) preserves compatibility with the state electronic verification system described in Section [~~26-61a-103~~] 26B-4-202.

(3) A cannabis production establishment and a medical cannabis pharmacy shall allow the following to access the cannabis production establishment's or the medical cannabis pharmacy's inventory control system at any time:

(a) the department;

(b) the Department of Health and Human Services; and

(c) a financial institution that the Division of Finance validates, in accordance with Subsection (6).

(4) The department may establish compatibility standards for an inventory control system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for aggregate or batch records regarding the planting and propagation of cannabis before being tracked in an inventory control system described in this section.

(b) The department shall ensure that the rules described in Subsection (5)(a) address record-keeping for the amount of planted seed, number of cuttings taken, date and time of cutting and planting, number of plants established, and number of plants culled or dead.

(6) (a) The Division of Finance shall, in consultation with the state treasurer:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to:

(A) establish a process for validating financial institutions for access to an inventory control system in accordance with Subsections (3)(c) and (6)(b); and

(B) establish qualifications for the validation described in Subsection (6)(a)(i)(A);

(ii) review applications the Division of Finance receives in accordance with the process established under Subsection (6)(a)(i);

(iii) validate a financial institution that meets the qualifications described in Subsection (6)(a)(i); and

(iv) provide a list of validated financial institutions to the department and the Department of Health <u>and Human Services</u>.

(b) A financial institution that the Division of Finance validates under Subsection (6)(a):

(i) may only access an inventory control system for the purpose of reconciling transactions and other financial activity of cannabis production establishments, medical cannabis pharmacies, and medical cannabis couriers that use financial services that the financial institution provides;

(ii) may only access information related to financial transactions; and

(iii) may not access any identifying patient information.

Section 6. Section **4-41a-201** is amended to read:

4-41a-201. Cannabis production establishment -- License.

(1) Except as provided in Subsection (14), a person may not operate a cannabis production establishment without a license that the department issues under this chapter.

(2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section 4-41a-205, for a licensing process that the department initiates after March 17, 2021, the department, through the licensing board, shall issue licenses in accordance with Section 4-41a-201.1.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to specify a transparent and efficient process to:

(A) solicit applications for a license under this section;

(B) allow for comments and questions in the development of applications;

(C) timely and objectively evaluate applications;

(D) hold public hearings that the department deems appropriate; and

(E) select applicants to receive a license.

(iii) The department may not issue a license to operate a cannabis production establishment to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the licensing board:

(i) subject to Subsection (2)(c), a proposed name and address or, for a cannabis cultivation facility, addresses of no more than two facility locations, located in a zone described in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis production establishment;

(ii) the name and address of any individual who has:

(A) for a publicly traded company, a financial or voting interest of 2% or greater in the proposed cannabis production establishment;

(B) for a privately held company, a financial or voting interest in the proposed cannabis production establishment; or

(C) the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) an operating plan that:

(A) complies with Section 4-41a-204;

(B) includes operating procedures that comply with this chapter and any law the municipality or county in which the person is located adopts that is consistent with Section 4-41a-406; and

(C) the department or licensing board approves;

(iv) a statement that the applicant will obtain and maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

(A) $100,000 for each cannabis cultivation facility for which the applicant applies; or

(B) $50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;

(v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a cannabis production establishment:

(A) within 1,000 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The licensing board may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the licensing board determines that it is not reasonably feasible for the applicant to site the proposed cannabis production establishment without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(3) If the licensing board approves an application for a license under this section and

Section 4-41a-201.1:

(a) the applicant shall pay the department:

(i) an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; or

(ii) a fee for a 120-day limited license to operate as a cannabis processing facility described in Subsection (3)(b) that is equal to 33% of the initial license fee described in Subsection (3)(a)(i); and

(b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4) (a) Except as provided in Subsection (4)(b), a cannabis production establishment shall obtain a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.

(b) The licensing board may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.

(5) If the licensing board receives more than one application for a cannabis production establishment within the same city or town, the licensing board shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(6) The licensing board may not issue a license to operate an independent cannabis testing laboratory to a person who:

(a) holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility;

(b) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or

(c) proposes to operate the independent cannabis testing laboratory at the same physical location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.

(7) The licensing board may not issue a license to operate a cannabis production establishment to an applicant if any individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

(8) (a) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the licensing board may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a license to operate a cannabis cultivation facility under this section holds a license to operate a medical cannabis pharmacy under [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, the licensing board:

(i) shall consult with the Department of Health and Human Services regarding the applicant; and

(ii) may give consideration to the applicant based on the applicant's status as a holder of a medical cannabis pharmacy license if:

(A) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(B) the licensing board finds multiple other factors, in addition to the existing license, that support granting the new license.

(9) The licensing board may revoke a license under this part:

(a) if the cannabis production establishment does not begin cannabis production operations within one year after the day on which the licensing board issues the initial license;

(b) after the third of the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

(c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection

(2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;

(e) if the cannabis production establishment demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter;

(f) if, after a change of ownership described in Subsection (15)(b), the board determines that the cannabis production establishment no longer meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter; or

(g) for an independent cannabis testing laboratory, if the independent cannabis testing laboratory fails to substantially meet the performance standards described in Subsection (14)(b).

(10) (a) A person who receives a cannabis production establishment license under this chapter, if the municipality or county where the licensed cannabis production establishment will be located requires a local land use permit, shall submit to the licensing board a copy of the licensee's approved application for the land use permit within 120 days after the day on which the licensing board issues the license.

(b) If a licensee fails to submit to the licensing board a copy of the licensee's approved land use permit application in accordance with Subsection (10)(a), the licensing board may revoke the licensee's license.

(11) The department shall deposit the proceeds of a fee that the department imposes under this section into the Qualified Production Enterprise Fund.

(12) The department shall begin accepting applications under this part on or before January 1, 2020.

(13) (a) The department's authority, and consequently the licensing board's authority, to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2)(a)(ii)(A), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(14) (a) Notwithstanding this section, the department:

(i) may not issue more than four licenses to operate an independent cannabis testing laboratory;

(ii) may operate or partner with a research university to operate an independent cannabis testing laboratory;

(iii) if the department operates or partners with a research university to operate an independent cannabis testing laboratory, may not cease operating or partnering with a research university to operate the independent cannabis testing laboratory unless:

(A) the department issues at least two licenses to independent cannabis testing laboratories; and

(B) the department has ensured that the licensed independent cannabis testing laboratories have sufficient capacity to provide the testing necessary to support the state's medical cannabis market; and

(iv) after ceasing department or research university operations under Subsection (14)(a)(ii) shall resume independent cannabis testing laboratory operations at any time if:

(A) fewer than two licensed independent cannabis testing laboratories are operating; or

(B) the licensed independent cannabis testing laboratories become, in the department's determination, unable to fully meet the market demand for testing.

(b) (i) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish performance standards for the operation of an independent cannabis testing laboratory, including deadlines for testing completion.

(ii) A license that the department issues to an independent cannabis testing laboratory is contingent upon substantial satisfaction of the performance standards described in Subsection (14)(b)(i), as determined by the board.

(15) (a) A cannabis production establishment license is not transferrable or assignable.

(b) If the ownership of a cannabis production establishment changes by 50% or more:

(i) the cannabis production establishment shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);

(ii) within 30 days of the submission of the application, the board shall:

(A) conduct the application review described in Section 4-41a-201.1; and

(B) award a license to the cannabis production establishment for the remainder of the

term of the cannabis production establishment's license before the ownership change if the cannabis production establishment meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter; and

(iii) if the board approves the license application, notwithstanding Subsection (3), the cannabis production establishment shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Section 7. Section **4-41a-204** is amended to read:

4-41a-204. Operating plan.

(1) A person applying for a cannabis production establishment license or license renewal shall submit to the department for the department's review a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of the proposed facility or, for a cannabis cultivation facility, no more than two facility locations, including a floor plan and an architectural elevation;

(b) a description of the credentials and experience of:

(i) each officer, director, and owner of the proposed cannabis production establishment; and

(ii) any highly skilled or experienced prospective employee;

(c) the cannabis production establishment's employee training standards;

(d) a security plan;

(e) a description of the cannabis production establishment's inventory control system, including a description of how the inventory control system is compatible with the state electronic verification system described in Section [~~26-61a-103~~] 26B-4-202;

(f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis;

(g) for a cannabis cultivation facility, the information described in Subsection (2);

(h) for a cannabis processing facility, the information described in Subsection (3); and

(i) for an independent cannabis testing laboratory, the information described in Subsection (4).

(2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan

includes the facility's intended:

(i) cannabis cultivation practices, including the facility's intended pesticide use and fertilizer use; and

(ii) subject to Subsection (2)(b), acreage or square footage under cultivation and anticipated cannabis yield.

(b) Except as provided in Subsection (2)(c)(i) or (c)(ii), a cannabis cultivation facility may not:

(i) for a facility that cultivates cannabis only indoors, use more than 100,000 total square feet of cultivation space;

(ii) for a facility that cultivates cannabis only outdoors, use more than four acres for cultivation; and

(iii) for a facility that cultivates cannabis through a combination of indoor and outdoor cultivation, use more combined indoor square footage and outdoor acreage than allowed under the department's formula described in Subsection (2)(e).

(c) (i) Each licensee may apply to the department for:

(A) a one-time, permanent increase of up to 20% of the limitation on the cannabis cultivation facility's cultivation space; or

(B) a short-term increase, not to exceed 12 months, of up to 40% of the limitation on the cannabis cultivation facility's cultivation space.

(ii) After conducting a review equivalent to the review described in Subsection 4-41a-205(2)(a), if the department determines that additional cultivation is needed, the department may:

(A) grant the one-time, permanent increase described in Subsection (2)(c)(i)(A); or

(B) grant the short-term increase described in Subsection (2)(c)(i)(B).

(d) If a licensee describes an intended acreage or square footage under cultivation under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b), the licensee may not cultivate more than the licensee's identified intended acreage or square footage under cultivation.

(e) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor cultivation that:

(i) does not exceed, in estimated cultivation yield, the aggregate limitations described in Subsection (2)(b)(i) or (ii); and

(ii) allows a cannabis cultivation facility to operate both indoors and outdoors.

(f) (i) The department may authorize a cannabis cultivation facility to operate at no more than two separate locations.

(ii) If the department authorizes multiple locations under Subsection (2)(f)(i), the two cannabis cultivation facility locations combined may not exceed the cultivation limitations described in this Subsection (2).

(3) A cannabis processing facility's operating plan shall include the facility's intended cannabis processing practices, including the cannabis processing facility's intended:

(a) offered variety of cannabis product;

(b) cannabinoid extraction method;

(c) cannabinoid extraction equipment;

(d) processing equipment;

(e) processing techniques; and

(f) sanitation and manufacturing safety procedures for items for human consumption.

(4) An independent cannabis testing laboratory's operating plan shall include the laboratory's intended:

(a) cannabis and cannabis product testing capability;

(b) cannabis and cannabis product testing equipment; and

(c) testing methods, standards, practices, and procedures for testing cannabis and cannabis products.

(5) Notwithstanding an applicant's proposed operating plan, a cannabis production establishment is subject to land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.

Section 8. Section **4-41a-403** is amended to read:

4-41a-403. Advertising.

(1) Except as provided in this section, a cannabis production establishment may not advertise to the general public in any medium.

(2) A cannabis production establishment may advertise an employment opportunity at the cannabis production establishment.

(3) A cannabis production establishment may maintain a website that:

(a) contains information about the establishment and employees; and

(b) does not advertise any medical cannabis, cannabis products, or medical cannabis devices.

(4) (a) Notwithstanding any municipal or county ordinance prohibiting signage, a cannabis production establishment may use signage on the outside of the cannabis production establishment that:

(i) includes only:

(A) in accordance with Subsection (4)(b), the cannabis production establishment's name, logo, and hours of operation; and

(B) a green cross; and

(ii) complies with local ordinances regulating signage.

(b) The department shall define standards for a cannabis production establishment's name and logo to ensure a medical rather than recreational disposition.

(5) (a) A cannabis production establishment may hold an educational event for the public or medical providers in accordance with this Subsection (5) and the rules described in Subsection (5)(c).

(b) A cannabis production establishment may not include in an educational event described in Subsection (5)(a):

(i) any topic that conflicts with this chapter or [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;

(ii) any gift items or merchandise other than educational materials, as those terms are defined by the department;

(iii) any marketing for a specific product from the cannabis production establishment or any other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

(iv) a presenter other than the following:

(A) a cannabis production establishment agent;

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

(C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act; or

(F) a state employee.

(c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the elements of and restrictions on the educational event described in Subsection (5)(a), including a minimum age of 21 years old for attendees.

Section 9. Section **4-41a-404** is amended to read:

4-41a-404. Medical cannabis transportation.

(1) (a) Only the following individuals may transport cannabis or a cannabis product under this chapter:

(i) a registered cannabis production establishment agent; or

(ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to possess under this chapter.

(b) Only an agent of a cannabis cultivation facility, when the agent is transporting cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory, may transport unprocessed cannabis outside of a medicinal dosage form.

(2) Except for an individual with a valid medical cannabis card under [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, who is transporting a medical cannabis treatment shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis or cannabis product to a relevant inventory control system;

(b) includes origin and destination information for any cannabis or cannabis product that the individual is transporting; and

(c) identifies the departure and arrival times and locations of the individual transporting the cannabis or cannabis product.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis or cannabis product to ensure that the cannabis or

cannabis product remains safe for human consumption.

(b) The transportation described in Subsection (3)(a) is limited to transportation:

(i) between a cannabis production establishment and another cannabis production establishment; and

(ii) between a cannabis processing facility and a medical cannabis pharmacy.

(4) (a) It is unlawful for a registered cannabis production establishment agent to make a transport described in this section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the agent described in Subsection (4)(a) is transporting more cannabis or cannabis product than the manifest identifies, except for a de minimis administrative error:

(i) the penalty described in Subsection (4)(b) does not apply; and

(ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) Nothing in this section prevents the department from taking administrative enforcement action against a cannabis production establishment or another person for failing to make a transport in compliance with the requirements of this section.

(6) An individual other than an individual described in Subsection (1) may transport a medical cannabis device within the state if the transport does not also contain medical cannabis.

Section 10. Section **4-41a-406** is amended to read:

4-41a-406. Local control.

(1) As used in this section:

(a) "Land use decision" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

(b) "Land use permit" means the same as that term is defined in Sections 10-9a-103

and 17-27a-103.

(c) "Land use regulation" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

(2) (a) If a municipality's or county's zoning ordinances provide for an industrial zone, the operation of a cannabis production establishment shall be a permitted industrial use in any industrial zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one industrial zone in which the operation of a cannabis production establishment is a permitted use.

(b) If a municipality's or county's zoning ordinances provide for an agricultural zone, the operation of a cannabis production establishment shall be a permitted agricultural use in any agricultural zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one agricultural zone in which the operation of a cannabis production establishment is a permitted use.

(c) The operation of a cannabis production establishment shall be a permitted use on land that the municipality or county has not zoned.

(3) A municipality or county may not:

(a) on the sole basis that the applicant or cannabis production establishment violates federal law regarding the legal status of cannabis, deny or revoke:

(i) a land use permit to operate a cannabis production facility; or

(ii) a business license to operate a cannabis production facility;

(b) require a certain distance between a cannabis production establishment and:

(i) another cannabis production establishment;

(ii) a medical cannabis pharmacy;

(iii) a retail tobacco specialty business, as that term is defined in Section [~~26-62-103~~] ~~{~~26B-4-202~~}~~26B-7-501; or

(iv) an outlet, as that term is defined in Section 32B-1-202; or

(c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use regulation against a cannabis production establishment that was not in effect on the day on which the cannabis production establishment submitted a complete land use application.

(4) An applicant for a land use permit to operate a cannabis production establishment shall comply with the land use requirements and application process described in:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, including Section 10-9a-528; and

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act, including Section 17-27a-525.

Section 11. Section **7-1-1006** is amended to read:

7-1-1006. Inapplicable to certain official investigations.

(1) Sections 7-1-1002 and 7-1-1003 do not apply if an examination of a record is a part of an official investigation by:

(a) local police;

(b) a sheriff;

(c) a peace officer;

(d) a city attorney;

(e) a county attorney;

(f) a district attorney;

(g) the attorney general;

(h) the Department of Public Safety;

(i) the Office of Recovery Services of the Department of Health and Human Services;

(j) the Insurance Department;

(k) the Department of Commerce;

(l) the Benefit Payment Control Unit or the Payment Error Prevention Unit of the Department of Workforce Services;

(m) the state auditor;

(n) the State Tax Commission; or

(o) the Department of Health and Human Services or its designee, when undertaking an official investigation to determine whether an individual qualifies for certain assistance programs as provided in Section [~~26-18-2.5~~] 26B-3-106.

(2) Except for the Office of Recovery Services, if a governmental entity listed in Subsection (1) seeks a record, the entity shall obtain the record as follows:

(a) if the record is a nonprotected record, by request in writing that:

(i) certifies that an official investigation is being conducted; and

(ii) is signed by a representative of the governmental entity that is conducting the official investigation; or

(b) if the record is a protected record, by obtaining:

(i) a subpoena authorized by statute;

(ii) other legal process:

(A) ordered by a court of competent jurisdiction; and

(B) served upon the financial institution; or

(iii) written permission from all account holders of the account referenced in the record to be examined.

(3) If the Office of Recovery Services seeks a record, the Office of Recovery Services shall obtain the record pursuant to:

(a) Subsection [~~62A-11-104(1)(g)~~] 26B-9-104(1)(g);

(b) Section [~~62A-11-304.1~~] 26B-9-205;

(c) Section [~~62A-11-304.5~~] 26B-9-208; or

(d) Title IV, Part D of the Social Security Act as codified in 42 U.S.C. 651 et seq.

(4) A financial institution may not give notice to an account holder or person named or referenced within the record disclosed pursuant to Subsection (2)(a).

(5) In accordance with Section 7-1-1004, the governmental entity conducting the official investigation that obtains a record from a financial institution under this section shall reimburse the financial institution for costs reasonably and directly incurred by the financial institution.

Section 12. Section **7-26-102** is amended to read:

7-26-102. Definitions.

As used in this chapter:

(1) "Adult Protective Services" means the same as that term is defined in Section [~~62A-3-301~~] 26B-6-201.

(2) "Covered financial institution" means any of the following that operate in the state:

(a) a state or federally chartered:

(i) bank;

(ii) savings and loan association;

(iii) savings bank;

(iv) industrial bank;

(v) credit union;

(vi) trust company; or

(vii) depository institution; or

(b) a financial institution.

(3) "Financial exploitation" means:

(a) the wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or other property of an individual; or

(b) an act or omission, including through a power of attorney, guardianship, or conservatorship of an individual, to:

(i) obtain control, through deception, intimidation, or undue influence, over the individual's money, assets, or other property to deprive the individual of the ownership, use, benefit, or possession of the individual's money, assets, or other property; or

(ii) convert the individual's money, assets, or other property to deprive the individual of the ownership, use, benefit, or possession of the individual's money, assets, or other property.

(4) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(5) "Qualified individual" means:

(a) a branch manager of a covered financial institution; or

(b) a director, officer, employee, agent, or other representative that a covered financial institution designates.

(6) "Third party associated with a vulnerable adult" means an individual:

(a) who is a parent, spouse, adult child, sibling, or other known family member of a vulnerable adult;

(b) whom a vulnerable adult authorizes the financial institution to contact;

(c) who is a co-owner, additional authorized signatory, or beneficiary on a vulnerable adult's account; or

(d) who is an attorney, trustee, conservator, guardian or other fiduciary whom a court or a government agency selects to manage some or all of the financial affairs of the vulnerable adult.

(7) "Transaction" means any of the following services that a covered financial institution provides:

(a) a transfer or request to transfer or disburse funds or assets in an account;

(b) a request to initiate a wire transfer, initiate an automated clearinghouse transfer, or issue a money order, cashier's check, or official check;

(c) a request to negotiate a check or other negotiable instrument;

(d) a request to change the ownership of, or access to, an account;

(e) a request to sell or transfer a security or other asset, or a request to affix a medallion stamp or provide any form of guarantee or endorsement in connection with an attempt to sell or transfer a security or other asset, if the person selling or transferring the security or asset is not required to obtain a license under Section 61-1-3;

(f) a request for a loan, extension of credit, or draw on a line of credit;

(g) a request to encumber any movable or immovable property; or

(h) a request to designate or change the designation of beneficiaries to receive any property, benefit, or contract right.

(8) "Vulnerable adult" means:

(a) an individual who is 65 years [~~of age~~] old or older; or

(b) the same as that term is defined in Section [~~62A-3-301~~] 26B-6-201.

Section 13. Section **10-2-419** is amended to read:

10-2-419. Boundary adjustment -- Notice and hearing -- Protest.

(1) The legislative bodies of two or more municipalities having common boundaries may adjust their common boundaries as provided in this section.

(2) The legislative body of each municipality intending to adjust a boundary that is common with another municipality shall:

(a) adopt a resolution indicating the intent of the municipal legislative body to adjust a common boundary; and

(b) hold a public hearing on the proposed adjustment no less than 60 days after the adoption of the resolution under Subsection (2)(a).

(3) A legislative body described in Subsection (2) shall provide notice of a public hearing described in Subsection (2)(b):

(a) (i) at least three weeks before the day of the public hearing, by posting one notice,

and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents of the municipality, subject to a maximum of 10 notices; or

(ii) at least three weeks before the day of the public hearing, by mailing notice to each residence in the municipality;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the public hearing;

(c) if the proposed boundary adjustment may cause any part of real property owned by the state to be within the geographic boundary of a different local governmental entity than before the adjustment, by providing written notice, at least 50 days before the day of the public hearing, to:

(i) the title holder of any state-owned real property described in this Subsection [~~(3)(d)~~] (3)(c); and

(ii) the Utah State Developmental Center Board, created under Section [~~62A-5-202.5~~] 26B-1-429, if any state-owned real property described in this Subsection [~~(3)(d)~~] (3)(c) is associated with the Utah State Developmental Center; and

(d) if the municipality has a website, by posting notice on the municipality's website for three weeks before the day of the public hearing.

(4) The notice described in Subsection (3) shall:

(a) state that the municipal legislative body has adopted a resolution indicating the municipal legislative body's intent to adjust a boundary that the municipality has in common with another municipality;

(b) describe the area proposed to be adjusted;

(c) state the date, time, and place of the public hearing described in Subsection (2)(b);

(d) state in conspicuous and plain terms that the municipal legislative body will adjust the boundaries unless, at or before the public hearing described in Subsection (2)(b), a written protest to the adjustment is filed by:

(i) an owner of private real property that:

(A) is located within the area proposed for adjustment;

(B) covers at least 25% of the total private land area within the area proposed for adjustment; and

(C) is equal in value to at least 15% of the value of all private real property within the area proposed for adjustment; or

(ii) a title holder of state-owned real property described in Subsection [~~(3)(d)~~] (3)(c);

(e) state that the area that is the subject of the boundary adjustment will, because of the boundary adjustment, be automatically annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the municipality to which the area is being added because of the boundary adjustment is entirely within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is not within the boundaries of the local district; and

(f) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services, as provided in Subsection 17B-1-502(2), if:

(i) the municipality to which the area is being added because of the boundary adjustment is not within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is entirely within the boundaries of the local district.

(5) Upon conclusion of the public hearing described in Subsection (2)(b), the municipal legislative body may adopt an ordinance approving the adjustment of the common boundary unless, at or before the hearing described in Subsection (2)(b), a written protest to the adjustment is filed with the city recorder or town clerk by a person described in Subsection (3)(c)(i) or (ii).

(6) The municipal legislative body shall comply with the requirements of Section

10-2-425 as if the boundary adjustment were an annexation.

(7) (a) An ordinance adopted under Subsection (5) becomes effective when each municipality involved in the boundary adjustment has adopted an ordinance under Subsection (5).

(b) The effective date of a boundary adjustment under this section is governed by Section 10-2-425.

Section 14. Section **10-2-425** is amended to read:

10-2-425. Filing of notice and plat -- Recording and notice requirements -- Effective date of annexation or boundary adjustment.

(1) The legislative body of each municipality that enacts an ordinance under this part approving the annexation of an unincorporated area or the adjustment of a boundary, or the legislative body of an eligible city, as defined in Section 10-2a-403, that annexes an unincorporated island upon the results of an election held in accordance with Section 10-2a-404, shall:

(a) within 60 days after enacting the ordinance or the day of the election or, in the case of a boundary adjustment, within 60 days after each of the municipalities involved in the boundary adjustment has enacted an ordinance, file with the lieutenant governor:

(i) a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5;

(b) upon the lieutenant governor's issuance of a certificate of annexation or boundary adjustment, as the case may be, under Section 67-1a-6.5:

(i) if the annexed area or area subject to the boundary adjustment is located within the boundary of a single county, submit to the recorder of that county the original notice of an impending boundary action, the original certificate of annexation or boundary adjustment, the original approved final local entity plat, and a certified copy of the ordinance approving the annexation or boundary adjustment; or

(ii) if the annexed area or area subject to the boundary adjustment is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties the original notice of impending boundary action, the original certificate of annexation or boundary adjustment, and the original

approved final local entity plat;

(B) submit to the recorder of each other county a certified copy of the documents listed in Subsection (1)(b)(ii)(A); and

(C) submit a certified copy of the ordinance approving the annexation or boundary adjustment to each county described in Subsections (1)(b)(ii)(A) and (B); and

(c) concurrently with Subsection (1)(b):

(i) send notice of the annexation or boundary adjustment to each affected entity; and

(ii) in accordance with Section [~~26-8a-414~~] 26B-4-168, file with the Department of Health and ~~{Humans}~~Human Services:

(A) a certified copy of the ordinance approving the annexation of an unincorporated area or the adjustment of a boundary; and

(B) a copy of the approved final local entity plat.

(2) If an annexation or boundary adjustment under this part or Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, also causes an automatic annexation to a local district under Section 17B-1-416 or an automatic withdrawal from a local district under Subsection 17B-1-502(2), the municipal legislative body shall, as soon as practicable after the lieutenant governor issues a certificate of annexation or boundary adjustment under Section 67-1a-6.5, send notice of the annexation or boundary adjustment to the local district to which the annexed area is automatically annexed or from which the annexed area is automatically withdrawn.

(3) Each notice required under Subsection (1) relating to an annexation or boundary adjustment shall state the effective date of the annexation or boundary adjustment, as determined under Subsection (4).

(4) An annexation or boundary adjustment under this part is completed and takes effect:

(a) for the annexation of or boundary adjustment affecting an area located in a county of the first class, except for an annexation under Section 10-2-418:

(i) July 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding November 1 through April 30; and

(B) the requirements of Subsection (1) are met before that July 1; or

(ii) January 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding May 1 through October 31; and

(B) the requirements of Subsection (1) are met before that January 1; and

(b) subject to Subsection (5), for all other annexations and boundary adjustments, the date of the lieutenant governor's issuance, under Section 67-1a-6.5, of a certificate of annexation or boundary adjustment.

(5) If an annexation of an unincorporated island is based upon the results of an election held in accordance with Section 10-2a-404:

(a) the county and the annexing municipality may agree to a date on which the annexation is complete and takes effect; and

(b) the lieutenant governor shall issue, under Section 67-1a-6.5, a certification of annexation on the date agreed to under Subsection (5)(a).

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

(i) "Affected area" means:

(A) in the case of an annexation, the annexed area; and

(B) in the case of a boundary adjustment, any area that, as a result of the boundary adjustment, is moved from within the boundary of one municipality to within the boundary of another municipality.

(ii) "Annexing municipality" means:

(A) in the case of an annexation, the municipality that annexes an unincorporated area; and

(B) in the case of a boundary adjustment, a municipality whose boundary includes an affected area as a result of a boundary adjustment.

(b) The effective date of an annexation or boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.

(c) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a municipality may not:

(i) levy or collect a property tax on property within an affected area;

(ii) levy or collect an assessment on property within an affected area; or

(iii) charge or collect a fee for service provided to property within an affected area,

unless the municipality was charging and collecting the fee within that area immediately before annexation.

Section 15. Section **10-8-41.6** is amended to read:

10-8-41.6. Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

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

(c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(d) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(e) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

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

(g) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(h) "Retail tobacco specialty business" means a commercial establishment in which:

(i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business;

(v) any flavored electronic cigarette product is sold; or

(vi) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

(i) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

(j) "Tobacco product" means:

(i) a tobacco product as defined in Section 76-10-101; or

(ii) tobacco paraphernalia as defined in Section 76-10-101.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state by the state or by delegation of the state's police powers to other governmental entities.

(3) (a) A person may not operate a retail tobacco specialty business in a municipality unless the person obtains a license from the municipality in which the retail tobacco specialty business is located.

(b) A municipality may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4) (a) Except as provided in Subsection (7), a municipality may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) A municipality may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the municipality with proof that the retail tobacco specialty business has:

(a) a valid permit for a retail tobacco specialty business issued under [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; and

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

(6) (a) Nothing in this section:

(i) requires a municipality to issue a retail tobacco specialty business license; or

(ii) prohibits a municipality from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A municipality may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates federal law or federal regulations restricting the sale and distribution of tobacco products or electronic cigarette products to protect children and adolescents;

(iii) upon the recommendation of the department or a local health department under

[~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products; or

(iv) under any other provision of state law or local ordinance.

(7) (a) A retail tobacco specialty business is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a license to conduct business as a retail tobacco specialty business;

(ii) the retail tobacco specialty business is operating in a municipality in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) [~~Title 26, Chapter 38, Utah Indoor Clean Air Act~~] Section 26B-7-503;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the license described in Subsection (7)(a)(i).

(c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a general tobacco retailer permit or a retail tobacco specialty business permit under [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the

local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the retail tobacco specialty business is operating in the municipality in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(d) Except as provided in Subsection (7)(e), a retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:

(i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco specialty business permit from the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;

(iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iv) the retail tobacco specialty business does not substantially change the business premises or business operation as the business existed when the retail tobacco specialty business received a permit under Subsection (7)(d)(i); and

(v) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) [~~Title 26, Chapter 38, Utah Indoor Clean Air Act~~] 26B-7-503;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

(e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business:

(i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use and located within a group of architecturally unified commercial establishments built on a site

that is planned, developed, owned, and managed as an operating unit; and

(ii) continues to meet the requirements described in Subsection (7)(b) that are not directly related to the relocation described in this Subsection (7)(e).

Section 16. Section **10-8-84.6** is amended to read:

10-8-84.6. Prohibition on licensing or certification of child care programs.

(1) (a) As used in this section, "child care program" means a child care facility or program operated by a person who holds a license or certificate from the Department of Health and Human Services under [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2, Part 4, Child Care Licensing.

(b) "Child care program" does not include a child care program for which a municipality provides oversight, as described in Subsection [~~26-39-403(2)(c)~~] 26B-2-405(2)(e).

(2) A municipality may not enact or enforce an ordinance that:

(a) imposes licensing or certification requirements for a child care program; or

(b) governs the manner in which child care is provided in a child care program.

(3) This section does not prohibit a municipality from:

(a) requiring a business license to operate a business within the municipality; or

(b) imposing requirements related to building, health, and fire codes.

Section 17. Section **10-8-85.5** is amended to read:

10-8-85.5. "Rental dwelling" defined -- Municipality may require a business license or a regulatory business license and inspections -- Exception.

(1) As used in this section, "rental dwelling" means a building or portion of a building that is:

(a) used or designated for use as a residence by one or more persons; and

(b) (i) available to be rented, loaned, leased, or hired out for a period of one month or longer; or

(ii) arranged, designed, or built to be rented, loaned, leased, or hired out for a period of one month or longer.

(2) (a) The legislative body of a municipality may by ordinance require the owner of a rental dwelling located within the municipality:

(i) to obtain a business license pursuant to Section 10-1-203; or

(ii) (A) to obtain a regulatory business license to operate and maintain the rental

dwelling in accordance with Section 10-1-203.5; and

(B) to allow inspections of the rental dwelling as a condition of obtaining a regulatory business license.

(b) A municipality may not require an owner of multiple rental dwellings or multiple buildings containing rental dwellings to obtain more than one regulatory business license for the operation and maintenance of those rental dwellings.

(c) A municipality may not charge a fee for the inspection of a rental dwelling.

(d) If a municipality's inspection of a rental dwelling, allowed under Subsection (2)(a)(ii)(B), approves the rental dwelling for purposes of a regulatory business license, a municipality may not inspect that rental dwelling except as provided for in Section 10-1-203.5.

(3) A municipality may not:

(a) interfere with the ability of an owner of a rental dwelling to contract with a tenant concerning the payment of the cost of a utility or municipal service provided to the rental dwelling; or

(b) except as required under the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act, for a structural change to the rental dwelling, or as required in an ordinance adopted before January 1, 2008, require the owner of a rental dwelling to retrofit the rental dwelling with or install in the rental dwelling a safety feature that was not required when the rental dwelling was constructed.

(4) Nothing in this section shall be construed to affect the rights and duties established under Title 57, Chapter 22, Utah Fit Premises Act, or to restrict a municipality's ability to enforce its generally applicable health ordinances or building code, a local health department's authority under Title 26A, Chapter 1, Local Health Departments, or the [~~Utah Department of Health's~~] Department of Health and Human Service's authority under [~~Title 26, Utah Health Code~~] Title 26B, Utah Health and Human Services Code.

Section 18. Section **10-8-90** is amended to read:

10-8-90. Ownership and operation of hospitals.

(1) Each city of the third, fourth, or fifth class and each town of the state is authorized to construct, own, and operate hospitals and to join with other cities, towns, and counties in the construction, ownership, and operation of hospitals.

(2) (a) Beginning July 1, 2017, a hospital under Subsection (1) that owns a nursing care

facility regulated under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, and uses an intergovernmental transfer as that term is defined in Section [~~26-18-21~~] 26B-3-130 may not enter into a new agreement or arrangement to operate a nursing care facility in another city, town, or county without first entering into an agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or other contract with the other city, town, or county to operate the nursing care facility.

(b) Subsection (2)(a) only applies to a city or town described in Subsection (1).

Section 19. Section **10-9a-103** is amended to read:

10-9a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the [~~Utah~~] Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(9) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(10) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(11) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(12) (a) "Development agreement" means a written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(13) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(14) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (14)(a)(i); or

(ii) a therapeutic school.

(15) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(16) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(17) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

(18) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(19) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

(20) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other

utility system.

(21) "Identical plans" means building plans submitted to a municipality that:

(a) are clearly marked as "identical plans";

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and

(iv) does not require any additional engineering or analysis.

(22) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(23) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(24) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(25) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

(26) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human occupation; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) whether the improvement is public or private, as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

(27) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(28) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(29) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(30) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(31) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit; or

(b) a land use application.

(32) "Land use permit" means a permit issued by a land use authority.

(33) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(34) "Legislative body" means the municipal council.

(35) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(36) "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local

historic district or area.

(37) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

(38) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 10-9a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(39) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

(40) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

(41) "Municipal utility easement" means an easement that:

(a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm

water, or communications or data lines;

(d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;

(e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and

(ii) is located in a utility easement granted for public use; or

(f) is described in Section 10-9a-529 and is used by a specified public utility.

(42) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(43) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

(44) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(45) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

(46) "Parcel" means any real property that is not a lot.

(47) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(48) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(49) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the municipality;

(b) an estimate of the need for moderate income housing in the municipality for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

(50) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

(51) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic

hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(52) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(53) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(54) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(55) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

(56) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(57) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

(58) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

[~~(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or~~]

[~~(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.~~]

(b) which is licensed or certified by the Department of Health and Human Services under:

(i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

(ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(59) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(60) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(61) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(62) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(63) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(64) "State" includes any department, division, or agency of the state.

(65) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (65)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 10-9a-524 if no new parcel is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vi) a parcel boundary adjustment;

(vii) a lot line adjustment;

(viii) a road, street, or highway dedication plat;

(ix) a deed or easement for a road, street, or highway purpose; or

(x) any other division of land authorized by law.

(66) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

(67) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

(68) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(69) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(70) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(71) "Unincorporated" means the area outside of the incorporated area of a city or town.

(72) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(73) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 20. Section **10-9a-520** is amended to read:

10-9a-520. Licensing of residences for persons with a disability.

The responsibility to license programs or entities that operate facilities for persons with a disability, as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with the Department of Health and Human Services as provided in:

[~~(1) for programs or entities licensed or certified by the Department of Human Services, the Department of Human Services as provided in Title 62A, Chapter 5, Services for People with Disabilities; and~~]

[~~(2) for programs or entities licensed or certified by the Department of Health, the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.~~]

~~{ (1) Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities; and }~~

(~~{2}~~1) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection~~{.}~~; and

(2) Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities.

Section 21. Section **10-9a-528** is amended to read:

10-9a-528. Cannabis production establishments, medical cannabis pharmacies, and industrial hemp producer licensee.

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

(b) "Industrial hemp producer licensee" means the same as the term "licensee" is defined in Section 4-41-102.

(c) "Medical cannabis pharmacy" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(2) (a) (i) A municipality may not regulate a cannabis production establishment in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable jurisprudence; and

(B) this chapter.

(ii) A municipality may not regulate a medical cannabis pharmacy in conflict with:

(A) [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and applicable jurisprudence; and

(B) this chapter.

(iii) A municipality may not regulate an industrial hemp producer licensee in conflict with:

(A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and

(B) this chapter.

(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment.

(c) The Department of Health and Human Services has plenary authority to license programs or entities that operate a medical cannabis pharmacy.

(3) (a) Within the time period described in Subsection (3)(b), a municipality shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

(i) regarding a cannabis production establishment, Section 4-41a-406; or

(ii) regarding a medical cannabis pharmacy, Section [~~26-61a-507~~] 26B-4-235.

(b) A municipality shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the municipality receives a petition for the action; and

(ii) after January 1, 2021, in accordance with Subsection 10-9a-509.5(2).

Section 22. Section **11-46-102** is amended to read:

11-46-102. Definitions.

As used in this chapter:

(1) "Animal" means a cat or dog.

(2) "Animal control officer" means any person employed or appointed by a county or a municipality who is authorized to investigate violations of laws and ordinances concerning animals, to issue citations in accordance with Utah law, and take custody of animals as appropriate in the enforcement of the laws and ordinances.

(3) "Animal shelter" means a facility or program:

(a) providing services for stray, lost, or unwanted animals, including holding and placing the animals for adoption, but does not include an institution conducting research on animals, as defined in Section [~~26-26-1~~] 26B-1-236; or

(b) a private humane society or private animal welfare organization.

(4) "Person" means an individual, an entity, or a representative of an entity.

Section 23. Section **11-48-101.5** is amended to read:

11-48-101.5. Definitions.

As used in this chapter:

(1) (a) "911 ambulance services" means ambulance services rendered in response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance services" does not mean a seven or ten digit telephone call received directly by an ambulance provider licensed under [~~Title 26, Chapter 8a, Utah Emergency Medical Services System Act~~] Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System.

(2) "Municipality" means a city, town, or metro township.

(3) "Political subdivision" means a county, city, town, local district, or special district.

Section 24. Section **11-48-103** is amended to read:

11-48-103. Provision of 911 ambulance services in municipalities and counties.

(1) The governing body of each municipality and county shall, subject to [~~Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers~~] Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System, ensure at least a minimum level of 911 ambulance services are provided:

(a) within the territorial limits of the municipality or county;

(b) by a ground ambulance provider, licensed by the Department of Health and Human Services under [~~Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers~~] Title 26B,

Chapter 4, Part 1, Utah Emergency Medical Services System; and

(c) in accordance with rules established by the State Emergency Medical Services Committee under [~~Subsection 26-8a-104(8)~~] Section 26B-1-404.

(2) A municipality or county may:

(a) subject to Subsection (3), maintain and support 911 ambulance services for the municipality's or county's own jurisdiction; or

(b) contract to:

(i) provide 911 ambulance services to any county, municipal corporation, local district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(ii) receive 911 ambulance services from any county, municipal corporation, local district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(iii) jointly provide 911 ambulance services with any county, municipal corporation, local district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency; or

(iv) contribute toward the support of 911 ambulance services in any county, municipal corporation, local district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency in return for 911 ambulance services.

(3) (a) A municipality or county that maintains and supports 911 ambulance services for the municipality's or county's own jurisdiction under Subsection (2)(a) shall obtain a license as a ground ambulance provider from the Department of Health and Human Services under [~~Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers~~] Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System.

(b) [~~Subsections {[}26-8a-405~~] Sections 26B-4-154 through [~~26-8a-405.3~~] 26B-4-157 do not apply to a license described in Subsection (3)(a).

Section 25. Section **13-5b-103** is amended to read:

13-5b-103. Contract negotiation standards.

(1) An integrated health system shall prohibit any employee or independent contractor of any division, subsidiary, or affiliate engaged in the business of health insurance from negotiating contracts on behalf of the integrated health care system's health care facilities,

subject to licensing under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, with any other licensed health insurer in the state.

(2) An integrated health system shall prohibit the disclosure of contract pricing terms between the integrated health care system's health care facilities and other health insurers with the integrated health care system's divisions, subsidiaries, or affiliates which are engaged in the business of health insurance.

Section 26. Section **13-59-102** is amended to read:

13-59-102. Definitions.

As used in this chapter:

(1) "Enrollee" means the same as that term is defined in Section 31A-1-301.

(2) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(3) "Health care provider" means a person licensed to provide health care under:

(a) [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; or

(b) Title 58, Occupations and Professions.

Section 27. Section **13-60-102** is amended to read:

Part 1. Genetic Information Privacy Act

13-60-102. Definitions.

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

(1) "Biological sample" means any human material known to contain DNA, including tissue, blood, urine, or saliva.

(2) "Consumer" means an individual who is a resident of the state.

(3) "Deidentified data" means data that:

(a) cannot reasonably be linked to an identifiable individual; and

(b) possessed by a company that:

(i) takes administrative and technical measures to ensure that the data cannot be associated with a particular consumer;

(ii) makes a public commitment to maintain and use data in deidentified form and not attempt to reidentify data; and

(iii) enters into legally enforceable contractual obligation that prohibits a recipient of

the data from attempting to reidentify the data.

(4) "Direct-to-consumer genetic testing company" or "company" means an entity that:

(a) offers consumer genetic testing products or services directly to consumers; or

(b) collects, uses, or analyzes genetic data that a consumer provides to the entity.

(5) "DNA" means deoxyribonucleic acid.

(6) "Express consent" means a consumer's affirmative response to a clear, meaningful, and prominent notice regarding the collection, use, or disclosure of genetic data for a specific purpose.

(7) (a) "Genetic data" means any data, regardless of format, concerning a consumer's genetic characteristics.

(b) "Genetic data" includes:

(i) raw sequence data that result from sequencing all or a portion of a consumer's extracted DNA;

(ii) genotypic and phenotypic information obtained from analyzing a consumer's raw sequence data; and

(iii) self-reported health information regarding a consumer's health conditions that the consumer provides to a company that the company:

(A) uses for scientific research or product development; and

(B) analyzes in connection with the consumer's raw sequence data.

(c) "Genetic data" does not include deidentified data.

(8) "Genetic testing" means:

(a) a laboratory test of a consumer's complete DNA, regions of DNA, chromosomes, genes, or gene products to determine the presence of genetic characteristics of the consumer; or

(b) an interpretation of a consumer's genetic data.

Section 28. Section **13-60-103** is amended to read:

13-60-103. Limitations.

This [~~chapter~~] part does not apply to:

(1) protected health information that is collected by a covered entity or business associate as those terms are defined in 45 C.F.R. Parts 160 and 164;

(2) a public or private institution of higher education; or

(3) an entity owned or operated by a public or private institution of higher education.

~~{**26-8a-102. Definitions.**~~

~~As used in this chapter:~~

~~(1) (a) "911 ambulance or paramedic services" means:~~

~~(i) either:~~

~~(A) 911 ambulance service;~~

~~(B) 911 paramedic service; or~~

~~(C) both 911 ambulance and paramedic service; and~~

~~(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.~~

~~(b) "911 ambulance or paramedic services" does not mean a seven or 10 digit telephone call received directly by an ambulance provider licensed under this chapter.~~

~~(2) "Ambulance" means a ground, air, or water vehicle that:~~

~~(a) transports patients and is used to provide emergency medical services; and~~

~~(b) is required to obtain a permit under Section 26-8a-304 to operate in the state.~~

~~(3) "Ambulance provider" means an emergency medical service provider that:~~

~~(a) transports and provides emergency medical care to patients; and~~

~~(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.~~

~~(4) (a) "Behavioral emergency services" means delivering a behavioral health intervention to a patient in an emergency context within a scope and in accordance with guidelines established by the department.~~

~~(b) "Behavioral emergency services" does not include engaging in the:~~

~~(i) practice of mental health therapy as defined in Section 58-60-102;~~

~~(ii) practice of psychology as defined in Section 58-61-102;~~

~~(iii) practice of clinical social work as defined in Section 58-60-202;~~

~~(iv) practice of certified social work as defined in Section 58-60-202;~~

~~(v) practice of marriage and family therapy as defined in Section 58-60-302;~~

~~(vi) practice of clinical mental health counseling as defined in Section 58-60-402; or~~

~~(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.~~

~~(5) "Committee" means the State Emergency Medical Services Committee created by Section 26B-1-204.~~

~~(6) "Community paramedicine" means medical care:~~

(a) provided by emergency medical service personnel; and

(b) provided to a patient who is not:

(i) in need of ambulance transportation; or

(ii) located in a health care facility as defined in Section 26-21-2.

(7) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26-8a-302.

(8) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or the physician's designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 26-8a-302 during transport.

(9) (a) "Emergency medical service personnel" means an individual who provides emergency medical services or behavioral emergency services to a patient and is required to be licensed or certified under Section 26-8a-302.

(b) "Emergency medical service personnel" includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, behavioral emergency services technician, other categories established by the committee, and a certified emergency medical dispatcher.

(10) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Subsection 26-8a-303(1)(a); and

(c) emergency medical service personnel.

(11) "Emergency medical services" means:

(a) medical services;

(b) transportation services;

(c) behavioral emergency services; or

(d) any combination of the services described in Subsections (11)(a) through (c).

(12) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 26-8a-304.

(13) "Governing body":

(a) means the same as that term is defined in Section 11-42-102; and

(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district's legislative body or administrative control board.

(14) "Interested party" means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

(15) "Level of service" means the level at which an ambulance provider type of service is licensed as:

(a) emergency medical technician;

(b) advanced emergency medical technician; or

(c) paramedic.

(16) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

(17) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).

(18) "Nonemergency secured behavioral health transport" means an entity that:

~~(a) provides nonemergency secure transportation services for an individual who:~~

~~(i) is not required to be transported by an ambulance under Section 26-8a-305; and~~

~~(ii) requires behavioral health observation during transport between any of the following facilities:~~

~~(A) a licensed acute care hospital;~~

~~(B) an emergency patient receiving facility;~~

~~(C) a licensed mental health facility; and~~

~~(D) the office of a licensed health care provider; and~~

~~(b) is required to be designated under Section 26-8a-303.~~

~~(19) "Paramedic provider" means an entity that:~~

~~(a) employs emergency medical service personnel; and~~

~~(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.~~

~~(20) "Patient" means an individual who, as the result of illness, injury, or a behavioral emergency condition, meets any of the criteria in Section 26-8a-305.~~

~~(21) "Political subdivision" means:~~

~~(a) a city, town, or metro township;~~

~~(b) a county;~~

~~(c) a special service district created under Title 17D, Chapter 1, Special Service District Act, for the purpose of providing fire protection services under Subsection 17D-1-201(9);~~

~~(d) a local district created under Title 17B, Limited Purpose Local Government Entities - Local Districts, for the purpose of providing fire protection, paramedic, and emergency services;~~

~~(e) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii); or~~

~~(f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act.~~

~~(22) "Trauma" means an injury requiring immediate medical or surgical intervention.~~

~~(23) "Trauma system" means a single, statewide system that:~~

~~(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and~~

~~(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.~~

~~(24) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.~~

~~(25) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:~~

~~(a) direct the care of patients; and~~

~~(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.~~

~~(26) "Type of service" means the category at which an ambulance provider is licensed as:~~

~~(a) ground ambulance transport;~~

~~(b) ground ambulance interfacility transport; or~~

~~(c) both ground ambulance transport and ground ambulance interfacility transport.~~

~~**26-8a-104. Committee advisory duties.**~~

~~The committee shall adopt rules, with the concurrence of the department, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:~~

~~(1) establish licensure, certification, and reciprocity requirements under Section 26-8a-302;~~

~~(2) establish designation requirements under Section 26-8a-303;~~

~~(3) promote the development of a statewide emergency medical services system under Section 26-8a-203;~~

~~(4) establish insurance requirements for ambulance providers;~~

~~(5) provide guidelines for requiring patient data under Section 26-8a-203;~~

~~(6) establish criteria for awarding grants under Section 26-8a-207;~~

~~(7) establish requirements for the coordination of emergency medical services and the medical supervision of emergency medical service providers under Section 26-8a-306;~~

~~(8) select appropriate vendors to establish certification requirements for emergency medical dispatchers;~~

~~(9) establish the minimum level of service for 911 ambulance services provided under Section 11-48-103; and~~

~~(10) are necessary to carry out the responsibilities of the committee as specified in~~

~~other sections of this chapter.~~

~~**26-8a-204. Disaster coordination plan.**~~

~~The department shall develop and implement, in cooperation with state, federal, and local agencies empowered to oversee disaster response activities, plans to provide emergency medical services during times of disaster or emergency.~~

~~**26-8a-205. Pediatric quality improvement program.**~~

~~The department shall establish a pediatric quality improvement resource program.~~

~~**26-8a-206. Personnel stress management program.**~~

~~(1) The department shall develop and implement a statewide program to provide support and counseling for personnel who have been exposed to one or more stressful incidents in the course of providing emergency services.~~

~~(2) This program shall include:~~

~~(a) ongoing training for agencies providing emergency services and counseling program volunteers;~~

~~(b) critical incident stress debriefing for personnel at no cost to the emergency provider; and~~

~~(c) advising the department on training requirements for licensure as a behavioral emergency services technician.~~

~~**13-60-201. Consumer**~~}Section 29. Section **13-60-104**, which is renumbered from Section 13-60-201 is renumbered and amended to read:

~~[13-60-201].~~ 13-60-104. Consumer genetic information -- Privacy notice -- Consent -- Access -- Deletion -- Destruction.

(1) A direct-to-consumer genetic testing company shall:

(a) provide to a consumer:

(i) essential information about the company's collection, use, and disclosure of genetic data; and

(ii) a prominent, publicly available privacy notice that includes information about the company's data collection, consent, use, access, disclosure, transfer, security, retention, and deletion practices;

(b) obtain a consumer's initial express consent for collection, use, or disclosure of the consumer's genetic data that:

(i) clearly describes the company's use of the genetic data that the company collects through the company's genetic testing product or service;

(ii) specifies who has access to test results; and

(iii) specifies how the company may share the genetic data;

(c) if the company engages in any of the following, obtain a consumer's:

(i) separate express consent for:

(A) the transfer or disclosure of the consumer's genetic data to any person other than the company's vendors and service providers;

(B) the use of genetic data beyond the primary purpose of the company's genetic testing product or service; or

(C) the company's retention of any biological sample provided by the consumer following the company's completion of the initial testing service requested by the consumer;

(ii) informed consent in accordance with the Federal Policy for the Protection of Human Subjects, 45 C.F.R. Part 46, for transfer or disclosure of the consumer's genetic data to a third party for:

(A) research purposes; or

(B) research conducted under the control of the company for the purpose of publication or generalizable knowledge; and

(iii) express consent for:

(A) marketing to a consumer based on the consumer's genetic data; or

(B) marketing by a third party person to a consumer based on the consumer having ordered or purchased a genetic testing product or service;

(d) require valid legal process for the company's disclosure of a consumer's genetic data to law enforcement or any government entity without the consumer's express written consent;

(e) develop, implement, and maintain a comprehensive security program to protect a consumer's genetic data against unauthorized access, use, or disclosure; and

(f) provide a process for a consumer to:

(i) access the consumer's genetic data;

(ii) delete the consumer's account and genetic data; and

(iii) destroy the consumer's biological sample.

(2) Notwithstanding Subsection (1)(c)(iii), a direct-to-consumer genetic testing company with a first-party relationship to a consumer may, without obtaining the consumer's express consent, provide customized content or offers on the company's website or through the company's application or service.

~~{**13-60-202. Prohibited**}~~Section 30. Section **13-60-105**, which is renumbered from Section 13-60-202 is renumbered and amended to read:

[~~13-60-202~~]. 13-60-105. Prohibited disclosures.

A direct-to-consumer genetic testing company may not disclose a consumer's genetic data without the consumer's written consent to:

(1) an entity that offers health insurance, life insurance, or long-term care insurance; or

(2) an employer of the consumer.

~~{**13-60-301. Enforcement**}~~Section 31. Section **13-60-106**, which is renumbered from Section 13-60-301 is renumbered and amended to read:

[~~13-60-301~~]. 13-60-106. Enforcement powers of the attorney general.

(1) The attorney general may enforce this [~~chapter~~] part.

(2) The attorney general may initiate a civil enforcement action against a person for violating this [~~chapter~~] part.

(3) In an action to enforce this [~~chapter~~] part, the attorney general may recover:

(a) actual damages to the consumer;

(b) costs;

(c) attorney fees; and

(d) $2,500 for each violation of this ~~{chapter.~~

~~**26-45-102. Definitions**}[chapter] part.~~

Section 32. Section **13-60-203**, which is renumbered from Section 26-45-102 is renumbered and amended to read:

Part 2. Genetic Testing and Procedure Privacy Act

[~~26-45-102~~]. 13-60-203. Definitions.

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

(1) "Blood relative" means an individual's biologically related:

(a) parent;

(b) grandparent;

(c) child;

(d) grandchild;

(e) sibling;

(f) uncle;

(g) aunt;

(h) nephew;

(i) niece; or

(j) first cousin.

(2) "DNA" means:

(a) deoxyribonucleic acid, ribonucleic acid, and chromosomes, which may be analyzed to detect heritable diseases or conditions, including the identification of carriers, predicting risk of disease, or establishing a clinical diagnosis; or

(b) proteins, enzymes, or other molecules associated with a genetic process, which may be modified, replaced in part or whole, superseded, or bypassed in function by a health or medical procedure.

(3) "DNA sample" means any human biological specimen from which DNA can be extracted, or DNA extracted from such specimen.

(4) "Employer" means the same as that term is defined in Section 34A-2-103.

(5) (a) "Genetic analysis" or "genetic test" means the testing, detection, or analysis of an identifiable individual's DNA that results in information that is derived from the presence, absence, alteration, or mutation of an inherited gene or genes, or the presence or absence of a specific DNA marker or markers.

(b) "Genetic analysis" or "genetic test" does not mean:

(i) a routine physical examination;

(ii) a routine chemical, blood, or urine analysis;

(iii) a test to identify the presence of drugs or HIV infection; or

(iv) a test performed due to the presence of signs, symptoms, or other manifestations of a disease, illness, impairment, or other disorder.

(6) "Genetic procedure" means any therapy, treatment, or medical procedure that is intended to:

(a) add, remove, alter, activate, change, or cause mutation in an individual's inherited

DNA; or

(b) replace, supersede, or bypass a normal DNA function.

(7) "Health care insurance" means the same as that term is defined in Section 31A-1-301.

(8) (a) "Private genetic information" means any information about an identifiable individual that:

(i) is derived from:

(A) the presence, absence, alteration, or mutation of an inherited gene or genes; or

(B) the presence or absence of a specific DNA marker or markers; and

(ii) has been obtained:

(A) from a genetic test or analysis of the individual's DNA;

(B) from a genetic test or analysis of the DNA of a blood relative of the individual; or

(C) from a genetic procedure.

(b) "Private genetic information" does not include information that is derived from:

(i) a routine physical examination;

(ii) a routine chemical, blood, or urine analysis;

(iii) a test to identify the presence of drugs or HIV infection; or

(iv) a test performed due to the presence of signs, symptoms, or other manifestations of a disease, illness, impairment, or other disorder.

~~{**26-45-103. Restrictions**}~~Section 33. Section **13-60-204**, which is renumbered from Section 26-45-103 is renumbered and amended to read:

~~[26-45-103].~~ 13-60-204. Restrictions on employers.

(1) Except as provided in Subsection (2), an employer may not in connection with a hiring, promotion, retention, or other related decision:

(a) access or otherwise take into consideration private genetic information about an individual;

(b) request or require an individual to consent to a release for the purpose of accessing private genetic information about the individual;

(c) request or require an individual or the individual's blood relative to submit to:

(i) a genetic test; or

(ii) a genetic procedure; or

(d) inquire into or otherwise take into consideration the fact that an individual or the individual's blood relative has:

(i) taken or refused to take a genetic test; or

(ii) undergone or refused to undergo a genetic procedure.

(2) (a) Notwithstanding Subsection (1), an employer may seek an order compelling the disclosure of private genetic information held by an individual or third party pursuant to Subsection (2)(b) in connection with:

(i) an employment-related judicial or administrative proceeding in which the individual has placed his health at issue; or

(ii) an employment-related decision in which the employer has a reasonable basis to believe that the individual's health condition poses a real and unjustifiable safety risk requiring the change or denial of an assignment.

(b) (i) An order compelling the disclosure of private genetic information pursuant to this Subsection (2) may only be entered upon a finding that:

(A) other ways of obtaining the private information are not available or would not be effective; and

(B) there is a compelling need for the private genetic information which substantially outweighs the potential harm to the privacy interests of the individual.

(ii) An order compelling the disclosure of private genetic information pursuant to this Subsection (2) shall:

(A) limit disclosure to those parts of the record containing information essential to fulfill the objective of the order;

(B) limit disclosure to those persons whose need for the information is the basis of the order; and

(C) include such other measures as may be necessary to limit disclosure for the protection of the individual.

~~{ 26-45-104. Restrictions}~~

Section 34. Section **13-60-205**, which is renumbered from Section 26-45-104 is renumbered and amended to read:

~~[26-45-104].~~ 13-60-205. Restrictions on health insurers.

(1) Except as provided in Subsection (2), an insurer offering health care insurance may

not in connection with the offer or renewal of an insurance product or in the determination of premiums, coverage, renewal, cancellation, or any other underwriting decision that pertains directly to the individual or any group of which the individual is a member that purchases insurance jointly:

(a) access or otherwise take into consideration private genetic information about an asymptomatic individual;

(b) request or require an asymptomatic individual to consent to a release for the purpose of accessing private genetic information about the individual;

(c) request or require an asymptomatic individual or the individual's blood relative to submit to a genetic test;

(d) inquire into or otherwise take into consideration the fact that an asymptomatic individual or the individual's blood relative has taken or refused to take a genetic test;

(e) request or require an individual or the individual's blood relative to submit to a genetic procedure; or

(f) inquire into the results of a genetic procedure that an individual or the individual's blood relative undergoes.

(2) An insurer offering health care insurance:

(a) may request information regarding the necessity of a genetic test, but not the results of the test, if a claim for payment for the test has been made against an individual's health insurance policy;

(b) may request information regarding the necessity of a genetic procedure, including the results of the procedure, if a claim for payment for the procedure has been made against an individual's health insurance policy;

(c) may request that portion of private genetic information that is necessary to determine the insurer's obligation to pay for health care services where:

(i) the primary basis for rendering such services to an individual is the result of a genetic test; and

(ii) a claim for payment for such services has been made against the individual's health insurance policy;

(d) may only store information obtained under this Subsection (2) in accordance with the provisions of the Health Insurance Portability and Accountability Act of 1996; and

(e) may only use or otherwise disclose the information obtained under this Subsection (2) in connection with a proceeding to determine the obligation of an insurer to pay for a genetic test or health care services, provided that, in accordance with the provisions of the Health Insurance Portability and Accountability Act of 1996, the insurer makes a reasonable effort to limit disclosure to the minimum necessary to carry out the purposes of the disclosure.

(3) (a) An insurer may, to the extent permitted by Subsection (2), seek an order compelling the disclosure of private genetic information held by an individual or third party.

(b) An order authorizing the disclosure of private genetic information pursuant to this Subsection (2) shall:

(i) limit disclosure to those parts of the record containing information essential to fulfill the objectives of the order;

(ii) limit disclosure to those persons whose need for the information is the basis for the order; and

(iii) include such other measures as may be necessary to limit disclosure for the protection of the individual.

(4) Nothing in this section may be construed as restricting the ability of an insurer to use information other than private genetic information to take into account the health status of an individual, group, or population in determining premiums or making other underwriting decisions.

(5) Nothing in this section may be construed as:

(a) requiring an insurer to pay for genetic testing or a genetic procedure; or

(b) prohibiting the use of step-therapy protocols.

(6) Information maintained by an insurer about an individual under this section may be redisclosed:

(a) to protect the interests of the insurer in detecting, prosecuting, or taking legal action against criminal activity, fraud, material misrepresentations, and material omissions;

(b) to enable business decisions to be made about the purchase, transfer, merger, reinsurance, or sale of all or part of the insurer's business; and

(c) to the commissioner of insurance upon formal request.

~~{**26-45-105. Private**}~~Section 35. Section **13-60-206**, which is renumbered from Section 26-45-105 is renumbered and amended to read:

[~~26-45-105~~]. 13-60-206. Private right of action.

(1) (a) An individual whose legal rights arising under this [~~chapter~~] part have been violated after June 30, 2003, may recover damages and be granted equitable relief in a civil action.

(b) Subsection (1)(a) does not create a legal right prior to the Legislature enacting the right under this [~~chapter~~] part.

(2) Any insurance company or employer who violates the legal rights of an individual arising from this [~~chapter~~] part shall be liable to the individual for each separate violation in an amount equal to:

(a) actual damages sustained as a result of the violation;

(b) (i) $100,000 if the violation is the result of an intentional and willful act; or

(ii) punitive damages if the violation is the result of a malicious act; and

(c) reasonable attorneys' fees.

~~{**26-45-106. Enforcement**}~~Section 36. Section **13-60-207**, which is renumbered from Section 26-45-106 is renumbered and amended to read:

[~~26-45-106~~]. 13-60-207. Enforcement.

(1) Whenever the attorney general has reason to believe that any person is using or is about to use any method, act, or practice in violation of the provisions of this [~~chapter~~] part, and that proceedings would be in the public interest, the attorney general may bring an action against the person to restrain or enjoin the use of such method, act, or practice.

(2) In addition to restraining or enjoining the use of a method, act, or practice, the court may, after June 30, 2003, require the payment of:

(a) a civil fine of not more than $25,000 for each separate intentional violation; and

(b) reasonable costs of investigation and litigation, including reasonable attorneys' fees.

Section ~~{27}~~37. Section **13-61-101 (Effective 12/31/23)** is amended to read:

13-61-101 (Effective 12/31/23). Definitions.

As used in this chapter:

(1) "Account" means the Consumer Privacy Restricted Account established in Section 13-61-403.

(2) "Affiliate" means an entity that:

(a) controls, is controlled by, or is under common control with another entity; or

(b) shares common branding with another entity.

(3) "Aggregated data" means information that relates to a group or category of consumers:

(a) from which individual consumer identities have been removed; and

(b) that is not linked or reasonably linkable to any consumer.

(4) "Air carrier" means the same as that term is defined in 49 U.S.C. Sec. 40102.

(5) "Authenticate" means to use reasonable means to determine that a consumer's request to exercise the rights described in Section 13-61-201 is made by the consumer who is entitled to exercise those rights.

(6) (a) "Biometric data" means data generated by automatic measurements of an individual's unique biological characteristics.

(b) "Biometric data" includes data described in Subsection (6)(a) that are generated by automatic measurements of an individual's fingerprint, voiceprint, eye retinas, irises, or any other unique biological pattern or characteristic that is used to identify a specific individual.

(c) "Biometric data" does not include:

(i) a physical or digital photograph;

(ii) a video or audio recording;

(iii) data generated from an item described in Subsection (6)(c)(i) or (ii);

(iv) information captured from a patient in a health care setting; or

(v) information collected, used, or stored for treatment, payment, or health care operations as those terms are defined in 45 C.F.R. Parts 160, 162, and 164.

(7) "Business associate" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

(8) "Child" means an individual younger than 13 years old.

(9) "Consent" means an affirmative act by a consumer that unambiguously indicates the consumer's voluntary and informed agreement to allow a person to process personal data related to the consumer.

(10) (a) "Consumer" means an individual who is a resident of the state acting in an individual or household context.

(b) "Consumer" does not include an individual acting in an employment or commercial context.

(11) "Control" or "controlled" as used in Subsection (2) means:

(a) ownership of, or the power to vote, more than 50% of the outstanding shares of any class of voting securities of an entity;

(b) control in any manner over the election of a majority of the directors or of the individuals exercising similar functions; or

(c) the power to exercise controlling influence of the management of an entity.

(12) "Controller" means a person doing business in the state who determines the purposes for which and the means by which personal data are processed, regardless of whether the person makes the determination alone or with others.

(13) "Covered entity" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

(14) "Deidentified data" means data that:

(a) cannot reasonably be linked to an identified individual or an identifiable individual; and

(b) are possessed by a controller who:

(i) takes reasonable measures to ensure that a person cannot associate the data with an individual;

(ii) publicly commits to maintain and use the data only in deidentified form and not attempt to reidentify the data; and

(iii) contractually obligates any recipients of the data to comply with the requirements described in Subsections (14)(b)(i) and (ii).

(15) "Director" means the director of the Division of Consumer Protection.

(16) "Division" means the Division of Consumer Protection created in Section 13-2-1.

(17) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

(18) "Health care facility" means the same as that term is defined in Section [~~26-21-2~~] 26B-2-201.

(19) "Health care provider" means the same as that term is defined in Section [~~26-21-2~~] ~~{~~26B-2-201~~}~~78B-3-403.

(20) "Identifiable individual" means an individual who can be readily identified, directly or indirectly.

(21) "Institution of higher education" means a public or private institution of higher education.

(22) "Local political subdivision" means the same as that term is defined in Section 11-14-102.

(23) "Nonprofit corporation" means:

(a) the same as that term is defined in Section 16-6a-102; or

(b) a foreign nonprofit corporation as defined in Section 16-6a-102.

(24) (a) "Personal data" means information that is linked or reasonably linkable to an identified individual or an identifiable individual.

(b) "Personal data" does not include deidentified data, aggregated data, or publicly available information.

(25) "Process" means an operation or set of operations performed on personal data, including collection, use, storage, disclosure, analysis, deletion, or modification of personal data.

(26) "Processor" means a person who processes personal data on behalf of a controller.

(27) "Protected health information" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

(28) "Pseudonymous data" means personal data that cannot be attributed to a specific individual without the use of additional information, if the additional information is:

(a) kept separate from the consumer's personal data; and

(b) subject to appropriate technical and organizational measures to ensure that the personal data are not attributable to an identified individual or an identifiable individual.

(29) "Publicly available information" means information that a person:

(a) lawfully obtains from a record of a governmental entity;

(b) reasonably believes a consumer or widely distributed media has lawfully made available to the general public; or

(c) if the consumer has not restricted the information to a specific audience, obtains from a person to whom the consumer disclosed the information.

(30) "Right" means a consumer right described in Section 13-61-201.

(31) (a) "Sale," "sell," or "sold" means the exchange of personal data for monetary consideration by a controller to a third party.

(b) "Sale," "sell," or "sold" does not include:

(i) a controller's disclosure of personal data to a processor who processes the personal data on behalf of the controller;

(ii) a controller's disclosure of personal data to an affiliate of the controller;

(iii) considering the context in which the consumer provided the personal data to the controller, a controller's disclosure of personal data to a third party if the purpose is consistent with a consumer's reasonable expectations;

(iv) the disclosure or transfer of personal data when a consumer directs a controller to:

(A) disclose the personal data; or

(B) interact with one or more third parties;

(v) a consumer's disclosure of personal data to a third party for the purpose of providing a product or service requested by the consumer or a parent or legal guardian of a child;

(vi) the disclosure of information that the consumer:

(A) intentionally makes available to the general public via a channel of mass media; and

(B) does not restrict to a specific audience; or

(vii) a controller's transfer of personal data to a third party as an asset that is part of a proposed or actual merger, an acquisition, or a bankruptcy in which the third party assumes control of all or part of the controller's assets.

(32) (a) "Sensitive data" means:

(i) personal data that reveals:

(A) an individual's racial or ethnic origin;

(B) an individual's religious beliefs;

(C) an individual's sexual orientation;

(D) an individual's citizenship or immigration status; or

(E) information regarding an individual's medical history, mental or physical health condition, or medical treatment or diagnosis by a health care professional;

(ii) the processing of genetic personal data or biometric data, if the processing is for the purpose of identifying a specific individual; or

(iii) specific geolocation data.

(b) "Sensitive data" does not include personal data that reveals an individual's:

(i) racial or ethnic origin, if the personal data are processed by a video communication service; or

(ii) if the personal data are processed by a person licensed to provide health care under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, or Title 58, Occupations and Professions, information regarding an individual's medical history, mental or physical health condition, or medical treatment or diagnosis by a health care professional.

(33) (a) "Specific geolocation data" means information derived from technology, including global position system level latitude and longitude coordinates, that directly identifies an individual's specific location, accurate within a radius of 1,750 feet or less.

(b) "Specific geolocation data" does not include:

(i) the content of a communication; or

(ii) any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.

(34) (a) "Targeted advertising" means displaying an advertisement to a consumer where the advertisement is selected based on personal data obtained from the consumer's activities over time and across nonaffiliated websites or online applications to predict the consumer's preferences or interests.

(b) "Targeted advertising" does not include advertising:

(i) based on a consumer's activities within a controller's website or online application or any affiliated website or online application;

(ii) based on the context of a consumer's current search query or visit to a website or online application;

(iii) directed to a consumer in response to the consumer's request for information, product, a service, or feedback; or

(iv) processing personal data solely to measure or report advertising:

(A) performance;

(B) reach; or

(C) frequency.

(35) "Third party" means a person other than:

(a) the consumer, controller, or processor; or

(b) an affiliate or contractor of the controller or the processor.

(36) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from the information's disclosure or use; and

(b) is the subject of efforts that are reasonable under the circumstances to maintain the information's secrecy.

Section ~~{28}~~38. Section **15-4-1** is amended to read:

15-4-1. Definitions.

As used in this chapter:

(1) "Obligation" includes a liability in tort and contractual obligations[~~;~~].

(2) "Obligee" includes a creditor and a person having a right based on a tort[~~;~~].

(3) "Obligor" includes a debtor and a person liable for a tort[~~;~~].

(4) (a) "School fee" means a charge, deposit, rent, or other mandatory payment imposed by:

(i) a public school as defined in Section [~~26-39-102~~] 26B-2-401; or

(ii) a private school that provides education to students in any grade from kindergarten through grade 12.

(b) "School fee" includes:

(i) an admission fee;

(ii) a transportation charge; or

(iii) a charge, deposit, rent, or other mandatory payment imposed by a third party in connection with an activity or function sponsored by a school described in Subsection (4)(a).

(5) "Several obligors" means obligors severally bound for the same performance.

(6) "Waiver" means the act of not requiring an individual to pay an amount that the individual otherwise owes.

Section ~~{29}~~39. Section **15-4-6.7** is amended to read:

15-4-6.7. Medical and miscellaneous expenses of minor children -- Collection and billing pursuant to court or administrative order of child support.

(1) When a court enters an order that provides for the payment of medical and dental expenses of a minor child under Section 30-3-5, 30-4-3, or 78B-12-111, or an administrative order under Section [~~62A-11-326~~] 26B-9-224, a provider who receives a copy of the order:

(a) at or before the time the provider renders medical or dental services to the minor child shall, upon request from either parent, separately bill each parent for the share of the medical and dental expenses that the parent is required to pay under the order; or

(b) within 30 days after the day on which the provider renders the medical or dental service, may not:

(i) make a claim for unpaid medical and dental expenses against a parent who has paid in full the share of the medical and dental expenses that the parent is required to pay under the order; or

(ii) make a negative credit report under Section 70C-7-107, or report of the debtor's repayment practices or credit history under Title 7, Chapter 14, Credit Information Exchange, regarding a parent who has paid in full the share of the medical and dental expenses that the parent is required to pay under the order.

(2) (a) When a court enters an order that provides for the payment of school fees of a minor child under Section 30-3-5 or 30-4-3:

(i) a provider who receives a copy of the order before the day on which the provider first issues a bill for a school fee shall, upon request from either parent, separately bill each parent for the share of the school fee that the parent is required to pay under the order;

(ii) a provider who receives a copy of the order, regardless of whether the provider receives the copy before, on, or after the day on which the provider first issues a bill for the school fee may not make a negative credit report under Section 70C-7-107, or report of the debtor's repayment practices or credit history under Title 7, Chapter 14, Credit Information Exchange, regarding a parent who has paid in full the share of the school fee that the parent is required to pay under the order; and

(iii) each parent is liable only for the share of the school fee that the parent is required to pay under the order.

(b) A provider may bill a parent for the parent's share of a minor child's school fee under an order described in Subsection (2)(a) regardless of whether the provider grants the other parent a waiver for all or a portion of the other parent's share of the minor child's school

fee.

Section ~~{30}~~40. Section **15A-1-208** is amended to read:

15A-1-208. Standards for specialized buildings.

(1) This chapter may not be implied to repeal or otherwise affect the authority granted to a state agency to make or administer standards for specialized buildings, as provided in:

(a) [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part ~~{2}~~1, ~~{Health Care Facility Licensing and Inspection}~~Human Services Programs and Facilities;

(b) [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2, Part ~~{4}~~2, ~~{Child}~~Health Care Facility Licensing and Inspection;

(c) [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part ~~{1}~~4, ~~{Human Services Programs and Facilities}~~Child Care Licensing;

(d) Title 64, Chapter 13, Department of Corrections - State Prison; or

(e) another statute that grants a state agency authority to make or administer other special standards.

(2) If a special standard conflicts with a code, the special standard prevails.

(3) This chapter does not apply to the administration of the statutes described in Subsection (1).

Section ~~{31}~~41. Section **15A-2-105** is amended to read:

15A-2-105. Scope of application.

(1) To the extent that a construction code adopted under Section 15A-2-103 establishes a local administrative function or establishes a method of appeal which pursuant to Section 15A-1-207 is designated to be established by the compliance agency:

(a) that provision of the construction code is not included in the State Construction Code; and

(b) a compliance agency may establish provisions to establish a local administrative function or a method of appeal.

(2) (a) To the extent that a construction code adopted under Subsection (1) establishes a provision, standard, or reference to another code that by state statute is designated to be established or administered by another state agency, or a local city, town, or county jurisdiction:

(i) that provision of the construction code is not included in the State Construction Code; and

(ii) the state agency or local government has authority over that provision of the construction code.

(b) Provisions excluded under this Subsection (2) include:

(i) the International Property Maintenance Code;

(ii) the International Private Sewage Disposal Code, authority over which is reserved to the Department of Health and Human Services and the Department of Environmental Quality;

(iii) the International Fire Code, authority over which is reserved to the board, pursuant to Section 15A-1-403;

(iv) a day care provision that is in conflict with [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2, Part 4, Child Care Licensing, authority over which is designated to the [~~Utah~~] Department of Health and Human Services; and

(v) a wildland urban interface provision that goes beyond the authority under Section 15A-1-204, for the State Construction Code, authority over which is designated to the [~~Utah~~] Division of Forestry or to a local compliance agency.

(3) If a construction code adopted under Subsection 15A-2-103(1) establishes a provision that exceeds the scope described in Chapter 1, Part 2, State Construction Code Administration Act, to the extent the scope is exceeded, the provision is not included in the State Construction Code.

Section ~~{32}~~42. Section **15A-3-102** is amended to read:

15A-3-102. Amendments to Chapters 1 through 3 of IBC.

(1) IBC, Section 106, is deleted.

(2) In IBC, Section 110, a new section is added as follows: " 110.3.5.1, Weather-resistant exterior wall envelope. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section 1404.2, and flashing as required by Section 1404.4 to prevent water from entering the weather-resistive barrier."

(3) IBC, Section 115.1, is deleted and replaced with the following: "115.1 Authority. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or other pertinent laws or ordinances or is dangerous or unsafe, the building official is authorized to stop work."

(4) In IBC, Section 202, the following definition is added for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or portion of a building licensed by the Utah Department of Health and Human Services where procedures are performed that may render patients incapable of self preservation where care is less than 24 hours. See Utah Administrative Code R432-13."

(5) In IBC, Section 202, the following definition is added for Assisted Living Facility: "ASSISTED LIVING FACILITY. See Residential Treatment/Support Assisted Living Facility, Type I Assisted Living Facility, and Type II Assisted Living Facility."

(6) In IBC, Section 202, the definition for Foster Care Facilities is modified by deleting the word "Foster" and replacing it with the word "Child."

(7) In IBC, Section 202, the definition for "[F]Record Drawings" is modified by deleting the words "a fire alarm system" and replacing them with "any fire protection system."

(8) In IBC, Section 202, the following definition is added for Residential Treatment/Support Assisted Living Facility: "RESIDENTIAL TREATMENT/SUPPORT ASSISTED LIVING FACILITY. A residential facility that provides a group living environment for four or more residents licensed by the Department of Health and Human Services, and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person."

(9) In IBC, Section 202, the following definition is added for Type I Assisted Living Facility: "TYPE I ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health and Human Services that provides a protected living arrangement, assistance with activities of daily living and social care to two or more ambulatory, non-restrained persons who are capable of mobility sufficient to exit the facility without the assistance of another person. Subcategories are:

Limited Capacity: two to five residents;

Small: six to sixteen residents; and

Large: over sixteen residents."

(10) In IBC, Section 202, the following definition is added for Type II Assisted Living Facility: "TYPE II ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health and Human Services that provides an array of coordinated supportive

personal and health care services to two or more residents who are:

A. Physically disabled but able to direct his or her own care; or

B. Cognitively impaired or physically disabled but able to evacuate from the facility, or to a zone or area of safety, with the physical assistance of one person. Subcategories are:

Limited Capacity: two to five residents;

Small: six to sixteen residents; and

Large: over sixteen residents."

(11) In IBC, Section 305.2, the following changes are made:

(a) delete the words "more than five children older than 2 1/2 years of age" and replace with the words "five or more children 2 years of age or older";

(b) after the word "supervision" insert the words "child care services"; and

(c) add the following sentence at the end of the paragraph: "See Section 429, Day Care, for special requirements for day care."

(12) In IBC, Section 305.2.2 and 305.2.3, the word "five" is deleted and replaced with the word "four" in all places.

(13) A new IBC Section 305.2.4 is added as follows: "305.2.4 Child day care -- residential child care certificate or a license. Areas used for child day care purposes with a residential child care certificate, as described in Utah Administrative Code, R430-50, Residential Certificate Child Care, or a residential child care license, as described in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in Sections 310.3 and 310.4 comply with the International Residential Code in accordance with Section R101.2."

(14) A new IBC Section 305.2.5 is added as follows: "305.2.5 Child care centers. Each of the following areas may be classified as accessory occupancies, if the area complies with Section 508.2:

1. Hourly child care centers, as described in Utah Administrative Code, R381-60, Hourly Child Care Centers;

2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care Centers; and

3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70, Out of School Time Child Care Programs."

(15) In IBC, Table 307.1(1), footnote "d" is added to the row for Explosives, Division 1.4G in the column titled STORAGE - Solid Pounds (cubic feet).

(16) In IBC, Section 308.2, in the list of items under "This group shall include," the words "Type-I Large and Type-II Small, see Section 308.2.5" are added after "Assisted living facilities."

(17) In IBC, Section 308.2.4, all of the words after the first International Residential Code are deleted.

(18) A new IBC, Section 308.2.5 is added as follows:

"308.2.5 Group I-1 assisted living facility occupancy groups. The following occupancy groups shall apply to assisted living facilities:

Type I assisted living facilities with seventeen or more residents are Large Facilities classified as an Institutional Group I-1, Condition 1 occupancy.

Type II assisted living facilities with six to sixteen residents are Small Facilities classified as an Institutional Group I-1, Condition 2 occupancy. See Section 202 for definitions."

(19) In IBC, Section 308.3 Institutional Group I-2, the following changes are made:

(a) The words "more than five" are deleted and replaced with "four or more";

(b) The group "Assisted living facilities, Type-II Large" is added to the list of groups;

(c) The words "Foster care facilities" are deleted and replaced with the words "Child care facilities"; and

(d) The words "(both intermediate care facilities and skilled nursing facilities)" are added after "Nursing homes."

(20) In IBC, Section 308.3.2, the number "five" is deleted and replaced with the number "four" in each location.

(21) A new IBC, Section 308.3.3 is added as follows:

"308.3.3 Group I-2 assisted living facilities. Type II assisted living facilities with seventeen or more residents are Large Facilities classified as an Institutional Group I-2, Condition 1 occupancy. See Section 202 for definitions."

(22) In IBC, Section 308.5, the words "more than five" are deleted and replaced with the words "five or more."

(23) In IBC, Section 308.5.1, the following changes are made:

(a) The words "more than five" are deleted and replaced with the words "five or more."

(b) The words "2-1/2 years or less of age" are deleted and replaced with "under the age of two."

(c) The following sentence is added at the end: "See Section 429 for special requirements for Day Care."

(24) In IBC, Sections 308.5.3 and 308.5.4, the words "five or fewer" are deleted and replaced with the words "four or fewer" in both places and the following sentence is added at the end: "See Section 429 for special requirements for Day Care."

(25) In IBC, Section 310.4, the following changes are made:

(a) The words "and single family dwellings complying with the IRC" are added after "Residential Group-3 occupancies."

(b) The words "Assisted Living Facilities, limited capacity" are added to the list of occupancies.

(26) In IBC, Section 310.4.1, the following changes are made:

(a) The words "other than Child Care" are inserted after the words "Care facilities" in the first sentence.

(b) All of the words after the first "International Residential Code" are deleted.

(c) The following sentence is added at the end of the last sentence: "See Section 429 for special requirements for Child Day Care."

(27) A new IBC Section 310.4.3 is added as follows: "310.4.3 Child Care. Areas used for child care purposes may be located in a residential dwelling unit under all of the following conditions and Section 429:

1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

2. Use is approved by the Utah Department of Health and Human Services, as enacted under the authority of the Utah Code, [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2, Part 4, Child Care Licensing, and in any of the following categories:

a. Utah Administrative Code, R430-50, Residential Certificate Child Care.

b. Utah Administrative Code, R430-90, Licensed Family Child Care.

3. Compliance with all zoning regulations of the local regulator."

(28) A new IBC, Section 310.4.4 is added as follows: "310.4.4 Assisted living

facilities. Type I assisted living facilities with two to five residents are Limited Capacity facilities classified as a Residential Group R-3 occupancy or are permitted to comply with the International Residential Code. See Section 202 for definitions."

(29) In IBC, Section 310.5, the words "Type II Limited Capacity and Type I Small, see Section 310.5.3" are added after the words "assisted living facilities."

(30) A new IBC, Section 310.5.3, is added as follows: "310.5.3 Group R-4 Assisted living facility occupancy groups. The following occupancy groups shall apply to Assisted Living Facilities: Type II Assisted Living Facilities with two to five residents are Limited Capacity Facilities classified as a Residential Group R-4, Condition 2 occupancy. Type I assisted living facilities with six to sixteen residents are Small Facilities classified as Residential Group R-4, Condition 1 occupancies. See Section 202 for definitions."

Section ~~{33}~~43. Section **15A-3-103** is amended to read:

15A-3-103. Amendments to Chapters 4 through 6 of IBC.

(1) IBC Section 403.5.5 is deleted.

(2) In IBC, Section 407.2.5, the words "and assisted living facility" are added in the title and first sentence after the words "nursing home."

(3) In IBC, Section 407.2.6, the words "and assisted living facility" are added in the title after the words "nursing home."

(4) In IBC, Section 407.11, a new exception is added as follows: "Exception: An essential electrical system is not required in assisted living facilities."

(5) In IBC, Section 412.3.1, a new exception is added as follows: "Exception: Aircraft hangars of Type I or II construction that are less than 5,000 square feet (464.5m2) in area."

(6) A new IBC, Section 422.2.1 is added as follows: "422.2.1 Separations: Ambulatory care facilities licensed by the Department of Health and Human Services shall be separated from adjacent tenants with a fire partition having a minimum one hour fire-resistance rating. Any level below the level of exit discharge shall be separated from the level of exit discharge by a horizontal assembly having a minimum one hour fire-resistance rating.

Exception: A fire barrier is not required to separate the level of exit discharge when:

1. Such levels are under the control of the Ambulatory Care Facility.

2. Any hazardous spaces are separated by horizontal assembly having a minimum one hour fire-resistance rating."

(7) A new IBC Section 429, Day Care, is added as follows:

"429.1 Detailed Requirements. In addition to the occupancy and construction requirements in this code, the additional provisions of this section shall apply to all Day Care in accordance with Utah Administrative Code R710-8 Day Care Rules.

429.2 Definitions.

429.2.1 Authority Having Jurisdiction (AHJ): State Fire Marshal, his duly authorized deputies, or the local fire enforcement authority code official.

429.2.2 Day Care Facility: Any building or structure occupied by clients of any age who receive custodial care for less than 24 hours by individuals other than parents, guardians, relatives by blood, marriage or adoption.

429.2.3 Day Care Center: Providing care for five or more clients in a place other than the home of the person cared for. This would also include Child Care Centers, Out of School Time or Hourly Child Care Centers licensed by the Department of Health and Human Services.

429.2.4 Family Day Care: Providing care for clients listed in the following two groups:

429.2.4.1 Type 1: Services provided for five to eight clients in a home. This would also include a home that is certified by the Department of Health and Human Services as Residential Certificate Child Care or licensed as Family Child Care.

429.2.4.2 Type 2: Services provided for nine to sixteen clients in a home with sufficient staffing. This would also include a home that is licensed by the Department of Health and Human Services as Family Child Care.

429.2.5 R710-8: Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

429.3 Family Day Care.

429.3.1 Family Day Care units shall have on each floor occupied by clients, two separate means of egress, arranged so that if one is blocked the other will be available.

429.3.2 Family Day Care units that are located in the basement or on the second story shall be provided with two means of egress, one of which shall discharge directly to the outside.

429.3.2.1 Residential Certificate Child Care and Licensed Family Child Care with five to eight clients in a home, located on the ground level or in a basement, may use an emergency escape or rescue window as allowed in IFC, Chapter 10, Section 1030.

429.3.3 Family Day Care units shall not be located above the second story.

429.3.4 In Family Day Care units, clients under the age of two shall not be located above or below the first story.

429.3.4.1 Clients under the age of two may be housed above or below the first story where there is at least one exit that leads directly to the outside and complies with IFC, Section 1011 or Section 1012 or Section 1027.

429.3.5 Family Day Care units located in split entry/split level type homes in which stairs to the lower level and upper level are equal or nearly equal, may have clients housed on both levels when approved by the AHJ.

429.3.6 Family Day Care units shall have a portable fire extinguisher on each level occupied by clients, which shall have a classification of not less than 2A:10BC, and shall be serviced in accordance with NFPA, Standard 10, Standard for Portable Fire Extinguishers.

429.3.7 Family Day Care units shall have single station smoke detectors in good operating condition on each level occupied by clients. Battery operated smoke detectors shall be permitted if the facility demonstrates testing, maintenance, and battery replacement to insure continued operation of the smoke detectors.

429.3.8 Rooms in Family Day Care units that are provided for clients to sleep or nap, shall have at least one window or door approved for emergency escape.

429.3.9 Fire drills shall be conducted in Family Day Care units quarterly and shall include the complete evacuation from the building of all clients and staff. At least annually, in Type I Family Day Care units, the fire drill shall include the actual evacuation using the escape or rescue window, if one is used as a substitute for one of the required means of egress.

429.4 Day Care Centers.

429.4.1 Day Care Centers shall comply with either I-4 requirements or E requirements of the IBC, whichever is applicable for the type of Day Care Center.

429.4.2 Emergency Evacuation Drills shall be completed as required in IFC, Chapter 4, Section 405.

429.4.3 Location at grade. Group E child day care centers shall be located at the level of exit discharge.

429.4.3.1 Child day care spaces for children over the age of 24 months may be located on the second floor of buildings equipped with automatic fire protection throughout and an

automatic fire alarm system.

429.4.4 Egress. All Group E child day care spaces with an occupant load of more than 10 shall have a second means of egress. If the second means of egress is not an exit door leading directly to the exterior, the room shall have an emergency escape and rescue window complying with Section 1030.

429.4.5 All Group E Child Day Care Centers shall comply with Utah Administrative Code, R430-100 Child Care Centers, R430-60 Hourly Child Care Centers, and R430-70 Out of School Time.

429.5 Requirements for all Day Care.

429.5.1 Heating equipment in spaces occupied by children shall be provided with partitions, screens, or other means to protect children from hot surfaces and open flames.

429.5.2 A fire escape plan shall be completed and posted in a conspicuous place. All staff shall be trained on the fire escape plan and procedure."

(8) In IBC, Section 504.4, a new section is added as follows: "504.4.1 Group I-2 Assisted Living Facilities. Notwithstanding the allowable number of stories permitted by Table 504.4 Group I-2 Assisted Living Facilities of type VA, construction shall be allowed on each level of a two-story building when all of the following apply:

1. The total combined area of both stories does not exceed the total allowable area for a one-story, above grade plane building equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1.

2. All other provisions that apply in Section 407 have been provided."

(9) A new IBC, Section 504.5, is added as follows: "504.5 Group 1-2 Secured areas in Assisted Living Facilities. In Type IIIB, IV, and V construction, all areas for the use and care of residents required to be secured shall be located on the level of exit discharge with door operations in compliance with Section 1010.1.9.7, as amended."

Section ~~{34}~~44. Section **15A-5-202** is amended to read:

15A-5-202. Amendments and additions to IFC related to administration, permits, definitions, and general and emergency planning.

(1) For IFC, Chapter 1, Scope and Administration:

(a) IFC, Chapter 1, Section 102.5, is deleted and rewritten as follows:

"102.5 Application of residential code.

If a structure is designed and constructed in accordance with the International Residential Code, the provisions of this code apply only as follows:

1. The construction and design provisions of this code apply only to premises identification, fire apparatus access, fire hydrants and water supplies, and construction permits required by Section 105.7.

2. This code does not supercede the land use, subdivision, or development standards established by a local jurisdiction.

3. The administrative, operational, and maintenance provisions of this code apply."

(b) IFC, Chapter 1, Section 102.9, is deleted and rewritten as follows:

"102.9 Matters not provided for.

Requirements that are essential for the public safety of an existing or proposed activity, building or structure, or for the safety of the occupants thereof, which are not specifically provided for by this code, shall be determined by the fire code official on an emergency basis if:

(a) the facts known to the fire code official show that an immediate and significant danger to the public health, safety, or welfare exists; and

(b) the threat requires immediate action by the fire code official.

102.9.1 Limitation of emergency order.

In issuing its emergency order, the fire code official shall:

(a) limit the order to require only the action necessary to prevent or avoid the danger to the public health, safety, or welfare; and

(b) give immediate notice to the persons who are required to comply with the order, that includes a brief statement of the reasons for the fire code official's order.

101.9.2 Right to appeal emergency order.

If the emergency order issued under this section will result in the continued infringement or impairment of any legal right or interest of any party, the party shall have a right to appeal the fire code official's order in accordance with IFC, Chapter 1, Section 109."

(c) IFC, Chapter 1, Section 105.4.1, Submittals, is amended to add the following after the last sentence:

"Fire sprinkler system layout may be prepared and submitted by a person certified by the National Institute for Certification in Engineering Technologies at level III or IV in

Water-Based System Layout. Fire alarm system layout may be prepared and submitted by a person certified by the National Institute for Certification in Engineering Technologies at level III or IV in Fire Alarm Systems."

(d) IFC, Chapter 1, Section 105.6.16, Flammable and combustible liquids, is amended to add the following section: "12. The owner of an underground tank that is out of service for longer than one year shall receive a Temporary Closure Notice from the Department of Environmental Quality and a copy shall be given to the AHJ."

(e) A new IFC, Chapter 1, Section 109.1.1, Application of residential code, is added as follows:

"109.1.1 Application of residential code.

For development regulated by a local jurisdiction's land use authority, the fire code official's interpretation of this code is subject to the advisory opinion process described in Utah Code, Section 13-43-205, and to a land use appeal authority appointed under Utah Code, Section 10-9a-701 or 17-27a-701."

(f) In IFC, Chapter 1, Section 109, a new Section 109.4, Notice of right to appeal, is added as follows: "At the time a fire code official makes an order, decision, or determination that relates to the application or interpretation of this chapter, the fire code official shall inform the person affected by the order, decision, or determination of the person's right to appeal under this section. Upon request, the fire code official shall provide a person affected by an order, decision, or determination that relates to the application or interpretation of this chapter a written notice that describes the person's right to appeal under this section."

(g) IFC, Chapter 1, Section 110.3, Notice of violation, is deleted and rewritten as follows:

"110.3 Notice of violation.

If the fire code official determines that a building, premises, vehicle, storage facility, or outdoor area is in violation of this code or other pertinent laws or ordinances, the fire code official is authorized to prepare a written notice of violation that describes the conditions deemed unsafe and, absent immediate compliance, specifies a time for reinspection."

(2) For IFC, Chapter 2, Definitions:

(a) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or

portion of a building licensed by the Department of Health and Human Services where procedures are performed that may render patients incapable of self preservation where care is less than 24 hours. See Utah Administrative Code, R432-13, Freestanding Ambulatory Surgical Center Construction Rule."

(b) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Assisted Living Facility. "ASSISTED LIVING FACILITY. See Residential Treatment/Support Assisted Living Facility, Type I Assisted Living Facility, and Type II Assisted Living Facility."

(c) IFC, Chapter 2, Section 202, General Definitions, FOSTER CARE FACILITIES is amended as follows: The word "Foster" is changed to the word "Child."

(d) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, Group E, day care facilities, is amended as follows:

(i) On line three delete the word "five" and replace it with the word "four"; and

(ii) On line four after the word "supervision" add the words "child care centers."

(e) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, Five or fewer children, is amended as follows: The word "five" is deleted and replaced with the word "four" in both places.

(f) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, Five or fewer children in a dwelling unit, is amended as follows: The word "five" is deleted and replaced with the word "four" in both places.

(g) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, a new section is added as follows: "Child day care -- residential child care certificate or a license. Areas used for child day care purposes with a residential child care certificate, as described in Utah Administrative Code, R430-50, Residential Certificate Child Care, or a residential child care license, as described in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in Residential Group R-3, or shall comply with the International Residential Code in accordance with Section R101.2."

(h) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, a new section is added as follows: "Child care

centers. Each of the following areas may be classified as accessory occupancies:

1. Hourly child care centers, as described in Utah Administrative Code, R381-60, Hourly Child Care Centers;

2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care Centers; and

3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70, Out of School Time Child Care Programs."

(i) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-1, is amended as follows: Insert "Type I" in front of the words "Assisted living facilities".

(j) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-1, Five or fewer persons receiving custodial care is amended as follows: On line four after "International Residential Code" the rest of the section is deleted.

(k) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-2, is amended as follows:

(i) On line three delete the word "five" and insert the word "three";

(ii) On line six the word "foster" is deleted and replaced with the word "child"; and

(iii) On line 10, after the words "Psychiatric hospitals", add the following to the list: "both intermediate nursing care and skilled nursing care facilities, ambulatory surgical centers with five or more operating rooms, and Type II assisted living facilities. Type II assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type II assisted living facilities with at least six and not more than 16 residents shall be classified as a Group I-1 facility".

(l) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-4, day care facilities, Classification as Group E, is amended as follows:

(i) On line two delete the word "five" and replace it with the word "four"; and

(ii) On line three delete the words "2 1/2 years or less of age" and replace with the words "under the age of two".

(m) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY

CLASSIFICATION, Institutional Group I-4, day care facilities, Five or fewer occupants receiving care in a dwelling unit, is amended as follows: On lines one and three the word "five" is deleted and replaced with the word "four".

(n) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, the words "and single family dwellings complying with the IRC" are added after the word "Residential Group R-3 occupancies".

(o) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, Care facilities within a dwelling, is amended as follows: On line three after the word "dwelling" insert "other than child care".

(p) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, a new section is added as follows: "Child Care. Areas used for child care purposes may be located in a residential dwelling unit when all of the following conditions are met:

1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board;

2. Use is approved by the Department of Health and Human Services under the authority of Utah Code, [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2, Part 4, Child Care Licensing, and in any of the following categories:

1.1. Utah Administrative Code, R430-50, Residential Certificate Child Care; or

1.2. Utah Administrative Code, R430-90, Licensed Family Child Care; and

1.3 Compliance with all zoning regulations of the local regulator."

(q) IFC, Chapter 2, Section 202, General Definitions, RECORD DRAWINGS, is amended as follows: Delete the words "a fire alarm system" and replace them with "any fire protection system".

(r) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Residential Treatment/Support Assisted Living Facility. "RESIDENTIAL TREATMENT/SUPPORT ASSISTED LIVING FACILITY. A residential facility that provides a group living environment for four or more residents licensed by the Department of Health and Human Services, and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person."

(s) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Type I Assisted Living Facility. "TYPE I ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health and Human Services that provides a protected living arrangement, assistance with activities of daily living and social care to two or more ambulatory, non-restrained persons who are capable of mobility sufficient to exit the facility without the assistance of another person. Subcategories are:

Limited Capacity: two to five residents;

Small: six to sixteen residents; and

Large: over sixteen residents."

(t) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Type II Assisted Living Facility. "TYPE II ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health and Human Services that provides an array of coordinated supportive personal and health care services to two or more residents who are:

A. Physically disabled but able to direct his or her own care; or

B. Cognitively impaired or physically disabled but able to evacuate from the facility, or to a zone or area of safety, with the physical assistance of one person. Subcategories are:

Limited Capacity: two to five residents;

Small: six to sixteen residents; and

Large: over sixteen residents."

Section ~~{35}~~45. Section **15A-5-203** is amended to read:

15A-5-203. Amendments and additions to IFC related to fire safety, building, and site requirements.

(1) For IFC, Chapter 5, Fire Service Features:

(a) In IFC, Chapter 5, a new Section 501.5, Access grade and fire flow, is added as follows: "An authority having jurisdiction over a structure built in accordance with the requirements of the International Residential Code as adopted in the State Construction Code, may require an automatic fire sprinkler system for the structure only by ordinance and only if any of the following conditions exist:

(i) the structure:

(A) is located in an urban-wildland interface area as provided in the Utah Wildland Urban Interface Code adopted as a construction code under the State Construction Code; and

(B) does not meet the requirements described in Utah Code, Subsection 65A-8-203(4)(a) and Utah Administrative Code, R652-122-1300, Minimum Standards for County Wildland Fire Ordinance;

(ii) the structure is in an area where a public water distribution system with fire hydrants does not exist as required in Utah Administrative Code, R309-550-5, Water Main Design;

(iii) the only fire apparatus access road has a grade greater than 10% for more than 500 continual feet;

(iv) the total floor area of all floor levels within the exterior walls of the dwelling unit exceeds 10,000 square feet; or

(v) the total floor area of all floor levels within the exterior walls of the dwelling unit is double the average of the total floor area of all floor levels of unsprinkled homes in the subdivision that are no larger than 10,000 square feet.

(vi) Exception: A single family dwelling does not require a fire sprinkler system if the dwelling:

(A) is located outside the wildland urban interface;

(B) is built in a one-lot subdivision; and

(C) has 50 feet of defensible space on all sides that limits the propensity of fire spreading from the dwelling to another property."

(b) In IFC, Chapter 5, Section 506.1, Where Required, is deleted and rewritten as follows: "Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official, after consultation with the building owner, may require a key box to be installed in an approved location. The key box shall contain keys to gain necessary access as required by the fire code official. For each fire jurisdiction that has at least one building with a required key box, the fire jurisdiction shall adopt an ordinance, resolution, or other operating rule or policy that creates a process to ensure that each key to each key box is properly accounted for and secure."

(c) In IFC, Chapter 5, a new Section 507.1.1, Isolated one- and two-family dwellings, is added as follows: "Fire flow may be reduced for an isolated one- and two-family dwelling when the authority having jurisdiction over the dwelling determines that the development of a

full fire-flow requirement is impractical."

(d) In IFC, Chapter 5, a new Section 507.1.2, Pre-existing subdivision lots, is added as follows:

"507.1.2 Pre-existing subdivision lots.

The requirements for a pre-existing subdivision lot shall not exceed the requirements described in Section 501.5."

(e) In IFC, Chapter 5, Section 510.1, Emergency responder radio coverage in new buildings, is amended by adding: "When required by the fire code official," at the beginning of the first paragraph.

(2) For IFC, Chapter 6, Building Services and Systems:

(a) In IFC, Chapter 6, Section 606.7, Elevator key location, is deleted and rewritten as follows: "Firefighter service keys shall be kept in a "Supra-Stor-a-key" elevator key box or similar box with corresponding key system that is adjacent to the elevator for immediate use by the fire department. The key box shall contain one key for each elevator, one key for lobby control, and any other keys necessary for emergency service. The elevator key box shall be accessed using a 6049 numbered key."

(b) In IFC, Chapter 6, Section 607.1, General, is amended as follows: On line three, after the word "Code", add the words "and NFPA 96".

(c) In IFC, Chapter 6, Section 607.2, a new exception 5 is added as follows: "5. A Type 1 hood is not required for a cooking appliance in a microenterprise home kitchen, as that term is defined in Utah Code, Section [~~26-15c-102~~] 26B-7-401, for which the operator obtains a permit in accordance with Utah Code, Title 26, Chapter 15c, Microenterprise Home Kitchen Act."

(3) For IFC, Chapter 7, Fire and Smoke Protection Features, IFC, Chapter 7, Section 705.2, is amended to add the following: "Exception: In Group E Occupancies, where the corridor serves an occupant load greater than 30 and the building does not have an automatic fire sprinkler system installed, the door closers may be of the friction hold-open type on classrooms' doors with a rating of 20 minutes or less only."

Section ~~{36}~~46. Section **17-22-2.5** is amended to read:

17-22-2.5. Fees of sheriff.

(1) (a) The legislative body of a county may set a fee for a service described in this

section and charged by the county sheriff:

(i) in an ordinance adopted under Section 17-53-223; and

(ii) in an amount reasonably related to, but not exceeding, the actual cost of providing the service.

(b) If the legislative body of a county does not under Subsection (1)(a) set a fee charged by the county sheriff, the sheriff shall charge a fee in accordance with Subsections (2) through (7).

(2) Unless under Subsection (1) the legislative body of a county sets a fee amount for a fee described in this Subsection (2), the sheriff shall charge the following fees:

(a) for serving a notice, rule, order, subpoena, garnishment, summons, or summons and complaint, or garnishee execution, or other process by which an action or proceeding is commenced, on each defendant, including copies when furnished by plaintiff, $20;

(b) for taking or approving a bond or undertaking in any case in which he is authorized to take or approve a bond or undertaking, including justification, $5;

(c) for a copy of any writ, process or other paper when demanded or required by law, for each folio, 50 cents;

(d) for serving an attachment on property, or levying an execution, or executing an order of arrest or an order for the delivery of personal property, including copies when furnished by plaintiff, $50;

(e) for taking and keeping possession of and preserving property under attachment or execution or other process, the amount the court orders to a maximum of $15 per day;

(f) for advertising property for sale on execution, or any judgment, or order of sale, exclusive of the cost of publication, $15;

(g) for drawing and executing a sheriff's deed or a certificate of redemption, exclusive of acknowledgment, $15, to be paid by the grantee;

(h) for recording each deed, conveyance, or other instrument affecting real estate, exclusive of the cost of recording, $10, to be paid by the grantee;

(i) for serving a writ of possession or restitution, and putting any person entitled to possession into possession of premises, and removing occupant, $50;

(j) for holding each trial of right of property, to include all services in the matter, except mileage, $35;

(k) for conducting, postponing, or canceling a sale of property, $15;

(l) for taking a prisoner in civil cases from prison before a court or magistrate, for each mile necessarily traveled, in going only, to a maximum of 100 miles, $2.50;

(m) for taking a prisoner from the place of arrest to prison, in civil cases, or before a court or magistrate, for each mile necessarily traveled, in going only, to a maximum of 100 miles, $2.50;

(n) for receiving and paying over money on execution or other process, as follows:

(i) if the amount collected does not exceed $1,000, 2% of this amount, with a minimum of $1; and

(ii) if the amount collected exceeds $1,000, 2% on the first $1,000 and 1-1/2% on the balance; and

(o) for executing in duplicate a certificate of sale, exclusive of filing it, $10.

(3) The fees allowed by Subsection (2)(f) for the levy of execution and for advertising shall be collected from the judgment debtor as part of the execution in the same manner as the sum directed to be made.

(4) When serving an attachment on property, an order of arrest, or an order for the delivery of personal property, the sheriff may only collect traveling fees for the distance actually traveled beyond the distance required to serve the summons if the attachment or those orders:

(a) accompany the summons in the action; and

(b) may be executed at the time of the service of the summons.

(5) (a) (i) When traveling generally to serve notices, orders, process, or other papers, the sheriff may receive, except as otherwise provided under Subsection (1)(a), $2.50 for each mile necessarily traveled, in going only, computed from the courthouse for each person served, to a maximum of 100 miles.

(ii) When transmitting notices, orders, process, or other papers by mail, the sheriff may receive, except as otherwise provided under Subsection (1)(a), $2.50 for each mile necessarily traveled, in going only, computed from the post office where received for each person served, to a maximum of 100 miles.

(b) The sheriff may only charge one mileage fee if any two or more papers are required to be served in the same action or proceeding at the same time and at the same address.

(c) If it is necessary to make more than one trip to serve any notice, order, process, or other paper, the sheriff may not collect more than two additional mileage charges.

(6) (a) For transporting a patient to the Utah State Hospital or to or from a hospital or a mental health facility, as defined in Section [~~62A-15-602~~] 26B-5-301, when the cost of transportation is payable by private individuals, the sheriff may collect, except as otherwise provided under Subsection (1)(a), $2.50 for each mile necessarily traveled, in going only, to a maximum of 100 miles.

(b) If the sheriff requires assistance to transport the person, the sheriff may also charge the actual and necessary cost of that assistance.

(7) (a) Subject to Subsection (7)(b), for obtaining a saliva DNA specimen under Section 53-10-404, the sheriff shall collect the fee of $150 in accordance with Section 53-10-404.

(b) The fee amount described in Subsection (7)(a) may not be changed by a county legislative body under Subsection (1).

Section ~~{37}~~47. Section **17-27a-103** is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owner's association, public utility, or the [~~Utah~~] Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(9) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(10) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

(11) "County utility easement" means an easement that:

(a) a plat recorded in a county recorder's office described as a county utility easement or otherwise as a utility easement;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the county or the county's affiliated governmental entity owns or creates; and

(d) (i) either:

(A) no person uses or occupies; or

(B) the county or the county's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or

(ii) a person uses or occupies with or without an authorized franchise or other agreement with the county.

(12) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(13) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(14) (a) "Development agreement" means a written agreement or amendment to a written agreement between a county and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(15) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an

impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. Sec. 802.

(16) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (16)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (16)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (16)(a)(i); or

(ii) a therapeutic school.

(17) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(18) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(19) "Gas corporation" has the same meaning as defined in Section 54-2-1.

(20) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county; or

(b) for a mountainous planning district, the land within the mountainous planning district.

(21) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(22) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

(23) "Identical plans" means building plans submitted to a county that:

(a) are clearly marked as "identical plans";

(b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed

and approved by the county; and

(iv) does not require any additional engineering or analysis.

(24) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(25) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(26) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the county's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(27) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

(28) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human consumption; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public

improvements; and

(ii) as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) developing a commercial, industrial, mixed use, condominium, or multifamily project.

(29) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(30) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(31) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(32) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(33) "Land use application":

(a) means an application that is:

(i) required by a county; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(34) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(35) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

(36) "Land use permit" means a permit issued by a land use authority.

(37) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(38) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

(39) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(40) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

(41) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 17-27a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(42) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

(43) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(44) "Mountainous planning district" means an area designated by a county legislative body in accordance with Section 17-27a-901.

(45) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(46) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

(47) "Nonconforming use" means a use of land that:

(a) legally existed before the current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation

governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(48) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

(49) "Parcel" means any real property that is not a lot.

(50) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 17-27a-523, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(51) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(52) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

(53) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

(54) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

(55) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(56) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(57) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(58) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(59) "Public street" means a public right-of-way, including a public highway, public

avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

(60) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(61) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

(62) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

[~~(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or~~]

[~~(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.~~]

(b) which is licensed or certified by the Department of Health and Human Services under:

(i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

(ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(63) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(64) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(65) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(66) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's

or developer's proposed development activity meets a land use requirement.

(67) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(68) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(69) "State" includes any department, division, or agency of the state.

(70) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (70)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 17-27a-523 if no new lot is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 17-27a-523 and 17-27a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vii) a parcel boundary adjustment;

(viii) a lot line adjustment;

(ix) a road, street, or highway dedication plat;

(x) a deed or easement for a road, street, or highway purpose; or

(xi) any other division of land authorized by law.

(71) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 17-27a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

(72) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

(73) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a

3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(74) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(75) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(76) "Unincorporated" means the area outside of the incorporated area of a municipality.

(77) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(78) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section ~~{38}~~48. Section **17-27a-519** is amended to read:

17-27a-519. Licensing of residences for persons with a disability.

The responsibility to license programs or entities that operate facilities for persons with a disability, as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with the Department of Health and Human Services as provided in:

[~~(1) for programs or entities licensed or certified by the Department of Human Services, the Department of Human Services as provided in Title 62A, Chapter 5, Services for People with Disabilities; and~~]

[~~(2) for programs or entities licensed or certified by the Department of Health, the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.~~]

~~{~~ ~~(1) Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities; and~~ ~~}~~

(~~{2}~~1) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

(2) Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities.

Section ~~{39}~~49. Section **17-27a-525** is amended to read:

17-27a-525. Cannabis production establishments and medical cannabis pharmacies.

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

(b) "Industrial hemp producer licensee" means the same as the term "licensee" is defined in Section 4-41-102.

(c) "Medical cannabis pharmacy" means the same as that term is defined in Section [~~26-61a-102~~] 26B-4-201.

(2) (a) (i) A county may not regulate a cannabis production establishment in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable jurisprudence; and

(B) this chapter.

(ii) A county may not regulate a medical cannabis pharmacy in conflict with:

(A) [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2,

Cannabinoid Research and Medical Cannabis, and applicable jurisprudence; and

(B) this chapter.

(iii) A county may not regulate an industrial hemp producer licensee in conflict with:

(A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and

(B) this chapter.

(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment.

(c) The Department of Health and Human Services has plenary authority to license programs or entities that operate a medical cannabis pharmacy.

(3) (a) Within the time period described in Subsection (3)(b), a county shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

(i) regarding a cannabis production establishment, Section 4-41a-406; or

(ii) regarding a medical cannabis pharmacy, Section [~~26-61a-507~~] 26B-4-235.

(b) A county shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the county receives a petition for the action; and

(ii) after January 1, 2021, in accordance with Subsection 17-27a-509.5(2).

Section ~~{40}~~50. Section **17-27a-1102** is amended to read:

17-27a-1102. Definitions.

(1) "Animal feeding operation" means a lot or facility where the following conditions are met:

(a) animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

(b) crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(2) (a) "Commercial enterprise" means a building:

(i) used as a part of a business that manufactures goods, delivers services, or sells goods or services;

(ii) customarily and regularly used by the general public during the entire calendar year; and

(iii) connected to electric or water systems.

(b) "Commercial enterprise" does not include an agriculture operation.

(3) "County large concentrated animal feeding operation land use ordinance" means an ordinance adopted in accordance with Section 17-27a-1103.

(4) "Education institution" means a building in which any part is used:

(a) for more than three hours each weekday during a school year as a public or private:

(i) elementary school;

(ii) secondary school; or

(iii) kindergarten;

(b) a state institution of higher education as defined in Section 53B-3-102; or

(c) a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(5) "Health care facility" means the same as that term is defined in Section [~~26-21-2~~] 26B-2-201.

(6) "Large concentrated animal feeding operation" means an animal feeding operation that stables or confines as many as or more than the numbers of animals specified in any of the following categories:

(a) 700 mature dairy cows, whether milked or dry;

(b) 1,000 veal calves;

(c) 1,000 cattle other than mature dairy cows or veal calves, with "cattle" including heifers, steers, bulls, and cow calf pairs;

(d) 2,500 swine each weighing 55 pounds or more;

(e) 10,000 swine each weighing less than 55 pounds;

(f) 500 horses;

(g) 10,000 sheep or lambs;

(h) 55,000 turkeys;

(i) 30,000 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;

(j) 125,000 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure handling system;

(k) 82,000 laying hens, if the animal feeding operation uses other than a liquid manure

handling system;

(l) 30,000 ducks, if the animal feeding operation uses other than a liquid manure handling system; or

(m) 5,000 ducks, if the animal feeding operation uses a liquid manure handling system.

(7) "Manure" includes manure, bedding, compost, a raw material, or other material commingled with manure or set aside for disposal.

(8) "Public area" means land that:

(a) is owned by the federal government, the state, or a political subdivision with facilities that attract the public to congregate and remain in the area for significant periods of time;

(b) (i) is part of a public park, preserve, or recreation area that is owned or managed by the federal government, the state, a political subdivision, or a nongovernmental entity; and

(ii) has a cultural, archaeological, scientific, or historic significance or contains a rare or valuable ecological system, including a site recognized as a National Historic Landmark or Site; or

(c) is a cemetery.

(9) "Religious institution" means a building and grounds used at least monthly for religious services or ceremonies.

Section ~~{41}~~51. Section **17-43-102** is amended to read:

17-43-102. Definitions.

As used in this chapter:

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

(2) "Division" means the Division of Integrated Healthcare within the department.

Section ~~{42}~~52. Section **17-43-201** is amended to read:

17-43-201. Local substance abuse authorities -- Responsibilities.

(1) (a) (i) In each county operating under a county executive-council form of government under Section 17-52a-203, the county legislative body is the local substance abuse authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under

Section 17-52a-204, the county manager is the local substance abuse authority.

(iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the county legislative body is the local substance abuse authority.

(b) Within legislative appropriations and county matching funds required by this section, and under the direction of the division, each local substance abuse authority shall:

(i) develop substance [~~abuse~~] use prevention and treatment services plans;

(ii) provide substance [~~abuse~~] use services to residents of the county; and

(iii) cooperate with efforts of the division to promote integrated programs that address an individual's substance [~~abuse~~] use, mental health, and physical healthcare needs, as described in Section [~~62A-15-103~~] 26B-5-102.

(c) Within legislative appropriations and county matching funds required by this section, each local substance abuse authority shall cooperate with the efforts of the department to promote a system of care, as defined in Section 26B-1-102, for minors with or at risk for complex emotional and behavioral needs, as described in Section 26B-1-202.

(2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide substance [~~abuse~~] use prevention and treatment services; or

(ii) create a united local health department that provides substance [~~abuse~~] use treatment services, mental health services, and local health department services in accordance with Subsection (3).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of substance [~~abuse~~] use services.

(c) Each agreement for joint substance [~~abuse~~] use services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined substance abuse authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined substance abuse

authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined substance abuse authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined substance abuse authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint substance [~~abuse~~] use services may provide for joint operation of services and facilities or for operation of services and facilities under contract by one participating local substance abuse authority for other participating local substance abuse authorities.

(3) A county governing body may elect to combine the local substance abuse authority with the local mental health authority created in Part 3, Local Mental Health Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local substance abuse authority that joins a united local health department shall comply with this part.

(4) (a) Each local substance abuse authority is accountable to the department and the state with regard to the use of state and federal funds received from those departments for substance [~~abuse~~] use services, regardless of whether the services are provided by a private contract provider.

(b) Each local substance abuse authority shall comply, and require compliance by its contract provider, with all directives issued by the department regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing substance [~~abuse~~] use programs and services. The department shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local substance abuse authorities with regard to programs and services.

(5) Each local substance abuse authority shall:

(a) review and evaluate substance [~~abuse~~] use prevention and treatment needs and

services, including substance [~~abuse~~] use needs and services for individuals incarcerated in a county jail or other county correctional facility;

(b) annually prepare and submit to the division a plan approved by the county legislative body for funding and service delivery that includes:

(i) provisions for services, either directly by the substance abuse authority or by contract, for adults, youth, and children, including those incarcerated in a county jail or other county correctional facility; and

(ii) primary prevention, targeted prevention, early intervention, and treatment services;

(c) establish and maintain, either directly or by contract, programs licensed under [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities;

(d) appoint directly or by contract a full or part time director for substance [~~abuse~~] use programs, and prescribe the director's duties;

(e) provide input and comment on new and revised rules established by the division;

(f) establish and require contract providers to establish administrative, clinical, procurement, personnel, financial, and management policies regarding substance [~~abuse~~] use services and facilities, in accordance with the rules of the division, and state and federal law;

(g) establish mechanisms allowing for direct citizen input;

(h) annually contract with the division to provide substance [~~abuse~~] use programs and services in accordance with the provisions of [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;

(i) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(j) promote or establish programs for the prevention of substance [~~abuse~~] use within the community setting through community-based prevention programs;

(k) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(m) for persons convicted of driving under the influence in violation of Section 41-6a-502 or 41-6a-517, conduct the following as defined in Section 41-6a-501:

(i) a screening;

(ii) an assessment;

(iii) an educational series; and

(iv) substance [~~abuse~~] use treatment; and

(n) utilize proceeds of the accounts described in Subsection [~~62A-15-503(1)~~] 26B-5-209(1) to supplement the cost of providing the services described in Subsection (5)(m).

(6) Before disbursing any public funds, each local substance abuse authority shall require that each entity that receives any public funds from the local substance abuse authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the local substance abuse authority shall be subject to examination by:

(i) the division;

(ii) the local substance abuse authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide substance [~~abuse~~] use services under an agreement under Subsection (2), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local substance abuse authority; and

(c) the entity will comply with the provisions of Subsection (4)(b).

(7) A local substance abuse authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for substance abuse services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(8) (a) As used in this section, "public funds" means the same as that term is defined in

Section 17-43-203.

(b) Public funds received for the provision of services pursuant to the local substance abuse plan may not be used for any other purpose except those authorized in the contract between the local substance [~~abuse~~] use authority and the provider for the provision of plan services.

(9) Subject to the requirements of the federal Substance Abuse Prevention and Treatment Block Grant, Pub. L. No. 102-321, a local substance abuse authority shall ensure that all substance [~~abuse~~] use treatment programs that receive public funds:

(a) accept and provide priority for admission to a pregnant woman or a pregnant minor; and

(b) if admission of a pregnant woman or a pregnant minor is not possible within 24 hours of the time that a request for admission is made, provide a comprehensive referral for interim services that:

(i) are accessible to the pregnant woman or pregnant minor;

(ii) are best suited to provide services to the pregnant woman or pregnant minor;

(iii) may include:

(A) counseling;

(B) case management; or

(C) a support group; and

(iv) shall include a referral for:

(A) prenatal care; and

(B) counseling on the effects of alcohol and drug use during pregnancy.

(10) If a substance [~~abuse~~] use treatment program described in Subsection (9) is not able to accept and admit a pregnant woman or pregnant minor under Subsection (9) within 48 hours of the time that request for admission is made, the local substance abuse authority shall contact the Division of Integrated Healthcare for assistance in providing services to the pregnant woman or pregnant minor.

Section ~~{43}~~53. Section **17-43-204** is amended to read:

17-43-204. Fees for substance abuse services -- Responsibility for cost of service if rendered by authority to nonresident -- Authority may receive funds from other sources.

(1) Each local substance abuse authority shall charge a fee for substance [~~abuse~~] use

services, except that substance [~~abuse~~] use services may not be refused to any person because of inability to pay.

(2) If a local substance abuse authority, through its designated provider, provides a service described in Subsection 17-43-201(5) to a person who resides within the jurisdiction of another local substance abuse authority, the local substance abuse authority in whose jurisdiction the person resides is responsible for the cost of that service if its designated provider has authorized the provision of that service.

(3) A local substance abuse authority and entities that contract with a local substance abuse authority to provide substance [~~abuse~~] use services may receive funds made available by federal, state, or local health, substance [~~abuse~~] use, mental health, education, welfare, or other agencies, in accordance with the provisions of this part and [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health Care - Substance Use and Mental Health.

Section ~~{44}~~54. Section **17-43-301** is amended to read:

17-43-301. Local mental health authorities -- Responsibilities.

(1) As used in this section:

(a) "Assisted outpatient treatment" means the same as that term is defined in Section [~~62A-15-602~~] 26B-5-301.

(b) "Crisis worker" means the same as that term is defined in Section [~~62A-15-1301~~] 26B-5-610.

(c) "Local mental health crisis line" means the same as that term is defined in Section [~~62A-15-1301~~] 26B-5-610.

(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(e) "Public funds" means the same as that term is defined in Section 17-43-303.

(f) "Statewide mental health crisis line" means the same as that term is defined in Section [~~62A-15-1301~~] 26B-5-610.

(2) (a) (i) In each county operating under a county executive-council form of government under Section 17-52a-203, the county legislative body is the local mental health authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52a-204, the county manager is the local mental health authority.

(iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the county legislative body is the local mental health authority.

(b) Within legislative appropriations and county matching funds required by this section, under the direction of the division, each local mental health authority shall:

(i) provide mental health services to individuals within the county; and

(ii) cooperate with efforts of the division to promote integrated programs that address an individual's substance [~~abuse~~] use, mental health, and physical healthcare needs, as described in Section [~~62A-15-103~~] 26B-5-102.

(c) Within legislative appropriations and county matching funds required by this section, each local mental health authority shall cooperate with the efforts of the department to promote a system of care, as defined in Section 26B-1-102, for minors with or at risk for complex emotional and behavioral needs, as described in Section 26B-1-202.

(3) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide mental health prevention and treatment services; or

(ii) create a united local health department that combines substance [~~abuse~~] use treatment services, mental health services, and local health department services in accordance with Subsection (4).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of mental health services.

(c) Each agreement for joint mental health services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money available for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined mental health

authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined mental health authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined mental health authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint mental health services may provide for:

(i) joint operation of services and facilities or for operation of services and facilities under contract by one participating local mental health authority for other participating local mental health authorities; and

(ii) allocation of appointments of members of the mental health advisory council between or among participating counties.

(4) A county governing body may elect to combine the local mental health authority with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local mental health authority that joins with a united local health department shall comply with this part.

(5) (a) Each local mental health authority is accountable to the department and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are provided by a private contract provider.

(b) Each local mental health authority shall comply, and require compliance by its contract provider, with all directives issued by the department regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing mental health programs and services. The department shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local mental health authorities with regard to programs and services.

(6) (a) Each local mental health authority shall:

(i) review and evaluate mental health needs and services, including mental health needs and services for:

(A) an individual incarcerated in a county jail or other county correctional facility; and

(B) an individual who is a resident of the county and who is court ordered to receive assisted outpatient treatment under Section [~~62A-15-630.5~~] 26B-5-351;

(ii) in accordance with Subsection (6)(b), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery, either directly by the local mental health authority or by contract;

(iii) establish and maintain, either directly or by contract, programs licensed under [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities;

(iv) appoint, directly or by contract, a full-time or part-time director for mental health programs and prescribe the director's duties;

(v) provide input and comment on new and revised rules established by the division;

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

(viii) annually contract with the division to provide mental health programs and services in accordance with the provisions of [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;

(ix) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(x) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(xii) take and retain physical custody of minors committed to the physical custody of

local mental health authorities by a judicial proceeding under [~~Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health~~] Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.

(b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and children, which shall include:

(i) inpatient care and services;

(ii) residential care and services;

(iii) outpatient care and services;

(iv) 24-hour crisis care and services;

(v) psychotropic medication management;

(vi) psychosocial rehabilitation, including vocational training and skills development;

(vii) case management;

(viii) community supports, including in-home services, housing, family support services, and respite services;

(ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and

(x) services to persons incarcerated in a county jail or other county correctional facility.

(7) (a) If a local mental health authority provides for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall:

(i) collaborate with the statewide mental health crisis line described in Section [~~62A-15-1302~~] 26B-5-610;

(ii) ensure that each individual who answers calls to the local mental health crisis line:

(A) is a mental health therapist or a crisis worker; and

(B) meets the standards of care and practice established by the Division of Integrated Healthcare, in accordance with Section [~~62A-15-1302~~] 26B-5-610; and

(iii) ensure that when necessary, based on the local mental health crisis line's capacity, calls are immediately routed to the statewide mental health crisis line to ensure that when an individual calls the local mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line, a mental health therapist or a crisis worker answers the call without the caller first:

(A) waiting on hold; or

(B) being screened by an individual other than a mental health therapist or crisis worker.

(b) If a local mental health authority does not provide for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall use the statewide mental health crisis line as a local crisis line resource.

(8) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:

(i) the division;

(ii) the local mental health authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide mental health services under an agreement under Subsection (3), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and

(c) the entity will comply with the provisions of Subsection (5)(b).

(9) A local mental health authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(10) Public funds received for the provision of services pursuant to the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

(11) A local mental health authority shall provide assisted outpatient treatment

services, as described in Section [~~62A-15-630.4~~] 26B-5-350, to a resident of the county who has been ordered under Section [~~62A-15-630.5~~] 26B-5-351 to receive assisted outpatient treatment.

Section ~~{45}~~55. Section **17-43-303** is amended to read:

17-43-303. Definition of "public funds" -- Responsibility for oversight of public funds -- Mental health programs and services.

(1) As used in this section, "public funds":

(a) means:

(i) federal money received from the department or the Department of Health and Human Services; and

(ii) state money appropriated by the Legislature to the department, the Department of Health and Human Services, a county governing body, or a local mental health authority for the purposes of providing mental health programs or services; and

(b) includes that federal and state money:

(i) even after the money has been transferred by a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for the local mental health authority; and

(ii) while in the possession of the private provider.

(2) Each local mental health authority is responsible for oversight of all public funds received by it, to determine that those public funds are utilized in accordance with federal and state law, the rules and policies of the department and the Department of Health and Human Services, and the provisions of any contract between the local mental health authority and the department, the Department of Health and Human Services, or a private provider. That oversight includes requiring that neither the contract provider, as described in Subsection (1), nor any of its employees:

(a) violate any applicable federal or state criminal law;

(b) knowingly violate any applicable rule or policy of the department or Department of Health and Human Services, or any provision of contract between the local mental health authority and the department, the Department of Health and Human Services, or the private provider;

(c) knowingly keep any false account or make any false entry or erasure in any account

of or relating to the public funds;

(d) fraudulently alter, falsify, conceal, destroy, or obliterate any account of or relating to public funds;

(e) fail to ensure competent oversight for lawful disbursement of public funds;

(f) appropriate public funds for an unlawful use or for a use that is not in compliance with contract provisions; or

(g) knowingly or intentionally use public funds unlawfully or in violation of a governmental contract provision, or in violation of state policy.

(3) A local mental health authority that knew or reasonably should have known of any of the circumstances described in Subsection (2), and that fails or refuses to take timely corrective action in good faith shall, in addition to any other penalties provided by law, be required to make full and complete repayment to the state of all public funds improperly used or expended.

(4) Any public funds required to be repaid to the state by a local mental health authority pursuant to Subsection (3), based upon the actions or failure of the contract provider, may be recovered by the local mental health authority from its contract provider, in addition to the local mental health authority's costs and [~~attorney's~~] attorney fees.

Section ~~{46}~~56. Section **17-43-306** is amended to read:

17-43-306. Fees for mental health services -- Responsibility for cost of service if rendered by authority to nonresident -- Authority may receive funds from other sources.

(1) Each local mental health authority shall charge a fee for mental health services, except that mental health services may not be refused to any person because of inability to pay.

(2) If a local mental health authority, through its designated provider, provides a service described in Section 17-43-301 to a person who resides within the jurisdiction of another local mental health authority, the local mental health authority in whose jurisdiction the person resides is responsible for the cost of that service if its designated provider has authorized the provision of that service.

(3) A local mental health authority and entities that contract with a local mental health authority to provide mental health services may receive funds made available by federal, state, or local health, substance [~~abuse~~] use, mental health, education, welfare, or other agencies, in accordance with the provisions of this part and [~~Title 62A, Chapter 15, Substance Abuse and~~

~~Mental Health Act~~] Title 26B, Chapter 5, Health Care - Substance Use and Mental Health.

Section ~~{47}~~57. Section **17-50-318** is amended to read:

17-50-318. Mental health and substance ~~{abuse}~~use services.

Each county shall provide mental health and substance [~~abuse~~] use services in accordance with [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health Care - Substance Use and Mental Health.

Section ~~{48}~~58. Section **17-50-333** is amended to read:

17-50-333. Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

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

(c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(d) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(e) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

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

(g) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(h) "Retail tobacco specialty business" means a commercial establishment in which:

(i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business;

(v) any flavored electronic cigarette product is sold; or

(vi) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

(i) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

(j) "Tobacco product" means:

(i) the same as that term is defined in Section 76-10-101; or

(ii) tobacco paraphernalia as defined in Section 76-10-101.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state by the state or by the delegation of the state's police power to other governmental entities.

(3) (a) A person may not operate a retail tobacco specialty business in a county unless the person obtains a license from the county in which the retail tobacco specialty business is located.

(b) A county may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4) (a) Except as provided in Subsection (7), a county may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) A county may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the county with proof that the retail tobacco specialty business has:

(a) a valid permit for a retail tobacco specialty business issued under [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; or

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

(6) (a) Nothing in this section:

(i) requires a county to issue a retail tobacco specialty business license; or

(ii) prohibits a county from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A county may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates federal law or federal regulations restricting the sale and

distribution of tobacco products or electronic cigarette products to protect children and adolescents;

(iii) upon the recommendation of the department or a local health department under [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products; or

(iv) under any other provision of state law or local ordinance.

(7) (a) Except as provided in Subsection (7)(e), a retail tobacco specialty business is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a license to conduct business as a retail tobacco specialty business;

(ii) the retail tobacco specialty business is operating in a county in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the license described in Subsection (7)(a)(i).

(c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a general tobacco retailer permit or a retail tobacco specialty business permit under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the retail tobacco specialty business is operating in the county in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(d) A retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:

(i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco specialty business permit from the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;

(iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iv) the retail tobacco specialty business does not substantially change the business premises or business operation as the business existed when the retail tobacco specialty business received a permit under Subsection (7)(d)(i); and

(v) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

(e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco

specialty business:

(i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use and located within a group of architecturally unified commercial establishments built on a site that is planned, developed, owned, and managed as an operating unit; and

(ii) continues to meet the requirements described in Subsection (7)(b) that are not directly related to the relocation described in this Subsection (7)(e).

Section ~~{49}~~59. Section **17-50-339** is amended to read:

17-50-339. Prohibition on licensing or certification of child care programs.

(1) (a) As used in this section, "child care program" means a child care facility or program operated by a person who holds a license or certificate from the Department of Health and Human Services under [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2, Part 4, Child Care Licensing.

(b) "Child care program" does not include a child care program for which a county provides oversight, as described in Subsection [~~26-39-403(2)(c)~~] 26B-2-405(2)(e).

(2) A county may not enact or enforce an ordinance that:

(a) imposes licensing or certification requirements for a child care program; or

(b) governs the manner in which care is provided in a child care program.

(3) This section does not prohibit a county from:

(a) requiring a business license to operate a business within the county; or

(b) imposing requirements related to building, health, and fire codes.

Section ~~{50}~~60. Section **17B-2a-818.5** is amended to read:

17B-2a-818.5. Contracting powers of public transit districts -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which

may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section [~~26-40-115~~] 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the

public transit district that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employee's dependents during the duration of the contract by submitting to the public transit district a written statement that:

(i) the contractor offers qualified health coverage that complies with Section [~~26-40-115~~] 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the public transit district.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section

[~~26-40-115~~] 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The public transit district shall adopt ordinances:

(a) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403; and

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(b) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the public transit district or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the district shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection [~~26-40-115(2)~~] 26B-3-909(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) a department or division determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section [~~26-18-402~~] 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section ~~{51}~~61. Section **17B-2a-902** is amended to read:

17B-2a-902. Provisions applicable to service areas.

(1) Each service area is governed by and has the powers stated in:

(a) this part; and

(b) except as provided in Subsection (5), Chapter 1, Provisions Applicable to All Local Districts.

(2) This part applies only to service areas.

(3) A service area is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

(5) (a) Except as provided in Subsection (5)(b), on or after December 31, 2012, a service area may not charge or collect a fee under Section 17B-1-643 for:

(i) law enforcement services;

(ii) fire protection services;

(iii) 911 ambulance or paramedic services as defined in Section [~~26-8a-102~~] 26B-4-101 that are provided under a contract in accordance with Section [~~26-8a-405.2~~] 26B-4-156; or

(iv) emergency services.

(b) Subsection (5)(a) does not apply to:

(i) a fee charged or collected on an individual basis rather than a general basis;

(ii) a non-911 service as defined in Section [~~26-8a-102~~] 26B-4-101 that is provided under a contract in accordance with Section [~~26-8a-405.2~~] 26B-4-156;

(iii) an impact fee charged or collected for a public safety facility as defined in Section 11-36a-102; or

(iv) a service area that includes within the boundary of the service area a county of the fifth or sixth class.

Section ~~{52}~~62. Section **18-1-3** is amended to read:

18-1-3. Dogs attacking domestic animals, service animals, hoofed protected wildlife, or domestic fowls.

Any person may injure or kill a dog while:

(1) the dog is attacking, chasing, or worrying:

(a) a domestic animal having a commercial value;

(b) a service animal, as defined in Section [~~62A-5b-102~~] 26B-6-801; or

(c) any species of hoofed protected wildlife;

(2) the dog is attacking domestic fowls; or

(3) the dog is being pursued for committing an act described in Subsection (1) or (2).

Section ~~{53}~~63. Section **19-1-205** is amended to read:

19-1-205. Assumption of responsibilities.

The department assumes all the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities of the Division of Environmental Health, the Air Conservation Committee, the Solid and Hazardous Waste Committee, the Utah Safe Drinking Water Committee, and the Water Pollution Control Committee previously vested in the

Department of Health and Human Services and its executive director:

(1) including programs for individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies; but

(2) excluding all other sanitation programs, which shall be administered by the Department of Health and Human Services.

Section ~~{54}~~64. Section **19-1-206** is amended to read:

19-1-206. Contracting powers of department -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section [~~26-40-115~~] 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) This section does not apply to contracts entered into by the department or a division or board of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division or board of the department; and

(ii) (A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state;

(c) the executive director determines that applying the requirements of this section to a particular contract interferes with the effective response to an immediate health and safety threat from the environment; or

(d) the contract is:

(i) a sole source contract; or

(ii) an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

(i) the contractor offers qualified health coverage that complies with Section

[~~26-40-115~~] 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section [~~26-40-115~~] 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or

underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) a public transit district in accordance with Section 17B-2a-818.5;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a

written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection [~~26-40-115(2)~~] 26B-3-909(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the

Medicaid Restricted Account created in Section [~~26-18-402~~] 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section ~~{55}~~65. Section **19-4-115** is amended to read:

19-4-115. Drinking water quality in schools and child care centers.

(1) As used in this section:

(a) "Action level" means a lead concentration equal to five parts per billion.

(b) "Certified laboratory" means a laboratory certified by the Department of Health and Human Services that analyzes drinking water for lead.

(c) "Child care center" means:

(i) a center based child care, as defined in Section [~~26-39-102~~] 26B-2-401; or

(ii) an exempt provider, as defined in Section [~~26-39-102~~] 26B-2-401.

(d) "Consumable tap" means a sink or fountain used for consumption of water or food preparation.

(e) "School" means a public or private:

(i) elementary school or secondary school;

(ii) preschool; or

(iii) kindergarten.

(2) (a) A school shall, and a child care center may test the school's or child care center's consumable taps for lead by no later than December 31, 2023.

(b) In conducting a test under this Subsection (2), a school or child care center shall:

(i) comply with current state testing guidelines for reducing lead in drinking water in schools and child care centers; and

(ii) submit a sample to a certified laboratory that has entered into a memorandum of understanding with the division as described in Subsection (3).

(c) Notwithstanding Subsection (2)(a), if a school or child care center has conducted a test for lead in drinking water in a consumable tap of the school or child care center on or after January 1, 2016, but before May 4, 2022, the school or child care center:

(i) is not required to conduct a test under Subsection (2)(a) on the previously sampled consumable tap;

(ii) if the test described in this Subsection (2)(c) finds a lead level for a consumable tap equals or exceeds the action level, shall take steps to stop the use of the consumable tap or to reduce the lead level below the action level as described in Subsection (5); and

(iii) by no later than the end of the time period established under Subsection (4)(c), shall report to the division:

(A) the findings of the test described in this Subsection (2)(c); and

(B) any steps taken under Subsection (2)(c)(ii).

(3) (a) The division shall enter into a memorandum of understanding with one or more certified laboratories under which the division pays the costs of testing a sample submitted by a school or child care center in accordance with Subsection (2).

(b) Subject to appropriations, the division shall pay the costs of testing in the order that a sample is submitted to the certified laboratory.

(c) A certified laboratory shall report test results for a sample submitted in accordance with Subsection (2) to:

(i) the school or child care center that submitted the sample; and

(ii) the division.

(4) (a) If after paying the costs of testing under Subsection (3) there remains money appropriated under this section, the division may issue grants to schools and child care centers for costs associated with taking action under Subsection (5).

(b) The board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) to establish a procedure for a school or child care center applying for a grant under Subsection (4)(a); and

(ii) for what constitutes steps to reduce the lead level below the action level as described in Subsection (5).

(c) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the time period to take steps to reduce the lead level below the action level as described in Subsection (5).

(5) If a test result of a consumable tap under Subsection (2) results in a lead level that equals or exceeds the action level, the school or child care center shall:

(a) within the time period established under Subsection (4)(c) take steps to stop the use of the consumable tap or to reduce the lead level below the action level; and

(b) report the steps taken under Subsection (5)(a) to the division within 30 days after taking the steps.

(6) After the time period established under Subsection (4)(c) has ended, the division shall post on a public website for at least five years from the day on which the division receives the information:

(a) the test results for a test taken under Subsection (2); and

(b) the steps taken as required under Subsection (5).

Section ~~{56}~~66. Section **19-6-902** is amended to read:

19-6-902. Definitions.

As used in this part:

(1) "Board" means the Waste Management and Radiation Control Board, as defined in Section 19-1-106, within the Department of Environmental Quality.

(2) "Certified decontamination specialist" means an individual who has met the standards for certification as a decontamination specialist and has been certified by the board

under Subsection 19-6-906(2).

(3) "Contaminated" or "contamination" means:

(a) polluted by hazardous materials that cause property to be unfit for human habitation or use due to immediate or long-term health hazards; or

(b) that a property is polluted by hazardous materials as a result of the use, production, or presence of methamphetamine in excess of decontamination standards adopted by the Department of Health and Human Services under Section [~~26-51-201~~] 26B-7-409.

(4) "Contamination list" means a list maintained by the local health department of properties:

(a) reported to the local health department under Section 19-6-903; and

(b) determined by the local health department to be contaminated.

(5) (a) "Decontaminated" means property that at one time was contaminated, but the contaminants have been removed.

(b) "Decontaminated" for a property that was contaminated by the use, production, or presence of methamphetamine means that the property satisfies decontamination standards adopted by the Department of Health and Human Services under Section [~~26-51-201~~] 26B-7-409.

(6) "Hazardous materials":

(a) has the same meaning as "hazardous or dangerous material" as defined in Section 58-37d-3; and

(b) includes any illegally manufactured controlled substances.

(7) "Health department" means a local health department under Title 26A, Local Health Authorities.

(8) "Owner of record":

(a) means the owner of real property as shown on the records of the county recorder in the county where the property is located; and

(b) may include an individual, financial institution, company, corporation, or other entity.

(9) "Property":

(a) means any real property, site, structure, part of a structure, or the grounds surrounding a structure; and

(b) includes single-family residences, outbuildings, garages, units of multiplexes, condominiums, apartment buildings, warehouses, hotels, motels, boats, motor vehicles, trailers, manufactured housing, shops, or booths.

(10) "Reported property" means property that is the subject of a law enforcement report under Section 19-6-903.

Section ~~{57}~~67. Section **20A-2-104** is amended to read:

20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.

(1) (a) As used in this section:

(i) "Candidate for public office" means an individual:

(A) who files a declaration of candidacy for a public office;

(B) who files a notice of intent to gather signatures under Section 20A-9-408; or

(C) employed by, under contract with, or a volunteer of, an individual described in Subsection (1)(a)(i)(A) or (B) for political campaign purposes.

(ii) "Dating violence" means the same as that term is defined in Section 78B-7-402 and the federal Violence Against Women Act of 1994, as amended.

(iii) "Domestic violence" means the same as that term is defined in Section 77-36-1 and the federal Violence Against Women Act of 1994, as amended.

(b) An individual applying for voter registration, or an individual preregistering to vote, shall complete a voter registration form in substantially the following form:

UTAH ELECTION REGISTRATION FORM

Are you a citizen of the United States of America? Yes No

If you checked "no" to the above question, do not complete this form.

Will you be 18 years of age on or before election day? Yes No

If you checked "no" to the above question, are you 16 or 17 years of age and preregistering to vote? Yes No

If you checked "no" to both of the prior two questions, do not complete this form.

Name of Voter

_____

First Middle Last

Utah Driver License or Utah Identification Card Number_____

Date of Birth _____

Street Address of Principal Place of Residence

_____

City County State Zip Code

Telephone Number (optional) _____

Email Address (optional) _____

Last four digits of Social Security Number _____

Last former address at which I was registered to vote (if known)_____

_____

City County State Zip Code

Political Party

(a listing of each registered political party, as defined in Section 20A-8-101 and maintained by the lieutenant governor under Section 67-1a-2, with each party's name preceded by a checkbox)

□Unaffiliated (no political party preference) □Other (Please specify)_____

I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. Unless I have indicated above that I am preregistering to vote in a later election, I will be at least 18 years of age and will have resided in Utah for 30 days immediately before the next election. I am not a convicted felon currently incarcerated for commission of a felony.

Signed and sworn

_____

Voter's Signature

_____(month/day/year).

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email

address, full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that all information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order.

CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

_____

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered or preregistered to vote if you know you are not entitled to register or preregister to vote is up to one year in jail and a fine of up to $2,500.

NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND PHOTOGRAPH; OR

TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND CURRENT ADDRESS.

FOR OFFICIAL USE ONLY

Type of I.D. _____

Voting Precinct _____

Voting I.D. Number _____

(c) Beginning May 1, 2022, the voter registration form described in Subsection (1)(b) shall include a section in substantially the following form:

BALLOT NOTIFICATIONS

If you have provided a phone number or email address, you can receive notifications by text message or email regarding the status of a ballot that is mailed to you or a ballot that you deposit in the mail or in a ballot drop box, by indicating here:

_____ Yes, I would like to receive electronic notifications regarding the status of my ballot.

---

(2) (a) Except as provided under Subsection (2)(b), the county clerk shall retain a copy of each voter registration form in a permanent countywide alphabetical file, which may be

electronic or some other recognized system.

(b) The county clerk may transfer a superseded voter registration form to the Division of Archives and Records Service created under Section 63A-12-101.

(3) (a) Each county clerk shall retain lists of currently registered voters.

(b) The lieutenant governor shall maintain a list of registered voters in electronic form.

(c) If there are any discrepancies between the two lists, the county clerk's list is the official list.

(d) The lieutenant governor and the county clerks may charge the fees established under the authority of Subsection 63G-2-203(10) to individuals who wish to obtain a copy of the list of registered voters.

(4) (a) As used in this Subsection (4), "qualified person" means:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or a government employee;

(ii) a health care provider, as defined in Section [~~26-33a-102~~] 26B-8-501, or an agent, employee, or independent contractor of a health care provider;

(iii) an insurance company, as defined in Section 67-4a-102, or an agent, employee, or independent contractor of an insurance company;

(iv) a financial institution, as defined in Section 7-1-103, or an agent, employee, or independent contractor of a financial institution;

(v) a political party, or an agent, employee, or independent contractor of a political party;

(vi) a candidate for public office, or an employee, independent contractor, or volunteer of a candidate for public office; or

(vii) a person, or an agent, employee, or independent contractor of the person, who:

(A) provides the year of birth of a registered voter that is obtained from the list of registered voters only to a person who is a qualified person;

(B) verifies that a person, described in Subsection (4)(a)(vii)(A), to whom a year of birth that is obtained from the list of registered voters is provided, is a qualified person;

(C) ensures, using industry standard security measures, that the year of birth of a registered voter that is obtained from the list of registered voters may not be accessed by a person other than a qualified person;

(D) verifies that each qualified person, other than a qualified person described in Subsection (4)(a)(i), (v), or (vi), to whom the person provides the year of birth of a registered voter that is obtained from the list of registered voters, will only use the year of birth to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(E) verifies that each qualified person described in Subsection (4)(a)(i), to whom the person provides the year of birth of a registered voter that is obtained from the list of registered voters, will only use the year of birth in the qualified person's capacity as a government official or government employee; and

(F) verifies that each qualified person described in Subsection (4)(a)(v) or (vi), to whom the person provides the year of birth of a registered voter that is obtained from the list of registered voters, will only use the year of birth for a political purpose of the political party or candidate for public office.

(b) Notwithstanding Subsection 63G-2-302(1)(j)(iv), and except as provided in Subsection 63G-2-302(1)(k) or (l), the lieutenant governor or a county clerk shall, when providing the list of registered voters to a qualified person under this section, include, with the list, the years of birth of the registered voters, if:

(i) the lieutenant governor or a county clerk verifies the identity of the person and that the person is a qualified person; and

(ii) the qualified person signs a document that includes the following:

(A) the name, address, and telephone number of the person requesting the list of registered voters;

(B) an indication of the type of qualified person that the person requesting the list claims to be;

(C) a statement regarding the purpose for which the person desires to obtain the years of birth;

(D) a list of the purposes for which the qualified person may use the year of birth of a registered voter that is obtained from the list of registered voters;

(E) a statement that the year of birth of a registered voter that is obtained from the list of registered voters may not be provided or used for a purpose other than a purpose described under Subsection (4)(b)(ii)(D);

(F) a statement that if the person obtains the year of birth of a registered voter from the list of registered voters under false pretenses, or provides or uses the year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law, is guilty of a class A misdemeanor and is subject to a civil fine;

(G) an assertion from the person that the person will not provide or use the year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law; and

(H) notice that if the person makes a false statement in the document, the person is punishable by law under Section 76-8-504.

(c) The lieutenant governor or a county clerk may not disclose the year of birth of a registered voter to a person that the lieutenant governor or county clerk reasonably believes:

(i) is not a qualified person or a person described in Subsection (4)(l); or

(ii) will provide or use the year of birth in a manner prohibited by law.

(d) The lieutenant governor or a county clerk may not disclose the voter registration form of a person, or information included in the person's voter registration form, whose voter registration form is classified as private under Subsection (4)(h) to a person other than:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee; or

(ii) except as provided in Subsection (7) and subject to Subsection (4)(e), a person described in Subsection (4)(a)(v) or (vi) for a political purpose.

(e) When disclosing a record or information under Subsection (4)(d)(ii), the lieutenant governor or county clerk shall exclude the information described in Subsection 63G-2-302(1)(j), other than the year of birth.

(f) The lieutenant governor or a county clerk may not disclose a withholding request form, described in Subsections (7) and (8), submitted by an individual, or information obtained from that form, to a person other than a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee.

(g) A person is guilty of a class A misdemeanor if the person:

(i) obtains the year of birth of a registered voter from the list of registered voters under false pretenses;

(ii) uses or provides the year of birth of a registered voter that is obtained from the list of registered voters in a manner that is not permitted by law;

(iii) obtains a voter registration record described in Subsection 63G-2-302(1)(k) under false pretenses;

(iv) uses or provides information obtained from a voter registration record described in Subsection 63G-2-302(1)(k) in a manner that is not permitted by law;

(v) unlawfully discloses or obtains a voter registration record withheld under Subsection (7) or a withholding request form described in Subsections (7) and (8); or

(vi) unlawfully discloses or obtains information from a voter registration record withheld under Subsection (7) or a withholding request form described in Subsections (7) and (8).

(h) The lieutenant governor or a county clerk shall classify the voter registration record of a voter as a private record if the voter:

(i) submits a written application, created by the lieutenant governor, requesting that the voter's voter registration record be classified as private;

(ii) requests on the voter's voter registration form that the voter's voter registration record be classified as a private record; or

(iii) submits a withholding request form described in Subsection (7) and any required verification.

(i) The lieutenant governor or a county clerk may not disclose to a person described in Subsection (4)(a)(v) or (vi) a voter registration record, or information obtained from a voter registration record, if the record is withheld under Subsection (7).

(j) In addition to any criminal penalty that may be imposed under this section, the lieutenant governor may impose a civil fine against a person who violates a provision of this section, in an amount equal to the greater of:

(i) the product of 30 and the square root of the total number of:

(A) records obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or

(B) records from which information is obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or

(ii) $200.

(k) A qualified person may not obtain, provide, or use the year of birth of a registered voter, if the year of birth is obtained from the list of registered voters or from a voter registration record, unless the person:

(i) is a government official or government employee who obtains, provides, or uses the year of birth in the government official's or government employee's capacity as a government official or government employee;

(ii) is a qualified person described in Subsection (4)(a)(ii), (iii), or (iv) and obtains or uses the year of birth only to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(iii) is a qualified person described in Subsection (4)(a)(v) or (vi) and obtains, provides, or uses the year of birth for a political purpose of the political party or candidate for public office; or

(iv) is a qualified person described in Subsection (4)(a)(vii) and obtains, provides, or uses the year of birth to provide the year of birth to another qualified person to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse.

(l) The lieutenant governor or a county clerk may provide a year of birth to a member of the media, in relation to an individual designated by the member of the media, in order for the member of the media to verify the identity of the individual.

(m) A person described in Subsection (4)(a)(v) or (vi) may not use or disclose information from a voter registration record for a purpose other than a political purpose.

(5) When political parties not listed on the voter registration form qualify as registered political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the lieutenant governor shall inform the county clerks of the name of the new political party and direct the county clerks to ensure that the voter registration form is modified to include that political party.

(6) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:

(a) review each voter registration form for completeness and accuracy; and

(b) if the county clerk believes, based upon a review of the form, that an individual may be seeking to register or preregister to vote who is not legally entitled to register or

preregister to vote, refer the form to the county attorney for investigation and possible prosecution.

(7) The lieutenant governor or a county clerk shall withhold from a person, other than a person described in Subsection (4)(a)(i), the voter registration record, and information obtained from the voter registration record, of an individual:

(a) who submits a withholding request form, with the voter registration record or to the lieutenant governor or a county clerk, if:

(i) the individual indicates on the form that the individual, or an individual who resides with the individual, is a victim of domestic violence or dating violence or is likely to be a victim of domestic violence or dating violence; or

(ii) the individual indicates on the form and provides verification that the individual, or an individual who resides with the individual, is:

(A) a law enforcement officer;

(B) a member of the armed forces, as defined in Section 20A-1-513;

(C) a public figure; or

(D) protected by a protective order or protection order; or

(b) whose voter registration record was classified as a private record at the request of the individual before May 12, 2020.

(8) (a) The lieutenant governor shall design and distribute the withholding request form described in Subsection (7) to each election officer and to each agency that provides a voter registration form.

(b) An individual described in Subsection (7)(a)(i) is not required to provide verification, other than the individual's attestation and signature on the withholding request form, that the individual, or an individual who resides with the individual, is a victim of domestic violence or dating violence or is likely to be a victim of domestic violence or dating violence.

(c) The director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for providing the verification described in Subsection (7)(a)(ii).

(9) An election officer or an employee of an election officer may not encourage an individual to submit, or discourage an individual from submitting, a withholding request form.

Section ~~{58}~~68. Section **20A-2-306** is amended to read:

20A-2-306. Removing names from the official register -- Determining and confirming change of residence.

(1) A county clerk may not remove a voter's name from the official register on the grounds that the voter has changed residence unless the voter:

(a) confirms in writing that the voter has changed residence to a place outside the county; or

(b) (i) has not voted in an election during the period beginning on the date of the notice required by Subsection (3), and ending on the day after the date of the second regular general election occurring after the date of the notice; and

(ii) has failed to respond to the notice required by Subsection (3).

(2) (a) When a county clerk obtains information that a voter's address has changed and it appears that the voter still resides within the same county, the county clerk shall:

(i) change the official register to show the voter's new address; and

(ii) send to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(b) When a county clerk obtains information that a voter's address has changed and it appears that the voter now resides in a different county, the county clerk shall verify the changed residence by sending to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(3) (a) Each county clerk shall use substantially the following form to notify voters whose addresses have changed:

"VOTER REGISTRATION NOTICE

We have been notified that your residence has changed. Please read, complete, and return this form so that we can update our voter registration records. What is your current street address?

_____

Street City County State Zip

What is your current phone number (optional)?_____

What is your current email address (optional)?_____

If you have not changed your residence or have moved but stayed within the same

county, you must complete and return this form to the county clerk so that it is received by the county clerk before 5 p.m. no later than 30 days before the date of the election. If you fail to return this form within that time:

- you may be required to show evidence of your address to the poll worker before being allowed to vote in either of the next two regular general elections; or

- if you fail to vote at least once from the date this notice was mailed until the passing of two regular general elections, you will no longer be registered to vote. If you have changed your residence and have moved to a different county in Utah, you may register to vote by contacting the county clerk in your county.

_____

Signature of Voter

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that all information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order."

(b) Beginning May 1, 2022, the form described in Subsection (3)(a) shall also include a section in substantially the following form:

BALLOT NOTIFICATIONS

If you have provided a phone number or email address, you can receive notifications by text message or email regarding the status of a ballot that is mailed to you or a ballot that you deposit in the mail or in a ballot drop box, by indicating here:

_____ Yes, I would like to receive electronic notifications regarding the status of my ballot.

---

(4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the names of any voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election.

(b) The county clerk may remove the names of voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election if:

(i) the voter requests, in writing, that the voter's name be removed; or

(ii) the voter has died.

(c) (i) After a county clerk mails a notice as required in this section, the county clerk may list that voter as inactive.

(ii) If a county clerk receives a returned voter identification card, determines that there was no clerical error causing the card to be returned, and has no further information to contact the voter, the county clerk may list that voter as inactive.

(iii) An inactive voter shall be allowed to vote, sign petitions, and have all other privileges of a registered voter.

(iv) A county is not required to send routine mailings to an inactive voter and is not required to count inactive voters when dividing precincts and preparing supplies.

(5) Beginning on or before January 1, 2022, the lieutenant governor shall make available to a county clerk United States Social Security Administration data received by the lieutenant governor regarding deceased individuals.

(6) A county clerk shall, within ten business days after the day on which the county clerk receives the information described in Subsection (5) or Subsections [~~26-2-13(11) and (12)~~] 26B-8-114(11) and (12) relating to a decedent whose name appears on the official register, remove the decedent's name from the official register.

(7) Ninety days before each primary and general election the lieutenant governor shall compare the information the lieutenant governor has received under Subsection [~~26-2-13(11)~~] 26B-8-114(11) with the official register of voters to ensure that all deceased voters have been removed from the official register.

Section ~~{59}~~69. Section **20A-11-1202** is amended to read:

20A-11-1202. Definitions.

As used in this part:

(1) "Applicable election officer" means:

(a) a county clerk, if the email relates only to a local election; or

(b) the lieutenant governor, if the email relates to an election other than a local election.

(2) "Ballot proposition" means constitutional amendments, initiatives, referenda, judicial retention questions, opinion questions, bond approvals, or other questions submitted to the voters for their approval or rejection.

(3) "Campaign contribution" means any of the following when done for a political purpose or to advocate for or against a ballot proposition:

(a) a gift, subscription, donation, loan, advance, deposit of money, or anything of value

given to a filing entity;

(b) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything of value to a filing entity;

(c) any transfer of funds from another reporting entity to a filing entity;

(d) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(e) remuneration from:

(i) any organization or the organization's directly affiliated organization that has a registered lobbyist; or

(ii) any agency or subdivision of the state, including a school district; or

(f) an in-kind contribution.

(4) (a) "Commercial interlocal cooperation agency" means an interlocal cooperation agency that receives its revenues from conduct of its commercial operations.

(b) "Commercial interlocal cooperation agency" does not mean an interlocal cooperation agency that receives some or all of its revenues from:

(i) government appropriations;

(ii) taxes;

(iii) government fees imposed for regulatory or revenue raising purposes; or

(iv) interest earned on public funds or other returns on investment of public funds.

(5) "Expenditure" means:

(a) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;

(b) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;

(c) a transfer of funds between a public entity and a candidate's personal campaign committee;

(d) a transfer of funds between a public entity and a political issues committee; or

(e) goods or services provided to or for the benefit of a candidate, a candidate's personal campaign committee, or a political issues committee for political purposes at less than

fair market value.

(6) "Filing entity" means the same as that term is defined in Section 20A-11-101.

(7) "Governmental interlocal cooperation agency" means an interlocal cooperation agency that receives some or all of its revenues from:

(a) government appropriations;

(b) taxes;

(c) government fees imposed for regulatory or revenue raising purposes; or

(d) interest earned on public funds or other returns on investment of public funds.

(8) "Influence" means to campaign or advocate for or against a ballot proposition.

(9) "Interlocal cooperation agency" means an entity created by interlocal agreement under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.

(10) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(11) "Political purposes" means an act done with the intent or in a way to influence or intend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:

(a) candidate for public office at any caucus, political convention, primary, or election; or

(b) judge standing for retention at any election.

(12) "Proposed initiative" means an initiative proposed in an application filed under Section 20A-7-202 or 20A-7-502.

(13) "Proposed referendum" means a referendum proposed in an application filed under Section 20A-7-302 or 20A-7-602.

(14) (a) "Public entity" includes the state, each state agency, each county, municipality, school district, local district, governmental interlocal cooperation agency, and each administrative subunit of each of them.

(b) "Public entity" does not include a commercial interlocal cooperation agency.

(c) "Public entity" includes local health departments created under [~~Title 26, Chapter 1, Department of Health Organization~~] Title 26A, Local Health Authorities.

(15) (a) "Public funds" means any money received by a public entity from

appropriations, taxes, fees, interest, or other returns on investment.

(b) "Public funds" does not include money donated to a public entity by a person or entity.

(16) (a) "Public official" means an elected or appointed member of government with authority to make or determine public policy.

(b) "Public official" includes the person or group that:

(i) has supervisory authority over the personnel and affairs of a public entity; and

(ii) approves the expenditure of funds for the public entity.

(17) "Reporting entity" means the same as that term is defined in Section 20A-11-101.

(18) (a) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "State agency" includes the legislative branch, the Utah Board of Higher Education, each institution of higher education board of trustees, and each higher education institution.

Section ~~{60}~~70. Section **23-19-5.5** is amended to read:

23-19-5.5. Issuance of license, permit, or tag prohibited for failure to pay child support.

(1) As used in this section:

(a) "Child support" means the same as that term is defined in Section [~~62A-11-401~~] 26B-9-301.

(b) "Delinquent on a child support obligation" means that:

(i) an individual owes at least $2,500 on an arrearage obligation of child support based on an administrative or judicial order;

(ii) the individual has not obtained a judicial order staying enforcement of the individual's obligation on the amount in arrears; and

(iii) the office has obtained a statutory judgment lien pursuant to Section [~~62A-11-312.5~~] 26B-9-214.

(c) "Office" means the Office of Recovery Services created in Section [~~62A-11-102~~] 26B-9-103.

(d) "Wildlife license agent" means a person authorized under Section 23-19-15 to sell a license, permit, or tag in accordance with this chapter.

(2) (a) An individual who is delinquent on a child support obligation may not apply for, obtain, or attempt to obtain a license, permit, or tag required under this title, by rule made by the Wildlife Board under this title, or by an order or proclamation issued in accordance with a rule made by the Wildlife Board under this title.

(b) (i) An individual who applies for, obtains, or attempts to obtain a license, permit, or tag in violation of Subsection (2)(a) violates Section 23-19-5.

(ii) A license, permit, or tag obtained in violation of Subsection (2)(a) is invalid.

(iii) An individual who takes protected wildlife with an invalid license, permit, or tag violates Section 23-20-3.

(3) (a) The license, permit, and tag restrictions in Subsection (2)(a) remain effective until the office notifies the division that the individual who is delinquent on a child support obligation has:

(i) paid the delinquency in full; or

(ii) except as provided in Subsection (3)(d), complied for at least 12 consecutive months with a payment schedule entered into with the office.

(b) A payment schedule under Subsection (3)(a) shall provide that the individual:

(i) pay the current child support obligation in full each month; and

(ii) pays an additional amount as assessed by the office pursuant to Section [~~62A-11-320~~] 26B-9-219 towards the child support arrears.

(c) Except as provided in Subsection (3)(d), if an individual fails to comply with the payment schedule described in Subsection (3)(b), the office may notify the division and the individual is considered to be an individual who is delinquent on a child support obligation and cannot obtain a new license, permit, or tag without complying with this Subsection (3).

(d) If an individual fails to comply with the payment schedule described in Subsection (3)(b) for one month of the 12-month period because of a transition to new employment, the individual may obtain a license, permit, or tag and is considered in compliance with this Subsection (3) if the individual:

(i) provides the office with information regarding the individual's new employer within 30 days from the day on which the missed payment was due;

(ii) pays the missed payment within 30 days from the day on which the missed payment was due; and

(iii) complies with the payment schedule for all other payments owed for child support within the 12-month period.

(4) (a) The division or a wildlife license agent may not knowingly issue a license, permit, or tag under this title to an individual identified by the office as delinquent on a child support obligation until notified by the office that the individual has complied with Subsection (3).

(b) The division is not required to hold or reserve a license, permit, or tag opportunity withheld from an individual pursuant to Subsection (4)(a) for purposes of reissuance to that individual upon compliance with Subsection (3).

(c) The division may immediately reissue to another qualified person a license, permit, or tag opportunity withheld from an individual identified by the office as delinquent on a child support obligation pursuant to Subsection (4)(a).

(5) The office and division shall automate the process for the division or a wildlife license agent to be notified whether an individual is delinquent on a child support obligation or has complied with Subsection (3).

(6) The office is responsible to provide any administrative or judicial review required incident to the division issuing or denying a license, permit, or tag to an individual under Subsection (4).

(7) The denial or withholding of a license, permit, or tag under this section is not a suspension or revocation of license and permit privileges for purposes of:

(a) Section 23-19-9;

(b) Subsection 23-20-4(1); and

(c) Section 23-25-6.

(8) This section does not modify a court action to withhold, suspend, or revoke a recreational license under Sections [~~62A-11-107~~] 26B-9-108 and 78B-6-315.

Section ~~{61}~~71. Section **23-19-14** is amended to read:

23-19-14. Persons residing in certain institutions authorized to fish without license.

(1) The Division of Wildlife Resources shall permit a person to fish without a license if:

(a) (i) the person resides in:

(A) the Utah State Developmental Center in American Fork;

(B) the state hospital;

(C) a veterans hospital;

(D) a veterans nursing home;

(E) a mental health center;

(F) an intermediate care facility for people with an intellectual disability;

(G) a group home licensed by the Department of Health and Human Services and operated under contract with the Division of Services for People with Disabilities;

(H) a group home or other community-based placement licensed by the Department of Health and Human Services and operated under contract with the Division of Juvenile Justice and Youth Services;

(I) a private residential facility for at-risk youth licensed by the Department of Health and Human Services; or

(J) another similar institution approved by the division; or

(ii) the person is a youth who participates in a work camp operated by the Division of Juvenile Justice and Youth Services;

(b) the person is properly supervised by a representative of the institution; and

(c) the institution obtains from the division a certificate of registration that specifies:

(i) the date and place where the person will fish; and

(ii) the name of the institution's representative who will supervise the person fishing.

(2) The institution shall apply for the certificate of registration at least 10 days before the fishing outing.

(3) (a) An institution that receives a certificate of registration authorizing at-risk youth to fish shall provide instruction to the youth on fishing laws and regulations.

(b) The division shall provide educational materials to the institution to assist it in complying with Subsection (3)(a).

Section ~~{62}~~72. Section ~~{26-18-413}~~**26-8a-102** is amended to read:

~~{26-18-413. Medicaid waiver for delivery of adult dental services.~~

~~(1) (a) Before June 30, 2016, the department shall ask CMS to grant waivers from federal statutory and regulatory law necessary for the Medicaid program to provide dental services in the manner described in Subsection (2)(a).~~

~~(b) Before June 30, 2018, the department shall submit to CMS a request for waivers, or an amendment of existing waivers, from federal law necessary for the state to provide dental services, in accordance with Subsections (2)(b)(i) and (d) through (g), to an individual described in Subsection (2)(b)(i).~~

~~(c) Before June 30, 2019, the department shall submit to the Centers for Medicare and Medicaid Services a request for waivers, or an amendment to existing waivers, from federal law necessary for the state to:~~

~~(i) provide dental services, in accordance with Subsections (2)(b)(ii) and (d) through (g) to an individual described in Subsection (2)(b)(ii); and~~

~~(ii) provide the services described in Subsection (2)(h).~~

~~(2) (a) To the extent funded, the department shall provide services to only blind or disabled individuals, as defined in 42 U.S.C. Sec. 1382c(a)(1), who are 18 years old or older and eligible for the program.~~

~~(b) Notwithstanding Subsection (2)(a):~~

~~(i) if a waiver is approved under Subsection (1)(b), the department shall provide dental services to an individual who:~~

~~(A) qualifies for the health coverage improvement program described in Section [26-18-411]~~ 26B-3-207~~; and~~

~~(B) is receiving treatment in a substance abuse treatment program, as defined in Section [62A-2-101]~~ 26B-2-101~~, licensed under [Title 62A, Chapter 2, Licensure of Programs and Facilities]~~ Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities~~; and~~

~~(ii) if a waiver is approved under Subsection (1)(c)(i), the department shall provide dental services to an individual who is an aged individual as defined in 42 U.S.C. Sec. 1382c(a)(1).~~

~~(c) To the extent possible, services to individuals described in Subsection (2)(a) shall be provided through the University of Utah School of Dentistry and the University of Utah School of Dentistry's associated statewide network.~~

~~(d) The department shall provide the services to individuals described in Subsection (2)(b):~~

~~(i) by contracting with an entity that:~~

~~(A) has demonstrated experience working with individuals who are being treated for~~

~~both a substance use disorder and a major oral health disease;~~

~~(B) operates a program, targeted at the individuals described in Subsection (2)(b), that has demonstrated, through a peer-reviewed evaluation, the effectiveness of providing dental treatment to those individuals described in Subsection (2)(b);~~

~~(C) is willing to pay for an amount equal to the program's non-federal share of the cost of providing dental services to the population described in Subsection (2)(b); and~~

~~(D) is willing to pay all state costs associated with applying for the waiver described in Subsection (1)(b) and administering the program described in Subsection (2)(b); and~~

~~(ii) through a fee-for-service payment model.~~

~~(c) The entity that receives the contract under Subsection (2)(d)(i) shall cover all state costs of the program described in Subsection (2)(b).~~

~~(f) Each fiscal year, the University of Utah School of Dentistry shall, in compliance with state and federal regulations regarding intergovernmental transfers, transfer funds to the program in an amount equal to the program's non-federal share of the cost of providing services under this section through the school during the fiscal year.~~

~~(g) If a waiver is approved under Subsection (1)(c)(ii), the department shall provide coverage for porcelain and porcelain-to-metal crowns if the services are provided:~~

~~(i) to an individual who qualifies for dental services under Subsection (2)(b); and~~

~~(ii) by an entity that covers all state costs of:~~

~~(A) providing the coverage described in this Subsection (2)(h); and~~

~~(B) applying for the waiver described in Subsection (1)(c).~~

~~(h) Where possible, the department shall ensure that services described in Subsection (2)(a) that are not provided by the University of Utah School of Dentistry or the University of Utah School of Dentistry's associated network are provided:~~

~~(i) through fee for service reimbursement until July 1, 2018; and~~

~~(ii) after July 1, 2018, through the method of reimbursement used by the division for Medicaid dental benefits.~~

~~(i) Subject to appropriations by the Legislature, and as determined by the department, the scope, amount, duration, and frequency of services may be limited.~~

~~(3) (a) If the waivers requested under Subsection (1)(a) are granted, the Medicaid program shall begin providing dental services in the manner described in Subsection (2) no~~

~~later than July 1, 2017.~~

~~(b) If the waivers requested under Subsection (1)(b) are granted, the Medicaid program shall begin providing dental services to the population described in Subsection (2)(b) within 90 days from the day on which the waivers are granted.~~

~~(c) If the waivers requested under Subsection (1)(c)(i) are granted, the Medicaid program shall begin providing dental services to the population described in Subsection (2)(b)(ii) within 90 days after the day on which the waivers are granted.~~

~~(4) If the federal share of the cost of providing dental services under this section will be less than 65% during any portion of the next fiscal year, the Medicaid program shall cease providing dental services under this section no later than the end of the current fiscal year.~~

~~Section 63. Section **26-60-102** is amended to read:~~

~~**26-60-102. Definitions.**~~

~~}~~**26-8a-102. Reserved for coordination.**

Reserved

[~~As used in this chapter:~~ ~~{~~

~~(1) "Asynchronous store and forward transfer" means the transmission of a patient's health care information from an originating site to a provider at a distant site.~~

~~(2) "Distant site" means the physical location of a provider delivering telemedicine services.~~

~~(3) "Originating site" means the physical location}~~]

[~~(1) (a) "911 ambulance or paramedic services" means:~~]

[~~(i) either:~~]

[~~(A) 911 ambulance service;~~]

[~~(B) 911 paramedic service; or~~]

[~~(C) both 911 ambulance and paramedic service; and~~]

[~~(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.~~]

[~~(b) "911 ambulance or paramedic services" does not mean a seven or 10 digit telephone call received directly by an ambulance provider licensed under this chapter.~~]

[~~(2) "Ambulance" means a ground, air, or water vehicle that:~~]

[~~(a) transports patients and is used to provide emergency medical services; and~~]

[(b) is required to obtain a permit under Section 26-8a-304 to operate in the state.]

[(3) "Ambulance provider" means an emergency medical service provider that:]

[(a) transports and provides emergency medical care to patients; and]

[(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.]

[(4) (a) "Behavioral emergency services" means delivering a behavioral health intervention to a patient in an emergency context within a scope and in accordance with guidelines established by the department.]

[(b) "Behavioral emergency services" does not include engaging in the:]

[(i) practice of mental health therapy as defined in Section 58-60-102;]

[(ii) practice of psychology as defined in Section 58-61-102;]

[(iii) practice of clinical social work as defined in Section 58-60-202;]

[(iv) practice of certified social work as defined in Section 58-60-202;]

[(v) practice of marriage and family therapy as defined in Section 58-60-302;]

[(vi) practice of clinical mental health counseling as defined in Section 58-60-402; or]

[(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.]

[(5) "Committee" means the State Emergency Medical Services Committee created by Section 26B-1-204.]

[(6) "Community paramedicine" means medical care:]

[(a) provided by emergency medical service personnel; and]

[(b) provided to a patient who is not:]

[(i) in need of ambulance transportation; or]

[(ii) located in a health care facility as defined in Section 26-21-2.]

[(7) "Direct medical observation" means in-person observation of a patient {receiving telemedicine services.

(4) "Patient" means an individual seeking telemedicine services.

(5) (a) "Patient-generated medical history" means medical data about a patient that the patient creates, records, or gathers.

(b) "Patient-generated medical history" does not include a patient's medical record that a healthcare professional creates and the patient personally delivers to a different healthcare professional.

(6) "Provider}by a physician, registered nurse, physician's assistant, or individual

licensed under Section 26-8a-302.]

[(8) "Emergency medical condition" means:]

[(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:]

[(i) placing the individual's health in serious jeopardy;]

[(ii) serious impairment to bodily functions; or]

[(iii) serious dysfunction of any bodily organ or part; or]

[(b) a medical condition that in the opinion of a physician or the physician's designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 26-8a-302 during transport.]

[(9) (a) "Emergency medical service personnel" means an individual who {is:

(a) licensed under [Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection;

(b) licensed under Title 58, Occupations and Professions, to provide health care; or

(c) licensed under [Title 62A, Chapter 2, Licensure of Programs and Facilities] Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities.

(7) "Synchronous interaction" means real-time communication through interactive technology that enables a provider at a distant site and a patient at an originating site to interact simultaneously through two-way audio and video transmission.

(8) "Telehealth"} provides emergency medical services or behavioral emergency services to a patient and is required to be licensed or certified under Section 26-8a-302.]

[(b) "Emergency medical service personnel" includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, behavioral emergency services technician, other categories established by the committee, and a certified emergency medical dispatcher.]

[(10) "Emergency medical service providers" means:]

[(a) licensed ambulance providers and paramedic providers;]

[(b) a facility or provider that is required to be designated under Subsection 26-8a-303(1)(a); and]

[(c) emergency medical service personnel.]

[~~(11) "Emergency medical~~ services" means ~~{ the transmission of health-related services or information through the use of electronic communication or information technology.~~

~~(9) "Telemedicine services" means telehealth services:~~

~~(a) including:~~

~~(i) clinical care;~~

~~(ii) health education;~~

~~(iii) health administration;~~

~~(iv) home health;~~

~~(v) facilitation of self-managed care and caregiver support; or~~

~~(vi) remote patient monitoring occurring incidentally to general supervision; and~~

~~(b) provided by a provider to a patient through a method of communication that:~~

~~(i) (A) uses asynchronous store and forward transfer; or~~

~~(B) uses synchronous interaction; and~~

~~(ii) meets industry security and privacy standards, including compliance with:~~

~~(A) the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended; and~~

~~(B) the federal Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended.~~

~~Section 64. Section **26-60-104**};~~]

[~~(a) medical services;~~]

[~~(b) transportation services;~~]

[~~(c) behavioral emergency services; or~~]

[~~(d) any combination of the services described in Subsections (11)(a) through (c).~~]

[~~(12) "Emergency medical service vehicle" means a land, air, or water vehicle that is:~~]

[~~(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and~~]

[~~(b) required to be permitted under Section 26-8a-304.~~]

[~~(13) "Governing body":~~]

[~~(a) means the same as that term is defined in Section 11-42-102; and~~]

[~~(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this~~

~~chapter by the special service district's legislative body or administrative control board.]~~

~~[(14) "Interested party" means:]~~

~~[(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers;]~~

~~[(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers; or]~~

~~[(c) the department when acting in the interest of the public.]~~

~~[(15) "Level of service" means the level at which an ambulance provider type of service is licensed as:]~~

~~[(a) emergency medical technician;]~~

~~[(b) advanced emergency medical technician; or]~~

~~[(c) paramedic.]~~

~~[(16) "Medical control" means a person who provides medical supervision to an emergency medical service provider.]~~

~~[(17) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).]~~

~~[(18) "Nonemergency secured behavioral health transport" means an entity that:]~~

~~[(a) provides nonemergency secure transportation services for an individual who:]~~

~~[(i) is not required to be transported by an ambulance under Section 26-8a-305; and]~~

~~[(ii) requires behavioral health observation during transport between any of the following facilities:]~~

~~[(A) a licensed acute care hospital;]~~

~~[(B) an emergency patient receiving facility;]~~

~~[(C) a licensed mental health facility; and]~~

~~[(D) the office of a licensed health care provider; and]~~

~~[(b) is required to be designated under Section 26-8a-303.]~~

~~[(19) "Paramedic provider" means an entity that:]~~

~~[(a) employs emergency medical service personnel; and]~~

[(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.]

[(20) "Patient" means an individual who, as the result of illness, injury, or a behavioral emergency condition, meets any of the criteria in Section 26-8a-305.]

[(21) "Political subdivision" means:]

[(a) a city, town, or metro township;]

[(b) a county;]

[(c) a special service district created under Title 17D, Chapter 1, Special Service District Act, for the purpose of providing fire protection services under Subsection 17D-1-201(9);]

[(d) a local district created under Title 17B, Limited Purpose Local Government Entities - Local Districts, for the purpose of providing fire protection, paramedic, and emergency services;]

[(e) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii); or]

[(f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act.]

[(22) "Trauma" means an injury requiring immediate medical or surgical intervention.]

[(23) "Trauma system" means a single, statewide system that:]

[(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and]

[(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.]

[(24) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.]

[(25) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:]

[(a) direct the care of patients; and]

[(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.]

[(26) "Type of service" means the category at which an ambulance provider is licensed as:]

[(a) ground ambulance transport;]

[~~(b) ground ambulance interfacility transport; or~~]

[~~(c) both ground ambulance transport and ground ambulance interfacility transport.~~]

Section 73. Section **26-8a-104** is amended to read:

~~{**26-60-104**}~~**26-8a-104**. ~~{**Enforcement.**~~

~~**(1) The Division of Professional Licensing created in Section 58-1-103 is authorized to enforce the provisions of Section [26-60-103] 26B-4-704 as it relates to providers licensed under Title 58, Occupations and Professions.**~~

~~**(2)**~~**Reserved for coordination.**

Reserved

[~~The committee shall adopt rules, with the concurrence of the department, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:~~]

[~~(1) establish licensure, certification, and reciprocity requirements under Section 26-8a-302;~~]

[~~(2) establish designation requirements under Section 26-8a-303;~~]

[~~(3) promote the development of a statewide emergency medical services system under Section 26-8a-203;~~]

[~~(4) establish insurance requirements for ambulance providers;~~]

[~~(5) provide guidelines for requiring patient data under Section 26-8a-203;~~]

[~~(6) establish criteria for awarding grants under Section 26-8a-207;~~]

[~~(7) establish requirements for the coordination of emergency medical services and the medical supervision of emergency medical service providers under Section 26-8a-306;~~]

[~~(8) select appropriate vendors to establish certification requirements for emergency medical dispatchers;~~]

[~~(9) establish the minimum level of service for 911 ambulance services provided under Section 11-48-103; and~~]

[~~(10) are necessary to carry out the responsibilities of the committee as specified in other sections of this chapter.~~]

Section 74. Section **26-8a-204** is amended to read:

26-8a-204. Reserved for coordination.

Reserved

[~~The department shall develop and implement, in cooperation with state, federal, and~~

~~local agencies empowered to oversee disaster response activities, plans to provide emergency medical services during times of disaster or emergency.]~~

Section 75. Section **26-8a-205** is amended to read:

26-8a-205. Reserved for coordination.

Reserved

~~[The department shall establish a pediatric quality improvement resource program.]~~

Section 76. Section **26-8a-206** is amended to read:

26-8a-206. Reserved for coordination.

Reserved

~~[(1) The department {is authorized to enforce the provisions of:~~

~~(a) Section [26-60-103] 26B-4-704 as it relates to providers licensed under this title; and~~

~~(b) Section [26-60-103] 26B-4-704 as it relates to providers licensed under [Title 62A, Chapter 2, Licensure of Programs and Facilities] Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities.~~

~~Section 65}shall develop and implement a statewide program to provide support and counseling for personnel who have been exposed to one or more stressful incidents in the course of providing emergency services.]~~

~~[(2) This program shall include:]~~

~~[(a) ongoing training for agencies providing emergency services and counseling program volunteers;]~~

~~[(b) critical incident stress debriefing for personnel at no cost to the emergency provider; and]~~

~~[(c) advising the department on training requirements for licensure as a behavioral emergency services technician.]~~

Section 77. Section **26A-1-102** is amended to read:

26A-1-102. Definitions.

As used in this part:

(1) "Board" means a local board of health established under Section 26A-1-109.

(2) "County governing body" means one of the types of county government provided for in Title 17, Chapter 52a, Part 2, Forms of County Government.

(3) "County health department" means a local health department that serves a county and municipalities located within that county.

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

(5) "Local health department" means:

(a) a single county local health department;

(b) a multicounty local health department;

(c) a united local health department; or

(d) a multicounty united local health department.

(6) "Mental health authority" means a local mental health authority created in Section 17-43-301.

(7) "Multicounty local health department" means a local health department that is formed under Section 26A-1-105 and that serves two or more contiguous counties and municipalities within those counties.

(8) "Multicounty united local health department" means a united local health department that is formed under Section 26A-1-105.5 and that serves two or more contiguous counties and municipalities within those counties.

(9) (a) "Order of constraint" means an order, rule, or regulation issued by a local health department in response to a declared public health emergency under this chapter that:

(i) applies to all or substantially all:

(A) individuals or a certain group of individuals; or

(B) public places or certain types of public places; and

(ii) for the protection of the public health and in response to the declared public health emergency:

(A) establishes, maintains, or enforces isolation or quarantine;

(B) establishes, maintains, or enforces a stay-at-home order;

(C) exercises physical control over property or individuals;

(D) requires an individual to perform a certain action or engage in a certain behavior; or

(E) closes theaters, schools, or other public places or prohibits gatherings of people to protect the public health.

(b) "Order of constraint" includes a stay-at-home order.

(10) "Public health emergency" means the same as that term is defined in Section [~~26-23b-102~~] 26B-7-301.

(11) "Single county local health department" means a local health department that is created by the governing body of one county to provide services to the county and the municipalities within that county.

(12) "Stay-at-home order" means an order of constraint that:

(a) restricts movement of the general population to suppress or mitigate an epidemic or pandemic disease by directing individuals within a defined geographic area to remain in their respective residences; and

(b) may include exceptions for certain essential tasks.

(13) "Substance abuse authority" means a local substance abuse authority created in Section 17-43-201.

(14) "United local health department":

(a) means a substance abuse authority, a mental health authority, and a local health department that join together under Section 26A-1-105.5; and

(b) includes a multicounty united local health department.

Section ~~{66}~~78. Section **26A-1-114** is amended to read:

26A-1-114. Powers and duties of departments.

(1) Subject to Subsections (7), (8), and (11), a local health department may:

(a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under [~~Title 26, Chapter 15a, Food Safety Manager Certification Act~~] Title 26B, Chapter 7, Part ~~{4}~~5, General Sanitation and Food Safety, in all incorporated and unincorporated areas served by the local health department;

(b) establish, maintain, and enforce isolation and quarantine, and exercise physical control over property and over individuals as the local health department finds necessary for the protection of the public health;

(c) establish and maintain medical, environmental, occupational, and other laboratory

services considered necessary or proper for the protection of the public health;

(d) establish and operate reasonable health programs or measures not in conflict with state law which:

(i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or

(ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;

(e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;

(f) abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;

(g) make necessary sanitary and health investigations and inspections on the local health department's own initiative or in cooperation with the Department of Health and Human Services or Environmental Quality, or both, as to any matters affecting the public health;

(h) pursuant to county ordinance or interlocal agreement:

(i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;

(ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and

(iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;

(i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:

(i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and

(ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;

(j) investigate the causes of morbidity and mortality;

(k) issue notices and orders necessary to carry out this part;

(l) conduct studies to identify injury problems, establish injury control systems,

develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;

(m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;

(n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(o) investigate suspected bioterrorism and disease pursuant to Section [~~26-23b-108~~] 26B-7-321; and

(p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section [~~26-23b-102~~] 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health-related activities.

(2) The local health department shall:

(a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;

(b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 53-10-802 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 53-10-803;

(c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws; and

(d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:

(i) recognizes that the Department of Environmental Quality 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.

(3) The local health department has the following duties regarding public and private schools within the local health department's boundaries:

(a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;

(b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, whether acute or chronic, if the person is likely to convey the disease to those in attendance; and

(c) (i) make regular inspections of the health-related condition of all school buildings and premises;

(ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools; and

(iii) provide a copy of the report to the department at the time the report is made.

(4) If those responsible for the health-related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.

(5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.

(6) Nothing in this part may be construed to authorize a local health department to enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling.

(7) (a) Except as provided in Subsection (7)(c), a local health department may not declare a public health emergency or issue an order of constraint until the local health department has provided notice of the proposed action to the chief executive officer of the

relevant county no later than 24 hours before the local health department issues the order or declaration.

(b) The local health department:

(i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by the local health department;

(ii) may provide the notice required by Subsection (7)(a) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency or issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department declares a public health emergency or issues an order of constraint as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate a declaration of a public health emergency or an order of constraint issued as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency or issuance of the order of constraint.

(d) (i) The relevant county governing body may at any time terminate a public health emergency or an order of constraint issued by the local health department by majority vote of the county governing body in response to a declared public health emergency.

(ii) A vote by the relevant county governing body to terminate a public health emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto by the relevant chief executive officer.

(8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:

(i) the local health department or the chief executive officer of the relevant county finding that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the local health department declared the public

health emergency; or

(iii) the day on which the public health emergency is terminated by majority vote of the county governing body.

(b) (i) The relevant county legislative body, by majority vote, may extend a public health emergency for a time period designated by the county legislative body.

(ii) If the county legislative body extends a public health emergency as described in Subsection (8)(b)(i), the public health emergency expires on the date designated by the county legislative body.

(c) Except as provided in Subsection (8)(d), if a public health emergency declared by a local health department expires as described in Subsection (8)(a), the local health department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local health department finds that exigent circumstances exist, after providing notice to the county legislative body, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in accordance with Subsection (8)(a) or (b).

(e) For a public health emergency declared by a local health department under this chapter or under [~~Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~] Title 26B, Chapter 7, Part ~~{3}~~4, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases, the Legislature may terminate by joint resolution a public health emergency that was declared based on exigent circumstances or that has been in effect for more than 30 days.

(f) If the Legislature or county legislative body terminates a public health emergency declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

(9) (a) During a public health emergency declared under this chapter or under [~~Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~] Title 26B, Chapter 7, Part ~~{3}~~4, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:

(i) except as provided in Subsection (9)(b), a local health department may not issue an

order of constraint without approval of the chief executive officer of the relevant county;

(ii) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(iii) a county governing body may at any time terminate by majority vote of the governing body an order of constraint issued by a local health department in response to a declared public health emergency.

(b) (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (9)(b), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of constraint.

(c) (i) For a local health department that serves more than one county, the approval described in Subsection (9)(a)(i) is required for the chief executive officer for which the order of constraint is applicable.

(ii) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the county served by the county governing body.

(10) (a) During a public health emergency declared as described in this title:

(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and

(ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of

constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (10).

(c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections (8)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(11) An order of constraint issued by a local health department pursuant to a declared public health emergency does not apply to a facility, property, or area owned or leased by the state, including the capitol hill complex, as that term is defined in Section 63C-9-102.

Section ~~{67}~~79. Section **26A-1-116** is amended to read:

26A-1-116. Allocation of state funds to local health departments -- Formula.

(1) (a) The [~~Departments of Health and~~] Department of Health and Human Services and the Department of Environmental Quality shall each establish by rule a formula for allocating state funds by contract to local health departments.

(b) This formula shall provide for allocation of funds based on need.

(c) Determination of need shall be based on population unless the department making the rule establishes by valid and accepted data that other defined factors are relevant and reliable indicators of need.

(d) The formula shall include a differential to compensate for additional costs of providing services in rural areas.

(2) (a) The formulas established under Subsection (1) shall be in effect on or before July 1, 1991.

(b) The formulas apply to all state funds appropriated by the Legislature to the

[~~Departments of Health and~~] Department of Health and Human Services and the Department of Environmental Quality for local health departments.

(c) The formulas do not apply to funds a local health department receives from:

(i) sources other than the [~~Departments of Health and~~] Department of Health and Human Services and the Department of Environmental Quality; and

(ii) the [~~Departments of Health and~~] Department of Health and Human Services and the Department of Environmental Quality:

(A) to operate a specific program within the local health department's boundaries which program is available to all residents of the state;

(B) to meet a need that exists only within the local health department's boundaries; and

(C) to engage in research projects.

Section ~~{68}~~80. Section **26A-1-121** is amended to read:

26A-1-121. Standards and regulations adopted by local board -- Local standards not more stringent than federal or state standards -- Administrative and judicial review of actions.

(1) (a) Subject to Subsection (1)(g), the board may make standards and regulations:

(i) not in conflict with rules of the department or the Department of Environmental Quality; and

(ii) necessary for the promotion of public health, environmental health quality, injury control, and the prevention of outbreaks and spread of communicable and infectious diseases.

(b) The standards and regulations under Subsection (1)(a):

(i) supersede existing local standards, regulations, and ordinances pertaining to similar subject matter;

(ii) except where specifically allowed by federal law or state statute, may not be more stringent than those established by federal law, state statute, or administrative rules adopted by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) notwithstanding Subsection (1)(b)(ii), may be more stringent than those established by federal law, state statute, or administrative rule adopted by the department if the standard or regulation is:

(A) in effect on February 1, 2022; and

(B) not modified or amended after February 1, 2022.

(c) The board shall provide public hearings prior to the adoption of any regulation or standard.

(d) Notice of any public hearing shall be published at least twice throughout the county or counties served by the local health department. The publication may be in one or more newspapers, if the notice is provided in accordance with this Subsection (1)(d).

(e) The hearings may be conducted by the board at a regular or special meeting, or the board may appoint hearing officers who may conduct hearings in the name of the board at a designated time and place.

(f) A record or summary of the proceedings of a hearing shall be taken and filed with the board.

(g) (i) During a declared public health emergency declared under this chapter or under [~~Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~] Title 26B, Chapter 7, Part ~~{3}~~4, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:

(A) except as provided in Subsection (1)(h), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(B) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(C) a county governing body may at any time terminate, by majority vote of the governing body, an order of constraint issued by a local health department in response to a declared public health emergency.

(ii) (A) For a local health department that serves more than one county, the approval described in Subsection (1)(g)(i)(A) is required for the chief executive officer for which the order of constraint is applicable.

(B) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (1)(g)(i)(C) for the county served by the county governing body.

(h) (i) Notwithstanding Subsection (1)(g)(i)(A), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant

county as required in Subsection (1)(g)(i)(A) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (1)(h)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (1)(h)(i) within 72 hours of issuance of the order of constraint.

(i) (i) During a public health emergency declared as described in this title:

(A) a local health department may not impose an order of constraint on a public gathering that applies to a religious gathering differently than the order of constraint applies to any other relevantly similar gathering; and

(B) an individual, while acting or purporting to act within the course and scope of the individual's official local health department capacity, may not prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title, or impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(ii) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (1)(i).

(iii) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(A) is in furtherance of a compelling government interest; and

(B) is the least restrictive means of furthering that compelling government interest.

(iv) Notwithstanding Subsections (1)(i)(i) and (ii), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(j) If a local health department declares a public health emergency as described in this chapter, and the local health department finds that the public health emergency conditions

warrant an extension of the public health emergency beyond the 30-day term or another date designated by the local legislative body, the local health department shall provide written notice to the local legislative body at least 10 days before the expiration of the public health emergency.

(2) (a) A person aggrieved by an action or inaction of the local health department relating to the public health shall have an opportunity for a hearing with the local health officer or a designated representative of the local health department. The board shall grant a subsequent hearing to the person upon the person's written request.

(b) In an adjudicative hearing, a member of the board or the hearing officer may administer oaths, examine witnesses, and issue notice of the hearings or subpoenas in the name of the board requiring the testimony of witnesses and the production of evidence relevant to a matter in the hearing. The local health department shall make a written record of the hearing, including findings of facts and conclusions of law.

(c) Judicial review of a final determination of the local board may be secured by a person adversely affected by the final determination, or by the department or the Department of Environmental Quality, by filing a petition in the district court within 30 days after receipt of notice of the board's final determination.

(d) The petition shall be served upon the secretary of the board and shall state the grounds upon which review is sought.

(e) The board's answer shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter together with the board's findings of fact, conclusions of law, and order.

(f) The appellant and the board are parties to the appeal.

(g) The department and the Department of Environmental Quality may become a party by intervention as in a civil action upon showing cause.

(h) A further appeal may be taken to the Court of Appeals under Section 78A-4-103.

(3) Nothing in the provisions of Subsection (1)(b)(ii) or (c), shall limit the ability of a local health department board to make standards and regulations in accordance with Subsection (1)(a) for:

(a) emergency rules made in accordance with Section 63G-3-304; or

(b) items not regulated under federal law, state statute, or state administrative rule.

Section ~~{69}~~81. Section **26A-1-126** is amended to read:

26A-1-126. Medical reserve corps.

(1) In addition to the duties listed in Section 26A-1-114, a local health department may establish a medical reserve corps in accordance with this section.

(2) The purpose of a medical reserve corps is to enable a local health authority to respond with appropriate health care professionals to a national, state, or local emergency, a public health emergency as defined in Section [~~26-23b-102~~] 26B-7-301, or a declaration by the president of the United States or other federal official requesting public health related activities.

(3) (a) A local health department may train health care professionals who participate in a medical reserve corps to respond to an emergency or declaration for public health related activities pursuant to Subsection (2).

(b) When an emergency or request for public health related activities has been declared in accordance with Subsection (2), a local health department may activate a medical reserve corps for the duration of the emergency or declaration for public health related activities.

(4) For purposes of this section, a medical reserve corps may include persons who:

(a) are licensed under Title 58, Occupations and Professions, and who are operating within the scope of their practice;

(b) are exempt from licensure, or operating under modified scope of practice provisions in accordance with Subsections 58-1-307(4) and (5); and

(c) within the 10 years preceding the declared emergency, held a valid license, in good standing in Utah, for one of the occupations described in Subsection 58-13-2(1), but the license is not currently active.

(5) (a) Notwithstanding the provisions of Subsections 58-1-307(4)(a) and (5)(b) the local health department may authorize a person described in Subsection (4) to operate in a modified scope of practice as necessary to respond to the declaration under Subsection (2).

(b) A person operating as a member of an activated medical reserve corps or training as a member of a medical reserve corps under this section:

(i) shall be volunteering for and supervised by the local health department;

(ii) shall comply with the provisions of this section;

(iii) is exempt from the licensing laws of Title 58, Occupations and Professions; and

(iv) shall carry a certificate issued by the local health department which designates the individual as a member of the medical reserve corps during the duration of the emergency or declaration for public health related activities pursuant to Subsection (2).

(6) The local department of health may access the Division of Professional Licensing database for the purpose of determining if a person's current or expired license to practice in the state was in good standing.

(7) The local department of health shall maintain a registry of persons who are members of a medical reserve corps. The registry of the medical reserve corps shall be made available to the public and to the Division of Professional Licensing.

Section ~~{70}~~82. Section **26A-1-128** is amended to read:

26A-1-128. Tobacco, electronic cigarette, and nicotine product permits -- Enforcement.

A local health department:

(1) shall enforce the requirements of [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products;

(2) may enforce licensing requirements for entities that hold a business license to sell a tobacco product, an electronic cigarette product, or a nicotine product under Section 10-8-41.6 or Section 17-50-333; and

(3) may recommend to a municipality or county that the business license of a retail tobacco specialty business be suspended or revoked for a violation of Section 10-8-41.6, Section 17-50-333, or [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products.

Section ~~{71}~~83. Section **30-1-12** is amended to read:

30-1-12. Clerk to file license and certificate -- Designation as vital record.

(1) (a) The license, together with the certificate of the individual officiating at the marriage, shall be filed and preserved by the clerk, and shall be recorded by the clerk in a book kept for that purpose, or by electronic means.

(b) The record shall be properly indexed in the names of the parties so married.

(2) An individual may use a diacritical mark, as defined in Section [~~26-2-4~~] 26B-8-103,

on a marriage license.

(3) A transcript shall be promptly certified and transmitted by the clerk to the state registrar of vital statistics.

(4) The license and the certificate of the individual officiating at the marriage are vital records as defined in Section [~~26-2-2~~] 26B-8-101 and are subject to the inspection requirements described in Section [~~26-2-22~~] 26B-8-125.

Section ~~{72}~~84. Section **30-2-5** is amended to read:

30-2-5. Separate debts.

(1) Neither spouse is personally liable for the separate debts, obligations, or liabilities of the other:

(a) contracted or incurred before marriage;

(b) contracted or incurred during marriage, except family expenses as provided in Section 30-2-9;

(c) contracted or incurred after divorce or an order for separate maintenance under this title, except the spouse is personally liable for that portion of the expenses incurred on behalf of a minor child for reasonable and necessary medical and dental expenses, and other similar necessities as provided in a court order under Section 30-3-5, 30-4-3, or 78B-12-212, or an administrative order under Section [~~62A-11-326~~] 26B-9-224; or

(d) ordered by the court to be paid by the other spouse under Section 30-3-5 or 30-4-3 and not in conflict with Section 15-4-6.5 or 15-4-6.7.

(2) The wages, earnings, property, rents, or other income of one spouse may not be reached by a creditor of the other spouse to satisfy a debt, obligation, or liability of the other spouse, as described under Subsection (1).

Section ~~{73}~~85. Section **30-3-5** is amended to read:

30-3-5. Disposition of property -- Maintenance and health care of parties and children -- Division of debts -- Court to have continuing jurisdiction -- Custody and parent-time -- Alimony -- Nonmeritorious petition for modification.

(1) As used in this section:

(a) "Cohabit" means to live together, or to reside together on a regular basis, in the same residence and in a relationship of a romantic or sexual nature.

(b) "Fault" means any of the following wrongful conduct during the marriage that

substantially contributed to the breakup of the marriage:

(i) engaging in sexual relations with an individual other than the party's spouse;

(ii) knowingly and intentionally causing or attempting to cause physical harm to the other party or a child;

(iii) knowingly and intentionally causing the other party or a child to reasonably fear life-threatening harm; or

(iv) substantially undermining the financial stability of the other party or the child.

(c) "Length of the marriage" means, for purposes of alimony, the number of years from the day on which the parties are legally married to the day on which the petition for divorce is filed with the court.

(2) When a decree of divorce is rendered, the court may include in the decree of divorce equitable orders relating to the children, property, debts or obligations, and parties.

(3) The court shall include the following in every decree of divorce:

(a) an order assigning responsibility for the payment of reasonable and necessary medical and dental expenses of a dependent child, including responsibility for health insurance out-of-pocket expenses such as co-payments, co-insurance, and deductibles;

(b) (i) if coverage is or becomes available at a reasonable cost, an order requiring the purchase and maintenance of appropriate health, hospital, and dental care insurance for a dependent child; and

(ii) a designation of which health, hospital, or dental insurance plan is primary and which health, hospital, or dental insurance plan is secondary in accordance with Section 30-3-5.4 that will take effect if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans;

(c) in accordance with Section 15-4-6.5:

(i) an order specifying which party is responsible for the payment of joint debts, obligations, or liabilities of the parties contracted or incurred during marriage;

(ii) an order requiring the parties to notify respective creditors or obligees, regarding the court's division of debts, obligations, or liabilities and regarding the parties' separate, current addresses; and

(iii) provisions for the enforcement of these orders;

(d) provisions for income withholding in accordance with [~~Title 62A, Chapter 11,~~

~~Recovery Services~~] Title 26B, Chapter 9, Recovery Services and Administration of Child Support; and

(e) if either party owns a life insurance policy or an annuity contract, an acknowledgment by the court that the owner:

(i) has reviewed and updated, where appropriate, the list of beneficiaries;

(ii) has affirmed that those listed as beneficiaries are in fact the intended beneficiaries after the divorce becomes final; and

(iii) understands that if no changes are made to the policy or contract, the beneficiaries currently listed will receive any funds paid by the insurance company under the terms of the policy or contract.

(4) (a) The court may include, in an order determining child support, an order assigning financial responsibility for all or a portion of child care expenses incurred on behalf of a dependent child, necessitated by the employment or training of the custodial parent.

(b) If the court determines that the circumstances are appropriate and that the dependent child would be adequately cared for, the court may include an order allowing the noncustodial parent to provide child care for the dependent child, necessitated by the employment or training of the custodial parent.

(5) The court has continuing jurisdiction to make subsequent changes or new orders for the custody of a child and the child's support, maintenance, health, and dental care, and for distribution of the property and obligations for debts as is reasonable and necessary.

(6) Child support, custody, visitation, and other matters related to a child born to the parents after entry of the decree of divorce may be added to the decree by modification.

(7) (a) In determining parent-time rights of parents and visitation rights of grandparents and other members of the immediate family, the court shall consider the best interest of the child.

(b) Upon a specific finding by the court of the need for peace officer enforcement, the court may include in an order establishing a parent-time or visitation schedule a provision, among other things, authorizing any peace officer to enforce a court-ordered parent-time or visitation schedule entered under this chapter.

(8) If a petition for modification of child custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable attorney fees

expended by the prevailing party in that action, if the court determines that the petition was without merit and not asserted or defended against in good faith.

(9) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court may award to the prevailing party:

(a) actual attorney fees incurred;

(b) the costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time, which may include:

(i) court costs;

(ii) child care expenses;

(iii) transportation expenses actually incurred;

(iv) lost wages, if ascertainable; and

(v) counseling for a child or parent if ordered or approved by the court;

(c) make-up parent time consistent with the best interest of the child; and

(d) any other appropriate equitable remedy.

(10) (a) The court shall consider at least the following factors in determining alimony:

(i) the financial condition and needs of the recipient spouse;

(ii) the recipient's earning capacity or ability to produce income, including the impact of diminished workplace experience resulting from primarily caring for a child of the payor spouse;

(iii) the ability of the payor spouse to provide support;

(iv) the length of the marriage;

(v) whether the recipient spouse has custody of a minor child requiring support;

(vi) whether the recipient spouse worked in a business owned or operated by the payor spouse; and

(vii) whether the recipient spouse directly contributed to any increase in the payor spouse's skill by paying for education received by the payor spouse or enabling the payor spouse to attend school during the marriage.

(b) The court may consider the fault of the parties in determining whether to award alimony and the terms of the alimony.

(c) The court may, when fault is at issue, close the proceedings and seal the court records.

(d) As a general rule, the court should look to the standard of living, existing at the time of separation, in determining alimony in accordance with Subsection (10)(a). However, the court shall consider all relevant facts and equitable principles and may, in the court's discretion, base alimony on the standard of living that existed at the time of trial. In marriages of short duration, when no child has been conceived or born during the marriage, the court may consider the standard of living that existed at the time of the marriage.

(e) The court may, under appropriate circumstances, attempt to equalize the parties' respective standards of living.

(f) When a marriage of long duration dissolves on the threshold of a major change in the income of one of the spouses due to the collective efforts of both, that change shall be considered in dividing the marital property and in determining the amount of alimony. If one spouse's earning capacity has been greatly enhanced through the efforts of both spouses during the marriage, the court may make a compensating adjustment in dividing the marital property and awarding alimony.

(g) In determining alimony when a marriage of short duration dissolves, and no child has been conceived or born during the marriage, the court may consider restoring each party to the condition which existed at the time of the marriage.

(11) (a) The court has continuing jurisdiction to make substantive changes and new orders regarding alimony based on a substantial material change in circumstances not expressly stated in the divorce decree or in the findings that the court entered at the time of the divorce decree.

(b) A party's retirement is a substantial material change in circumstances that is subject to a petition to modify alimony, unless the divorce decree, or the findings that the court entered at the time of the divorce decree, expressly states otherwise.

(c) The court may not modify alimony or issue a new order for alimony to address needs of the recipient that did not exist at the time the decree was entered, unless the court finds extenuating circumstances that justify that action.

(d) (i) In determining alimony, the income of any subsequent spouse of the payor may not be considered, except as provided in Subsection (10) or this Subsection (11).

(ii) The court may consider the subsequent spouse's financial ability to share living expenses.

(iii) The court may consider the income of a subsequent spouse if the court finds that the payor's improper conduct justifies that consideration.

(e) (i) Except as provided in Subsection (11)(e)(iii), the court may not order alimony for a period of time longer than the length of the marriage.

(ii) If a party is ordered to pay temporary alimony during the pendency of the divorce action, the period of time that the party pays temporary alimony shall be counted towards the period of time for which the party is ordered to pay alimony.

(iii) At any time before the termination of alimony, the court may find extenuating circumstances or good cause that justify the payment of alimony for a longer period of time than the length of the marriage.

(12) (a) Except as provided in Subsection (12)(b), unless a decree of divorce specifically provides otherwise, any order of the court that a party pay alimony to a former spouse automatically terminates upon the remarriage or death of that former spouse.

(b) If the remarriage of the former spouse is annulled and found to be void ab initio, payment of alimony shall resume if the party paying alimony is made a party to the action of annulment and the payor party's rights are determined.

(13) If a party establishes that a current spouse cohabits with another individual during the pendency of the divorce action, the court:

(a) may not order the party to pay temporary alimony to the current spouse; and

(b) shall terminate any order that the party pay temporary alimony to the current spouse.

(14) (a) Subject to Subsection (14)(b), the court shall terminate an order that a party pay alimony to a former spouse if the party establishes that, after the order for alimony is issued, the former spouse cohabits with another individual even if the former spouse is not cohabiting with the individual when the party paying alimony files the motion to terminate alimony.

(b) A party paying alimony to a former spouse may not seek termination of alimony under Subsection (14)(a), later than one year from the day on which the party knew or should have known that the former spouse has cohabited with another individual.

Section ~~{74}~~86. Section **30-3-5.1** is amended to read:

30-3-5.1. Provision for income withholding in child support order.

Whenever a court enters an order for child support, it shall include in the order a provision for withholding income as a means of collecting child support as provided in [~~Title 62A, Chapter 11, Recovery Services~~] Title 26B, Chapter 9, Recovery Services and Administration of Child Support.

Section ~~{75}~~87. Section **30-3-5.4** is amended to read:

30-3-5.4. Designation of primary and secondary health, dental, or hospital insurance coverage.

(1) As used in this section, "health, hospital, or dental insurance plan" has the same meaning as "health care insurance" as defined in Section 31A-1-301.

(2) (a) A decree of divorce rendered in accordance with Section 30-3-5, an order for medical expenses rendered in accordance with Section 78B-12-212, and an administrative order under Section [~~62A-11-326~~] 26B-9-224 shall, in accordance with Subsection (2)(b)(ii), designate which parent's health, hospital, or dental insurance plan is primary coverage and which parent's health, hospital, or dental insurance plan is secondary coverage for a dependent child.

(b) The provisions of the court order required by Subsection (2)(a) shall:

(i) take effect if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans; and

(ii) include the following language:

"If, at any point in time, a dependent child is covered by the health, hospital, or dental insurance plans of both parents, the health, hospital, or dental insurance plan of (Parent's Name) shall be primary coverage for the dependent child and the health, hospital, or dental insurance plan of (Other Parent's Name) shall be secondary coverage for the dependent child. If a parent remarries and his or her dependent child is not covered by that parent's health, hospital, or dental insurance plan but is covered by a step-parent's plan, the health, hospital, or dental insurance plan of the step-parent shall be treated as if it is the plan of the remarried parent and shall retain the same designation as the primary or secondary plan of the dependent child."

(c) A decree of divorce or related court order may not modify the language required by

Subsection (2)(b)(ii).

(d) Notwithstanding Subsection (2)(c), a court may allocate the payment of medical expenses including co-payments, deductibles, and co-insurance not covered by health insurance between the parents in accordance with Subsections 30-3-5(3)(a) and 78B-12-212(7).

(3) In designating primary coverage pursuant to Subsection (2), a court may take into account:

(a) the birth dates of the parents;

(b) a requirement in a court order, if any, for one of the parents to maintain health insurance coverage for a dependent child;

(c) the parent with physical custody of the dependent child; or

(d) any other factor the court considers relevant.

Section ~~{76}~~88. Section **30-3-10** is amended to read:

30-3-10. Custody of a child -- Custody factors.

(1) If a married couple having one or more minor children are separated, or the married couple's marriage is declared void or dissolved, the court shall enter, and has continuing jurisdiction to modify, an order of custody and parent-time.

(2) In determining any form of custody and parent-time under Subsection (1), the court shall consider the best interest of the child and may consider among other factors the court finds relevant, the following for each parent:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, the parent, or a household member of the parent;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the child, including the child's:

(i) physical needs;

(ii) emotional needs;

(iii) educational needs;

(iv) medical needs; and

(v) any special needs;

(c) the parent's capacity and willingness to function as a parent, including:

(i) parenting skills;

(ii) co-parenting skills, including:

(A) ability to appropriately communicate with the other parent;

(B) ability to encourage the sharing of love and affection; and

(C) willingness to allow frequent and continuous contact between the child and the other parent, except that, if the court determines that the parent is acting to protect the child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and

(iii) ability to provide personal care rather than surrogate care;

(d) in accordance with Subsection (10), the past conduct and demonstrated moral character of the parent;

(e) the emotional stability of the parent;

(f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

(g) whether the parent has intentionally exposed the child to pornography or material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201;

(h) the parent's reasons for having relinquished custody or parent-time in the past;

(i) duration and depth of desire for custody or parent-time;

(j) the parent's religious compatibility with the child;

(k) the parent's financial responsibility;

(l) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the child's best interests;

(m) who has been the primary caretaker of the child;

(n) previous parenting arrangements in which the child has been happy and well-adjusted in the home, school, and community;

(o) the relative benefit of keeping siblings together;

(p) the stated wishes and concerns of the child, taking into consideration the child's cognitive ability and emotional maturity;

(q) the relative strength of the child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the child; and

(r) any other factor the court finds relevant.

(3) There is a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases when there is:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse involving the child, a parent, or a household member of the parent;

(b) special physical or mental needs of a parent or child, making joint legal custody unreasonable;

(c) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or

(d) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.

(4) (a) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9.

(b) A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.

(5) (a) A child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the child be heard and there is no other reasonable method to present the child's testimony.

(b) (i) The court may inquire of the child's and take into consideration the child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the child's custody or parent-time otherwise.

(ii) The desires of a child 14 years [~~of age~~] old or older shall be given added weight, but is not the single controlling factor.

(c) (i) If an interview with a child is conducted by the court pursuant to Subsection (5)(b), the interview shall be conducted by the judge in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a child is the only method to ascertain the child's desires regarding custody.

(6) (a) Except as provided in Subsection (6)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:

(i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the child at issue; and

(ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(7) This section does not establish a preference for either parent solely because of the gender of the parent.

(8) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

(9) When an issue before the court involves custodial responsibility in the event of a deployment of one or both parents who are servicemembers, and the servicemember has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

(10) In considering the past conduct and demonstrated moral standards of each party under Subsection (2)(d) or any other factor a court finds relevant, the court may not:

(a) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or Subsection 58-37-3.7(2) or (3) any differently than the court would consider or treat the lawful possession or use of any prescribed controlled substance; or

(b) discriminate against a parent because of the parent's status as a:

(i) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

(ii) medical cannabis pharmacy agent, as that term is defined in Section [~~26-61a-102~~] 26B-4-201;

(iii) medical cannabis courier agent, as that term is defined in Section [~~26-61a-102~~] 26B-4-201; or

(iv) medical cannabis cardholder in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

Section ~~{77}~~89. Section **30-3-10.5** is amended to read:

30-3-10.5. Payments of support, maintenance, and alimony.

(1) All monthly payments of support, maintenance, or alimony provided for in the order or decree shall be due on the first day of each month for purposes of Section 78B-12-112, child support services pursuant to [~~Title 62A, Chapter 11, Part 3, Child Support Services Act~~] Title 26B, Chapter 9, Part 2, Child Support Services, income withholding services pursuant to [~~Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases~~] Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and other income withholding procedures pursuant to [~~Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases~~] Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases.

(2) For purposes of child support services and income withholding pursuant to [~~Title 62A, Chapter 11, Part 3, Child Support Services Act, and Part 4, Income Withholding in IV-D Cases~~] Title 26B, Chapter 9, Part 2, Child Support Services, and Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, child support is not considered past due until the first day of the following month.

(3) For purposes other than those specified in Subsections (1) and (2), support shall be payable 1/2 by the 5th day of each month and 1/2 by the 20th day of that month, unless the order or decree provides for a different time for payment.

Section ~~{78}~~90. Section **30-3-38** is amended to read:

30-3-38. Expedited Parent-time Enforcement Program.

(1) There is established an Expedited Parent-time Enforcement Program in the third judicial district to be administered by the Administrative Office of the Courts.

(2) As used in this section:

(a) "Mediator" means a person who:

(i) is qualified to mediate parent-time disputes under criteria established by the Administrative Office of the Courts; and

(ii) agrees to follow billing guidelines established by the Administrative Office of the Courts and this section.

(b) "Services to facilitate parent-time" or "services" means services designed to assist families in resolving parent-time problems through:

(i) counseling;

(ii) supervised parent-time;

(iii) neutral drop-off and pick-up;

(iv) educational classes; and

(v) other related activities.

(3) (a) If a parent files a motion in the third district court alleging that court-ordered parent-time rights are being violated, the clerk of the court, after assigning the case to a judge, shall refer the case to the administrator of this program for assignment to a mediator, unless a parent is incarcerated or otherwise unavailable. Unless the court rules otherwise, a parent residing outside of the state is not unavailable. The director of the program for the courts, the court, or the mediator may excuse either party from the requirement to mediate for good cause.

(b) Upon receipt of a case, the mediator shall:

(i) meet with the parents to address parent-time issues within 15 days of the motion being filed;

(ii) assess the situation;

(iii) facilitate an agreement on parent-time between the parents; and

(iv) determine whether a referral to a service provider under Subsection (3)(c) is warranted.

(c) While a case is in mediation, a mediator may refer the parents to a service provider designated by the Department of Health and Human Services for services to facilitate parent-time if:

(i) the services may be of significant benefit to the parents; or

(ii) (A) a mediated agreement between the parents is unlikely; and

(B) the services may facilitate an agreement.

(d) At any time during mediation, a mediator shall terminate mediation and transfer the case to the administrator of the program for referral to the judge or court commissioner to whom the case was assigned under Subsection (3)(a) if:

(i) a written agreement between the parents is reached; or

(ii) the parents are unable to reach an agreement through mediation and:

(A) the parents have received services to facilitate parent-time;

(B) both parents object to receiving services to facilitate parent-time; or

(C) the parents are unlikely to benefit from receiving services to facilitate parent-time.

(e) Upon receiving a case from the administrator of the program, a judge or court commissioner may:

(i) review the agreement of the parents and, if acceptable, sign it as an order;

(ii) order the parents to receive services to facilitate parent-time;

(iii) proceed with the case; or

(iv) take other appropriate action.

(4) (a) If a parent makes a particularized allegation of physical or sexual abuse of a child who is the subject of a parent-time order against the other parent or a member of the other parent's household to a mediator or service provider, the mediator or service provider shall immediately report that information to:

(i) the judge assigned to the case who may immediately issue orders and take other appropriate action to resolve the allegation and protect the child; and

(ii) the Division of Child and Family Services within the Department of Health and Human Services in the manner required by Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports.

(b) If an allegation under Subsection (4)(a) is made against a parent with parent-time rights or a member of that parent's household, parent-time by that parent shall, pursuant to an order of the court, be supervised until:

(i) the allegation has been resolved; or

(ii) a court orders otherwise.

(c) Notwithstanding an allegation under Subsection (4)(a), a mediator may continue to mediate parent-time problems and a service provider may continue to provide services to facilitate parent-time unless otherwise ordered by a court.

(5) (a) The Department of Health and Human Services may contract with one or more entities in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to provide:

(i) services to facilitate parent-time;

(ii) case management services; and

(iii) administrative services.

(b) An entity who contracts with the Department of Health and Human Services under Subsection (5)(a) shall:

(i) be qualified to provide one or more of the services listed in Subsection (5)(a); and

(ii) agree to follow billing guidelines established by the Department of Health and Human Services and this section.

(6) (a) Except as provided in Subsection (6)(b), the cost of mediation shall be:

(i) reduced to a sum certain;

(ii) divided equally between the parents; and

(iii) charged against each parent taking into account the ability of that parent to pay under billing guidelines adopted in accordance with this section.

(b) A judge may order a parent to pay an amount in excess of that provided for in Subsection (6)(a) if the parent:

(i) failed to participate in good faith in mediation or services to facilitate parent-time; or

(ii) made an unfounded assertion or claim of physical or sexual abuse of a child.

(c) (i) The cost of mediation and services to facilitate parent-time may be charged to parents at periodic intervals.

(ii) Mediation and services to facilitate parent-time may only be terminated on the ground of nonpayment if both parents are delinquent.

(7) (a) The Judicial Council may make rules to implement and administer the provisions of this program related to mediation.

(b) The Department of Health and Human Services may make rules to implement and administer the provisions of this program related to services to facilitate parent-time.

(8) (a) The Administrative Office of the Courts shall adopt outcome measures to evaluate the effectiveness of the mediation component of this program. Progress reports shall be provided to the Judiciary Interim Committee as requested by the committee.

(b) The Department of Health and Human Services shall adopt outcome measures to evaluate the effectiveness of the services component of this program. Progress reports shall be provided to the Judiciary Interim Committee as requested by the committee.

(c) The Administrative Office of the Courts and the Department of Health and Human Services may adopt joint outcome measures and file joint reports to satisfy the requirements of

Subsections (7)(a) and (b).

(9) The Department of Health and Human Services shall, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, apply for federal funds as available.

Section ~~{79}~~91. Section **31A-1-301** is amended to read:

31A-1-301. Definitions.

As used in this title, unless otherwise specified:

(1) (a) "Accident and health insurance" means insurance to provide protection against economic losses resulting from:

(i) a medical condition including:

(A) a medical care expense; or

(B) the risk of disability;

(ii) accident; or

(iii) sickness.

(b) "Accident and health insurance":

(i) includes a contract with disability contingencies including:

(A) an income replacement contract;

(B) a health care contract;

(C) a fixed indemnity contract;

(D) a credit accident and health contract;

(E) a continuing care contract; and

(F) a long-term care contract; and

(ii) may provide:

(A) hospital coverage;

(B) surgical coverage;

(C) medical coverage;

(D) loss of income coverage;

(E) prescription drug coverage;

(F) dental coverage; or

(G) vision coverage.

(c) "Accident and health insurance" does not include workers' compensation insurance.

(d) For purposes of a national licensing registry, "accident and health insurance" is the same as "accident and health or sickness insurance."

(2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Administrator" means the same as that term is defined in Subsection (182).

(4) "Adult" means an individual who is 18 years old or older.

(5) "Affiliate" means a person who controls, is controlled by, or is under common control with, another person. A corporation is an affiliate of another corporation, regardless of ownership, if substantially the same group of individuals manage the corporations.

(6) "Agency" means:

(a) a person other than an individual, including a sole proprietorship by which an individual does business under an assumed name; and

(b) an insurance organization licensed or required to be licensed under Section 31A-23a-301, 31A-25-207, or 31A-26-209.

(7) "Alien insurer" means an insurer domiciled outside the United States.

(8) "Amendment" means an endorsement to an insurance policy or certificate.

(9) "Annuity" means an agreement to make periodical payments for a period certain or over the lifetime of one or more individuals if the making or continuance of all or some of the series of the payments, or the amount of the payment, is dependent upon the continuance of human life.

(10) "Application" means a document:

(a) (i) completed by an applicant to provide information about the risk to be insured; and

(ii) that contains information that is used by the insurer to evaluate risk and decide whether to:

(A) insure the risk under:

(I) the coverage as originally offered; or

(II) a modification of the coverage as originally offered; or

(B) decline to insure the risk; or

(b) used by the insurer to gather information from the applicant before issuance of an annuity contract.

(11) "Articles" or "articles of incorporation" means:

(a) the original articles;

(b) a special law;

(c) a charter;

(d) an amendment;

(e) restated articles;

(f) articles of merger or consolidation;

(g) a trust instrument;

(h) another constitutive document for a trust or other entity that is not a corporation; and

(i) an amendment to an item listed in Subsections (11)(a) through (h).

(12) "Bail bond insurance" means a guarantee that a person will attend court when required, up to and including surrender of the person in execution of a sentence imposed under Subsection 77-20-501(1), as a condition to the release of that person from confinement.

(13) "Binder" means the same as that term is defined in Section 31A-21-102.

(14) "Blanket insurance policy" or "blanket contract" means a group insurance policy covering a defined class of persons:

(a) without individual underwriting or application; and

(b) that is determined by definition without designating each person covered.

(15) "Board," "board of trustees," or "board of directors" means the group of persons with responsibility over, or management of, a corporation, however designated.

(16) "Bona fide office" means a physical office in this state:

(a) that is open to the public;

(b) that is staffed during regular business hours on regular business days; and

(c) at which the public may appear in person to obtain services.

(17) "Business entity" means:

(a) a corporation;

(b) an association;

(c) a partnership;

(d) a limited liability company;

(e) a limited liability partnership; or

(f) another legal entity.

(18) "Business of insurance" means the same as that term is defined in Subsection (95).

(19) "Business plan" means the information required to be supplied to the commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required when these subsections apply by reference under:

(a) Section 31A-8-205; or

(b) Subsection 31A-9-205(2).

(20) (a) "Bylaws" means the rules adopted for the regulation or management of a corporation's affairs, however designated.

(b) "Bylaws" includes comparable rules for a trust or other entity that is not a corporation.

(21) "Captive insurance company" means:

(a) an insurer:

(i) owned by a parent organization; and

(ii) whose purpose is to insure risks of the parent organization and other risks as authorized under:

(A) Chapter 37, Captive Insurance Companies Act; and

(B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; or

(b) in the case of a group or association, an insurer:

(i) owned by the insureds; and

(ii) whose purpose is to insure risks of:

(A) a member organization;

(B) a group member; or

(C) an affiliate of:

(I) a member organization; or

(II) a group member.

(22) "Casualty insurance" means liability insurance.

(23) "Certificate" means evidence of insurance given to:

(a) an insured under a group insurance policy; or

(b) a third party.

(24) "Certificate of authority" is included within the term "license."

(25) "Claim," unless the context otherwise requires, means a request or demand on an insurer for payment of a benefit according to the terms of an insurance policy.

(26) "Claims-made coverage" means an insurance contract or provision limiting coverage under a policy insuring against legal liability to claims that are first made against the insured while the policy is in force.

(27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance commissioner.

(b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent supervisory official of another jurisdiction.

(28) (a) "Continuing care insurance" means insurance that:

(i) provides board and lodging;

(ii) provides one or more of the following:

(A) a personal service;

(B) a nursing service;

(C) a medical service; or

(D) any other health-related service; and

(iii) provides the coverage described in this Subsection (28)(a) under an agreement effective:

(A) for the life of the insured; or

(B) for a period in excess of one year.

(b) Insurance is continuing care insurance regardless of whether or not the board and lodging are provided at the same location as a service described in Subsection (28)(a)(ii).

(29) (a) "Control," "controlling," "controlled," or "under common control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person. This control may be:

(i) by contract;

(ii) by common management;

(iii) through the ownership of voting securities; or

(iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

(b) There is no presumption that an individual holding an official position with another person controls that person solely by reason of the position.

(c) A person having a contract or arrangement giving control is considered to have control despite the illegality or invalidity of the contract or arrangement.

(d) There is a rebuttable presumption of control in a person who directly or indirectly owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the voting securities of another person.

(30) "Controlled insurer" means a licensed insurer that is either directly or indirectly controlled by a producer.

(31) "Controlling person" means a person that directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of a reinsurance intermediary.

(32) "Controlling producer" means a producer who directly or indirectly controls an insurer.

(33) "Corporate governance annual disclosure" means a report an insurer or insurance group files in accordance with the requirements of Chapter 16b, Corporate Governance Annual Disclosure Act.

(34) (a) "Corporation" means an insurance corporation, except when referring to:

(i) a corporation doing business:

(A) as:

(I) an insurance producer;

(II) a surplus lines producer;

(III) a limited line producer;

(IV) a consultant;

(V) a managing general agent;

(VI) a reinsurance intermediary;

(VII) a third party administrator; or

(VIII) an adjuster; and

(B) under:

(I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;

(II) Chapter 25, Third Party Administrators; or

(III) Chapter 26, Insurance Adjusters; or

(ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance Holding Companies.

(b) "Mutual" or "mutual corporation" means a mutual insurance corporation.

(c) "Stock corporation" means a stock insurance corporation.

(35) (a) "Creditable coverage" has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

(b) "Creditable coverage" includes coverage that is offered through a public health plan such as:

(i) the Primary Care Network Program under a Medicaid primary care network demonstration waiver obtained subject to Section [~~26-18-3~~] 26B-3-108;

(ii) the Children's Health Insurance Program under Section [~~26-40-106~~] 26B-3-904; or

(iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L. No. 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. No. 109-415.

(36) "Credit accident and health insurance" means insurance on a debtor to provide indemnity for payments coming due on a specific loan or other credit transaction while the debtor has a disability.

(37) (a) "Credit insurance" means insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation.

(b) "Credit insurance" includes:

(i) credit accident and health insurance;

(ii) credit life insurance;

(iii) credit property insurance;

(iv) credit unemployment insurance;

(v) guaranteed automobile protection insurance;

(vi) involuntary unemployment insurance;

(vii) mortgage accident and health insurance;

(viii) mortgage guaranty insurance; and

(ix) mortgage life insurance.

(38) "Credit life insurance" means insurance on the life of a debtor in connection with an extension of credit that pays a person if the debtor dies.

(39) "Creditor" means a person, including an insured, having a claim, whether:

(a) matured;

(b) unmatured;

(c) liquidated;

(d) unliquidated;

(e) secured;

(f) unsecured;

(g) absolute;

(h) fixed; or

(i) contingent.

(40) "Credit property insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that protects the property until the debt is paid.

(41) "Credit unemployment insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is unemployed for payments coming due on a:

(i) specific loan; or

(ii) credit transaction.

(42) (a) "Crop insurance" means insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils that is:

(i) provided by the private insurance market; or

(ii) subsidized by the Federal Crop Insurance Corporation.

(b) "Crop insurance" includes multiperil crop insurance.

(43) (a) "Customer service representative" means a person that provides an insurance service and insurance product information:

(i) for the customer service representative's:

(A) producer;

(B) surplus lines producer; or

(C) consultant employer; and

(ii) to the customer service representative's employer's:

(A) customer;

(B) client; or

(C) organization.

(b) A customer service representative may only operate within the scope of authority of the customer service representative's producer, surplus lines producer, or consultant employer.

(44) "Deadline" means a final date or time:

(a) imposed by:

(i) statute;

(ii) rule; or

(iii) order; and

(b) by which a required filing or payment must be received by the department.

(45) "Deemer clause" means a provision under this title under which upon the occurrence of a condition precedent, the commissioner is considered to have taken a specific action. If the statute so provides, a condition precedent may be the commissioner's failure to take a specific action.

(46) "Degree of relationship" means the number of steps between two persons determined by counting the generations separating one person from a common ancestor and then counting the generations to the other person.

(47) "Department" means the Insurance Department.

(48) "Director" means a member of the board of directors of a corporation.

(49) "Disability" means a physiological or psychological condition that partially or totally limits an individual's ability to:

(a) perform the duties of:

(i) that individual's occupation; or

(ii) an occupation for which the individual is reasonably suited by education, training, or experience; or

(b) perform two or more of the following basic activities of daily living:

(i) eating;

(ii) toileting;

(iii) transferring;

(iv) bathing; or

(v) dressing.

(50) "Disability income insurance" means the same as that term is defined in Subsection (86).

(51) "Domestic insurer" means an insurer organized under the laws of this state.

(52) "Domiciliary state" means the state in which an insurer:

(a) is incorporated;

(b) is organized; or

(c) in the case of an alien insurer, enters into the United States.

(53) (a) "Eligible employee" means:

(i) an employee who:

(A) works on a full-time basis; and

(B) has a normal work week of 30 or more hours; or

(ii) a person described in Subsection (53)(b).

(b) "Eligible employee" includes:

(i) an owner, sole proprietor, or partner who:

(A) works on a full-time basis;

(B) has a normal work week of 30 or more hours; and

(C) employs at least one common employee; and

(ii) an independent contractor if the individual is included under a health benefit plan of a small employer.

(c) "Eligible employee" does not include, unless eligible under Subsection (53)(b):

(i) an individual who works on a temporary or substitute basis for a small employer;

(ii) an employer's spouse who does not meet the requirements of Subsection (53)(a)(i); or

(iii) a dependent of an employer who does not meet the requirements of Subsection (53)(a)(i).

(54) "Emergency medical condition" means a medical condition that:

(a) manifests itself by acute symptoms, including severe pain; and

(b) would cause a prudent layperson possessing an average knowledge of medicine and health to reasonably expect the absence of immediate medical attention through a hospital emergency department to result in:

(i) placing the layperson's health or the layperson's unborn child's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part.

(55) "Employee" means:

(a) an individual employed by an employer; or

(b) an individual who meets the requirements of Subsection (53)(b).

(56) "Employee benefits" means one or more benefits or services provided to:

(a) an employee; or

(b) a dependent of an employee.

(57) (a) "Employee welfare fund" means a fund:

(i) established or maintained, whether directly or through a trustee, by:

(A) one or more employers;

(B) one or more labor organizations; or

(C) a combination of employers and labor organizations; and

(ii) that provides employee benefits paid or contracted to be paid, other than income from investments of the fund:

(A) by or on behalf of an employer doing business in this state; or

(B) for the benefit of a person employed in this state.

(b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax revenues.

(58) "Endorsement" means a written agreement attached to a policy or certificate to modify the policy or certificate coverage.

(59) (a) "Enrollee" means:

(i) a policyholder;

(ii) a certificate holder;

(iii) a subscriber; or

(iv) a covered individual:

(A) who has entered into a contract with an organization for health care; or

(B) on whose behalf an arrangement for health care has been made.

(b) "Enrollee" includes an insured.

(60) "Enrollment date," with respect to a health benefit plan, means:

(a) the first day of coverage; or

(b) if there is a waiting period, the first day of the waiting period.

(61) "Enterprise risk" means an activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including anything that would cause:

(a) the insurer's risk-based capital to fall into an action or control level as set forth in Sections 31A-17-601 through 31A-17-613; or

(b) the insurer to be in hazardous financial condition set forth in Section 31A-27a-101.

(62) (a) "Escrow" means:

(i) a transaction that effects the sale, transfer, encumbering, or leasing of real property, when a person not a party to the transaction, and neither having nor acquiring an interest in the title, performs, in accordance with the written instructions or terms of the written agreement between the parties to the transaction, any of the following actions:

(A) the explanation, holding, or creation of a document; or

(B) the receipt, deposit, and disbursement of money;

(ii) a settlement or closing involving:

(A) a mobile home;

(B) a grazing right;

(C) a water right; or

(D) other personal property authorized by the commissioner.

(b) "Escrow" does not include:

(i) the following notarial acts performed by a notary within the state:

(A) an acknowledgment;

(B) a copy certification;

(C) jurat; and

(D) an oath or affirmation;

(ii) the receipt or delivery of a document; or

(iii) the receipt of money for delivery to the escrow agent.

(63) "Escrow agent" means an agency title insurance producer meeting the

requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through an individual title insurance producer licensed with an escrow subline of authority.

(64) (a) "Excludes" is not exhaustive and does not mean that another thing is not also excluded.

(b) The items listed in a list using the term "excludes" are representative examples for use in interpretation of this title.

(65) "Exclusion" means for the purposes of accident and health insurance that an insurer does not provide insurance coverage, for whatever reason, for one of the following:

(a) a specific physical condition;

(b) a specific medical procedure;

(c) a specific disease or disorder; or

(d) a specific prescription drug or class of prescription drugs.

(66) "Fidelity insurance" means insurance guaranteeing the fidelity of a person holding a position of public or private trust.

(67) (a) "Filed" means that a filing is:

(i) submitted to the department as required by and in accordance with applicable statute, rule, or filing order;

(ii) received by the department within the time period provided in applicable statute, rule, or filing order; and

(iii) accompanied by the appropriate fee in accordance with:

(A) Section 31A-3-103; or

(B) rule.

(b) "Filed" does not include a filing that is rejected by the department because it is not submitted in accordance with Subsection (67)(a).

(68) "Filing," when used as a noun, means an item required to be filed with the department including:

(a) a policy;

(b) a rate;

(c) a form;

(d) a document;

(e) a plan;

(f) a manual;

(g) an application;

(h) a report;

(i) a certificate;

(j) an endorsement;

(k) an actuarial certification;

(l) a licensee annual statement;

(m) a licensee renewal application;

(n) an advertisement;

(o) a binder; or

(p) an outline of coverage.

(69) "First party insurance" means an insurance policy or contract in which the insurer agrees to pay a claim submitted to it by the insured for the insured's losses.

(70) (a) "Fixed indemnity insurance" means accident and health insurance written to provide a fixed amount for a specified event relating to or resulting from an illness or injury.

(b) "Fixed indemnity insurance" includes hospital confinement indemnity insurance.

(71) "Foreign insurer" means an insurer domiciled outside of this state, including an alien insurer.

(72) (a) "Form" means one of the following prepared for general use:

(i) a policy;

(ii) a certificate;

(iii) an application;

(iv) an outline of coverage; or

(v) an endorsement.

(b) "Form" does not include a document specially prepared for use in an individual case.

(73) "Franchise insurance" means an individual insurance policy provided through a mass marketing arrangement involving a defined class of persons related in some way other than through the purchase of insurance.

(74) "General lines of authority" include:

(a) the general lines of insurance in Subsection (75);

(b) title insurance under one of the following sublines of authority:

(i) title examination, including authority to act as a title marketing representative;

(ii) escrow, including authority to act as a title marketing representative; and

(iii) title marketing representative only;

(c) surplus lines;

(d) workers' compensation; and

(e) another line of insurance that the commissioner considers necessary to recognize in the public interest.

(75) "General lines of insurance" include:

(a) accident and health;

(b) casualty;

(c) life;

(d) personal lines;

(e) property; and

(f) variable contracts, including variable life and annuity.

(76) "Group health plan" means an employee welfare benefit plan to the extent that the plan provides medical care:

(a) (i) to an employee; or

(ii) to a dependent of an employee; and

(b) (i) directly;

(ii) through insurance reimbursement; or

(iii) through another method.

(77) (a) "Group insurance policy" means a policy covering a group of persons that is issued:

(i) to a policyholder on behalf of the group; and

(ii) for the benefit of a member of the group who is selected under a procedure defined in:

(A) the policy; or

(B) an agreement that is collateral to the policy.

(b) A group insurance policy may include a member of the policyholder's family or a dependent.

(78) "Group-wide supervisor" means the commissioner or other regulatory official designated as the group-wide supervisor for an internationally active insurance group under Section 31A-16-108.6.

(79) "Guaranteed automobile protection insurance" means insurance offered in connection with an extension of credit that pays the difference in amount between the insurance settlement and the balance of the loan if the insured automobile is a total loss.

(80) (a) "Health benefit plan" means a policy, contract, certificate, or agreement offered or issued by an insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care, including major medical expense coverage.

(b) "Health benefit plan" does not include:

(i) coverage only for accident or disability income insurance, or any combination thereof;

(ii) coverage issued as a supplement to liability insurance;

(iii) liability insurance, including general liability insurance and automobile liability insurance;

(iv) workers' compensation or similar insurance;

(v) automobile medical payment insurance;

(vi) credit-only insurance;

(vii) coverage for on-site medical clinics;

(viii) other similar insurance coverage, specified in federal regulations issued pursuant to Pub. L. No. 104-191, under which benefits for health care services are secondary or incidental to other insurance benefits;

(ix) the following benefits if they are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan:

(A) limited scope dental or vision benefits;

(B) benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; or

(C) other similar limited benefits, specified in federal regulations issued pursuant to Pub. L. No. 104-191;

(x) the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance, there is no coordination between the provision of benefits

and any exclusion of benefits under any health plan, and the benefits are paid with respect to an event without regard to whether benefits are provided under any health plan:

(A) coverage only for specified disease or illness; or

(B) fixed indemnity insurance;

(xi) the following if offered as a separate policy, certificate, or contract of insurance:

(A) Medicare supplemental health insurance as defined under the Social Security Act, 42 U.S.C. Sec. 1395ss(g)(1);

(B) coverage supplemental to the coverage provided under United States Code, Title 10, Chapter 55, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); or

(C) similar supplemental coverage provided to coverage under a group health insurance plan;

(xii) short-term limited duration health insurance; and

(xiii) student health insurance, except as required under 45 C.F.R. Sec. 147.145.

(81) "Health care" means any of the following intended for use in the diagnosis, treatment, mitigation, or prevention of a human ailment or impairment:

(a) a professional service;

(b) a personal service;

(c) a facility;

(d) equipment;

(e) a device;

(f) supplies; or

(g) medicine.

(82) (a) "Health care insurance" or "health insurance" means insurance providing:

(i) a health care benefit; or

(ii) payment of an incurred health care expense.

(b) "Health care insurance" or "health insurance" does not include accident and health insurance providing a benefit for:

(i) replacement of income;

(ii) short-term accident;

(iii) fixed indemnity;

(iv) credit accident and health;

(v) supplements to liability;

(vi) workers' compensation;

(vii) automobile medical payment;

(viii) no-fault automobile;

(ix) equivalent self-insurance; or

(x) a type of accident and health insurance coverage that is a part of or attached to another type of policy.

(83) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(84) "Health insurance exchange" means an exchange as defined in 45 C.F.R. Sec. 155.20.

(85) "Health Insurance Portability and Accountability Act" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(86) "Income replacement insurance" or "disability income insurance" means insurance written to provide payments to replace income lost from accident or sickness.

(87) "Indemnity" means the payment of an amount to offset all or part of an insured loss.

(88) "Independent adjuster" means an insurance adjuster required to be licensed under Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

(89) "Independently procured insurance" means insurance procured under Section 31A-15-104.

(90) "Individual" means a natural person.

(91) "Inland marine insurance" includes insurance covering:

(a) property in transit on or over land;

(b) property in transit over water by means other than boat or ship;

(c) bailee liability;

(d) fixed transportation property such as bridges, electric transmission systems, radio and television transmission towers and tunnels; and

(e) personal and commercial property floaters.

(92) "Insolvency" or "insolvent" means that:

(a) an insurer is unable to pay the insurer's obligations as the obligations are due;

(b) an insurer's total adjusted capital is less than the insurer's mandatory control level RBC under Subsection 31A-17-601(8)(c); or

(c) an insurer's admitted assets are less than the insurer's liabilities.

(93) (a) "Insurance" means:

(i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more persons to one or more other persons; or

(ii) an arrangement, contract, or plan for the distribution of a risk or risks among a group of persons that includes the person seeking to distribute that person's risk.

(b) "Insurance" includes:

(i) a risk distributing arrangement providing for compensation or replacement for damages or loss through the provision of a service or a benefit in kind;

(ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a business and not as merely incidental to a business transaction; and

(iii) a plan in which the risk does not rest upon the person who makes an arrangement, but with a class of persons who have agreed to share the risk.

(94) "Insurance adjuster" means a person who directs or conducts the investigation, negotiation, or settlement of a claim under an insurance policy other than life insurance or an annuity, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

(95) "Insurance business" or "business of insurance" includes:

(a) providing health care insurance by an organization that is or is required to be licensed under this title;

(b) providing a benefit to an employee in the event of a contingency not within the control of the employee, in which the employee is entitled to the benefit as a right, which benefit may be provided either:

(i) by a single employer or by multiple employer groups; or

(ii) through one or more trusts, associations, or other entities;

(c) providing an annuity:

(i) including an annuity issued in return for a gift; and

(ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2) and (3);

(d) providing the characteristic services of a motor club;

(e) providing another person with insurance;

(f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or surety, a contract or policy offering title insurance;

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

(i) solicitation;

(ii) negotiation preliminary to execution;

(iii) execution of a contract of title insurance;

(iv) insuring; and

(v) transacting matters subsequent to the execution of the contract and arising out of the contract, including reinsurance;

(h) transacting or proposing a life settlement; and

(i) doing, or proposing to do, any business in substance equivalent to Subsections (95)(a) through (h) in a manner designed to evade this title.

(96) "Insurance consultant" or "consultant" means a person who:

(a) advises another person about insurance needs and coverages;

(b) is compensated by the person advised on a basis not directly related to the insurance placed; and

(c) except as provided in Section 31A-23a-501, is not compensated directly or indirectly by an insurer or producer for advice given.

(97) "Insurance group" means the persons that comprise an insurance holding company system.

(98) "Insurance holding company system" means a group of two or more affiliated persons, at least one of whom is an insurer.

(99) (a) "Insurance producer" or "producer" means a person licensed or required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(b) (i) "Producer for the insurer" means a producer who is compensated directly or indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that insurer.

(ii) "Producer for the insurer" may be referred to as an "agent."

(c) (i) "Producer for the insured" means a producer who:

(A) is compensated directly and only by an insurance customer or an insured; and

(B) receives no compensation directly or indirectly from an insurer for selling, soliciting, or negotiating an insurance product of that insurer to an insurance customer or insured.

(ii) "Producer for the insured" may be referred to as a "broker."

(100) (a) "Insured" means a person to whom or for whose benefit an insurer makes a promise in an insurance policy and includes:

(i) a policyholder;

(ii) a subscriber;

(iii) a member; and

(iv) a beneficiary.

(b) The definition in Subsection (100)(a):

(i) applies only to this title;

(ii) does not define the meaning of "insured" as used in an insurance policy or certificate; and

(iii) includes an enrollee.

(101) (a) "Insurer," "carrier," "insurance carrier," or "insurance company" means a person doing an insurance business as a principal including:

(i) a fraternal benefit society;

(ii) an issuer of a gift annuity other than an annuity specified in Subsections 31A-22-1305(2) and (3);

(iii) a motor club;

(iv) an employee welfare plan;

(v) a person purporting or intending to do an insurance business as a principal on that person's own account; and

(vi) a health maintenance organization.

(b) "Insurer," "carrier," "insurance carrier," or "insurance company" does not include a governmental entity.

(102) "Interinsurance exchange" means the same as that term is defined in Subsection (163).

(103) "Internationally active insurance group" means an insurance holding company

system:

(a) that includes an insurer registered under Section 31A-16-105;

(b) that has premiums written in at least three countries;

(c) whose percentage of gross premiums written outside the United States is at least 10% of its total gross written premiums; and

(d) that, based on a three-year rolling average, has:

(i) total assets of at least $50,000,000,000; or

(ii) total gross written premiums of at least $10,000,000,000.

(104) "Involuntary unemployment insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is involuntarily unemployed for payments coming due on a:

(i) specific loan; or

(ii) credit transaction.

(105) "Large employer," in connection with a health benefit plan, means an employer who, with respect to a calendar year and to a plan year:

(a) employed an average of at least 51 employees on business days during the preceding calendar year; and

(b) employs at least one employee on the first day of the plan year.

(106) "Late enrollee," with respect to an employer health benefit plan, means an individual whose enrollment is a late enrollment.

(107) "Late enrollment," with respect to an employer health benefit plan, means enrollment of an individual other than:

(a) on the earliest date on which coverage can become effective for the individual under the terms of the plan; or

(b) through special enrollment.

(108) (a) Except for a retainer contract or legal assistance described in Section 31A-1-103, "legal expense insurance" means insurance written to indemnify or pay for a specified legal expense.

(b) "Legal expense insurance" includes an arrangement that creates a reasonable expectation of an enforceable right.

(c) "Legal expense insurance" does not include the provision of, or reimbursement for, legal services incidental to other insurance coverage.

(109) (a) "Liability insurance" means insurance against liability:

(i) for death, injury, or disability of a human being, or for damage to property, exclusive of the coverages under:

(A) medical malpractice insurance;

(B) professional liability insurance; and

(C) workers' compensation insurance;

(ii) for a medical, hospital, surgical, and funeral benefit to a person other than the insured who is injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury, or disability of a human being, exclusive of the coverages under:

(A) medical malpractice insurance;

(B) professional liability insurance; and

(C) workers' compensation insurance;

(iii) for loss or damage to property resulting from an accident to or explosion of a boiler, pipe, pressure container, machinery, or apparatus;

(iv) for loss or damage to property caused by:

(A) the breakage or leakage of a sprinkler, water pipe, or water container; or

(B) water entering through a leak or opening in a building; or

(v) for other loss or damage properly the subject of insurance not within another kind of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

(b) "Liability insurance" includes:

(i) vehicle liability insurance;

(ii) residential dwelling liability insurance; and

(iii) making inspection of, and issuing a certificate of inspection upon, an elevator, boiler, machinery, or apparatus of any kind when done in connection with insurance on the elevator, boiler, machinery, or apparatus.

(110) (a) "License" means authorization issued by the commissioner to engage in an activity that is part of or related to the insurance business.

(b) "License" includes a certificate of authority issued to an insurer.

(111) (a) "Life insurance" means:

(i) insurance on a human life; and

(ii) insurance pertaining to or connected with human life.

(b) The business of life insurance includes:

(i) granting a death benefit;

(ii) granting an annuity benefit;

(iii) granting an endowment benefit;

(iv) granting an additional benefit in the event of death by accident;

(v) granting an additional benefit to safeguard the policy against lapse; and

(vi) providing an optional method of settlement of proceeds.

(112) "Limited license" means a license that:

(a) is issued for a specific product of insurance; and

(b) limits an individual or agency to transact only for that product or insurance.

(113) "Limited line credit insurance" includes the following forms of insurance:

(a) credit life;

(b) credit accident and health;

(c) credit property;

(d) credit unemployment;

(e) involuntary unemployment;

(f) mortgage life;

(g) mortgage guaranty;

(h) mortgage accident and health;

(i) guaranteed automobile protection; and

(j) another form of insurance offered in connection with an extension of credit that:

(i) is limited to partially or wholly extinguishing the credit obligation; and

(ii) the commissioner determines by rule should be designated as a form of limited line credit insurance.

(114) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to an individual through a master, corporate, group, or individual policy.

(115) "Limited line insurance" includes:

(a) bail bond;

(b) limited line credit insurance;

(c) legal expense insurance;

(d) motor club insurance;

(e) car rental related insurance;

(f) travel insurance;

(g) crop insurance;

(h) self-service storage insurance;

(i) guaranteed asset protection waiver;

(j) portable electronics insurance; and

(k) another form of limited insurance that the commissioner determines by rule should be designated a form of limited line insurance.

(116) "Limited lines authority" includes the lines of insurance listed in Subsection (115).

(117) "Limited lines producer" means a person who sells, solicits, or negotiates limited lines insurance.

(118) (a) "Long-term care insurance" means an insurance policy or rider advertised, marketed, offered, or designated to provide coverage:

(i) in a setting other than an acute care unit of a hospital;

(ii) for not less than 12 consecutive months for a covered person on the basis of:

(A) expenses incurred;

(B) indemnity;

(C) prepayment; or

(D) another method;

(iii) for one or more necessary or medically necessary services that are:

(A) diagnostic;

(B) preventative;

(C) therapeutic;

(D) rehabilitative;

(E) maintenance; or

(F) personal care; and

(iv) that may be issued by:

(A) an insurer;

(B) a fraternal benefit society;

(C) (I) a nonprofit health hospital; and

(II) a medical service corporation;

(D) a prepaid health plan;

(E) a health maintenance organization; or

(F) an entity similar to the entities described in Subsections (118)(a)(iv)(A) through (E) to the extent that the entity is otherwise authorized to issue life or health care insurance.

(b) "Long-term care insurance" includes:

(i) any of the following that provide directly or supplement long-term care insurance:

(A) a group or individual annuity or rider; or

(B) a life insurance policy or rider;

(ii) a policy or rider that provides for payment of benefits on the basis of:

(A) cognitive impairment; or

(B) functional capacity; or

(iii) a qualified long-term care insurance contract.

(c) "Long-term care insurance" does not include:

(i) a policy that is offered primarily to provide basic Medicare supplement coverage;

(ii) basic hospital expense coverage;

(iii) basic medical/surgical expense coverage;

(iv) hospital confinement indemnity coverage;

(v) major medical expense coverage;

(vi) income replacement or related asset-protection coverage;

(vii) accident only coverage;

(viii) coverage for a specified:

(A) disease; or

(B) accident;

(ix) limited benefit health coverage;

(x) a life insurance policy that accelerates the death benefit to provide the option of a lump sum payment:

(A) if the following are not conditioned on the receipt of long-term care:

(I) benefits; or

(II) eligibility; and

(B) the coverage is for one or more the following qualifying events:

(I) terminal illness;

(II) medical conditions requiring extraordinary medical intervention; or

(III) permanent institutional confinement; or

(xi) limited long-term care as defined in Section 31A-22-2002.

(119) "Managed care organization" means a person:

(a) licensed as a health maintenance organization under Chapter 8, Health Maintenance Organizations and Limited Health Plans; or

(b) (i) licensed under:

(A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(B) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(C) Chapter 14, Foreign Insurers; and

(ii) that requires an enrollee to use, or offers incentives, including financial incentives, for an enrollee to use, network providers.

(120) "Medical malpractice insurance" means insurance against legal liability incident to the practice and provision of a medical service other than the practice and provision of a dental service.

(121) "Member" means a person having membership rights in an insurance corporation.

(122) "Minimum capital" or "minimum required capital" means the capital that must be constantly maintained by a stock insurance corporation as required by statute.

(123) "Mortgage accident and health insurance" means insurance offered in connection with an extension of credit that provides indemnity for payments coming due on a mortgage while the debtor has a disability.

(124) "Mortgage guaranty insurance" means surety insurance under which a mortgagee or other creditor is indemnified against losses caused by the default of a debtor.

(125) "Mortgage life insurance" means insurance on the life of a debtor in connection with an extension of credit that pays if the debtor dies.

(126) "Motor club" means a person:

(a) licensed under:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 11, Motor Clubs; or

(iii) Chapter 14, Foreign Insurers; and

(b) that promises for an advance consideration to provide for a stated period of time one or more:

(i) legal services under Subsection 31A-11-102(1)(b);

(ii) bail services under Subsection 31A-11-102(1)(c); or

(iii) (A) trip reimbursement;

(B) towing services;

(C) emergency road services;

(D) stolen automobile services;

(E) a combination of the services listed in Subsections (126)(b)(iii)(A) through (D); or

(F) other services given in Subsections 31A-11-102(1)(b) through (f).

(127) "Mutual" means a mutual insurance corporation.

(128) "NAIC" means the National Association of Insurance Commissioners.

(129) "NAIC liquidity stress test framework" means a NAIC publication that includes:

(a) a history of the NAIC's development of regulatory liquidity stress testing;

(b) the scope criteria applicable for a specific data year; and

(c) the liquidity stress test instructions and reporting templates for a specific data year, as adopted by the NAIC and as amended by the NAIC in accordance with NAIC procedures.

(130) "Network plan" means health care insurance:

(a) that is issued by an insurer; and

(b) under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the insurer, including the financing and delivery of an item paid for as medical care.

(131) "Network provider" means a health care provider who has an agreement with a managed care organization to provide health care services to an enrollee with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly from the managed care organization.

(132) "Nonparticipating" means a plan of insurance under which the insured is not entitled to receive a dividend representing a share of the surplus of the insurer.

(133) "Ocean marine insurance" means insurance against loss of or damage to:

(a) ships or hulls of ships;

(b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money, securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

(c) earnings such as freight, passage money, commissions, or profits derived from transporting goods or people upon or across the oceans or inland waterways; or

(d) a vessel owner or operator as a result of liability to employees, passengers, bailors, owners of other vessels, owners of fixed objects, customs or other authorities, or other persons in connection with maritime activity.

(134) "Order" means an order of the commissioner.

(135) "ORSA guidance manual" means the current version of the Own Risk and Solvency Assessment Guidance Manual developed and adopted by the National Association of Insurance Commissioners and as amended from time to time.

(136) "ORSA summary report" means a confidential high-level summary of an insurer or insurance group's own risk and solvency assessment.

(137) "Outline of coverage" means a summary that explains an accident and health insurance policy.

(138) "Own risk and solvency assessment" means an insurer or insurance group's confidential internal assessment:

(a) (i) of each material and relevant risk associated with the insurer or insurance group;

(ii) of the insurer or insurance group's current business plan to support each risk described in Subsection (138)(a)(i); and

(iii) of the sufficiency of capital resources to support each risk described in Subsection (138)(a)(i); and

(b) that is appropriate to the nature, scale, and complexity of an insurer or insurance group.

(139) "Participating" means a plan of insurance under which the insured is entitled to receive a dividend representing a share of the surplus of the insurer.

(140) "Participation," as used in a health benefit plan, means a requirement relating to the minimum percentage of eligible employees that must be enrolled in relation to the total number of eligible employees of an employer reduced by each eligible employee who voluntarily declines coverage under the plan because the employee:

(a) has other group health care insurance coverage; or

(b) receives:

(i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965; or

(ii) another government health benefit.

(141) "Person" includes:

(a) an individual;

(b) a partnership;

(c) a corporation;

(d) an incorporated or unincorporated association;

(e) a joint stock company;

(f) a trust;

(g) a limited liability company;

(h) a reciprocal;

(i) a syndicate; or

(j) another similar entity or combination of entities acting in concert.

(142) "Personal lines insurance" means property and casualty insurance coverage sold for primarily noncommercial purposes to:

(a) an individual; or

(b) a family.

(143) "Plan sponsor" means the same as that term is defined in 29 U.S.C. Sec. 1002(16)(B).

(144) "Plan year" means:

(a) the year that is designated as the plan year in:

(i) the plan document of a group health plan; or

(ii) a summary plan description of a group health plan;

(b) if the plan document or summary plan description does not designate a plan year or

there is no plan document or summary plan description:

(i) the year used to determine deductibles or limits;

(ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis; or

(iii) the employer's taxable year if:

(A) the plan does not impose deductibles or limits on a yearly basis; and

(B) (I) the plan is not insured; or

(II) the insurance policy is not renewed on an annual basis; or

(c) in a case not described in Subsection (144)(a) or (b), the calendar year.

(145) (a) "Policy" means a document, including an attached endorsement or application that:

(i) purports to be an enforceable contract; and

(ii) memorializes in writing some or all of the terms of an insurance contract.

(b) "Policy" includes a service contract issued by:

(i) a motor club under Chapter 11, Motor Clubs;

(ii) a service contract provided under Chapter 6a, Service Contracts; and

(iii) a corporation licensed under:

(A) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.

(c) "Policy" does not include:

(i) a certificate under a group insurance contract; or

(ii) a document that does not purport to have legal effect.

(146) "Policyholder" means a person who controls a policy, binder, or oral contract by ownership, premium payment, or otherwise.

(147) "Policy illustration" means a presentation or depiction that includes nonguaranteed elements of a policy offering life insurance over a period of years.

(148) "Policy summary" means a synopsis describing the elements of a life insurance policy.

(149) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance.

(150) "Preexisting condition," with respect to health care insurance:

(a) means a condition that was present before the effective date of coverage, whether or not medical advice, diagnosis, care, or treatment was recommended or received before that day; and

(b) does not include a condition indicated by genetic information unless an actual diagnosis of the condition by a physician has been made.

(151) (a) "Premium" means the monetary consideration for an insurance policy.

(b) "Premium" includes, however designated:

(i) an assessment;

(ii) a membership fee;

(iii) a required contribution; or

(iv) monetary consideration.

(c) (i) "Premium" does not include consideration paid to a third party administrator for the third party administrator's services.

(ii) "Premium" includes an amount paid by a third party administrator to an insurer for insurance on the risks administered by the third party administrator.

(152) "Principal officers" for a corporation means the officers designated under Subsection 31A-5-203(3).

(153) "Proceeding" includes an action or special statutory proceeding.

(154) "Professional liability insurance" means insurance against legal liability incident to the practice of a profession and provision of a professional service.

(155) (a) "Property insurance" means insurance against loss or damage to real or personal property of every kind and any interest in that property:

(i) from all hazards or causes; and

(ii) against loss consequential upon the loss or damage including vehicle comprehensive and vehicle physical damage coverages.

(b) "Property insurance" does not include:

(i) inland marine insurance; and

(ii) ocean marine insurance.

(156) "Qualified long-term care insurance contract" or "federally tax qualified long-term care insurance contract" means:

(a) an individual or group insurance contract that meets the requirements of Section 7702B(b), Internal Revenue Code; or

(b) the portion of a life insurance contract that provides long-term care insurance:

(i) (A) by rider; or

(B) as a part of the contract; and

(ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue Code.

(157) "Qualified United States financial institution" means an institution that:

(a) is:

(i) organized under the laws of the United States or any state; or

(ii) in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state;

(b) is regulated, supervised, and examined by a United States federal or state authority having regulatory authority over a bank or trust company; and

(c) meets the standards of financial condition and standing that are considered necessary and appropriate to regulate the quality of a financial institution whose letters of credit will be acceptable to the commissioner as determined by:

(i) the commissioner by rule; or

(ii) the Securities Valuation Office of the National Association of Insurance Commissioners.

(158) (a) "Rate" means:

(i) the cost of a given unit of insurance; or

(ii) for property or casualty insurance, that cost of insurance per exposure unit either expressed as:

(A) a single number; or

(B) a pure premium rate, adjusted before the application of individual risk variations based on loss or expense considerations to account for the treatment of:

(I) expenses;

(II) profit; and

(III) individual insurer variation in loss experience.

(b) "Rate" does not include a minimum premium.

(159) (a) "Rate service organization" means a person who assists an insurer in rate making or filing by:

(i) collecting, compiling, and furnishing loss or expense statistics;

(ii) recommending, making, or filing rates or supplementary rate information; or

(iii) advising about rate questions, except as an attorney giving legal advice.

(b) "Rate service organization" does not include:

(i) an employee of an insurer;

(ii) a single insurer or group of insurers under common control;

(iii) a joint underwriting group; or

(iv) an individual serving as an actuarial or legal consultant.

(160) "Rating manual" means any of the following used to determine initial and renewal policy premiums:

(a) a manual of rates;

(b) a classification;

(c) a rate-related underwriting rule; and

(d) a rating formula that describes steps, policies, and procedures for determining initial and renewal policy premiums.

(161) (a) "Rebate" means a licensee paying, allowing, giving, or offering to pay, allow, or give, directly or indirectly:

(i) a refund of premium or portion of premium;

(ii) a refund of commission or portion of commission;

(iii) a refund of all or a portion of a consultant fee; or

(iv) providing services or other benefits not specified in an insurance or annuity contract.

(b) "Rebate" does not include:

(i) a refund due to termination or changes in coverage;

(ii) a refund due to overcharges made in error by the licensee; or

(iii) savings or wellness benefits as provided in the contract by the licensee.

(162) "Received by the department" means:

(a) the date delivered to and stamped received by the department, if delivered in person;

(b) the post mark date, if delivered by mail;

(c) the delivery service's post mark or pickup date, if delivered by a delivery service;

(d) the received date recorded on an item delivered, if delivered by:

(i) facsimile;

(ii) email; or

(iii) another electronic method; or

(e) a date specified in:

(i) a statute;

(ii) a rule; or

(iii) an order.

(163) "Reciprocal" or "interinsurance exchange" means an unincorporated association of persons:

(a) operating through an attorney-in-fact common to all of the persons; and

(b) exchanging insurance contracts with one another that provide insurance coverage on each other.

(164) "Reinsurance" means an insurance transaction where an insurer, for consideration, transfers any portion of the risk it has assumed to another insurer. In referring to reinsurance transactions, this title sometimes refers to:

(a) the insurer transferring the risk as the "ceding insurer"; and

(b) the insurer assuming the risk as the:

(i) "assuming insurer"; or

(ii) "assuming reinsurer."

(165) "Reinsurer" means a person licensed in this state as an insurer with the authority to assume reinsurance.

(166) "Residential dwelling liability insurance" means insurance against liability resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is a detached single family residence or multifamily residence up to four units.

(167) (a) "Retrocession" means reinsurance with another insurer of a liability assumed under a reinsurance contract.

(b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a liability assumed under a reinsurance contract.

(168) "Rider" means an endorsement to:

(a) an insurance policy; or

(b) an insurance certificate.

(169) "Scope criteria" means the designated exposure bases and minimum magnitudes for a specified data year that are used to establish a preliminary list of insurers considered scoped into the NAIC liquidity stress test framework for that data year.

(170) "Secondary medical condition" means a complication related to an exclusion from coverage in accident and health insurance.

(171) (a) "Security" means a:

(i) note;

(ii) stock;

(iii) bond;

(iv) debenture;

(v) evidence of indebtedness;

(vi) certificate of interest or participation in a profit-sharing agreement;

(vii) collateral-trust certificate;

(viii) preorganization certificate or subscription;

(ix) transferable share;

(x) investment contract;

(xi) voting trust certificate;

(xii) certificate of deposit for a security;

(xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease;

(xiv) commodity contract or commodity option;

(xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed in Subsections (171)(a)(i) through (xiv); or

(xvi) another interest or instrument commonly known as a security.

(b) "Security" does not include:

(i) any of the following under which an insurance company promises to pay money in a specific lump sum or periodically for life or some other specified period:

(A) insurance;

(B) an endowment policy; or

(C) an annuity contract; or

(ii) a burial certificate or burial contract.

(172) "Securityholder" means a specified person who owns a security of a person, including:

(a) common stock;

(b) preferred stock;

(c) debt obligations; and

(d) any other security convertible into or evidencing the right of any of the items listed in this Subsection (172).

(173) (a) "Self-insurance" means an arrangement under which a person provides for spreading the person's own risks by a systematic plan.

(b) "Self-insurance" includes:

(i) an arrangement under which a governmental entity undertakes to indemnify an employee for liability arising out of the employee's employment; and

(ii) an arrangement under which a person with a managed program of self-insurance and risk management undertakes to indemnify the person's affiliate, subsidiary, director, officer, or employee for liability or risk that arises out of the person's relationship with the affiliate, subsidiary, director, officer, or employee.

(c) "Self-insurance" does not include:

(i) an arrangement under which a number of persons spread their risks among themselves; or

(ii) an arrangement with an independent contractor.

(174) "Sell" means to exchange a contract of insurance:

(a) by any means;

(b) for money or its equivalent; and

(c) on behalf of an insurance company.

(175) "Short-term limited duration health insurance" means a health benefit product that:

(a) after taking into account any renewals or extensions, has a total duration of no more

than 36 months; and

(b) has an expiration date specified in the contract that is less than 12 months after the original effective date of coverage under the health benefit product.

(176) "Significant break in coverage" means a period of 63 consecutive days during each of which an individual does not have creditable coverage.

(177) (a) "Small employer" means, in connection with a health benefit plan and with respect to a calendar year and to a plan year, an employer who:

(i) (A) employed at least one but not more than 50 eligible employees on business days during the preceding calendar year; or

(B) if the employer did not exist for the entirety of the preceding calendar year, reasonably expects to employ an average of at least one but not more than 50 eligible employees on business days during the current calendar year;

(ii) employs at least one employee on the first day of the plan year; and

(iii) for an employer who has common ownership with one or more other employers, is treated as a single employer under 26 U.S.C. Sec. 414(b), (c), (m), or (o).

(b) "Small employer" does not include an owner or a sole proprietor that does not employ at least one employee.

(178) "Special enrollment period," in connection with a health benefit plan, has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

(179) (a) "Subsidiary" of a person means an affiliate controlled by that person either directly or indirectly through one or more affiliates or intermediaries.

(b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting shares are owned by that person either alone or with its affiliates, except for the minimum number of shares the law of the subsidiary's domicile requires to be owned by directors or others.

(180) Subject to Subsection (92)(b), "surety insurance" includes:

(a) a guarantee against loss or damage resulting from the failure of a principal to pay or perform the principal's obligations to a creditor or other obligee;

(b) bail bond insurance; and

(c) fidelity insurance.

(181) (a) "Surplus" means the excess of assets over the sum of paid-in capital and liabilities.

(b) (i) "Permanent surplus" means the surplus of an insurer or organization that is designated by the insurer or organization as permanent.

(ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require that insurers or organizations doing business in this state maintain specified minimum levels of permanent surplus.

(iii) Except for assessable mutuals, the minimum permanent surplus requirement is the same as the minimum required capital requirement that applies to stock insurers.

(c) "Excess surplus" means:

(i) for a life insurer, accident and health insurer, health organization, or property and casualty insurer as defined in Section 31A-17-601, the lesser of:

(A) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 2.5; and

(II) the sum of the insurer's or health organization's minimum capital or permanent surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

(B) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 3.0; and

(II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

(ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

(A) 1.5; and

(B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

(182) "Third party administrator" or "administrator" means a person who collects charges or premiums from, or who, for consideration, adjusts or settles claims of residents of the state in connection with insurance coverage, annuities, or service insurance coverage, except:

(a) a union on behalf of its members;

(b) a person administering a:

(i) pension plan subject to the federal Employee Retirement Income Security Act of 1974;

(ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

(iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

(c) an employer on behalf of the employer's employees or the employees of one or more of the subsidiary or affiliated corporations of the employer;

(d) an insurer licensed under the following, but only for a line of insurance for which the insurer holds a license in this state:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

(iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) Chapter 9, Insurance Fraternals; or

(v) Chapter 14, Foreign Insurers;

(e) a person:

(i) licensed or exempt from licensing under:

(A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries; or

(B) Chapter 26, Insurance Adjusters; and

(ii) whose activities are limited to those authorized under the license the person holds or for which the person is exempt; or

(f) an institution, bank, or financial institution:

(i) that is:

(A) an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation or National Credit Union Administration; or

(B) a bank or other financial institution that is subject to supervision or examination by a federal or state banking authority; and

(ii) that does not adjust claims without a third party administrator license.

(183) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner of real or personal property or the holder of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of liens or encumbrances

upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.

(184) "Total adjusted capital" means the sum of an insurer's or health organization's statutory capital and surplus as determined in accordance with:

(a) the statutory accounting applicable to the annual financial statements required to be filed under Section 31A-4-113; and

(b) another item provided by the RBC instructions, as RBC instructions is defined in Section 31A-17-601.

(185) (a) "Trustee" means "director" when referring to the board of directors of a corporation.

(b) "Trustee," when used in reference to an employee welfare fund, means an individual, firm, association, organization, joint stock company, or corporation, whether acting individually or jointly and whether designated by that name or any other, that is charged with or has the overall management of an employee welfare fund.

(186) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer" means an insurer:

(i) not holding a valid certificate of authority to do an insurance business in this state; or

(ii) transacting business not authorized by a valid certificate.

(b) "Admitted insurer" or "authorized insurer" means an insurer:

(i) holding a valid certificate of authority to do an insurance business in this state; and

(ii) transacting business as authorized by a valid certificate.

(187) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

(188) "Vehicle liability insurance" means insurance against liability resulting from or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle comprehensive or vehicle physical damage coverage described in Subsection (155).

(189) "Voting security" means a security with voting rights, and includes a security convertible into a security with a voting right associated with the security.

(190) "Waiting period" for a health benefit plan means the period that must pass before coverage for an individual, who is otherwise eligible to enroll under the terms of the health benefit plan, can become effective.

(191) "Workers' compensation insurance" means:

(a) insurance for indemnification of an employer against liability for compensation based on:

(i) a compensable accidental injury; and

(ii) occupational disease disability;

(b) employer's liability insurance incidental to workers' compensation insurance and written in connection with workers' compensation insurance; and

(c) insurance assuring to a person entitled to workers' compensation benefits the compensation provided by law.

Section ~~{80}~~92. Section **31A-4-106** is amended to read:

31A-4-106. Provision of health care.

(1) As used in this section, "health care provider" has the same definition as in Section 78B-3-403.

(2) Except under Subsection (3) or (4), unless authorized to do so or employed by someone authorized to do so under Chapter 5, Domestic Stock and Mutual Insurance Corporations, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health Maintenance Organizations and Limited Health Plans, Chapter 9, Insurance Fraternals, or Chapter 14, Foreign Insurers, a person may not:

(a) directly or indirectly provide health care;

(b) arrange for health care;

(c) manage or administer the provision or arrangement of health care;

(d) collect advance payments for health care; or

(e) compensate a provider of health care.

(3) Subsection (2) does not apply to:

(a) a natural person or professional corporation that alone or with others professionally associated with the natural person or professional corporation, and except as provided in Subsection (3)(e), without receiving consideration for services in advance of the need for a particular service, provides the service personally with the aid of nonprofessional assistants;

(b) a health care facility as defined in Section [~~26-21-2~~] 26B-2-201 that:

(i) is licensed or exempt from licensing under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility

Licensing and Inspection; and

(ii) does not engage in health care insurance as defined under Section 31A-1-301;

(c) a person who files with the commissioner a certificate from the United States Department of Labor, or other evidence satisfactory to the commissioner, showing that the laws of Utah are preempted under Section 514 of the Employee Retirement Income Security Act of 1974 or other federal law;

(d) a person licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries, who arranges for the insurance of all services under:

(i) Subsection (2) by an insurer authorized to do business in Utah; or

(ii) Section 31A-15-103; or

(e) notwithstanding the provisions of Subsection (3)(a), a natural person or professional corporation that alone or with others professionally associated with the natural person or professional corporation enters into a medical retainer agreement in accordance with Section 31A-4-106.5.

(4) A person may not provide administrative or management services for another person subject to Subsection (2) and not exempt under Subsection (3) unless the person:

(a) is an authorized insurer under Chapter 5, Domestic Stock and Mutual Insurance Corporations, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health Maintenance Organizations and Limited Health Plans, Chapter 9, Insurance Fraternals, or Chapter 14, Foreign Insurers; or

(b) complies with Chapter 25, Third Party Administrators.

(5) An insurer or person who provides, administers, or manages health care insurance under Chapter 5, Domestic Stock and Mutual Insurance Corporations, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health Maintenance Organizations and Limited Health Plans, Chapter 9, Insurance Fraternals, or Chapter 14, Foreign Insurers, may not enter into a contract that limits a health care provider's ability to advise the health care provider's patients or clients fully about treatment options or other issues that affect the health care of the health care provider's patients or clients.

Section ~~{81}~~93. Section **31A-4-107.5** is amended to read:

31A-4-107.5. Penalty for failure of a regulated health insurance entity to fulfill

duties related to state claims for Medicaid payment or recovery.

(1) For purposes of this section, "regulated health insurance entity" means a health insurance entity, as defined in Section [~~26-19-102~~] 26B-3-1001, that is subject to regulation by the department.

(2) If a regulated health insurance entity fails to comply with the provisions of Section [~~26-19-301~~] 26B-3-1004:

(a) the commissioner may revoke or suspend, in whole or in part, a license, certificate of authority, registration, or other authority that is granted by the commissioner to the regulated health insurance entity; and

(b) the regulated health insurance entity is subject to the penalties and procedures provided for in Section 31A-2-308.

Section ~~{82}~~94. Section **31A-8-104** is amended to read:

31A-8-104. Determination of ability to provide services.

(1) The commissioner may not issue a certificate of authority to an applicant for a certificate of authority under this chapter unless the applicant demonstrates to the commissioner that the applicant has:

(a) the willingness and potential ability to furnish the proposed health care services in a manner to assure both availability and accessibility of adequate personnel and facilities and continuity of service; and

(b) arrangements for an ongoing quality of health care assurance program concerning health care processes and outcomes.

(2) (a) In accordance with Sections 31A-2-203 and 31A-2-204, the commissioner may order an independent audit or examination by one or more technical experts to determine an applicant's ability to provide the proposed health care services as described in Subsection (1).

(b) In accordance with Section 31A-2-205, an applicant shall reimburse the commissioner for the reasonable cost of an independent audit or examination.

(3) Licensing under this chapter does not exempt an organization from any licensing requirement applicable under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

Section ~~{83}~~95. Section **31A-15-103** is amended to read:

31A-15-103. Surplus lines insurance -- Unauthorized insurers.

(1) Notwithstanding Section 31A-15-102, when this state is the home state as defined in Section 31A-3-305, a nonadmitted insurer may make an insurance contract for coverage of a person in this state and on a risk located in this state, subject to the limitations and requirements of this section.

(2) (a) For a contract made under this section, the insurer may, in this state:

(i) inspect the risks to be insured;

(ii) collect premiums;

(iii) adjust losses; and

(iv) do another act reasonably incidental to the contract.

(b) An act described in Subsection (2)(a) may be done through:

(i) an employee; or

(ii) an independent contractor.

(3) (a) Subsections (1) and (2) do not permit a person to solicit business in this state on behalf of an insurer that has no certificate of authority.

(b) Insurance placed with a nonadmitted insurer shall be placed by a surplus lines producer licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries.

(c) The commissioner may by rule prescribe how a surplus lines producer may:

(i) pay or permit the payment, commission, or other remuneration on insurance placed by the surplus lines producer under authority of the surplus lines producer's license to one holding a license to act as an insurance producer; and

(ii) advertise the availability of the surplus lines producer's services in procuring, on behalf of a person seeking insurance, a contract with a nonadmitted insurer.

(4) For a contract made under this section, a nonadmitted insurer is subject to Sections 31A-23a-402, 31A-23a-402.5, and 31A-23a-403 and the rules adopted under those sections.

(5) A nonadmitted insurer may not issue workers' compensation insurance coverage to an employer located in this state, except:

(a) for stop loss coverage issued to an employer securing workers' compensation under Subsection 34A-2-201(2);

(b) a cannabis production establishment as defined in Section 4-41a-102; or

(c) a medical cannabis pharmacy as defined in Section [~~26-61a-102~~] 26B-4-201.

(6) (a) The commissioner may by rule prohibit making a contract under Subsection (1) for a specified class of insurance if authorized insurers provide an established market for the class in this state that is adequate and reasonably competitive.

(b) The commissioner may by rule place a restriction or a limitation on and create special procedures for making a contract under Subsection (1) for a specified class of insurance if:

(i) there have been abuses of placements in the class; or

(ii) the policyholders in the class, because of limited financial resources, business experience, or knowledge, cannot protect their own interests adequately.

(c) The commissioner may prohibit an individual insurer from making a contract under Subsection (1) and all insurance producers from dealing with the insurer if:

(i) the insurer willfully violates:

(A) this section;

(B) Section 31A-4-102, 31A-23a-402, 31A-23a-402.5, or 31A-26-303; or

(C) a rule adopted under a section listed in Subsection (6)(c)(i)(A) or (B);

(ii) the insurer fails to pay the fees and taxes specified under Section 31A-3-301; or

(iii) the commissioner has reason to believe that the insurer is:

(A) in an unsound condition;

(B) operated in a fraudulent, dishonest, or incompetent manner; or

(C) in violation of the law of its domicile.

(d) (i) The commissioner may issue one or more lists of nonadmitted foreign insurers whose:

(A) solidity the commissioner doubts; or

(B) practices the commissioner considers objectionable.

(ii) The commissioner shall issue one or more lists of nonadmitted foreign insurers the commissioner considers to be reliable and solid.

(iii) In addition to the lists described in Subsections (6)(d)(i) and (ii), the commissioner may issue other relevant evaluations of nonadmitted insurers.

(iv) An action may not lie against the commissioner or an employee of the department for a written or oral communication made in, or in connection with the issuance of, a list or evaluation described in this Subsection (6)(d).

(e) A foreign nonadmitted insurer shall be listed on the commissioner's "reliable" list only if the nonadmitted insurer:

(i) delivers a request to the commissioner to be on the list;

(ii) establishes satisfactory evidence of good reputation and financial integrity;

(iii) (A) delivers to the commissioner a copy of the nonadmitted insurer's current annual statement certified by the insurer and, each subsequent year, delivers to the commissioner a copy of the nonadmitted insurer's annual statement within 60 days after the day on which the nonadmitted insurer files the annual statement with the insurance regulatory authority where the nonadmitted insurer is domiciled; or

(B) files the nonadmitted insurer's annual statements with the National Association of Insurance Commissioners and the nonadmitted insurer's annual statements are available electronically from the National Association of Insurance Commissioners;

(iv) (A) is in substantial compliance with the solvency standards in Chapter 17, Part 6, Risk-Based Capital, or maintains capital and surplus of at least $15,000,000, whichever is greater; or

(B) in the case of any "Lloyd's" or other similar incorporated or unincorporated group of alien individual insurers, maintains a trust fund that:

(I) shall be in an amount not less than $50,000,000 as security to its full amount for all policyholders and creditors in the United States of each member of the group;

(II) may consist of cash, securities, or investments of substantially the same character and quality as those which are "qualified assets" under Section 31A-17-201; and

(III) may include as part of this trust arrangement a letter of credit that qualifies as acceptable security under Section 31A-17-404.1; and

(v) for an alien insurer not domiciled in the United States or a territory of the United States, is listed on the Quarterly Listing of Alien Insurers maintained by the National Association of Insurance Commissioners International Insurers Department.

(7) (a) Subject to Subsection (7)(b), a surplus lines producer may not, either knowingly or without reasonable investigation of the financial condition and general reputation of the insurer, place insurance under this section with:

(i) a financially unsound insurer;

(ii) an insurer engaging in unfair practices; or

(iii) an otherwise substandard insurer.

(b) A surplus line producer may place insurance under this section with an insurer described in Subsection (7)(a) if the surplus line producer:

(i) gives the applicant notice in writing of the known deficiencies of the insurer or the limitations on the surplus line producer's investigation; and

(ii) explains the need to place the business with that insurer.

(c) A copy of the notice described in Subsection (7)(b) shall be kept in the office of the surplus line producer for at least five years.

(d) To be financially sound, an insurer shall satisfy standards that are comparable to those applied under the laws of this state to an authorized insurer.

(e) An insurer on the "doubtful or objectionable" list under Subsection (6)(d) or an insurer not on the commissioner's "reliable" list under Subsection (6)(e) is presumed substandard.

(8) (a) A policy issued under this section shall:

(i) include a description of the subject of the insurance; and

(ii) indicate:

(A) the coverage, conditions, and term of the insurance;

(B) the premium charged the policyholder;

(C) the premium taxes to be collected from the policyholder; and

(D) the name and address of the policyholder and insurer.

(b) If the direct risk is assumed by more than one insurer, the policy shall state:

(i) the names and addresses of all insurers; and

(ii) the portion of the entire direct risk each assumes.

(c) A policy issued under this section shall have attached or affixed to the policy the following statement: "The insurer issuing this policy does not hold a certificate of authority to do business in this state and thus is not fully subject to regulation by the Utah insurance commissioner. This policy receives no protection from any of the guaranty associations created under Title 31A, Chapter 28, Guaranty Associations."

(9) Upon placing a new or renewal coverage under this section, a surplus lines producer shall promptly deliver to the policyholder or the policyholder's agent evidence of the insurance consisting either of:

(a) the policy as issued by the insurer; or

(b) if the policy is not available upon placing the coverage, a certificate, cover note, or other confirmation of insurance complying with Subsection (8).

(10) If the commissioner finds it necessary to protect the interests of insureds and the public in this state, the commissioner may by rule subject a policy issued under this section to as much of the regulation provided by this title as is required for a comparable policy written by an authorized foreign insurer.

(11) (a) A surplus lines transaction in this state shall be examined to determine whether it complies with:

(i) the surplus lines tax levied under Chapter 3, Department Funding, Fees, and Taxes;

(ii) the solicitation limitations of Subsection (3);

(iii) the requirement of Subsection (3) that placement be through a surplus lines producer;

(iv) placement limitations imposed under Subsections (6)(a), (b), and (c); and

(v) the policy form requirements of Subsections (8) and (10).

(b) The examination described in Subsection (11)(a) shall take place as soon as practicable after the transaction. The surplus lines producer shall submit to the examiner information necessary to conduct the examination within a period specified by rule.

(c) (i) The examination described in Subsection (11)(a) may be conducted by the commissioner or by an advisory organization created under Section 31A-15-111 and authorized by the commissioner to conduct these examinations. The commissioner is not required to authorize an additional advisory organization to conduct an examination under this Subsection (11)(c).

(ii) The commissioner's authorization of one or more advisory organizations to act as examiners under this Subsection (11)(c) shall be:

(A) by rule; and

(B) evidenced by a contract, on a form provided by the commissioner, between the authorized advisory organization and the department.

(d) (i) (A) A person conducting the examination described in Subsection (11)(a) shall collect a stamping fee of an amount not to exceed 1% of the policy premium payable in connection with the transaction.

(B) A stamping fee collected by the commissioner shall be deposited in the General Fund.

(C) The commissioner shall establish a stamping fee by rule.

(ii) A stamping fee collected by an advisory organization is the property of the advisory organization to be used in paying the expenses of the advisory organization.

(iii) Liability for paying a stamping fee is as required under Subsection 31A-3-303(1) for taxes imposed under Section 31A-3-301.

(iv) The commissioner shall adopt a rule dealing with the payment of stamping fees. If a stamping fee is not paid when due, the commissioner or advisory organization may impose a penalty of 25% of the stamping fee due, plus 1-1/2% per month from the time of default until full payment of the stamping fee.

(e) The commissioner, representatives of the department, advisory organizations, representatives and members of advisory organizations, authorized insurers, and surplus lines insurers are not liable for damages on account of statements, comments, or recommendations made in good faith in connection with their duties under this Subsection (11)(e) or under Section 31A-15-111.

(f) An examination conducted under this Subsection (11) and a document or materials related to the examination are confidential.

(12) (a) For a surplus lines insurance transaction in the state entered into on or after May 13, 2014, if an audit is required by the surplus lines insurance policy, a surplus lines insurer:

(i) shall exercise due diligence to initiate an audit of an insured, to determine whether additional premium is owed by the insured, by no later than six months after the expiration of the term for which premium is paid; and

(ii) may not audit an insured more than three years after the surplus lines insurance policy expires.

(b) A surplus lines insurer that does not comply with this Subsection (12) may not charge or collect additional premium in excess of the premium agreed to under the surplus lines insurance policy.

Section ~~{84}~~96. Section **31A-22-305** is amended to read:

31A-22-305. Uninsured motorist coverage.

(1) As used in this section, "covered persons" includes:

(a) the named insured;

(b) for a claim arising on or after May 13, 2014, the named insured's dependent minor children;

(c) persons related to the named insured by blood, marriage, adoption, or guardianship, who are residents of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere;

(d) any person occupying or using a motor vehicle:

(i) referred to in the policy; or

(ii) owned by a self-insured; and

(e) any person who is entitled to recover damages against the owner or operator of the uninsured or underinsured motor vehicle because of bodily injury to or death of persons under Subsection (1)(a), (b), (c), or (d).

(2) As used in this section, "uninsured motor vehicle" includes:

(a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered under a liability policy at the time of an injury-causing occurrence; or

(ii) (A) a motor vehicle covered with lower liability limits than required by Section 31A-22-304; and

(B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of the deficiency;

(b) an unidentified motor vehicle that left the scene of an accident proximately caused by the motor vehicle operator;

(c) a motor vehicle covered by a liability policy, but coverage for an accident is disputed by the liability insurer for more than 60 days or continues to be disputed for more than 60 days; or

(d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction; and

(ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent that the claim against the insolvent insurer is not paid by a guaranty association or fund.

(3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides coverage for covered persons who are legally entitled to recover damages from owners or

operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

(4) (a) For new policies written on or after January 1, 2001, the limits of uninsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that uninsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has no liability insurance; and

(v) discloses the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(b) Any selection or rejection under this Subsection (4) continues for that issuer of the liability coverage until the insured requests, in writing, a change of uninsured motorist coverage from that liability insurer.

(c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(d) For purposes of this Subsection (4), "new policy" means:

(i) any policy that is issued which does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).

(iii) If an additional motor vehicle is added to a personal lines policy where uninsured motorist coverage has been rejected, or where uninsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of uninsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (4)(d)(ii) does not constitute a new policy.

(g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1, 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (4):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide uninsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an uninsured motorist claim.

(i) Uninsured motorist coverage may not be sold with limits that are less than the

minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.

(j) The acknowledgment under Subsection (4)(a) continues for that issuer of the uninsured motorist coverage until the named insured requests, in writing, different uninsured motorist coverage from the insurer.

(k) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of uninsured motorist coverage in the same manner as described in Subsection (4)(a)(iv); and

(B) a disclosure of the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named insureds that carry uninsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject uninsured motorist coverage by an express writing to the insurer that provides liability coverage under Subsection 31A-22-302(1)(a).

(ii) This rejection shall be on a form provided by the insurer that includes a reasonable explanation of the purpose of uninsured motorist coverage.

(iii) This rejection continues for that issuer of the liability coverage until the insured in writing requests uninsured motorist coverage from that liability insurer.

(b) (i) All persons, including governmental entities, that are engaged in the business of, or that accept payment for, transporting natural persons by motor vehicle, and all school districts that provide transportation services for their students, shall provide coverage for all motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance, uninsured motorist coverage of at least $25,000 per person and $500,000 per accident.

(ii) This coverage is secondary to any other insurance covering an injured covered person.

(c) Uninsured motorist coverage:

(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers' Compensation Act, except that the covered person is credited an amount described in Subsection 34A-2-106(5);

(ii) may not be subrogated by the workers' compensation insurance carrier, workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iii) may not be reduced by any benefits provided by workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iv) may be reduced by health insurance subrogation only after the covered person has been made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (5)(c)(v), may be recovered:

(A) for a person under 18 years old who is injured within the scope of Subsection (5)(c)(v) but limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(d) As used in this Subsection (5), "motor vehicle" has the same meaning as under Section 41-1a-102.

(6) When a covered person alleges that an uninsured motor vehicle under Subsection (2)(b) proximately caused an accident without touching the covered person or the motor vehicle occupied by the covered person, the covered person shall show the existence of the uninsured motor vehicle by clear and convincing evidence consisting of more than the covered person's testimony.

(7) (a) The limit of liability for uninsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(b) (i) Subsection (7)(a) applies to all persons except a covered person as defined under Subsection (8)(b).

(ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest limits of uninsured motorist coverage afforded for any one motor vehicle that the covered person is the named insured or an insured family member.

(iii) This coverage shall be in addition to the coverage on the motor vehicle the covered person is occupying.

(iv) Neither the primary nor the secondary coverage may be set off against the other.

(c) Coverage on a motor vehicle occupied at the time of an accident shall be primary coverage, and the coverage elected by a person described under Subsections (1)(a), (b), and (c) shall be secondary coverage.

(8) (a) Uninsured motorist coverage under this section applies to bodily injury, sickness, disease, or death of covered persons while occupying or using a motor vehicle only if the motor vehicle is described in the policy under which a claim is made, or if the motor vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy. Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a motor vehicle described in a policy that includes uninsured motorist benefits may not elect to collect uninsured motorist coverage benefits from any other motor vehicle insurance policy under which the person is a covered person.

(b) Each of the following persons may also recover uninsured motorist benefits under any one other policy in which they are described as a "covered person" as defined in Subsection (1):

(i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

(ii) except as provided in Subsection (8)(c), a covered person injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(A) to the covered person;

(B) to the covered person's spouse; or

(C) to the covered person's resident parent or resident sibling.

(c) (i) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(A) a dependent minor of parents who reside in separate households; and

(B) injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(I) to the covered person;

(II) to the covered person's resident parent; or

(III) to the covered person's resident sibling.

(ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of the damages that the limit of liability of each parent's policy of uninsured motorist coverage bears to the total of both parents' uninsured coverage applicable to the accident.

(d) A covered person's recovery under any available policies may not exceed the full amount of damages.

(e) A covered person in Subsection (8)(b) is not barred against making subsequent elections if recovery is unavailable under previous elections.

(f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(ii) Except to the extent permitted by Subsection (7) and this Subsection (8), interpolicy stacking is prohibited for uninsured motorist coverage.

(9) (a) When a claim is brought by a named insured or a person described in Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which uninsured benefits are claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

(c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section

without the written consent of the uninsured motorist carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (9).

(e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (9)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (9)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (10)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to

arbitration claims under this part.

(j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.

(l) (i) Except as provided in Subsection (10), the amount of an arbitration award may not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies, including applicable uninsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all applicable uninsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined uninsured motorist policy limits of all applicable uninsured motorist policies.

(m) The arbitrator or arbitration panel may not decide the issues of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) any allegations or claims asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the action was not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the claim in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (9)(m) between the parties unless:

(i) the award was procured by corruption, fraud, or other undue means; or

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(q) (i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least $5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (9)(r) may not exceed $2,500 unless Subsection (10)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (9)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a district court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit any claim under any other portion of an applicable insurance policy.

(v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist carriers.

(10) (a) Within 30 days after a covered person elects to submit a claim for uninsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to

the uninsured motorist carrier:

(i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

(A) subject to Subsection [~~(10)(m)~~] (10)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and the other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which uninsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (10)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for

arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably necessary, the uninsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the uninsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of uninsured motorist benefits under Subsection (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in

Subsection (10)(a)(i);

(B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i) is the total amount of the uninsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an uninsured motorist carrier as provided for in Subsection (10)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all uninsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all uninsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (9)(a), (b), and (c).

(e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i) as partial payment of all uninsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the uninsured motorist carrier under Subsection (10)(c)(i).

(f) In an arbitration proceeding on the remaining uninsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of uninsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject uninsured motorist policy by more than $15,000, the amount shall be reduced to an amount equal to the policy limits plus $15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the uninsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (10)(g)(ii) may not exceed $5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

(ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

(j) This Subsection (10) does not limit any other cause of action that arose or may arise against the uninsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (10) only apply to motor vehicle accidents that

occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (10)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to this Subsection (10)(l) and Subsection (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(11) (a) Notwithstanding Section 31A-21-313, an action on a written policy or contract for uninsured motorist coverage shall be commenced within four years after the inception of loss.

(b) Subsection (11)(a) shall apply to all claims that have not been time barred by Subsection 31A-21-313(1)(a) as of May 14, 2019.

Section ~~{85}~~97. Section **31A-22-305.3** is amended to read:

31A-22-305.3. Underinsured motorist coverage.

(1) As used in this section:

(a) "Covered person" has the same meaning as defined in Section 31A-22-305.

(b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation, maintenance, or use of which is covered under a liability policy at the time of an injury-causing occurrence, but which has insufficient liability coverage to compensate fully the injured party for all special and general damages.

(ii) The term "underinsured motor vehicle" does not include:

(A) a motor vehicle that is covered under the liability coverage of the same policy that also contains the underinsured motorist coverage;

(B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

(C) a motor vehicle owned or leased by:

(I) a named insured;

(II) a named insured's spouse; or

(III) a dependent of a named insured.

(2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides coverage for a covered person who is legally entitled to recover damages from an owner or operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.

(b) A covered person occupying or using a motor vehicle owned, leased, or furnished to the covered person, the covered person's spouse, or covered person's resident relative may recover underinsured benefits only if the motor vehicle is:

(i) described in the policy under which a claim is made; or

(ii) a newly acquired or replacement motor vehicle covered under the terms of the policy.

(3) (a) For purposes of this Subsection (3), "new policy" means:

(i) any policy that is issued that does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(b) For new policies written on or after January 1, 2001, the limits of underinsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that "underinsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has insufficient liability insurance"; and

(v) discloses the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle

liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the liability coverage until the insured requests, in writing, a change of underinsured motorist coverage from that liability insurer.

(d) (i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(e) (i) As used in this Subsection (3)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (3)(a).

(iii) If an additional motor vehicle is added to a personal lines policy where underinsured motorist coverage has been rejected, or where underinsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of underinsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (3)(a)(ii) does not constitute a new policy.

(g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1, 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (3)(a):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide underinsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an underinsured motorist claim.

(i) Underinsured motorist coverage may not be sold with limits that are less than:

(i) $10,000 for one person in any one accident; and

(ii) at least $20,000 for two or more persons in any one accident.

(j) An acknowledgment under Subsection (3)(b) continues for that issuer of the underinsured motorist coverage until the named insured, in writing, requests different underinsured motorist coverage from the insurer.

(k) (i) The named insured's underinsured motorist coverage, as described in Subsection (2), is secondary to the liability coverage of an owner or operator of an underinsured motor vehicle, as described in Subsection (1).

(ii) Underinsured motorist coverage may not be set off against the liability coverage of the owner or operator of an underinsured motor vehicle, but shall be added to, combined with, or stacked upon the liability coverage of the owner or operator of the underinsured motor vehicle to determine the limit of coverage available to the injured person.

(l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of underinsured motorist coverage in the same manner as described in Subsection (3)(b)(iv); and

(B) a disclosure of the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under this Subsection (3)(l) shall be sent to all named insureds that carry underinsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a motor vehicle described in a policy that includes underinsured motorist benefits may not elect to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

(ii) The limit of liability for underinsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(iii) Subsection (4)(a)(ii) applies to all persons except a covered person described under Subsections (4)(b)(i) and (ii).

(b) (i) A covered person injured as a pedestrian by an underinsured motor vehicle may recover underinsured motorist benefits under any one other policy in which they are described as a covered person.

(ii) Except as provided in Subsection (4)(b)(iii), a covered person injured while occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's spouse, or the covered person's resident parent or resident sibling, may also recover benefits under any one other policy under which the covered person is also a covered person.

(iii) (A) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(I) a dependent minor of parents who reside in separate households; and

(II) injured while occupying or using a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's resident parent, or the covered person's resident sibling.

(B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the percentage of the damages that the limit of liability of each parent's policy of underinsured motorist coverage bears to the total of both parents' underinsured coverage applicable to the

accident.

(iv) A covered person's recovery under any available policies may not exceed the full amount of damages.

(v) Underinsured coverage on a motor vehicle occupied at the time of an accident is primary coverage, and the coverage elected by a person described under Subsections 31A-22-305(1)(a), (b), and (c) is secondary coverage.

(vi) The primary and the secondary coverage may not be set off against the other.

(vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the highest limits of underinsured motorist coverage under only one additional policy per household applicable to that covered person as a named insured, spouse, or relative.

(viii) A covered injured person is not barred against making subsequent elections if recovery is unavailable under previous elections.

(ix) (A) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(B) Except to the extent permitted by this Subsection (4), interpolicy stacking is prohibited for underinsured motorist coverage.

(c) Underinsured motorist coverage:

(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers' Compensation Act, except that the covered person is credited an amount described in Subsection 34A-2-106(5);

(ii) may not be subrogated by a workers' compensation insurance carrier, workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iii) may not be reduced by benefits provided by workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iv) may be reduced by health insurance subrogation only after the covered person is made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated

in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (4)(c)(v), may be recovered:

(A) for a person younger than 18 years old who is injured within the scope of Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(5) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist claims occurs upon the date of the last liability policy payment.

(6) An underinsured motorist insurer does not have a right of reimbursement against a person liable for the damages resulting from an injury-causing occurrence if the person's liability insurer has tendered the policy limit and the limits have been accepted by the claimant.

(7) Except as otherwise provided in this section, a covered person may seek, subject to the terms and conditions of the policy, additional coverage under any policy:

(a) that provides coverage for damages resulting from motor vehicle accidents; and

(b) that is not required to conform to Section 31A-22-302.

(8) (a) When a claim is brought by a named insured or a person described in Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which underinsured benefits are claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

(c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the underinsured motorist coverage carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (8)(a), if the claimant does not elect to resolve the claim through litigation, the

claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (8).

(e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (8)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (8)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section is governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (9)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel

constitutes a final decision.

(l) (i) Except as provided in Subsection (9), the amount of an arbitration award may not exceed the underinsured motorist policy limits of all applicable underinsured motorist policies, including applicable underinsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all applicable underinsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined underinsured motorist policy limits of all applicable underinsured motorist policies.

(m) The arbitrator or arbitration panel may not decide an issue of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) an allegation or claim asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (8)(m) between the parties unless:

(i) the award is procured by corruption, fraud, or other undue means; or

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(q) (i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection

(8)(p), does not obtain a verdict that is at least $5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (8)(r) may not exceed $2,500 unless Subsection (9)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (8)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a district court determines, upon a motion of the nonmoving party, that a moving party's use of the trial de novo process is filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit a claim under another portion of an applicable insurance policy.

(v) If there are multiple underinsured motorist policies, as set forth in Subsection (4), the claimant may elect to arbitrate in one hearing the claims against all the underinsured motorist carriers.

(9) (a) Within 30 days after a covered person elects to submit a claim for underinsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the underinsured motorist carrier:

(i) a written demand for payment of underinsured motorist coverage benefits, setting forth:

(A) subject to Subsection (9)(l), the specific monetary amount of the demand,

including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and all other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which the underinsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (9)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (9)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary, the underinsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the underinsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An underinsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of underinsured motorist benefits under Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (9)(a)(i);

(B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the

underinsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the underinsured motorist carrier under Subsection (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an underinsured motorist carrier as provided for in Subsection (9)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all underinsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all underinsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (8)(a), (b), and (c).

(e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i) as partial payment of all underinsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the underinsured motorist carrier under Subsection (9)(c)(i).

(f) In an arbitration proceeding on the remaining underinsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of underinsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject underinsured motorist policy by more than $15,000, the amount shall be reduced to an amount equal to the policy limits plus $15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the underinsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii) may not exceed $5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for underinsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (9)(a).

(ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

(j) This Subsection (9) does not limit any other cause of action that arose or may arise against the underinsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (9) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

Section ~~{86}~~98. Section **31A-22-604** is amended to read:

31A-22-604. Reimbursement by insurers of Medicaid benefits.

(1) As used in this section, "Medicaid" means the program under Title XIX of the federal Social Security Act.

(2) Any accident and health insurer, including a group accident and health insurance plan, as defined in Section 607(1), Federal Employee Retirement Income Security Act of 1974, or health maintenance organization as defined in Section 31A-8-101, is prohibited from considering the availability or eligibility for medical assistance in this or any other state under Medicaid, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders, or certificate holders.

(3) To the extent that payment for covered expenses has been made under the state Medicaid program for health care items or services furnished to an individual in any case when a third party has a legal liability to make payments, the state is considered to have acquired the rights of the individual to payment by any other party for those health care items or services.

(4) [~~Title 26, Chapter 19, Medical Benefits Recovery Act~~] Title 26B, Chapter 3, Part 10, Medical Benefits Recovery, applies to reimbursement of insurers of Medicaid benefits.

Section ~~{87}~~99. Section **31A-22-610** is amended to read:

31A-22-610. Dependent coverage from moment of birth or adoption.

(1) As used in this section:

(a) "Child" means, in connection with any adoption, or placement for adoption of the child, an individual who is younger than 18 years [~~of age~~] old as of the date of the adoption or

placement for adoption.

(b) "Placement for adoption" means the assumption and retention by a person of a legal obligation for total or partial support of a child in anticipation of the adoption of the child.

(2) (a) Except as provided in Subsection (5), if an accident and health insurance policy provides coverage for any members of the policyholder's or certificate holder's family, the policy shall provide that any health insurance benefits applicable to dependents of the insured are applicable on the same basis to:

(i) a newly born child from the moment of birth; and

(ii) an adopted child:

(A) beginning from the moment of birth, if placement for adoption occurs within 30 days of the child's birth; or

(B) beginning from the date of placement, if placement for adoption occurs 30 days or more after the child's birth.

(b) The coverage described in this Subsection (2):

(i) is not subject to any preexisting conditions; and

(ii) includes any injury or sickness, including the necessary care and treatment of medically diagnosed:

(A) congenital defects;

(B) birth abnormalities; or

(C) prematurity.

(c) (i) Subject to Subsection (2)(c)(ii), a claim for services for a newly born child or an adopted child may be denied until the child is enrolled.

(ii) Notwithstanding Subsection (2)(c)(i), an otherwise eligible claim denied under Subsection (2)(c)(i) is eligible for payment and may be resubmitted or reprocessed once a child is enrolled pursuant to Subsection (2)(d) or (e).

(d) If the payment of a specific premium is required to provide coverage for a child of a policyholder or certificate holder, for there to be coverage for the child, the policyholder or certificate holder shall enroll:

(i) a newly born child within 30 days after the date of birth of the child; or

(ii) an adopted child within 30 days after the day of placement of adoption.

(e) If the payment of a specific premium is not required to provide coverage for a child

of a policyholder or certificate holder, for the child to receive coverage the policyholder or certificate holder shall enroll a newly born child or an adopted child no later than 30 days after the first notification of denial of a claim for services for that child.

(3) (a) The coverage required by Subsection (2) as to children placed for the purpose of adoption with a policyholder or certificate holder continues in the same manner as it would with respect to a child of the policyholder or certificate holder unless:

(i) the placement is disrupted prior to legal adoption; and

(ii) the child is removed from placement.

(b) The coverage required by Subsection (2) ends if the child is removed from placement prior to being legally adopted.

(4) The provisions of this section apply to employee welfare benefit plans as defined in Section [~~26-19-102~~] 26B-3-1001.

(5) If an accident and health insurance policy that is not subject to the special enrollment rights described in 45 C.F.R. Sec. 146.117(b) provides coverage for one individual, the insurer may choose to:

(a) provide coverage according to this section; or

(b) allow application, subject to the insurer's underwriting criteria for:

(i) a newborn;

(ii) an adopted child; or

(iii) a child placed for adoption.

Section ~~{88}~~100. Section **31A-22-610.5** is amended to read:

31A-22-610.5. Dependent coverage.

(1) As used in this section, "child" has the same meaning as defined in Section 78B-12-102.

(2) (a) Any individual or group accident and health insurance policy or managed care organization contract that provides coverage for a policyholder's or certificate holder's dependent:

(i) may not terminate coverage of an unmarried dependent by reason of the dependent's age before the dependent's 26th birthday; and

(ii) shall, upon application, provide coverage for all unmarried dependents up to age 26.

(b) The cost of coverage for unmarried dependents 19 to 26 years [~~of age~~] old shall be included in the premium on the same basis as other dependent coverage.

(c) This section does not prohibit the employer from requiring the employee to pay all or part of the cost of coverage for unmarried dependents.

(d) An individual or group health insurance policy or managed care organization shall continue in force coverage for a dependent through the last day of the month in which the dependent ceases to be a dependent:

(i) if premiums are paid; and

(ii) notwithstanding Sections 31A-22-618.6 and 31A-22-618.7.

(3) (a) When a parent is required by a court or administrative order to provide health insurance coverage for a child, an accident and health insurer may not deny enrollment of a child under the accident and health insurance plan of the child's parent on the grounds the child:

(i) was born out of wedlock and is entitled to coverage under Subsection (4);

(ii) was born out of wedlock and the custodial parent seeks enrollment for the child under the custodial parent's policy;

(iii) is not claimed as a dependent on the parent's federal tax return;

(iv) does not reside with the parent; or

(v) does not reside in the insurer's service area.

(b) A child enrolled as required under Subsection (3)(a)(iv) is subject to the terms of the accident and health insurance plan contract pertaining to services received outside of an insurer's service area.

(4) When a child has accident and health coverage through an insurer of a noncustodial parent, and when requested by the noncustodial or custodial parent, the insurer shall:

(a) provide information to the custodial parent as necessary for the child to obtain benefits through that coverage, but the insurer or employer, or the agents or employees of either of them, are not civilly or criminally liable for providing information in compliance with this Subsection (4)(a), whether the information is provided pursuant to a verbal or written request;

(b) permit the custodial parent or the service provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(c) make payments on claims submitted in accordance with Subsection (4)(b) directly to the custodial parent, the child who obtained benefits, the provider, or the state Medicaid agency.

(5) When a parent is required by a court or administrative order to provide health coverage for a child, and the parent is eligible for family health coverage, the insurer shall:

(a) permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to an enrollment season restrictions;

(b) if the parent is enrolled but fails to make application to obtain coverage for the child, enroll the child under family coverage upon application of the child's other parent, the state agency administering the Medicaid program, or the state agency administering 42 U.S.C. Sec. 651 through 669, the child support enforcement program; and

(c) (i) when the child is covered by an individual policy, not disenroll or eliminate coverage of the child unless the insurer is provided satisfactory written evidence that:

(A) the court or administrative order is no longer in effect; or

(B) the child is or will be enrolled in comparable accident and health coverage through another insurer which will take effect not later than the effective date of disenrollment; or

(ii) when the child is covered by a group policy, not disenroll or eliminate coverage of the child unless the employer is provided with satisfactory written evidence, which evidence is also provided to the insurer, that Subsection (8)(c)(i), (ii), or (iii) has happened.

(6) An insurer may not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under Medicaid and covered for accident and health benefits from the insurer that are different from requirements applicable to an agent or assignee of any other individual so covered.

(7) Insurers may not reduce their coverage of pediatric vaccines below the benefit level in effect on May 1, 1993.

(8) When a parent is required by a court or administrative order to provide health coverage, which is available through an employer doing business in this state, the employer shall:

(a) permit the parent to enroll under family coverage any child who is otherwise eligible for coverage without regard to any enrollment season restrictions;

(b) if the parent is enrolled but fails to make application to obtain coverage of the child,

enroll the child under family coverage upon application by the child's other parent, by the state agency administering the Medicaid program, or the state agency administering 42 U.S.C. Sec. 651 through 669, the child support enforcement program;

(c) not disenroll or eliminate coverage of the child unless the employer is provided satisfactory written evidence that:

(i) the court order is no longer in effect;

(ii) the child is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment; or

(iii) the employer has eliminated family health coverage for all of its employees; and

(d) withhold from the employee's compensation the employee's share, if any, of premiums for health coverage and to pay this amount to the insurer.

(9) An order issued under Section [~~62A-11-326.1~~] 26B-9-225 may be considered a "qualified medical support order" for the purpose of enrolling a dependent child in a group accident and health insurance plan as defined in Section 609(a), Federal Employee Retirement Income Security Act of 1974.

(10) This section does not affect any insurer's ability to require as a precondition of any child being covered under any policy of insurance that:

(a) the parent continues to be eligible for coverage;

(b) the child shall be identified to the insurer with adequate information to comply with this section; and

(c) the premium shall be paid when due.

(11) This section applies to employee welfare benefit plans as defined in Section [~~26-19-102~~] 26B-3-1001.

(12) (a) A policy that provides coverage to a child of a group member may not deny eligibility for coverage to a child solely because:

(i) the child does not reside with the insured; or

(ii) the child is solely dependent on a former spouse of the insured rather than on the insured.

(b) A child who does not reside with the insured may be excluded on the same basis as a child who resides with the insured.

Section ~~{89}~~101. Section **31A-22-610.6** is amended to read:

31A-22-610.6. Special enrollment for individuals receiving premium assistance.

(1) As used in this section:

(a) "Premium assistance" means assistance under [~~Title 26, Chapter 18, Medical Assistance Act~~] Title 26B, Chapter 3, Health Care - ~~{Delivery}~~Administration and Assistance, in the payment of premium.

(b) "Qualified beneficiary" means an individual who is approved to receive premium assistance.

(2) Subject to the other provisions in this section, an individual may enroll under this section at a time outside of an employer health benefit plan open enrollment period, regardless of previously waiving coverage, if the individual is:

(a) a qualified beneficiary who is eligible for coverage as an employee under the employer health benefit plan; or

(b) a dependent of the qualified beneficiary who is eligible for coverage under the employer health benefit plan.

(3) To be eligible to enroll outside of an open enrollment period, an individual described in Subsection (2) shall enroll in the employer health benefit plan by no later than 30 days from the day on which the qualified beneficiary receives initial written notification, after July 1, 2008, that the qualified beneficiary is eligible to receive premium assistance.

(4) An individual described in Subsection (2) may enroll under this section only in an employer health benefit plan that is available at the time of enrollment to similarly situated eligible employees or dependents of eligible employees.

(5) Coverage under an employer health benefit plan for an individual described in Subsection (2) may begin as soon as the first day of the month immediately following enrollment of the individual in accordance with this section.

(6) This section does not modify any requirement related to premiums that applies under an employer health benefit plan to a similarly situated eligible employee or dependent of an eligible employee under the employer health benefit plan.

(7) An employer health benefit plan may require an individual described in Subsection (2) to satisfy a preexisting condition waiting period that:

(a) is allowed under the Health Insurance Portability and Accountability Act; and

(b) is not longer than 12 months.

Section ~~{90}~~102. Section **31A-22-613.5** is amended to read:

31A-22-613.5. Price and value comparisons of health insurance.

(1) (a) This section applies to all health benefit plans.

(b) Subsection (2) applies to:

(i) all health benefit plans; and

(ii) coverage offered to state employees under Subsection 49-20-202(1)(a).

(2) The commissioner shall promote informed consumer behavior and responsible health benefit plans by requiring an insurer issuing a health benefit plan to provide to all enrollees, before enrollment in the health benefit plan, written disclosure of:

(a) restrictions or limitations on prescription drugs and biologics, including:

(i) the use of a formulary;

(ii) co-payments and deductibles for prescription drugs; and

(iii) requirements for generic substitution;

(b) coverage limits under the plan;

(c) any limitation or exclusion of coverage, including:

(i) a limitation or exclusion for a secondary medical condition related to a limitation or exclusion from coverage; and

(ii) easily understood examples of a limitation or exclusion of coverage for a secondary medical condition;

(d) (i) (A) each drug, device, and covered service that is subject to a preauthorization requirement as defined in Section 31A-22-650; or

(B) if listing each device or covered service in accordance with Subsection (2)(d)(i)(A) is too numerous to list separately, all devices or covered services in a particular category where all devices or covered services have the same preauthorization requirement;

(ii) each requirement for authorization as defined in Section 31A-22-650 for:

(A) each drug, device, or covered service described in Subsection (2)(d)(i)(A); and

(B) each category of devices or covered services described in Subsection (2)(d)(i)(B); and

(iii) sufficient information to allow a network provider or enrollee to submit all of the information to the insurer necessary to meet each requirement for authorization described in Subsection (2)(d)(ii);

(e) whether the insurer permits an exchange of the adoption indemnity benefit in Section 31A-22-610.1 for infertility treatments, in accordance with Subsection 31A-22-610.1(1)(c)(ii) and the terms associated with the exchange of benefits; and

(f) whether the insurer provides coverage for telehealth services in accordance with Section [~~26-18-13.5~~] 26B-3-123 and terms associated with that coverage.

(3) An insurer shall provide the disclosure required by Subsection (2) in writing to the commissioner:

(a) upon commencement of operations in the state; and

(b) anytime the insurer amends any of the following described in Subsection (2):

(i) treatment policies;

(ii) practice standards;

(iii) restrictions;

(iv) coverage limits of the insurer's health benefit plan or health insurance policy; or

(v) limitations or exclusions of coverage including a limitation or exclusion for a secondary medical condition related to a limitation or exclusion of the insurer's health insurance plan.

(4) (a) An insurer shall provide the enrollee with notice of an increase in costs for prescription drug coverage due to a change in benefit design under Subsection (2)(a):

(i) either:

(A) in writing; or

(B) on the insurer's website; and

(ii) at least 30 days prior to the date of the implementation of the increase in cost, or as soon as reasonably possible.

(b) If under Subsection (2)(a) a formulary is used, the insurer shall make available to prospective enrollees and maintain evidence of the fact of the disclosure of:

(i) the drugs included;

(ii) the patented drugs not included;

(iii) any conditions that exist as a precedent to coverage; and

(iv) any exclusion from coverage for secondary medical conditions that may result from the use of an excluded drug.

(c) The commissioner shall develop examples of limitations or exclusions of a

secondary medical condition that an insurer may use under Subsection (2)(c).

(5) Examples of a limitation or exclusion of coverage provided under this section or otherwise are for illustrative purposes only, and the failure of a particular fact situation to fall within the description of an example does not, by itself, support a finding of coverage.

(6) An insurer shall:

(a) post the information described in Subsection (2)(d) on the insurer's website and provider portal;

(b) if requested by an enrollee, provide the enrollee with the information required by this section by mail or email; and

(c) if requested by a network provider for a specific drug, device, or covered service, provide the network provider with the information described in Subsection (2)(d) for the drug, device, or covered service by mail or email.

Section ~~{91}~~103. **Effective date.**

~~{This}~~(1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023~~{ with the exceptions of}~~.

(2) The actions affecting Section 13-61-101 (Effective 12/31/23) ~~{and 30-1-12 which }~~take effect on ~~{12/31/2023}~~December 31, 2023.

Section ~~{92}~~104. **Coordinating S.B. 206 with H.B. 72 -- Renumbering and superseding.**

If this S.B. 206 and H.B. 72, Medical Cannabis Governance Revisions, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication on July 1, 2023, as follows:

(1) changes in H.B. 72 supersede the changes in this bill, as those changes went into effect on May 3, 2023, in the following sections:

(a) Section 4-41a-201;

(b) Section 10-9a-528; and

(c) Section 17-27a-525;

(2) changing the reference to "Section 26-61a-102" in Subsection 10-9a-528(1)(c) in this bill to "Section 26B-4-201"; and

(3) changing the reference to "Section 26-61a-102" in Subsection 17-27a-525(1)(c) in this bill to "Section 26B-4-201".

Section 105. **Coordinating S.B. 206 with S.B. 64 -- Technical amendments.**

If this S.B. 206 and S.B. 64, Bureau of Emergency Medical Services Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication on July 1, 2024, by having changes in S.B. 64 supersede the changes in this bill, as those changes went into effect on May 3, 2023, in the following sections:

(1) Section 53-2d-101 (renumbered from Section 26-8a-102) in S.B. 64;

(2) Section 53-2d-105 (renumbered from Section 26-8a-104) in S.B. 64;

(3) Section 53-2d-204 (renumbered from Section 26-8a-204) in S.B. 64;

(4) Section 53-2d-205 (renumbered from Section 26-8a-205) in S.B. 64;

(5) Section 53-2d-206 (renumbered from Section 26-8a-206) in S.B. 64, subject to the instructions in Section 106 of this bill; and

(6) Section 53-2d-210 (renumbered from Section 26-8a-211) in S.B. 64.

Section 106. **Coordinating S.B. 206 with H.B. 59 and S.B. 64 -- Technical amendments.**

If this S.B. 40, H.B. 59, First Responder Mental Health Amendments, and S.B. 64, Bureau of Emergency Medical Services Amendments, all pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication, on July 1, 2024, by:

(1) renumbering Section 26-8a-206 in this bill to Section 53-2d-206; and

(2) amending Section 53-2d-206 in S.B. 64 to read:

"(1) The [~~department~~] bureau shall develop and implement a statewide program to provide support and counseling for personnel who have been exposed to one or more stressful incidents in the course of providing emergency services.

(2) This program shall include:

(a) ongoing training for agencies providing emergency services and counseling program volunteers;

(b) critical incident stress debriefing for personnel at no cost to the emergency provider; and

(c) advising the department on training requirements for licensure as a behavioral emergency services technician.

(3) The department shall reimburse reasonable actual expenses, including mileage, incurred by a volunteer during the course of the volunteer's provision of critical incident stress services under this section.".

Section 107. **Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if any of the following bills do not pass:

(a) S.B. 38, Health and Human Services Recodification - Administration, Licensing, and Recovery Services;

(b) S.B. 39, Health and Human Services Recodification - ~~{Prevention, Supports, Substance Use }~~Health Care Assistance and ~~{Mental Health}~~Data;

(c) S.B. 40, Health and Human Services Recodification - Health Care ~~{Assistance}~~Delivery and ~~{Data}~~Repeals; or

(d) S.B. 41, Health and Human Services Recodification - Prevention, Supports, Substance Use and Mental Health~~{ Care Delivery and Repeals}~~.