

**HEALTH AND HUMAN SERVICES RECODIFICATION -
CROSS REFERENCES, TITLES 58-63J**

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 to the Utah Health and Human Services Code in Titles 58 through 63J.

Highlighted Provisions:

This bill:

- ▶ makes technical updates in Titles 58 through 63J 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, Health and Human Services Recodification - Health Care Assistance and Data; and
 - S.B. 41, Health and Human Services Recodification - Health Care Delivery and Repeals; and
- ▶ makes technical and corresponding changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 This bill provides revisor instructions.

29 **Utah Code Sections Affected:**

30 AMENDS:

- 31 **58-17b-622**, as last amended by Laws of Utah 2021, Chapter 340
- 32 **58-17b-701**, as last amended by Laws of Utah 2013, Chapter 364
- 33 **58-17b-902**, as last amended by Laws of Utah 2022, Chapters 253, 255
- 34 **58-17b-1002**, as enacted by Laws of Utah 2020, Chapter 372
- 35 **58-17b-1004**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
- 36 **58-28-502**, as last amended by Laws of Utah 2022, Chapter 103
- 37 **58-31b-102**, as last amended by Laws of Utah 2022, Chapter 277
- 38 **58-31b-305**, as last amended by Laws of Utah 2019, Chapter 447
- 39 **58-31b-401**, as last amended by Laws of Utah 2021, Chapter 404
- 40 **58-31b-502**, as last amended by Laws of Utah 2022, Chapter 290
- 41 **58-31b-703**, as last amended by Laws of Utah 2016, Chapters 202, 207 and 208 and
- 42 last amended by Coordination Clause, Laws of Utah 2016, Chapter 202
- 43 **58-37-3.6**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 44 **58-37-3.7**, as last amended by Laws of Utah 2021, Chapters 337, 350 and further
- 45 amended by Revisor Instructions, Laws of Utah 2021, Chapter 337
- 46 **58-37-3.8**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 47 **58-37-3.9**, as last amended by Laws of Utah 2021, Chapter 350
- 48 **58-37-6.5**, as last amended by Laws of Utah 2021, Chapter 337
- 49 **58-37-7**, as last amended by Laws of Utah 2018, Chapter 145
- 50 **58-37-8**, as last amended by Laws of Utah 2022, Chapters 116, 415 and 430
- 51 **58-37-19**, as enacted by Laws of Utah 2019, Chapter 130
- 52 **58-37-22**, as enacted by Laws of Utah 2021, Chapter 165
- 53 **58-37f-102**, as last amended by Laws of Utah 2013, Chapter 130
- 54 **58-37f-201**, as last amended by Laws of Utah 2022, Chapter 116
- 55 **58-37f-301**, as last amended by Laws of Utah 2021, Chapters 104, 315
- 56 **58-37f-702**, as last amended by Laws of Utah 2019, Chapter 128
- 57 **58-41-4**, as last amended by Laws of Utah 2022, Chapter 415
- 58 **58-57-7**, as last amended by Laws of Utah 2011, Chapter 340

- 59 [58-60-114](#), as last amended by Laws of Utah 2022, Chapter 335
- 60 [58-60-509](#), as last amended by Laws of Utah 2022, Chapter 335
- 61 [58-61-602](#), as last amended by Laws of Utah 2021, Chapter 283
- 62 [58-61-704](#), as last amended by Laws of Utah 2022, Chapter 415
- 63 [58-61-713](#), as last amended by Laws of Utah 2022, Chapter 335
- 64 [58-67-302](#), as last amended by Laws of Utah 2020, Chapter 339
- 65 [58-67-304](#), as last amended by Laws of Utah 2020, Chapters 12, 339
- 66 [58-67-502](#), as last amended by Laws of Utah 2021, Chapter 337
- 67 [58-67-601](#), as last amended by Laws of Utah 2017, Chapter 299
- 68 [58-67-702](#), as last amended by Laws of Utah 2016, Chapters 202, 207 and 208 and last
- 69 amended by Coordination Clause, Laws of Utah 2016, Chapter 202
- 70 [58-68-302](#), as last amended by Laws of Utah 2020, Chapter 339
- 71 [58-68-304](#), as last amended by Laws of Utah 2020, Chapters 12, 339
- 72 [58-68-502](#), as last amended by Laws of Utah 2021, Chapter 337
- 73 [58-68-601](#), as last amended by Laws of Utah 2017, Chapter 299
- 74 [58-68-702](#), as last amended by Laws of Utah 2016, Chapters 202, 207 and 208 and last
- 75 amended by Coordination Clause, Laws of Utah 2016, Chapter 202
- 76 [58-69-601](#), as last amended by Laws of Utah 2013, Chapter 364
- 77 [58-69-702](#), as enacted by Laws of Utah 2016, Chapter 207 and last amended by
- 78 Coordination Clause, Laws of Utah 2016, Chapter 207
- 79 [58-70a-102](#), as last amended by Laws of Utah 2021, Chapters 312, 313
- 80 [58-70a-303](#), as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 81 [58-70a-503](#), as last amended by Laws of Utah 2022, Chapter 290
- 82 [58-70a-505](#), as last amended by Laws of Utah 2016, Chapters 202, 207 and 208 and last
- 83 amended by Coordination Clause, Laws of Utah 2016, Chapter 202
- 84 [58-71-601](#), as last amended by Laws of Utah 2013, Chapter 364
- 85 [58-80a-601](#), as renumbered and amended by Laws of Utah 2010, Chapter 127
- 86 [58-85-104](#), as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 87 [58-88-201](#), as enacted by Laws of Utah 2022, Chapter 353
- 88 [59-1-210](#), as last amended by Laws of Utah 2010, Chapter 278
- 89 [59-1-403](#), as last amended by Laws of Utah 2022, Chapter 447

- 90 [59-2-1901](#), as enacted by Laws of Utah 2019, Chapter 453
- 91 [59-10-529](#), as last amended by Laws of Utah 2021, Chapter 260
- 92 [59-10-1004](#), as renumbered and amended by Laws of Utah 2006, Chapter 223
- 93 [59-10-1308](#), as last amended by Laws of Utah 2010, Chapter 278
- 94 [59-10-1320](#), as enacted by Laws of Utah 2018, Chapter 414
- 95 [59-12-102](#), as last amended by Laws of Utah 2021, Chapters 64, 367 and 414 and last
- 96 amended by Coordination Clause, Laws of Utah 2021, Chapter 367
- 97 [59-12-103](#), as last amended by Laws of Utah 2022, Chapters 77, 106 and 433
- 98 [59-12-104.10](#), as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 99 [59-12-801](#), as last amended by Laws of Utah 2014, Chapter 50
- 100 [59-14-807](#), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
- 101 [61-1-13](#), as last amended by Laws of Utah 2020, Chapter 77
- 102 [61-1-201](#), as enacted by Laws of Utah 2018, Chapter 159
- 103 [62A-2-101](#), as last amended by Laws of Utah 2022, Chapters 334, 468
- 104 [62A-2-106](#), as last amended by Laws of Utah 2021, Chapter 400
- 105 [62A-2-110](#), as last amended by Laws of Utah 2005, Chapter 188
- 106 [62A-3-322](#), as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
- 107 [62A-5a-102](#), as last amended by Laws of Utah 2019, Chapter 187
- 108 [62A-11-103](#), as last amended by Laws of Utah 2012, Chapter 41
- 109 [63A-5b-303](#), as last amended by Laws of Utah 2022, Chapters 169, 421
- 110 [63A-5b-607](#), as last amended by Laws of Utah 2022, Chapters 169, 443
- 111 [63A-5b-910](#), as last amended by Laws of Utah 2022, Chapter 421
- 112 [63A-9-701](#), as last amended by Laws of Utah 2003, Chapter 22
- 113 [63A-13-102](#), as last amended by Laws of Utah 2022, Chapter 255
- 114 [63A-13-204](#), as last amended by Laws of Utah 2016, Chapters 222, 348
- 115 [63A-13-301](#), as last amended by Laws of Utah 2016, Chapter 225
- 116 [63A-16-803](#), as renumbered and amended by Laws of Utah 2021, Chapter 344
- 117 [63A-17-806](#), as last amended by Laws of Utah 2022, Chapter 169
- 118 [63A-17-1001](#), as renumbered and amended by Laws of Utah 2021, Chapter 344
- 119 [63B-16-401](#), as last amended by Laws of Utah 2013, Chapter 465
- 120 [63C-9-403](#), as last amended by Laws of Utah 2022, Chapters 421, 443

- 121 **63C-18-102**, as last amended by Laws of Utah 2020, Chapter 303
- 122 **63C-18-202**, as last amended by Laws of Utah 2021, Chapter 76
- 123 **63C-18-203**, as last amended by Laws of Utah 2021, Chapter 76
- 124 **63G-2-202**, as last amended by Laws of Utah 2021, Chapter 231
- 125 **63G-2-302**, as last amended by Laws of Utah 2022, Chapters 169, 334
- 126 **63G-2-305**, as last amended by Laws of Utah 2022, Chapters 11, 109, 198, 201, 303,
- 127 335, 388, 391, and 415
- 128 **63G-3-501**, as last amended by Laws of Utah 2022, Chapter 443
- 129 **63G-4-102**, as last amended by Laws of Utah 2022, Chapter 307
- 130 **63G-7-201**, as last amended by Laws of Utah 2021, Chapter 352
- 131 **63I-1-262**, as last amended by Laws of Utah 2022, Chapters 34, 35, 149, 257, and 335
- 132 **63I-2-262**, as last amended by Laws of Utah 2022, Chapters 114, 334
- 133 **63J-1-315**, as last amended by Laws of Utah 2022, Chapter 255

REPEALS AND REENACTS:

- 135 **63I-1-226**, as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255,
- 136 347, and 451
- 137 **63I-2-226**, as last amended by Laws of Utah 2022, Chapters 255, 365

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

Section 1. Section **58-17b-622** is amended to read:

58-17b-622. Pharmacy benefit management services -- Auditing of pharmacy records -- Appeals.

(1) For purposes of this section:

(a) "Audit" means a review of the records of a pharmacy by or on behalf of an entity that finances or reimburses the cost of health care services or pharmaceutical products.

(b) "Audit completion date" means:

(i) for an audit that does not require an on-site visit at the pharmacy, the date on which the pharmacy, in response to the initial audit request, submits records or other documents to the entity conducting the audit, as determined by:

(A) postmark or other evidence of the date of mailing; or

(B) the date of transmission if the records or other documents are transmitted

152 electronically; and

153 (ii) for an audit that requires an on-site visit at a pharmacy, the date on which the
154 auditing entity completes the on-site visit, including any follow-up visits or analysis which
155 shall be completed within 60 days after the day on which the on-site visit begins.

156 (c) "Entity" includes:

157 (i) a pharmacy benefits manager or coordinator;

158 (ii) a health benefit plan;

159 (iii) a third party administrator as defined in Section 31A-1-301;

160 (iv) a state agency; or

161 (v) a company, group, or agent that represents, or is engaged by, one of the entities
162 described in Subsections (1)(c)(i) through (iv).

163 (d) "Fraud" means an intentional act of deception, misrepresentation, or concealment in
164 order to gain something of value.

165 (e) "Health benefit plan" means:

166 (i) a health benefit plan as defined in Section 31A-1-301; or

167 (ii) a health, dental, medical, Medicare supplement, or conversion program offered
168 under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.

169 (2) (a) Except as provided in Subsection (2)(b), this section applies to:

170 (i) a contract for the audit of a pharmacy entered into, amended, or renewed on or after
171 July 1, 2012; and

172 (ii) an entity that conducts an audit of the pharmacy records of a pharmacy licensed
173 under this chapter.

174 (b) This section does not apply to an audit of pharmacy records:

175 (i) for a federally funded prescription drug program, including:

176 (A) the state Medicaid program;

177 (B) the Medicare Part D program;

178 (C) a Department of Defense prescription drug program; and

179 (D) a Veterans Affairs prescription drug program; or

180 (ii) when fraud or other intentional and willful misrepresentation is alleged and the
181 pharmacy audit entity has evidence that the pharmacy's actions reasonably indicate fraud or
182 intentional and willful misrepresentation.

183 (3) (a) An audit that involves clinical or professional judgment shall be conducted by
184 or in consultation with a pharmacist who is employed by or working with the auditing entity
185 and who is licensed in the state or another state.

186 (b) If an audit is conducted on site at a pharmacy, the entity conducting the audit:

187 (i) shall give the pharmacy 10 days advanced written notice of:

188 (A) the audit; and

189 (B) the range of prescription numbers or a date range included in the audit; and

190 (ii) may not audit a pharmacy during the first five business days of the month, unless

191 the pharmacy agrees to the timing of the audit.

192 (c) An entity may not audit claims:

193 (i) submitted more than 18 months prior to the audit, unless:

194 (A) required by federal law; or

195 (B) the originating prescription is dated in the preceding six months; or

196 (ii) that exceed 200 selected prescription claims.

197 (4) (a) An entity may not:

198 (i) include dispensing fees in the calculations of overpayments unless the prescription
199 is considered a misfill;

200 (ii) recoup funds for prescription clerical or recordkeeping errors, including
201 typographical errors, scrivener's errors, and computer errors on a required document or record
202 unless the audit entity is alleging fraud or other intentional or willful misrepresentation and the
203 audit entity has evidence that the pharmacy's actions reasonably indicate fraud or intentional
204 and willful misrepresentation;

205 (iii) recoup funds for refills dispensed in accordance with Section [58-17b-608.1](#), unless
206 the health benefit plan does not cover the prescription drug dispensed by the pharmacy;

207 (iv) collect any funds, charge-backs, or penalties until the audit and all appeals are
208 final, unless the audit entity is alleging fraud or other intentional or willful misrepresentation
209 and the audit entity has evidence that the pharmacy's actions reasonably indicate fraud or
210 intentional and willful misrepresentation; or

211 (v) recoup funds or collect any funds, charge-backs, or penalties from a pharmacy in
212 response to a request for audit unless the pharmacy confirms to the entity the date on which the
213 pharmacy received the request for audit.

214 (b) Auditors shall only have access to previous audit reports on a particular pharmacy
215 if the previous audit was conducted by the same entity except as required for compliance with
216 state or federal law.

217 (5) A pharmacy subject to an audit:

218 (a) may use one or more of the following to validate a claim for a prescription, refill, or
219 change in a prescription:

220 (i) electronic or physical copies of records of a health care facility, or a health care
221 provider with prescribing authority;

222 (ii) any prescription that complies with state law;

223 (iii) the pharmacy's own physical or electronic records; or

224 (iv) the physical or electronic records, or valid copies of the physical or electronic
225 records, of a practitioner or health care facility as defined in Section [~~26-21-2~~] [26B-2-201](#); and

226 (b) may not be required to provide the following records to validate a claim for a
227 prescription, refill, or change in a prescription:

228 (i) if the prescription was handwritten, the physical handwritten version of the
229 prescription; or

230 (ii) a note from the practitioner regarding the patient or the prescription that is not
231 otherwise required for a prescription under state or federal law.

232 (6) (a) (i) An entity that audits a pharmacy shall establish:

233 (A) a maximum time for the pharmacy to submit records or other documents to the
234 entity following receipt of an audit request for records or documents; and

235 (B) a maximum time for the entity to provide the pharmacy with a preliminary audit
236 report following submission of records under Subsection (6)(a)(i)(A).

237 (ii) The time limits established under Subsections (6)(a)(i)(A) and (B):

238 (A) shall be identical; and

239 (B) may not be less than seven days or more than 60 days.

240 (iii) An entity that audits a pharmacy may not, after the audit completion date, request
241 additional records or other documents from the pharmacy to complete the preliminary audit
242 report described in Subsection (6)(b).

243 (b) An entity that audits a pharmacy shall provide the pharmacy with a preliminary
244 audit report, delivered to the pharmacy or its corporate office of record, within the time limit

245 established under Subsection (6)(a)(i)(B).

246 (c) (i) Except as provided in Subsection (6)(c)(ii), a pharmacy has 30 days following
247 receipt of the preliminary audit report to respond to questions, provide additional
248 documentation, and comment on and clarify findings of the audit.

249 (ii) An entity may grant a reasonable extension under Subsection (6)(c)(i) upon request
250 by the pharmacy.

251 (iii) Receipt of the report under Subsection (6)(c)(i) shall be determined by:

252 (A) postmark or other evidence of the date of mailing; or

253 (B) the date of transmission if the report is transmitted electronically.

254 (iv) If a dispute exists between the records of the auditing entity and the pharmacy, the
255 records maintained by the pharmacy shall be presumed valid for the purpose of the audit.

256 (7) If an audit results in the dispute or denial of a claim, the entity conducting the audit
257 shall allow:

258 (a) the pharmacy to resubmit a claim using any commercially reasonable method,
259 including fax, mail, or electronic claims submission provided that the period of time when a
260 claim may be resubmitted has not expired under the rules of the plan sponsor; and

261 (b) the health benefit plan or other entity that finances or reimburses the cost of health
262 care services or pharmaceutical products to rerun the claim if the health benefit plan or other
263 entity chooses to rerun the claim at no cost to the pharmacy.

264 (8) (a) Within 60 days after the completion of the appeals process under Subsection
265 (9), a final audit report shall be delivered to the pharmacy or its corporate office of record.

266 (b) The final audit report shall include a disclosure of any money recovered by the
267 entity that conducted the audit.

268 (9) (a) An entity that audits a pharmacy shall establish a written appeals process for
269 appealing a preliminary audit report and a final audit report, and shall provide the pharmacy
270 with notice of the written appeals process.

271 (b) If the pharmacy benefit manager's contract or provider manual contains the
272 information required by this Subsection (9), the requirement for notice is met.

273 Section 2. Section **58-17b-701** is amended to read:

274 **58-17b-701. Mentally incompetent or incapacitated pharmacist -- Division action**
275 **and procedures.**

276 (1) As used in this section:

277 (a) "Incapacitated person" is a person who is incapacitated, as defined in Section
278 [75-1-201](#).

279 (b) "Mental illness" is as defined in Section [~~62A-15-602~~] [26B-5-301](#).

280 (2) If a court of competent jurisdiction determines a pharmacist is an incapacitated
281 person, or that the pharmacist has a mental illness and is unable to safely engage in the practice
282 of pharmacy, the director shall immediately suspend the license of the pharmacist upon the
283 entry of the judgment of the court, without further proceedings under Title 63G, Chapter 4,
284 Administrative Procedures Act, regardless of whether an appeal from the court's ruling is
285 pending. The director shall promptly notify the pharmacist, in writing, of the suspension.

286 (3) (a) If the division and a majority of the board find reasonable cause to believe a
287 pharmacist, who is not determined judicially to be an incapacitated person or to have a mental
288 illness, is incapable of practicing pharmacy with reasonable skill regarding the safety of
289 patients, because of illness, excessive use of drugs or alcohol, or as a result of any mental or
290 physical condition, the board shall recommend that the director file a petition with the division,
291 and cause the petition to be served upon the pharmacist with a notice of hearing on the sole
292 issue of the capacity of the pharmacist to competently and safely engage in the practice of
293 pharmacy.

294 (b) The hearing shall be conducted under Section [58-1-109](#) and Title 63G, Chapter 4,
295 Administrative Procedures Act, except as provided in Subsection (4).

296 (4) (a) Every pharmacist who accepts the privilege of being licensed under this chapter
297 gives consent to:

298 (i) submitting at the pharmacist's own expense to an immediate mental or physical
299 examination when directed in writing by the division, with the consent of a majority of the
300 board, to do so; and

301 (ii) the admissibility of the reports of the examining practitioner's testimony or
302 examination in any proceeding regarding the license of the pharmacist, and waives all
303 objections on the ground the reports constitute a privileged communication.

304 (b) The examination may be ordered by the division, with the consent of a majority of
305 the board, only upon a finding of reasonable cause to believe:

306 (i) the pharmacist has a mental illness, is incapacitated or otherwise unable to practice

307 pharmacy with reasonable skill and safety; and

308 (ii) immediate action by the division and the board is necessary to prevent harm to the
309 pharmacist's patients or the general public.

310 (c) (i) Failure of a pharmacist to submit to the examination ordered under this section
311 is a ground for the division's immediate suspension of the pharmacist's license by written order
312 of the director.

313 (ii) The division may enter the order of suspension without further compliance with
314 Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to
315 submit to the examination ordered under this section was due to circumstances beyond the
316 control of the pharmacist and was not related directly to the illness or incapacity of the
317 pharmacist.

318 (5) (a) A pharmacist whose license is suspended under Subsection (2) or (4) has the
319 right to a hearing to appeal the suspension within 10 days after the license is suspended.

320 (b) The hearing held under this Subsection (5) shall be conducted in accordance with
321 Sections [58-1-108](#) and [58-1-109](#) for the sole purpose of determining if sufficient basis exists
322 for the continuance of the order of suspension in order to prevent harm to the pharmacist's
323 patients or the general public.

324 (6) A pharmacist whose license is revoked, suspended, or in any way restricted under
325 this section may request the division and the board to consider, at reasonable intervals,
326 evidence presented by the pharmacist, under procedures established by division rule, regarding
327 any change in the pharmacist's condition, to determine whether:

328 (a) the pharmacist is or is not able to safely and competently engage in the practice of
329 pharmacy; and

330 (b) the pharmacist is qualified to have the pharmacist's licensure to practice under this
331 chapter restored completely or in part.

332 Section 3. Section **58-17b-902** is amended to read:

333 **58-17b-902. Definitions.**

334 As used in this part:

335 (1) "Assisted living facility" means the same as that term is defined in Section
336 [\[26-21-2\] 26B-2-201](#).

337 (2) "Cancer drug" means a drug that controls or kills neoplastic cells and includes a

338 drug used in chemotherapy to destroy cancer cells.

339 (3) "Charitable clinic" means a charitable nonprofit corporation that:

340 (a) holds a valid exemption from federal income taxation issued under Section 501(a),
341 Internal Revenue Code;

342 (b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue
343 Code;

344 (c) provides, on an outpatient basis, for a period of less than 24 consecutive hours, to
345 an individual not residing or confined at a facility owned or operated by the charitable
346 nonprofit corporation:

347 (i) advice;

348 (ii) counseling;

349 (iii) diagnosis;

350 (iv) treatment;

351 (v) surgery; or

352 (vi) care or services relating to the preservation or maintenance of health; and

353 (d) has a licensed outpatient pharmacy.

354 (4) "Charitable pharmacy" means an eligible pharmacy that is operated by a charitable
355 clinic.

356 (5) "County health department" means the same as that term is defined in Section
357 [26A-1-102](#).

358 (6) "Donated prescription drug" means a prescription drug that an eligible donor or
359 individual donates to an eligible pharmacy under the program.

360 (7) "Eligible donor" means a donor that donates a prescription drug from within the
361 state and is:

362 (a) a nursing care facility;

363 (b) an assisted living facility;

364 (c) a licensed intermediate care facility for people with an intellectual disability;

365 (d) a manufacturer;

366 (e) a pharmaceutical wholesale distributor;

367 (f) an eligible pharmacy; or

368 (g) a physician's office.

- 369 (8) "Eligible pharmacy" means a pharmacy that:
- 370 (a) is registered by the division as eligible to participate in the program; and
- 371 (b) (i) is licensed in the state as a Class A retail pharmacy; or
- 372 (ii) is operated by:
- 373 (A) a county;
- 374 (B) a county health department;
- 375 (C) a pharmacy under contract with a county health department;
- 376 (D) the Department of Health and Human Services created in Section [26B-1-201](#); or
- 377 (E) a charitable clinic.
- 378 (9) (a) "Eligible prescription drug" means a prescription drug, described in Section
- 379 [58-17b-904](#), that is not:
- 380 (i) except as provided in Subsection (9)(b), a controlled substance; or
- 381 (ii) a drug that can only be dispensed to a patient registered with the drug's
- 382 manufacturer in accordance with federal Food and Drug Administration requirements.
- 383 (b) "Eligible prescription drug" includes a medication-assisted treatment drug that may
- 384 be accepted, transferred, and dispensed under the program in accordance with federal law.
- 385 (10) "Licensed intermediate care facility for people with an intellectual disability"
- 386 means the same as that term is defined in Section [58-17b-503](#).
- 387 (11) "Medically indigent individual" means an individual who:
- 388 (a) (i) does not have health insurance; and
- 389 (ii) lacks reasonable means to purchase prescribed medications; or
- 390 (b) (i) has health insurance; and
- 391 (ii) lacks reasonable means to pay the insured's portion of the cost of the prescribed
- 392 medications.
- 393 (12) "Medication-assisted treatment drug" means buprenorphine prescribed to treat
- 394 substance use withdrawal symptoms or an opiate use disorder.
- 395 (13) "Nursing care facility" means the same as that term is defined in Section
- 396 ~~[26-18-501]~~ [26B-2-201](#).
- 397 (14) "Physician's office" means a fixed medical facility that:
- 398 (a) is staffed by a physician, physician's assistant, nurse practitioner, or registered
- 399 nurse, licensed under Title 58, Occupations and Professions; and

400 (b) treats an individual who presents at, or is transported to, the facility.

401 (15) "Program" means the Charitable Prescription Drug Recycling Program created in
402 Section [58-17b-903](#).

403 (16) "Unit pack" means the same as that term is defined in Section [58-17b-503](#).

404 (17) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)
405 and [58-17b-501](#).

406 (18) "Unprofessional conduct" means the same as that term is defined in Sections
407 [58-1-501](#) and [58-17b-502](#).

408 Section 4. Section **58-17b-1002** is amended to read:

409 **58-17b-1002. Definitions.**

410 As used in this part:

411 (1) "Epinephrine auto-injector" means the same as that term is defined in Section
412 [~~26-41-102~~] [26B-4-401](#).

413 (2) "Local health department" means the same as that term is defined in Section
414 [26A-1-102](#).

415 (3) "Physician" means the same as that term is defined in Section [58-67-102](#).

416 (4) "Qualified adult" means the same as that term is defined in Section [~~26-41-102~~]
417 [26B-4-401](#).

418 (5) "Qualified epinephrine auto-injector entity" means the same as that term is defined
419 in Section [~~26-41-102~~] [26B-4-401](#).

420 (6) "Qualified stock albuterol entity" means the same as that term is defined in Section
421 [~~26-41-102~~] [26B-4-401](#).

422 (7) "Stock albuterol" means the same as that term is defined in Section [~~26-41-102~~]
423 [26B-4-401](#).

424 Section 5. Section **58-17b-1004** is amended to read:

425 **58-17b-1004. Authorization to dispense an epinephrine auto-injector and stock**
426 **albuterol pursuant to a standing order.**

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

429 (a) (i) to a qualified adult for use in accordance with [~~Title 26, Chapter 41, Emergency~~
430 ~~Response for Life-threatening Conditions~~] Title 26B, Chapter 4, Part 4, School Health; or

431 (ii) to a qualified epinephrine auto-injector entity for use in accordance with [~~Title 26,~~
432 ~~Chapter 41, Emergency Response for Life-threatening Conditions~~] Title 26B, Chapter 4, Part 4,
433 School Health;

434 (b) pursuant to a standing prescription drug order made in accordance with Section
435 [58-17b-1005](#);

436 (c) without any other prescription drug order from a person licensed to prescribe an
437 epinephrine auto-injector; and

438 (d) in accordance with the dispensing guidelines in Section [58-17b-1006](#).

439 (2) Notwithstanding any other provision of this chapter, a pharmacist or pharmacy
440 intern may dispense stock albuterol:

441 (a) (i) to a qualified adult for use in accordance with [~~Title 26, Chapter 41, Emergency~~
442 ~~Response for Life-threatening Conditions~~] Title 26B, Chapter 4, Part 4, School Health; or

443 (ii) to a qualified stock albuterol entity for use in accordance with [~~Title 26, Chapter~~
444 ~~41, Emergency Response for Life-threatening Conditions~~] Title 26B, Chapter 4, Part 4, School
445 Health;

446 (b) pursuant to a standing prescription drug order made in accordance with Section
447 [58-17b-1005](#);

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

450 (d) in accordance with the dispensing guidelines in Section [58-17b-1006](#).

451 Section 6. Section **58-28-502** is amended to read:

452 **58-28-502. Unprofessional conduct.**

453 (1) "Unprofessional conduct" includes, in addition to the definitions in Section
454 [58-1-501](#):

455 (a) applying unsanitary methods or procedures in the treatment of any animal, contrary
456 to rules adopted by the board and approved by the division;

457 (b) procuring any fee or recompense on the assurance that a manifestly incurable
458 diseased condition of the body of an animal can be permanently cured;

459 (c) selling any biologics containing living or dead organisms or products or such
460 organisms, except in a manner which will prevent indiscriminate use of such biologics;

461 (d) swearing falsely in any testimony or affidavit, relating to, or in the course of, the

462 practice of veterinary medicine, surgery, or dentistry;

463 (e) willful failure to report any dangerous, infectious, or contagious disease, as required
464 by law;

465 (f) willful failure to report the results of any medical tests, as required by law, or rule
466 adopted pursuant to law;

467 (g) violating Chapter 37, Utah Controlled Substances Act;

468 (h) delegating tasks to unlicensed assistive personnel in violation of standards of the
469 profession and in violation of Subsection (2); and

470 (i) making any unsubstantiated claim of superiority in training or skill as a veterinarian
471 in the performance of professional services.

472 (2) (a) "Unprofessional conduct" does not include the following:

473 (i) delegating to a veterinary technologist, while under the indirect supervision of a
474 veterinarian licensed under this chapter, patient care and treatment that requires a technical
475 understanding of veterinary medicine if written or oral instructions are provided to the
476 technologist by the veterinarian;

477 (ii) delegating to a state certified veterinary technician, while under the direct or
478 indirect supervision of a veterinarian licensed under this chapter, patient care and treatment that
479 requires a technical understanding of veterinary medicine if the veterinarian provides written or
480 oral instructions to the state certified veterinary technician;

481 (iii) delegating to a veterinary technician, while under the direct supervision of a
482 veterinarian licensed under this chapter, patient care and treatment that requires a technical
483 understanding of veterinary medicine if written or oral instructions are provided to the
484 technician by the veterinarian;

485 (iv) delegating to a veterinary assistant, under the immediate supervision of a licensed
486 veterinarian, tasks that are consistent with the standards and ethics of the profession;

487 (v) delegating to an individual described in Subsection [58-28-307\(16\)](#), under the direct
488 supervision of a licensed veterinarian, the administration of a sedative drug for teeth floating;
489 or

490 (vi) discussing the effects of the following on an animal with the owner of an animal:

491 (A) a cannabinoid or industrial hemp product, as those terms are defined in Section
492 [4-41-102](#); or

493 (B) THC or medical cannabis, as those terms are defined in Section [26-61a-102]
494 [26B-4-201](#).

495 (b) The delegation of tasks permitted under Subsections (2)(a)(i) through (v) does not
496 include:

- 497 (i) diagnosing;
- 498 (ii) prognosing;
- 499 (iii) surgery; or
- 500 (iv) prescribing drugs, medicines, or appliances.

501 (3) Notwithstanding any provision of this section, a veterinarian licensed under this
502 chapter is not prohibited from engaging in a discussion described in Subsection (2)(a)(vi).

503 Section 7. Section **58-31b-102** is amended to read:

504 **58-31b-102. Definitions.**

505 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

506 (1) "Administrative penalty" means a monetary fine or citation imposed by the division
507 for acts or omissions determined to be unprofessional or unlawful conduct in accordance with a
508 fine schedule established by division rule made in accordance with Title 63G, Chapter 3, Utah
509 Administrative Rulemaking Act, and as a result of an adjudicative proceeding conducted in
510 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

511 (2) "Applicant" means an individual who applies for licensure or certification under
512 this chapter by submitting a completed application for licensure or certification and the
513 required fees to the department.

514 (3) "Approved education program" means a nursing education program that is
515 accredited by an accrediting body for nursing education that is approved by the United States
516 Department of Education.

517 (4) "Board" means the Board of Nursing created in Section [58-31b-201](#).

518 (5) "Diagnosis" means the identification of and discrimination between physical and
519 psychosocial signs and symptoms essential to the effective execution and management of
520 health care.

521 (6) "Examinee" means an individual who applies to take or does take any examination
522 required under this chapter for licensure.

523 (7) "Licensee" means an individual who is licensed or certified under this chapter.

524 (8) "Long-term care facility" means any of the following facilities licensed by the
525 [~~Department of Health pursuant to Title 26, Chapter 21, Health Care Facility Licensing and~~
526 ~~Inspection Act~~] Department of Health and Human Services pursuant to Title 26B, Chapter 2,
527 Part 2, Health Care Facility Licensing and Inspection:

- 528 (a) a nursing care facility;
- 529 (b) a small health care facility;
- 530 (c) an intermediate care facility for people with an intellectual disability;
- 531 (d) an assisted living facility Type I or II; or
- 532 (e) a designated swing bed unit in a general hospital.

533 (9) "Medication aide certified" means a certified nurse aide who:

- 534 (a) has a minimum of 2,000 hours experience working as a certified nurse aide;
- 535 (b) has received a minimum of 60 hours of classroom and 40 hours of practical training
536 that is approved by the division in collaboration with the board, in administering routine
537 medications to patients or residents of long-term care facilities; and
- 538 (c) is certified by the division as a medication aide certified.

539 (10) (a) "Practice as a medication aide certified" means the limited practice of nursing
540 under the supervision, as defined by the division by rule made in accordance with Title 63G,
541 Chapter 3, Utah Administrative Rulemaking Act, of a licensed nurse, involving routine patient
542 care that requires minimal or limited specialized or general knowledge, judgment, and skill, to
543 an individual who:

544 (i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual
545 disability; and

546 (ii) is in a regulated long-term care facility.

547 (b) "Practice as a medication aide certified":

548 (i) includes:

549 (A) providing direct personal assistance or care; and

550 (B) administering routine medications to patients in accordance with a formulary and
551 protocols to be defined by the division by rule made in accordance with Title 63G, Chapter 3,
552 Utah Administrative Rulemaking Act; and

553 (ii) does not include assisting a resident of an assisted living facility, a long term care
554 facility, or an intermediate care facility for people with an intellectual disability to self

555 administer a medication, as regulated by the Department of [Health] Health and Human
556 Services by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
557 Rulemaking Act.

558 (11) "Practice of advanced practice registered nursing" means the practice of nursing
559 within the generally recognized scope and standards of advanced practice registered nursing as
560 defined by rule and consistent with professionally recognized preparation and education
561 standards of an advanced practice registered nurse by a person licensed under this chapter as an
562 advanced practice registered nurse. "Practice of advanced practice registered nursing" includes:

- 563 (a) maintenance and promotion of health and prevention of disease;
564 (b) diagnosis, treatment, correction, consultation, and referral;
565 (c) prescription or administration of prescription drugs or devices including:
566 (i) local anesthesia;
567 (ii) Schedule III-V controlled substances; and
568 (iii) Subject to Section [58-31b-803](#), Schedule II controlled substances; or
569 (d) the provision of preoperative, intraoperative, and postoperative anesthesia care and
570 related services upon the request of a licensed health care professional by an advanced practice
571 registered nurse specializing as a certified registered nurse anesthetist, including:
572 (i) preanesthesia preparation and evaluation including:
573 (A) performing a preanesthetic assessment of the patient;
574 (B) ordering and evaluating appropriate lab and other studies to determine the health of
575 the patient; and
576 (C) selecting, ordering, or administering appropriate medications;
577 (ii) anesthesia induction, maintenance, and emergence, including:
578 (A) selecting and initiating the planned anesthetic technique;
579 (B) selecting and administering anesthetics and adjunct drugs and fluids; and
580 (C) administering general, regional, and local anesthesia;
581 (iii) postanesthesia follow-up care, including:
582 (A) evaluating the patient's response to anesthesia and implementing corrective
583 actions; and
584 (B) selecting, ordering, or administering the medications and studies listed in this
585 Subsection (11)(d);

586 (iv) other related services within the scope of practice of a certified registered nurse
587 anesthetist, including:
588 (A) emergency airway management;
589 (B) advanced cardiac life support; and
590 (C) the establishment of peripheral, central, and arterial invasive lines; and
591 (v) for purposes of this Subsection (11)(d), "upon the request of a licensed health care
592 professional":

593 (A) means a health care professional practicing within the scope of the health care
594 professional's license, requests anesthesia services for a specific patient; and

595 (B) does not require an advanced practice registered nurse specializing as a certified
596 registered nurse anesthetist to obtain additional authority to select, administer, or provide
597 preoperative, intraoperative, or postoperative anesthesia care and services.

598 (12) "Practice of nursing" means assisting individuals or groups to maintain or attain
599 optimal health, implementing a strategy of care to accomplish defined goals and evaluating
600 responses to care and treatment, and requires substantial specialized or general knowledge,
601 judgment, and skill based upon principles of the biological, physical, behavioral, and social
602 sciences. "Practice of nursing" includes:

- 603 (a) initiating and maintaining comfort measures;
- 604 (b) promoting and supporting human functions and responses;
- 605 (c) establishing an environment conducive to well-being;
- 606 (d) providing health counseling and teaching;
- 607 (e) collaborating with health care professionals on aspects of the health care regimen;
- 608 (f) performing delegated procedures only within the education, knowledge, judgment,
609 and skill of the licensee;
- 610 (g) delegating nursing tasks that may be performed by others, including an unlicensed
611 assistive personnel; and
- 612 (h) supervising an individual to whom a task is delegated under Subsection (12)(g) as
613 the individual performs the task.

614 (13) "Practice of practical nursing" means the performance of nursing acts in the
615 generally recognized scope of practice of licensed practical nurses as defined by division rule
616 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as

617 provided in this Subsection (13) by an individual licensed under this chapter as a licensed
618 practical nurse and under the direction of a registered nurse, licensed physician, or other
619 specified health care professional as defined by division rule made in accordance with Title
620 63G, Chapter 3, Utah Administrative Rulemaking Act. Practical nursing acts include:

- 621 (a) contributing to the assessment of the health status of individuals and groups;
- 622 (b) participating in the development and modification of the strategy of care;
- 623 (c) implementing appropriate aspects of the strategy of care;
- 624 (d) maintaining safe and effective nursing care rendered to a patient directly or
625 indirectly; and
- 626 (e) participating in the evaluation of responses to interventions.

627 (14) "Practice of registered nursing" means performing acts of nursing as provided in
628 this Subsection (14) by an individual licensed under this chapter as a registered nurse within
629 the generally recognized scope of practice of registered nurses as defined by division rule made
630 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Registered
631 nursing acts include:

- 632 (a) assessing the health status of individuals and groups;
- 633 (b) identifying health care needs;
- 634 (c) establishing goals to meet identified health care needs;
- 635 (d) planning a strategy of care;
- 636 (e) prescribing nursing interventions to implement the strategy of care;
- 637 (f) implementing the strategy of care;
- 638 (g) maintaining safe and effective nursing care that is rendered to a patient directly or
639 indirectly;
- 640 (h) evaluating responses to interventions;
- 641 (i) teaching the theory and practice of nursing; and
- 642 (j) managing and supervising the practice of nursing.

643 (15) "Registered nurse apprentice" means an individual licensed under Subsection
644 58-31b-301(2)(b) who is learning and engaging in the practice of registered nursing under the
645 indirect supervision of an individual licensed under:

- 646 (a) Subsection 58-31b-301(2)(c), (e), or (f);
- 647 (b) Chapter 67, Utah Medical Practice Act; or

648 (c) Chapter 68, Utah Osteopathic Medical Practice Act.

649 (16) "Routine medications":

650 (a) means established medications administered to a medically stable individual as
651 determined by a licensed health care practitioner or in consultation with a licensed medical
652 practitioner; and

653 (b) is limited to medications that are administered by the following routes:

654 (i) oral;

655 (ii) sublingual;

656 (iii) buccal;

657 (iv) eye;

658 (v) ear;

659 (vi) nasal;

660 (vii) rectal;

661 (viii) vaginal;

662 (ix) skin ointments, topical including patches and transdermal;

663 (x) premeasured medication delivered by aerosol/nebulizer; and

664 (xi) medications delivered by metered hand-held inhalers.

665 (17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
666 and 58-31b-501.

667 (18) "Unlicensed assistive personnel" means any unlicensed individual, regardless of
668 title, who is delegated a task by a licensed nurse as permitted by division rule made in
669 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the standards
670 of the profession.

671 (19) "Unprofessional conduct" means the same as that term is defined in Sections
672 58-1-501 and 58-31b-502 and as may be further defined by division rule made in accordance
673 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

674 Section 8. Section 58-31b-305 is amended to read:

675 **58-31b-305. Term of license -- Expiration -- Renewal.**

676 (1) (a) The division shall issue each license or certification under this chapter in
677 accordance with a two-year renewal cycle established by rule.

678 (b) The division may by rule extend or shorten a renewal period by as much as one year

679 to stagger the renewal cycles the division administers.

680 (2) The division shall renew the license of a licensee who, at the time of renewal:

681 (a) completes and submits an application for renewal in a form prescribed by the
682 division;

683 (b) pays a renewal fee established by the division under Section [63J-1-504](#);

684 (c) views a suicide prevention video described in Section [58-1-601](#) and submits proof
685 in the form required by the division; and

686 (d) meets continuing competency requirements as established by rule.

687 (3) In addition to the renewal requirements under Subsection (2), a person licensed as
688 an advanced practice registered nurse shall be currently certified by a program approved by the
689 division in collaboration with the board and submit evidence satisfactory to the division of that
690 qualification or if licensed prior to July 1, 1992, meet the requirements established by rule.

691 (4) In addition to the requirements described in Subsections (2) and (3), an advanced
692 practice registered nurse licensee specializing in psychiatric mental health nursing who, as of
693 the day on which the division originally issued the licensee's license had not completed the
694 division's clinical practice requirements in psychiatric and mental health nursing, shall, to
695 qualify for renewal:

696 (a) if renewing less than two years after the day on which the division originally issued
697 the license, demonstrate satisfactory progress toward completing the clinical practice
698 requirements; or

699 (b) have completed the clinical practice requirements.

700 (5) Each license or certification automatically expires on the expiration date shown on
701 the license or certification unless renewed in accordance with Section [58-1-308](#).

702 (6) The division shall accept and apply toward an hour requirement that the division
703 establishes under Subsection (2)(d) continuing education that an advanced practice registered
704 nurse completes in accordance with Section ~~[26-61a-106]~~ [26B-4-204](#).

705 Section 9. Section **58-31b-401** is amended to read:

706 **58-31b-401. Grounds for denial of licensure or certification and disciplinary**
707 **proceedings.**

708 (1) (a) As used in this section, "licensed" or "license" includes certified or certification
709 under this chapter.

710 (b) A term or condition applied to the word "nurse" under this section applies to a
711 medication aide certified.

712 (2) Grounds for refusal to issue a license to an applicant, for refusal to renew the
713 license of a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee,
714 to issue a public or private reprimand to a licensee, and to issue cease and desist orders shall be
715 in accordance with Section [58-1-401](#).

716 (3) (a) (i) Subject to Subsection (7), if a court of competent jurisdiction determines a
717 nurse is incapacitated as defined in Section [75-1-201](#) or that the nurse has a mental illness, as
718 defined in Section [~~62A-15-602~~] [26B-5-301](#), and is unable to safely engage in the practice of
719 nursing, the director shall immediately suspend the license of the nurse upon the entry of the
720 judgment of the court, without further proceedings under Title 63G, Chapter 4, Administrative
721 Procedures Act, regardless of whether an appeal from the court's ruling is pending.

722 (ii) The director shall promptly notify the nurse in writing of a suspension under
723 Subsection (3)(a)(i).

724 (b) (i) Subject to Subsection (7), if the division and the majority of the board find
725 reasonable cause to believe a nurse who is not determined judicially to be an incapacitated
726 person or to have a mental illness, is incapable of practicing nursing with reasonable skill
727 regarding the safety of patients, because of illness, excessive use of drugs or alcohol, or as a
728 result of any mental or physical condition, the board shall recommend that the director file a
729 petition with the division, and cause the petition to be served upon the nurse with a notice of
730 hearing on the sole issue of the capacity of the nurse to competently, safely engage in the
731 practice of nursing.

732 (ii) Except as provided in Subsection (4), the hearing described in Subsection (3)(b)(i)
733 shall be conducted under Section [58-1-109](#) and Title 63G, Chapter 4, Administrative
734 Procedures Act.

735 (4) (a) Every nurse who accepts the privilege of being licensed under this chapter gives
736 consent to:

737 (i) submitting to an immediate mental or physical examination, at the nurse's expense
738 and by a division-approved practitioner selected by the nurse when directed in writing by the
739 division and a majority of the board to do so; and

740 (ii) the admissibility of the reports of the examining practitioner's testimony or

741 examination, and waives all objections on the ground the reports constitute a privileged
742 communication.

743 (b) The examination may be ordered by the division, with the consent of a majority of
744 the board, only upon a finding of reasonable cause to believe:

745 (i) the nurse has a mental illness, is incapacitated, or otherwise unable to practice
746 nursing with reasonable skill and safety; and

747 (ii) immediate action by the division and the board is necessary to prevent harm to the
748 nurse's patients or the general public.

749 (c) (i) Failure of a nurse to submit to the examination ordered under this section is a
750 ground for the division's immediate suspension of the nurse's license by written order of the
751 director.

752 (ii) The division may enter the order of suspension without further compliance with
753 Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to
754 submit to the examination ordered under this section was due to circumstances beyond the
755 control of the nurse and was not related directly to the illness or incapacity of the nurse.

756 (5) (a) A nurse whose license is suspended under Subsection (3) or (4)(c) has the right
757 to a hearing to appeal the suspension within 10 days after the license is suspended.

758 (b) The hearing held under this Subsection (5) shall be conducted in accordance with
759 Sections [58-1-108](#) and [58-1-109](#) for the sole purpose of determining if sufficient basis exists
760 for the continuance of the order of suspension in order to prevent harm to the nurse's patients or
761 the general public.

762 (6) A nurse whose license is revoked, suspended, or in any way restricted under this
763 section may request the division and the board to consider, at reasonable intervals, evidence
764 presented by the nurse, under procedures established by division rule, regarding any change in
765 the nurse's condition, to determine whether:

766 (a) the nurse is or is not able to safely and competently engage in the practice of
767 nursing; and

768 (b) the nurse is qualified to have the nurse's license to practice under this chapter
769 restored completely or in part.

770 (7) The division may not refuse, revoke, suspend, or in any way restrict an applicant or
771 licensee's license under this chapter solely because the applicant or licensee seeks or

772 participates in mental health or substance abuse treatment.

773 (8) Section 63G-2-206 may not be construed as limiting the authority of the division to
774 report current significant investigative information to the coordinated licensure information
775 system for transmission to party states as required of the division by Article VII of the Nurse
776 Licensure Compact - Revised in Section 58-31e-102.

777 Section 10. Section 58-31b-502 is amended to read:

778 **58-31b-502. Unprofessional conduct.**

779 (1) "Unprofessional conduct" includes:

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

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

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

789 (i) period when a generally recognized professional relationship exists between the
790 person licensed or certified under this chapter and the patient; or

791 (ii) extended period when a patient has reasonable cause to believe a professional
792 relationship exists between the person licensed or certified under the provisions of this chapter
793 and the patient;

794 (d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using
795 information about a patient or exploiting the licensee's or the person with a certification's
796 professional relationship between the licensee or holder of a certification under this chapter and
797 the patient; or

798 (ii) exploiting the patient by use of the licensee's or person with a certification's
799 knowledge of the patient obtained while acting as a nurse or a medication aide certified;

800 (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

801 (f) unauthorized taking or personal use of nursing supplies from an employer;

802 (g) unauthorized taking or personal use of a patient's personal property;

- 803 (h) unlawful or inappropriate delegation of nursing care;
- 804 (i) failure to exercise appropriate supervision of persons providing patient care services
805 under supervision of the licensed nurse;
- 806 (j) employing or aiding and abetting the employment of an unqualified or unlicensed
807 person to practice as a nurse;
- 808 (k) failure to file or record any medical report as required by law, impeding or
809 obstructing the filing or recording of such a report, or inducing another to fail to file or record
810 such a report;
- 811 (l) breach of a statutory, common law, regulatory, or ethical requirement of
812 confidentiality with respect to a person who is a patient, unless ordered by a court;
- 813 (m) failure to pay a penalty imposed by the division;
- 814 (n) prescribing a Schedule II controlled substance without complying with the
815 requirements in Section [58-31b-803](#), if applicable;
- 816 (o) violating Section [58-31b-801](#);
- 817 (p) violating the dispensing requirements of Section [58-17b-309](#) or Chapter 17b, Part
818 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if
819 applicable;
- 820 (q) falsely making an entry in, or altering, a medical record with the intent to conceal:
- 821 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
822 or an individual under the direction or control of an individual licensed under this chapter; or
- 823 (ii) conduct described in Subsections (1)(a) through (o) or Subsection [58-1-501\(1\)](#); or
- 824 (r) violating the requirements of [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~]
825 Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.
- 826 (2) "Unprofessional conduct" does not include, in accordance with [~~Title 26, Chapter~~
827 ~~61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and
828 Medical Cannabis, when registered as a qualified medical provider, or acting as a limited
829 medical provider, as those terms are defined in Section [~~26-61a-102~~] [26B-4-201](#),
830 recommending the use of medical cannabis.
- 831 (3) Notwithstanding Subsection (2), the division, in consultation with the board and in
832 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
833 unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

834 Section 11. Section **58-31b-703** is amended to read:

835 **58-31b-703. Opiate antagonist -- Exclusion from unprofessional or unlawful**
836 **conduct.**

837 (1) As used in this section:

838 (a) "Dispense" means the same as that term is defined in Section [58-17b-102](#).

839 (b) "Increased risk" means the same as that term is defined in Section [\[26-55-102\]](#)
840 [26B-4-501](#).

841 (c) "Opiate antagonist" means the same as that term is defined in Section [\[26-55-102\]](#)
842 [26B-4-501](#).

843 (d) "Opiate-related drug overdose event" means the same as that term is defined in
844 Section [\[26-55-102\]](#) [26B-4-501](#).

845 (e) "Prescribe" means the same as that term is defined in Section [58-17b-102](#).

846 (2) The prescribing or dispensing of an opiate antagonist by a licensee under this
847 chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the
848 opiate antagonist:

849 (a) in a good faith effort to assist:

850 (i) an individual who is at increased risk of experiencing an opiate-related drug
851 overdose event; or

852 (ii) a family member of, friend of, or other person, including a person described in
853 Subsections [\[26-55-107\(1\)\(a\)\(i\)\(A\)\]](#) [26B-4-512\(1\)\(a\)\(i\)\(A\)](#) through (1)(a)(i)(F), that is in a
854 position to assist an individual who is at increased risk of experiencing an opiate-related drug
855 overdose event; or

856 (b) to an overdose outreach provider pursuant to Subsection [\[26-55-104\(2\)\(a\)\(iii\)\]](#)
857 [26B-4-509](#).

858 (3) The provisions of this section and ~~[Title 26, Chapter 55, Opiate Overdose Response~~
859 ~~Act]~~ Title 26B, Chapter 4, Part 5, Treatment Access, do not establish a duty or standard of care
860 in the prescribing, dispensing, or administration of an opiate antagonist.

861 Section 12. Section **58-37-3.6** is amended to read:

862 **58-37-3.6. Exemption for possession or distribution of a cannabinoid product or**
863 **expanded cannabinoid product pursuant to an approved study.**

864 (1) As used in this section:

- 865 (a) "Cannabinoid product" means a product intended for human ingestion that:
866 (i) contains an extract or concentrate that is obtained from cannabis;
867 (ii) is prepared in a medicinal dosage form; and
868 (iii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.
869 (b) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.
870 (c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.
871 (d) "Expanded cannabinoid product" means a product intended for human ingestion

872 that:

- 873 (i) contains an extract or concentrate that is obtained from cannabis;
874 (ii) is prepared in a medicinal dosage form; and
875 (iii) contains less than 10 units of cannabidiol for every one unit of
876 tetrahydrocannabinol.

877 (e) "Medicinal dosage form" means:

- 878 (i) a tablet;
879 (ii) a capsule;
880 (iii) a concentrated oil;
881 (iv) a liquid suspension;
882 (v) a transdermal preparation; or
883 (vi) a sublingual preparation.

884 (f) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the
885 description in Subsection 58-37-4(2)(a)(iii)(AA).

886 (2) Notwithstanding any other provision of this chapter an individual who possesses or
887 distributes a cannabinoid product or an expanded cannabinoid product is not subject to the
888 penalties described in this title for the possession or distribution of marijuana or
889 tetrahydrocannabinol to the extent that the individual's possession or distribution of the
890 cannabinoid product or expanded cannabinoid product complies with Title 26, Chapter 61,
891 Cannabinoid Research Act.

892 Section 13. Section 58-37-3.7 is amended to read:

893 **58-37-3.7. Medical cannabis decriminalization.**

894 (1) As used in this section:

895 (a) "Cannabis" means the same as that term is defined in Section [26-61a-102]

896 [26B-4-201](#).

897 (b) "Cannabis product" means the same as that term is defined in Section [~~26-61a-102~~]

898 [26B-4-201](#).

899 (c) "Legal dosage limit" means the same as that term is defined in Section

900 [~~26-61a-102~~] [26B-4-201](#).

901 (d) "Medical cannabis card" means the same as that term is defined in Section

902 [~~26-61a-102~~] [26B-4-201](#).

903 (e) "Medical cannabis device" means the same as that term is defined in Section

904 [~~26-61a-102~~] [26B-4-201](#).

905 (f) "Medicinal dosage form" means the same as that term is defined in Section

906 [~~26-61a-102~~] [26B-4-201](#).

907 (g) "Nonresident patient" means the same as that term is defined in Section

908 [~~26-61a-102~~] [26B-4-201](#).

909 (h) "Qualifying condition" means the same as that term is defined in Section

910 [~~26-61a-102~~] [26B-4-201](#).

911 (i) "Tetrahydrocannabinol" means the same as that term is defined in Section

912 [58-37-3.9](#).

913 (2) Before July 1, 2021, including during the period between January 1, 2021, and
914 March 17, 2021, an individual is not guilty under this chapter for the use or possession of
915 marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

916 (a) at the time of the arrest or citation, the individual:

917 (i) for possession, was a medical cannabis cardholder; or

918 (ii) for use, was a medical cannabis patient cardholder or a minor with a provisional
919 patient card under the supervision of a medical cannabis guardian cardholder; and

920 (b) (i) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or
921 tetrahydrocannabinol is one of the following in an amount that does not exceed the legal
922 dosage limit:

923 (A) unprocessed cannabis in a medicinal dosage form; or

924 (B) a cannabis product in a medicinal dosage form; and

925 (ii) for use or possession of marijuana drug paraphernalia, the paraphernalia is a
926 medical cannabis device.

927 (3) A nonresident patient is not guilty under this chapter for the use or possession of
928 marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

929 (a) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or
930 tetrahydrocannabinol is one of the following in an amount that does not exceed the legal
931 dosage limit:

932 (i) unprocessed cannabis in a medicinal dosage form; or

933 (ii) a cannabis product in a medicinal dosage form; and

934 (b) for use or possession of marijuana drug paraphernalia, the paraphernalia is a
935 medical cannabis device.

936 (4) (a) There is a rebuttable presumption against an allegation of use or possession of
937 marijuana or tetrahydrocannabinol if:

938 (i) an individual fails a drug test based on the presence of tetrahydrocannabinol in the
939 sample; and

940 (ii) the individual provides evidence that the individual possessed or used cannabidiol
941 or a cannabidiol product.

942 (b) The presumption described in Subsection (4)(a) may be rebutted with evidence that
943 the individual purchased or possessed marijuana or tetrahydrocannabinol that is not authorized
944 under:

945 (i) Section 4-41-402; or

946 (ii) [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2,
947 Cannabinoid Research and Medical Cannabis.

948 (5) (a) An individual is not guilty under this chapter for the use or possession of
949 marijuana drug paraphernalia if the drug paraphernalia is a medical cannabis device.

950 (b) Nothing in this section prohibits a person, either within the state or outside the
951 state, from selling a medical cannabis device within the state.

952 (c) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis
953 Production Establishments, or [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B,
954 Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, to qualify for the protections
955 of this section to sell a medical cannabis device.

956 Section 14. Section 58-37-3.8 is amended to read:

957 **58-37-3.8. Enforcement.**

958 (1) A law enforcement officer, as that term is defined in Section 53-13-103, except for
959 an officially designated drug enforcement task force regarding conduct that is not in accordance
960 with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2,
961 Cannabinoid Research and Medical Cannabis, may not expend any state or local resources,
962 including the officer's time, to:

963 (a) effect any arrest or seizure of cannabis, as that term is defined in Section
964 [~~26-61a-102~~] 26B-4-201, or conduct any investigation, on the sole basis of activity the officer
965 believes to constitute a violation of federal law if the officer has reason to believe that the
966 activity is in compliance with the state medical cannabis laws;

967 (b) enforce a law that restricts an individual's right to acquire, own, or possess a
968 firearm based solely on the individual's possession or use of cannabis in accordance with state
969 medical cannabis laws; or

970 (c) provide any information or logistical support related to an activity described in
971 Subsection (1)(a) to any federal law enforcement authority or prosecuting entity.

972 (2) An agency or political subdivision of the state may not take an adverse action
973 against a person for providing a professional service to a medical cannabis pharmacy, as that
974 term is defined in Section [~~26-61a-102~~] 26B-4-201, the state central patient portal, as that term
975 is defined in Section [~~26-61a-102~~] 26B-4-201, or a cannabis production establishment, as that
976 term is defined in Section 4-41a-102, on the sole basis that the service is a violation of federal
977 law.

978 Section 15. Section ~~58-37-3.9~~ is amended to read:

979 **58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying**
980 **illness.**

981 (1) As used in this section:

982 (a) "Cannabis" means marijuana.

983 (b) "Cannabis product" means the same as that term is defined in Section [~~26-61a-102~~]
984 26B-4-201.

985 (c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

986 (d) "Medical cannabis cardholder" means the same as that term is defined in Section
987 [~~26-61a-102~~] 26B-4-201.

988 (e) "Medical cannabis device" means the same as that term is defined in Section

989 ~~[26-61a-102]~~ 26B-4-201.

990 (f) "Medicinal dosage form" means the same as that term is defined in Section

991 ~~[26-61a-102]~~ 26B-4-201.

992 (g) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic
993 description as described in Subsection ~~58-37-4(2)(a)(iii)(AA)~~.

994 (2) Notwithstanding any other provision of law, except as otherwise provided in this
995 section:

996 (a) an individual is not guilty of a violation of this title for the following conduct if the
997 individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis
998 Production Establishments, or ~~[Title 26, Chapter 61a, Utah Medical Cannabis Act]~~ Title 26B,
999 Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis:

1000 (i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing,
1001 selling, or offering to sell cannabis or a cannabis product; or

1002 (ii) possessing cannabis or a cannabis product with the intent to engage in the conduct
1003 described in Subsection (2)(a)(i); and

1004 (b) an individual is not guilty of a violation of this title regarding drug paraphernalia if
1005 the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments,
1006 and ~~[Title 26, Chapter 61a, Utah Medical Cannabis Act]~~ Title 26B, Chapter 4, Part 2,
1007 Cannabinoid Research and Medical Cannabis:

1008 (i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis
1009 device; or

1010 (ii) possesses a medical cannabis device with the intent to engage in any of the conduct
1011 described in Subsection (2)(b)(i).

1012 (3) (a) As used in this Subsection (3), "smoking" does not include the vaporization or
1013 heating of medical cannabis.

1014 (b) ~~[Title 26, Chapter 61a, Utah Medical Cannabis Act]~~ Title 26B, Chapter 4, Part 2,
1015 Cannabinoid Research and Medical Cannabis, does not authorize a medical cannabis
1016 cardholder to smoke or combust cannabis or to use a device to facilitate the smoking or
1017 combustion of cannabis.

1018 (c) A medical cannabis cardholder or a nonresident patient who smokes cannabis or
1019 engages in any other conduct described in Subsection (3)(b):

1020 (i) does not possess the cannabis in accordance with [~~Title 26, Chapter 61a, Utah~~
1021 ~~Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical
1022 Cannabis; and

1023 (ii) is, for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug
1024 paraphernalia for the conduct described in Subsection (3)(b):

1025 (A) for the first offense, guilty of an infraction and subject to a fine of up to \$100; and

1026 (B) for a second or subsequent offense, subject to charges under this chapter.

1027 (4) An individual who is assessed a penalty or convicted of a crime under Title 4,
1028 Chapter 41a, Cannabis Production Establishments, or [~~Title 26, Chapter 61a, Utah Medical~~
1029 ~~Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, is
1030 not, based on the conduct underlying that penalty or conviction, subject to a penalty described
1031 in this chapter for:

1032 (a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis
1033 product; or

1034 (b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

1035 (5) (a) Nothing in this section prohibits a person, either within the state or outside the
1036 state, from selling a medical cannabis device within the state.

1037 (b) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis
1038 Production Establishments, or [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B,
1039 Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, to qualify for the protections
1040 of this section to sell a medical cannabis device.

1041 Section 16. Section **58-37-6.5** is amended to read:

1042 **58-37-6.5. Continuing education for controlled substance prescribers.**

1043 (1) For the purposes of this section:

1044 (a) "Controlled substance prescriber" means an individual, other than a veterinarian,
1045 who:

1046 (i) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah
1047 Controlled Substances Act; and

1048 (ii) possesses the authority, in accordance with the individual's scope of practice, to
1049 prescribe schedule II controlled substances and schedule III controlled substances that are
1050 applicable to opioid narcotics, hypnotic depressants, or psychostimulants.

1051 (b) "D.O." means an osteopathic physician and surgeon licensed under Title 58,
1052 Chapter 68, Utah Osteopathic Medical Practice Act.

1053 (c) "FDA" means the United States Food and Drug Administration.

1054 (d) "M.D." means a physician and surgeon licensed under Title 58, Chapter 67, Utah
1055 Medical Practice Act.

1056 (e) "SBIRT" means the Screening, Brief Intervention, and Referral to Treatment
1057 approach used by the federal Substance Abuse and Mental Health Services Administration or
1058 defined by the division, in consultation with the Division of Substance Abuse and Mental
1059 Health, by administrative rule, in accordance with Title 63G, Chapter 3, Utah Administrative
1060 Rulemaking Act.

1061 (2) (a) Beginning with the licensing period that begins after January 1, 2014, as a
1062 condition precedent for license renewal, each controlled substance prescriber shall complete at
1063 least 3.5 continuing education hours per licensing period that satisfy the requirements of
1064 Subsection (3).

1065 (b) (i) Beginning with the licensing period that begins after January 1, 2024, as a
1066 condition precedent for license renewal, each controlled substance prescriber shall complete at
1067 least 3.5 continuing education hours in an SBIRT-training class that satisfies the requirements
1068 of Subsection (4).

1069 (ii) Completion of the SBIRT-training class, in compliance with Subsection (2)(b)(i),
1070 fulfills the continuing education hours requirement in Subsection (3) for the licensing period in
1071 which the class was completed.

1072 (iii) A controlled substance prescriber:

1073 (A) need only take the SBIRT-training class once during the controlled substance
1074 prescriber's licensure in the state; and

1075 (B) shall provide a completion record of the SBIRT-training class in order to be
1076 reimbursed for SBIRT services to patients, in accordance with Sections [~~26-18-22~~] [26B-3-131](#)
1077 and [49-20-416](#).

1078 (3) A controlled substance prescriber shall complete at least 3.5 hours of continuing
1079 education in one or more controlled substance prescribing classes, except dentists who shall
1080 complete at least two hours, that satisfy the requirements of Subsections (4) and (6).

1081 (4) A controlled substance prescribing class shall:

1082 (a) satisfy the division's requirements for the continuing education required for the
1083 renewal of the controlled substance prescriber's respective license type;

1084 (b) be delivered by an accredited or approved continuing education provider
1085 recognized by the division as offering continuing education appropriate for the controlled
1086 substance prescriber's respective license type; and

1087 (c) include a postcourse knowledge assessment.

1088 (5) An M.D. or D.O. completing continuing professional education hours under
1089 Subsection (4) shall complete those hours in classes that qualify for the American Medical
1090 Association Physician's Recognition Award Category 1 Credit.

1091 (6) The 3.5 hours of the controlled substance prescribing classes under Subsection (4)
1092 shall include educational content covering the following:

1093 (a) the scope of the controlled substance abuse problem in Utah and the nation;

1094 (b) all elements of the FDA Blueprint for Prescriber Education under the FDA's
1095 Extended-Release and Long-Acting Opioid Analgesics Risk Evaluation and Mitigation
1096 Strategy, as published July 9, 2012, or as it may be subsequently revised;

1097 (c) the national and Utah-specific resources available to prescribers to assist in
1098 appropriate controlled substance and opioid prescribing;

1099 (d) patient record documentation for controlled substance and opioid prescribing;

1100 (e) office policies, procedures, and implementation; and

1101 (f) some training regarding medical cannabis, as that term is defined in Section
1102 ~~[26-61a-102]~~ [26B-4-201](#).

1103 (7) (a) The division, in consultation with the Utah Medical Association Foundation,
1104 shall determine whether a particular controlled substance prescribing class satisfies the
1105 educational content requirements of Subsections (4) and (6) for an M.D. or D.O.

1106 (b) The division, in consultation with the applicable professional licensing boards,
1107 shall determine whether a particular controlled substance prescribing class satisfies the
1108 educational content requirements of Subsections (4) and (6) for a controlled substance
1109 prescriber other than an M.D. or D.O.

1110 (c) The division may by rule establish a committee that may audit compliance with the
1111 Utah Risk Evaluation and Mitigation Strategy (REMS) Educational Programming Project
1112 grant, that satisfies the educational content requirements of Subsections (4) and (6) for a

1113 controlled substance prescriber.

1114 (d) The division shall consult with the Department of [Health] Health and Human
1115 Services regarding the medical cannabis training described in Subsection (6)(f).

1116 (8) A controlled substance prescribing class required under this section:

1117 (a) may be held:

1118 (i) in conjunction with other continuing professional education programs; and

1119 (ii) online; and

1120 (b) does not increase the total number of state-required continuing professional
1121 education hours required for prescriber licensing.

1122 (9) The division may establish rules, in accordance with Title 63G, Chapter 3, Utah
1123 Administrative Rulemaking Act, to implement this section.

1124 (10) A controlled substance prescriber who, on or after July 1, 2017, obtains a waiver
1125 to treat opioid dependency with narcotic medications, in accordance with the Drug Addiction
1126 Treatment Act of 2000, 21 U.S.C. Sec. 823 et seq., may use the waiver to satisfy the 3.5 hours
1127 of the continuing education requirement under Subsection (3) for two consecutive licensing
1128 periods.

1129 Section 17. Section **58-37-7** is amended to read:

1130 **58-37-7. Labeling and packaging controlled substance -- Informational pamphlet**
1131 **for opiates.**

1132 (1) A person licensed pursuant to this act may not distribute a controlled substance
1133 unless it is packaged and labeled in compliance with the requirements of Section 305 of the
1134 Federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

1135 (2) No person except a pharmacist for the purpose of filling a prescription shall alter,
1136 deface, or remove any label affixed by the manufacturer.

1137 (3) Whenever a pharmacist sells or dispenses any controlled substance on a
1138 prescription issued by a practitioner, the pharmacist shall affix to the container in which the
1139 substance is sold or dispensed:

1140 (a) a label showing the:

1141 (i) pharmacy name and address;

1142 (ii) serial number; and

1143 (iii) date of initial filling;

1144 (b) the prescription number, the name of the patient, or if the patient is an animal, the
1145 name of the owner of the animal and the species of the animal;

1146 (c) the name of the practitioner by whom the prescription was written;

1147 (d) any directions stated on the prescription; and

1148 (e) any directions required by rules and regulations promulgated by the department.

1149 (4) Whenever a pharmacist sells or dispenses a Schedule II or Schedule III controlled
1150 substance that is an opiate, a pharmacist shall affix a warning to the container or the lid for the
1151 container in which the substance is sold or dispensed that contains the following text:

1152 (a) "Caution: Opioid. Risk of overdose and addiction"; or

1153 (b) any other language that is approved by the Department of ~~[Health]~~ Health and
1154 Human Services.

1155 (5) (a) A pharmacist who sells or dispenses a Schedule II or Schedule III controlled
1156 substance that is an opiate shall, if available from the Department of ~~[Health]~~ Health and
1157 Human Services, prominently display at the point of sale the informational pamphlet developed
1158 by the Department of ~~[Health]~~ Health and Human Services under Section ~~[26-55-109]~~
1159 26B-4-514.

1160 (b) The board and the Department of ~~[Health]~~ Health and Human Services shall
1161 encourage pharmacists to use the informational pamphlet to engage in patient counseling
1162 regarding the risks associated with taking opiates.

1163 (c) The requirement in Subsection (5)(a) does not apply to a pharmacist if the
1164 pharmacist is unable to obtain the informational pamphlet from the Department of ~~[Health]~~
1165 Health and Human Services for any reason.

1166 (6) A person may not alter the face or remove any label so long as any of the original
1167 contents remain.

1168 (7) (a) An individual to whom or for whose use any controlled substance has been
1169 prescribed, sold, or dispensed by a practitioner and the owner of any animal for which any
1170 controlled substance has been prescribed, sold, or dispensed by a veterinarian may lawfully
1171 possess it only in the container in which it was delivered to the individual by the person selling
1172 or dispensing it.

1173 (b) It is a defense to a prosecution under this subsection that the person being
1174 prosecuted produces in court a valid prescription for the controlled substance or the original

1175 container with the label attached.

1176 Section 18. Section **58-37-8** is amended to read:

1177 **58-37-8. Prohibited acts -- Penalties.**

1178 (1) Prohibited acts A -- Penalties and reporting:

1179 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and
1180 intentionally:

1181 (i) produce, manufacture, or dispense, or to possess with intent to produce,
1182 manufacture, or dispense, a controlled or counterfeit substance;

1183 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
1184 arrange to distribute a controlled or counterfeit substance;

1185 (iii) possess a controlled or counterfeit substance with intent to distribute; or

1186 (iv) engage in a continuing criminal enterprise where:

1187 (A) the person participates, directs, or engages in conduct that results in a violation of
1188 Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act,
1189 Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance
1190 Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

1191 (B) the violation is a part of a continuing series of two or more violations of Chapter
1192 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b,
1193 Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act,
1194 or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert
1195 with five or more persons with respect to whom the person occupies a position of organizer,
1196 supervisor, or any other position of management.

1197 (b) A person convicted of violating Subsection (1)(a) with respect to:

1198 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled
1199 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second
1200 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or
1201 subsequent conviction is guilty of a first degree felony;

1202 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
1203 marijuana, or a substance listed in Section [58-37-4.2](#) is guilty of a third degree felony, and
1204 upon a second or subsequent conviction is guilty of a second degree felony; or

1205 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a

1206 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
1207 felony.

1208 (c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may
1209 be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of
1210 fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the
1211 person or in the person's immediate possession during the commission or in furtherance of the
1212 offense, the court shall additionally sentence the person convicted for a term of one year to run
1213 consecutively and not concurrently; and the court may additionally sentence the person
1214 convicted for an indeterminate term not to exceed five years to run consecutively and not
1215 concurrently.

1216 (d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
1217 felony punishable by imprisonment for an indeterminate term of not less than:

1218 (A) seven years and which may be for life; or

1219 (B) 15 years and which may be for life if the trier of fact determined that the defendant
1220 knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B)
1221 was under 18 years old.

1222 (ii) Imposition or execution of the sentence may not be suspended, and the person is
1223 not eligible for probation.

1224 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the
1225 offense, was under 18 years old.

1226 (e) The Administrative Office of the Courts shall report to the Division of Professional
1227 Licensing the name, case number, date of conviction, and if known, the date of birth of each
1228 person convicted of violating Subsection (1)(a).

1229 (2) Prohibited acts B -- Penalties and reporting:

1230 (a) It is unlawful:

1231 (i) for a person knowingly and intentionally to possess or use a controlled substance
1232 analog or a controlled substance, unless it was obtained under a valid prescription or order,
1233 directly from a practitioner while acting in the course of the person's professional practice, or as
1234 otherwise authorized by this chapter;

1235 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
1236 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied

1237 by persons unlawfully possessing, using, or distributing controlled substances in any of those
1238 locations; or

1239 (iii) for a person knowingly and intentionally to possess an altered or forged
1240 prescription or written order for a controlled substance.

1241 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:

1242 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

1243 or

1244 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty
1245 of a class A misdemeanor on a first or second conviction, and on a third or subsequent
1246 conviction if each prior offense was committed within seven years before the date of the
1247 offense upon which the current conviction is based is guilty of a third degree felony.

1248 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
1249 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater
1250 penalty than provided in this Subsection (2).

1251 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled
1252 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section
1253 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

1254 (i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior
1255 offense was committed within seven years before the date of the offense upon which the
1256 current conviction is based.

1257 (ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony
1258 if each prior offense was committed within seven years before the date of the offense upon
1259 which the current conviction is based.

1260 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior
1261 boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a
1262 public jail or other place of confinement shall be sentenced to a penalty one degree greater than
1263 provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as
1264 listed in:

1265 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
1266 indeterminate term as provided by law, and:

1267 (A) the court shall additionally sentence the person convicted to a term of one year to

1268 run consecutively and not concurrently; and

1269 (B) the court may additionally sentence the person convicted for an indeterminate term
1270 not to exceed five years to run consecutively and not concurrently; and

1271 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
1272 indeterminate term as provided by law, and the court shall additionally sentence the person
1273 convicted to a term of six months to run consecutively and not concurrently.

1274 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

1275 (i) on a first conviction, guilty of a class B misdemeanor;

1276 (ii) on a second conviction, guilty of a class A misdemeanor; and

1277 (iii) on a third or subsequent conviction, guilty of a third degree felony.

1278 (g) The Administrative Office of the Courts shall report to the Division of Professional
1279 Licensing the name, case number, date of conviction, and if known, the date of birth of each
1280 person convicted of violating Subsection (2)(a).

1281 (3) Prohibited acts C -- Penalties:

1282 (a) It is unlawful for a person knowingly and intentionally:

1283 (i) to use in the course of the manufacture or distribution of a controlled substance a
1284 license number which is fictitious, revoked, suspended, or issued to another person or, for the
1285 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
1286 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
1287 person;

1288 (ii) to acquire or obtain possession of, to procure or attempt to procure the
1289 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be
1290 attempting to acquire or obtain possession of, or to procure the administration of a controlled
1291 substance by misrepresentation or failure by the person to disclose receiving a controlled
1292 substance from another source, fraud, forgery, deception, subterfuge, alteration of a
1293 prescription or written order for a controlled substance, or the use of a false name or address;

1294 (iii) to make a false or forged prescription or written order for a controlled substance,
1295 or to utter the same, or to alter a prescription or written order issued or written under the terms
1296 of this chapter; or

1297 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to
1298 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or

1299 device of another or any likeness of any of the foregoing upon any drug or container or labeling
1300 so as to render a drug a counterfeit controlled substance.

1301 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
1302 misdemeanor.

1303 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
1304 degree felony.

1305 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

1306 (4) Prohibited acts D -- Penalties:

1307 (a) Notwithstanding other provisions of this section, a person not authorized under this
1308 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is
1309 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier
1310 of fact finds the act is committed:

1311 (i) in a public or private elementary or secondary school or on the grounds of any of
1312 those schools during the hours of 6 a.m. through 10 p.m.;

1313 (ii) in a public or private vocational school or postsecondary institution or on the
1314 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

1315 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
1316 facility's hours of operation;

1317 (iv) in a public park, amusement park, arcade, or recreation center when the public or
1318 amusement park, arcade, or recreation center is open to the public;

1319 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

1320 (vi) in or on the grounds of a library when the library is open to the public;

1321 (vii) within an area that is within 100 feet of any structure, facility, or grounds included
1322 in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

1323 (viii) in the presence of a person younger than 18 years old, regardless of where the act
1324 occurs; or

1325 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
1326 distribution of a substance in violation of this section to an inmate or on the grounds of a
1327 correctional facility as defined in Section 76-8-311.3.

1328 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
1329 and shall be imprisoned for a term of not less than five years if the penalty that would

1330 otherwise have been established but for this Subsection (4) would have been a first degree
1331 felony.

1332 (ii) Imposition or execution of the sentence may not be suspended, and the person is
1333 not eligible for probation.

1334 (c) If the classification that would otherwise have been established would have been
1335 less than a first degree felony but for this Subsection (4), a person convicted under this
1336 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
1337 offense.

1338 (d) (i) If the violation is of Subsection (4)(a)(ix):

1339 (A) the person may be sentenced to imprisonment for an indeterminate term as
1340 provided by law, and the court shall additionally sentence the person convicted for a term of
1341 one year to run consecutively and not concurrently; and

1342 (B) the court may additionally sentence the person convicted for an indeterminate term
1343 not to exceed five years to run consecutively and not concurrently; and

1344 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
1345 the mental state required for the commission of an offense, directly or indirectly solicits,
1346 requests, commands, coerces, encourages, or intentionally aids another person to commit a
1347 violation of Subsection (4)(a)(ix).

1348 (e) It is not a defense to a prosecution under this Subsection (4) that:

1349 (i) the actor mistakenly believed the individual to be 18 years old or older at the time of
1350 the offense or was unaware of the individual's true age; or

1351 (ii) the actor mistakenly believed that the location where the act occurred was not as
1352 described in Subsection (4)(a) or was unaware that the location where the act occurred was as
1353 described in Subsection (4)(a).

1354 (5) A violation of this chapter for which no penalty is specified is a class B
1355 misdemeanor.

1356 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
1357 guilty or no contest to a violation or attempted violation of this section or a plea which is held
1358 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
1359 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
1360 abeyance agreement.

1361 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
1362 conviction that is:

1363 (i) from a separate criminal episode than the current charge; and

1364 (ii) from a conviction that is separate from any other conviction used to enhance the
1365 current charge.

1366 (7) A person may be charged and sentenced for a violation of this section,
1367 notwithstanding a charge and sentence for a violation of any other section of this chapter.

1368 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu
1369 of, a civil or administrative penalty or sanction authorized by law.

1370 (b) When a violation of this chapter violates a federal law or the law of another state,
1371 conviction or acquittal under federal law or the law of another state for the same act is a bar to
1372 prosecution in this state.

1373 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
1374 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
1375 substance or substances, is prima facie evidence that the person or persons did so with
1376 knowledge of the character of the substance or substances.

1377 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
1378 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
1379 administering controlled substances or from causing the substances to be administered by an
1380 assistant or orderly under the veterinarian's direction and supervision.

1381 (11) Civil or criminal liability may not be imposed under this section on:

1382 (a) a person registered under this chapter who manufactures, distributes, or possesses
1383 an imitation controlled substance for use as a placebo or investigational new drug by a
1384 registered practitioner in the ordinary course of professional practice or research; or

1385 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
1386 employment.

1387 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
1388 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
1389 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
1390 as defined in Section 58-37-2.

1391 (b) In a prosecution alleging violation of this section regarding peyote as defined in

1392 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported
1393 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a
1394 traditional Indian religion.

1395 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
1396 defense under this Subsection (12) as soon as practicable, but not later than 10 days before
1397 trial.

1398 (ii) The notice shall include the specific claims of the affirmative defense.

1399 (iii) The court may waive the notice requirement in the interest of justice for good
1400 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

1401 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
1402 a preponderance of the evidence. If the defense is established, it is a complete defense to the
1403 charges.

1404 (13) (a) It is an affirmative defense that the person produced, possessed, or
1405 administered a controlled substance listed in Section 58-37-4.2 if the person was:

1406 (i) engaged in medical research; and

1407 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

1408 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
1409 a controlled substance listed in Section 58-37-4.2.

1410 (14) It is an affirmative defense that the person possessed, in the person's body, a
1411 controlled substance listed in Section 58-37-4.2 if:

1412 (a) the person was the subject of medical research conducted by a holder of a valid
1413 license to possess controlled substances under Section 58-37-6; and

1414 (b) the substance was administered to the person by the medical researcher.

1415 (15) The application of any increase in penalty under this section to a violation of
1416 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
1417 Subsection (15) takes precedence over any conflicting provision of this section.

1418 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
1419 listed in Subsection (16)(b) that the person or bystander:

1420 (i) reasonably believes that the person or another person is experiencing an overdose
1421 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
1422 controlled substance or other substance;

1423 (ii) reports, or assists a person who reports, in good faith the overdose event to a
1424 medical provider, an emergency medical service provider as defined in Section [26-8a-102]
1425 [26B-4-101](#), a law enforcement officer, a 911 emergency call system, or an emergency dispatch
1426 system, or the person is the subject of a report made under this Subsection (16);

1427 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
1428 actual location of the overdose event that facilitates responding to the person experiencing the
1429 overdose event;

1430 (iv) remains at the location of the person experiencing the overdose event until a
1431 responding law enforcement officer or emergency medical service provider arrives, or remains
1432 at the medical care facility where the person experiencing an overdose event is located until a
1433 responding law enforcement officer arrives;

1434 (v) cooperates with the responding medical provider, emergency medical service
1435 provider, and law enforcement officer, including providing information regarding the person
1436 experiencing the overdose event and any substances the person may have injected, inhaled, or
1437 otherwise introduced into the person's body; and

1438 (vi) is alleged to have committed the offense in the same course of events from which
1439 the reported overdose arose.

1440 (b) The offenses referred to in Subsection (16)(a) are:

1441 (i) the possession or use of less than 16 ounces of marijuana;

1442 (ii) the possession or use of a scheduled or listed controlled substance other than
1443 marijuana; and

1444 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
1445 Imitation Controlled Substances Act.

1446 (c) As used in this Subsection (16) and in Section [76-3-203.11](#), "good faith" does not
1447 include seeking medical assistance under this section during the course of a law enforcement
1448 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

1449 (17) If any provision of this chapter, or the application of any provision to any person
1450 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
1451 invalid provision or application.

1452 (18) A legislative body of a political subdivision may not enact an ordinance that is
1453 less restrictive than any provision of this chapter.

1454 (19) If a minor who is under 18 years old is found by a court to have violated this
1455 section or Subsection [76-5-102.1\(2\)\(b\)](#) or [76-5-207\(2\)\(b\)](#), the court may order the minor to
1456 complete:

1457 (a) a screening as defined in Section [41-6a-501](#);

1458 (b) an assessment as defined in Section [41-6a-501](#) if the screening indicates an
1459 assessment to be appropriate; and

1460 (c) an educational series as defined in Section [41-6a-501](#) or substance use disorder
1461 treatment as indicated by an assessment.

1462 Section 19. Section **58-37-19** is amended to read:

1463 **58-37-19. Opiate prescription consultation.**

1464 (1) As used in this section:

1465 (a) "Hospice" means the same as that term is defined in Section [~~26-21-2~~] [26B-2-201](#).

1466 (b) "Initial opiate prescription" means a prescription for an opiate to a patient who:

1467 (i) has never previously been issued a prescription for an opiate; or

1468 (ii) was previously issued a prescription for an opiate, but the date on which the current
1469 prescription is being issued is more than one year after the date on which an opiate was
1470 previously prescribed or administered to the patient.

1471 (c) "Prescriber" means an individual authorized to prescribe a controlled substance
1472 under this chapter.

1473 (2) Except as provided in Subsection (3), a prescriber may not issue an initial opiate
1474 prescription without discussing with the patient, or the patient's parent or guardian if the patient
1475 is under 18 years of age and is not an emancipated minor:

1476 (a) the risks of addiction and overdose associated with opiate drugs;

1477 (b) the dangers of taking opiates with alcohol, benzodiazepines, and other central
1478 nervous system depressants;

1479 (c) the reasons why the prescription is necessary;

1480 (d) alternative treatments that may be available; and

1481 (e) other risks associated with the use of the drugs being prescribed.

1482 (3) This section does not apply to a prescription for:

1483 (a) a patient who is currently in active treatment for cancer;

1484 (b) a patient who is receiving hospice care from a licensed hospice; or

1485 (c) a medication that is being prescribed to a patient for the treatment of the patient's
1486 substance abuse or opiate dependence.

1487 Section 20. Section **58-37-22** is amended to read:

1488 **58-37-22. Electronic prescriptions for controlled substances.**

1489 (1) Beginning January 1, 2022, each prescription issued for a controlled substance shall
1490 be transmitted electronically as an electronic prescription unless the prescription is:

1491 (a) for a patient residing in an assisted living facility as that term is defined in Section
1492 [~~26-21-2~~] [26B-2-201](#), a long-term care facility as that term is defined in Section [58-31b-102](#), or
1493 a correctional facility as that term is defined in Section [64-13-1](#);

1494 (b) issued by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice
1495 Act;

1496 (c) dispensed by a Department of Veterans Affairs pharmacy;

1497 (d) issued during a temporary technical or electronic failure at the practitioner's or
1498 pharmacy's location; or

1499 (e) issued in an emergency situation.

1500 (2) The division, in collaboration with the appropriate boards that govern the licensure
1501 of the licensees who are authorized by the division to prescribe or to dispense controlled
1502 substances, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative
1503 Rulemaking Act, to:

1504 (a) require that controlled substances prescribed or dispensed under Subsection (1)(d)
1505 indicate on the prescription that the prescribing practitioner or the pharmacy is experiencing a
1506 technical difficulty or an electronic failure;

1507 (b) define an emergency situation for purposes of Subsection (1)(e);

1508 (c) establish additional exemptions to the electronic prescription requirements
1509 established in this section;

1510 (d) establish guidelines under which a prescribing practitioner or a pharmacy may
1511 obtain an extension of up to two additional years to comply with Subsection (1);

1512 (e) establish a protocol to follow if the pharmacy that receives the electronic
1513 prescription is not able to fill the prescription; and

1514 (f) establish requirements that comply with federal laws and regulations for software
1515 used to issue and dispense electronic prescriptions.

1516 (3) Beginning July 1, 2024, a pharmacy software program for receiving an electronic
1517 prescription for a controlled substance shall be capable of electronically transferring a
1518 prescription to a different pharmacy:

- 1519 (a) upon the request of the patient or the practitioner;
- 1520 (b) with the approval of a pharmacist at the originating pharmacy; and
- 1521 (c) if the prescription is unfilled.

1522 Section 21. Section **58-37f-102** is amended to read:

1523 **58-37f-102. Definitions.**

1524 (1) The definitions in Section [58-37-2](#) apply to this chapter.

1525 (2) As used in this chapter:

1526 (a) "Board" means the Utah State Board of Pharmacy created in Section [58-17b-201](#).

1527 (b) "Business associate" is as defined under the HIPAA privacy, security, and breach
1528 notification rules in 45 C.F.R. 164.502(a), 164.504(e), and 164.532(d) and (e).

1529 (c) "Database" means the controlled substance database created in Section [58-37f-201](#).

1530 (d) "De-identified" is as defined in 45 C.F.R. 164.502(d) and 164.514(a), (b), and (c).

1531 (e) "Health care facility" is as defined in Section [~~26-21-2~~] [26B-2-201](#).

1532 (f) "Mental health therapist" is as defined in Section [58-60-102](#).

1533 (g) "Pharmacy" or "pharmaceutical facility" is as defined in Section [58-17b-102](#).

1534 (h) "Prospective patient" means an individual who:

1535 (i) is seeking medical advice, medical treatment, or medical services from a
1536 practitioner; and

1537 (ii) the practitioner described in Subsection (2)(h)(i) is considering accepting as a
1538 patient.

1539 (i) "Substance abuse treatment program" is as defined in Section [~~62A-2-101~~]
1540 [26B-2-101](#).

1541 Section 22. Section **58-37f-201** is amended to read:

1542 **58-37f-201. Controlled substance database -- Creation -- Purpose.**

1543 (1) There is created within the division a controlled substance database.

1544 (2) The division shall administer and direct the functioning of the database in
1545 accordance with this chapter.

1546 (3) The division may, under state procurement laws, contract with another state agency

1547 or a private entity to establish, operate, or maintain the database.

1548 (4) The division shall, in collaboration with the board, determine whether to operate
1549 the database within the division or contract with another entity to operate the database, based
1550 on an analysis of costs and benefits.

1551 (5) The purpose of the database is to contain:

1552 (a) the data described in Section [58-37f-203](#) regarding prescriptions for dispensed
1553 controlled substances;

1554 (b) data reported to the division under Section [~~26-21-26~~] [26B-2-201](#) regarding
1555 poisoning or overdose;

1556 (c) data reported to the division under Subsection [41-6a-502\(4\)](#) or [41-6a-502.5\(5\)\(b\)](#)
1557 regarding convictions for driving under the influence of a prescribed controlled substance or
1558 impaired driving; and

1559 (d) data reported to the division under Subsection [58-37-8\(1\)\(e\)](#) or [58-37-8\(2\)\(g\)](#)
1560 regarding certain violations of the Utah Controlled Substances Act.

1561 (6) The division shall maintain the database in an electronic file or by other means
1562 established by the division to facilitate use of the database for identification of:

1563 (a) prescribing practices and patterns of prescribing and dispensing controlled
1564 substances;

1565 (b) practitioners prescribing controlled substances in an unprofessional or unlawful
1566 manner;

1567 (c) individuals receiving prescriptions for controlled substances from licensed
1568 practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet
1569 in quantities or with a frequency inconsistent with generally recognized standards of dosage for
1570 that controlled substance;

1571 (d) individuals presenting forged or otherwise false or altered prescriptions for
1572 controlled substances to a pharmacy;

1573 (e) individuals admitted to a general acute hospital for poisoning or overdose involving
1574 a prescribed controlled substance; and

1575 (f) individuals convicted for:

1576 (i) driving under the influence of a prescribed controlled substance that renders the
1577 individual incapable of safely operating a vehicle;

1578 (ii) driving while impaired, in whole or in part, by a prescribed controlled substance; or
1579 (iii) certain violations of the Utah Controlled Substances Act.

1580 Section 23. Section **58-37f-301** is amended to read:

1581 **58-37f-301. Access to database.**

1582 (1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
1583 Administrative Rulemaking Act, to:

1584 (a) effectively enforce the limitations on access to the database as described in this
1585 part; and

1586 (b) establish standards and procedures to ensure accurate identification of individuals
1587 requesting information or receiving information without request from the database.

1588 (2) The division shall make information in the database and information obtained from
1589 other state or federal prescription monitoring programs by means of the database available only
1590 to the following individuals, in accordance with the requirements of this chapter and division
1591 rules:

1592 (a) (i) personnel of the division specifically assigned to conduct investigations related
1593 to controlled substance laws under the jurisdiction of the division; and

1594 (ii) the following law enforcement officers, but the division may only provide
1595 nonidentifying information, limited to gender, year of birth, and postal ZIP code, regarding
1596 individuals for whom a controlled substance has been prescribed or to whom a controlled
1597 substance has been dispensed:

1598 (A) a law enforcement agency officer who is engaged in a joint investigation with the
1599 division; and

1600 (B) a law enforcement agency officer to whom the division has referred a suspected
1601 criminal violation of controlled substance laws;

1602 (b) authorized division personnel engaged in analysis of controlled substance
1603 prescription information as a part of the assigned duties and responsibilities of their
1604 employment;

1605 (c) a board member if:

1606 (i) the board member is assigned to monitor a licensee on probation; and

1607 (ii) the board member is limited to obtaining information from the database regarding
1608 the specific licensee on probation;

1609 (d) a person the division authorizes to obtain that information on behalf of the Utah
1610 Professionals Health Program established in Subsection 58-4a-103(1) if:

1611 (i) the person the division authorizes is limited to obtaining information from the
1612 database regarding the person whose conduct is the subject of the division's consideration; and

1613 (ii) the conduct that is the subject of the division's consideration includes a violation or
1614 a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant
1615 violation or potential violation under this title;

1616 (e) in accordance with a written agreement entered into with the department,
1617 employees of the Department of [Health] Health and Human Services:

1618 (i) whom the director of the Department of [Health] Health and Human Services
1619 assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the
1620 identity of the individuals and pharmacies in the database are confidential and are not disclosed
1621 in any manner to any individual who is not directly involved in the scientific studies;

1622 (ii) when the information is requested by the Department of [Health] Health and
1623 Human Services in relation to a person or provider whom the Department of [Health] Health
1624 and Human Services suspects may be improperly obtaining or providing a controlled
1625 substance; or

1626 (iii) in the medical examiner's office;

1627 (f) in accordance with a written agreement entered into with the department, a designee
1628 of the director of the Department of [Health] Health and Human Services, who is not an
1629 employee of the Department of [Health] Health and Human Services, whom the director of the
1630 Department of [Health] Health and Human Services assigns to conduct scientific studies
1631 regarding the use or abuse of controlled substances pursuant to an application process
1632 established in rule by the Department of [Health] Health and Human Services, if:

1633 (i) the designee provides explicit information to the Department of [Health] Health and
1634 Human Services regarding the purpose of the scientific studies;

1635 (ii) the scientific studies to be conducted by the designee:

1636 (A) fit within the responsibilities of the Department of [Health] Health and Human
1637 Services for health and welfare;

1638 (B) are reviewed and approved by an Institutional Review Board that is approved for
1639 human subject research by the United States Department of Health and Human Services;

1640 (C) are not conducted for profit or commercial gain; and
1641 (D) are conducted in a research facility, as defined by division rule, that is associated
1642 with a university or college accredited by one or more regional or national accrediting agencies
1643 recognized by the United States Department of Education;
1644 (iii) the designee protects the information as a business associate of the Department of
1645 ~~Health~~ Health and Human Services; and
1646 (iv) the identity of the prescribers, patients, and pharmacies in the database are
1647 de-identified, confidential, and not disclosed in any manner to the designee or to any individual
1648 who is not directly involved in the scientific studies;
1649 (g) in accordance with a written agreement entered into with the department and the
1650 Department of ~~Health~~ Health and Human Services, authorized employees of a managed care
1651 organization, as defined in 42 C.F.R. Sec. 438, if:
1652 (i) the managed care organization contracts with the Department of ~~Health~~ Health and
1653 Human Services under the provisions of Section ~~[26-18-405]~~ 26B-3-202 and the contract
1654 includes provisions that:
1655 (A) require a managed care organization employee who will have access to information
1656 from the database to submit to a criminal background check; and
1657 (B) limit the authorized employee of the managed care organization to requesting
1658 either the division or the Department of ~~Health~~ Health and Human Services to conduct a
1659 search of the database regarding a specific Medicaid enrollee and to report the results of the
1660 search to the authorized employee; and
1661 (ii) the information is requested by an authorized employee of the managed care
1662 organization in relation to a person who is enrolled in the Medicaid program with the managed
1663 care organization, and the managed care organization suspects the person may be improperly
1664 obtaining or providing a controlled substance;
1665 (h) a licensed practitioner having authority to prescribe controlled substances, to the
1666 extent the information:
1667 (i) (A) relates specifically to a current or prospective patient of the practitioner; and
1668 (B) is provided to or sought by the practitioner for the purpose of:
1669 (I) prescribing or considering prescribing any controlled substance to the current or
1670 prospective patient;

- 1671 (II) diagnosing the current or prospective patient;
- 1672 (III) providing medical treatment or medical advice to the current or prospective
1673 patient; or
- 1674 (IV) determining whether the current or prospective patient:
- 1675 (Aa) is attempting to fraudulently obtain a controlled substance from the practitioner;
- 1676 or
- 1677 (Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled
1678 substance from the practitioner;
- 1679 (ii) (A) relates specifically to a former patient of the practitioner; and
- 1680 (B) is provided to or sought by the practitioner for the purpose of determining whether
1681 the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a
1682 controlled substance from the practitioner;
- 1683 (iii) relates specifically to an individual who has access to the practitioner's Drug
1684 Enforcement Administration identification number, and the practitioner suspects that the
1685 individual may have used the practitioner's Drug Enforcement Administration identification
1686 number to fraudulently acquire or prescribe a controlled substance;
- 1687 (iv) relates to the practitioner's own prescribing practices, except when specifically
1688 prohibited by the division by administrative rule;
- 1689 (v) relates to the use of the controlled substance database by an employee of the
1690 practitioner, described in Subsection (2)(i); or
- 1691 (vi) relates to any use of the practitioner's Drug Enforcement Administration
1692 identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a
1693 controlled substance;
- 1694 (i) in accordance with Subsection (3)(a), an employee of a practitioner described in
1695 Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:
- 1696 (i) the employee is designated by the practitioner as an individual authorized to access
1697 the information on behalf of the practitioner;
- 1698 (ii) the practitioner provides written notice to the division of the identity of the
1699 employee; and
- 1700 (iii) the division:
- 1701 (A) grants the employee access to the database; and

1702 (B) provides the employee with a password that is unique to that employee to access
1703 the database in order to permit the division to comply with the requirements of Subsection
1704 58-37f-203(7) with respect to the employee;

1705 (j) an employee of the same business that employs a licensed practitioner under
1706 Subsection (2)(h) if:

1707 (i) the employee is designated by the practitioner as an individual authorized to access
1708 the information on behalf of the practitioner;

1709 (ii) the practitioner and the employing business provide written notice to the division of
1710 the identity of the designated employee; and

1711 (iii) the division:

1712 (A) grants the employee access to the database; and

1713 (B) provides the employee with a password that is unique to that employee to access
1714 the database in order to permit the division to comply with the requirements of Subsection
1715 58-37f-203(7) with respect to the employee;

1716 (k) a licensed pharmacist having authority to dispense a controlled substance, or a
1717 licensed pharmacy intern or pharmacy technician working under the general supervision of a
1718 licensed pharmacist, to the extent the information is provided or sought for the purpose of:

1719 (i) dispensing or considering dispensing any controlled substance;

1720 (ii) determining whether a person:

1721 (A) is attempting to fraudulently obtain a controlled substance from the pharmacy,
1722 practitioner, or health care facility; or

1723 (B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled
1724 substance from the pharmacy, practitioner, or health care facility;

1725 (iii) reporting to the controlled substance database; or

1726 (iv) verifying the accuracy of the data submitted to the controlled substance database
1727 on behalf of a pharmacy where the licensed pharmacist, pharmacy intern, or pharmacy
1728 technician is employed;

1729 (l) pursuant to a valid search warrant, federal, state, and local law enforcement officers
1730 and state and local prosecutors who are engaged in an investigation related to:

1731 (i) one or more controlled substances; and

1732 (ii) a specific person who is a subject of the investigation;

1733 (m) subject to Subsection (7), a probation or parole officer, employed by the
1734 Department of Corrections or by a political subdivision, to gain access to database information
1735 necessary for the officer's supervision of a specific probationer or parolee who is under the
1736 officer's direct supervision;

1737 (n) employees of the Office of Internal Audit and Program Integrity within the
1738 Department of ~~[Health]~~ Health and Human Services who are engaged in their specified duty of
1739 ensuring Medicaid program integrity under Section ~~[26-18-2.3]~~ 26B-3-104;

1740 (o) a mental health therapist, if:

1741 (i) the information relates to a patient who is:

1742 (A) enrolled in a licensed substance abuse treatment program; and

1743 (B) receiving treatment from, or under the direction of, the mental health therapist as
1744 part of the patient's participation in the licensed substance abuse treatment program described
1745 in Subsection (2)(o)(i)(A);

1746 (ii) the information is sought for the purpose of determining whether the patient is
1747 using a controlled substance while the patient is enrolled in the licensed substance abuse
1748 treatment program described in Subsection (2)(o)(i)(A); and

1749 (iii) the licensed substance abuse treatment program described in Subsection
1750 (2)(o)(i)(A) is associated with a practitioner who:

1751 (A) is a physician, a physician assistant, an advance practice registered nurse, or a
1752 pharmacist; and

1753 (B) is available to consult with the mental health therapist regarding the information
1754 obtained by the mental health therapist, under this Subsection (2)(o), from the database;

1755 (p) an individual who is the recipient of a controlled substance prescription entered into
1756 the database, upon providing evidence satisfactory to the division that the individual requesting
1757 the information is in fact the individual about whom the data entry was made;

1758 (q) an individual under Subsection (2)(p) for the purpose of obtaining a list of the
1759 persons and entities that have requested or received any information from the database
1760 regarding the individual, except if the individual's record is subject to a pending or current
1761 investigation as authorized under this Subsection (2);

1762 (r) the inspector general, or a designee of the inspector general, of the Office of
1763 Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in

1764 Title 63A, Chapter 13, Part 2, Office and Powers;

1765 (s) the following licensed physicians for the purpose of reviewing and offering an
1766 opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter
1767 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

1768 (i) a member of the medical panel described in Section 34A-2-601;

1769 (ii) a physician employed as medical director for a licensed workers' compensation
1770 insurer or an approved self-insured employer; or

1771 (iii) a physician offering a second opinion regarding treatment;

1772 (t) members of Utah's Opioid Fatality Review Committee, for the purpose of reviewing
1773 a specific fatality due to opioid use and recommending policies to reduce the frequency of
1774 opioid use fatalities;

1775 (u) a licensed pharmacist who is authorized by a managed care organization as defined
1776 in Section 31A-1-301 to access the information on behalf of the managed care organization, if:

1777 (i) the managed care organization believes that an enrollee of the managed care
1778 organization has obtained or provided a controlled substance in violation of a medication
1779 management program contract between the enrollee and the managed care organization; and

1780 (ii) the managed care organization included a description of the medication
1781 management program in the enrollee's outline of coverage described in Subsection
1782 31A-22-605(7); and

1783 (v) the Utah Medicaid Fraud Control Unit of the attorney general's office for the
1784 purpose of investigating active cases, in exercising the unit's authority to investigate and
1785 prosecute Medicaid fraud, abuse, neglect, or exploitation under 42 U.S.C. Sec. 1396b(q).

1786 (3) (a) A practitioner described in Subsection (2)(h) may designate one or more
1787 employees to access information from the database under Subsection (2)(i), (2)(j), or (4)(c).

1788 (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
1789 Administrative Rulemaking Act, to:

1790 (i) establish background check procedures to determine whether an employee
1791 designated under Subsection (2)(i), (2)(j), or (4)(c) should be granted access to the database;

1792 (ii) establish the information to be provided by an emergency department employee
1793 under Subsection (4); and

1794 (iii) facilitate providing controlled substance prescription information to a third party

1795 under Subsection (5).

1796 (c) The division shall grant an employee designated under Subsection (2)(i), (2)(j), or
1797 (4)(c) access to the database, unless the division determines, based on a background check, that
1798 the employee poses a security risk to the information contained in the database.

1799 (4) (a) An individual who is employed in the emergency department of a hospital may
1800 exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if
1801 the individual is designated under Subsection (4)(c) and the licensed practitioner:

1802 (i) is employed or privileged to work in the emergency department;

1803 (ii) is treating an emergency department patient for an emergency medical condition;

1804 and

1805 (iii) requests that an individual employed in the emergency department and designated
1806 under Subsection (4)(c) obtain information regarding the patient from the database as needed in
1807 the course of treatment.

1808 (b) The emergency department employee obtaining information from the database
1809 shall, when gaining access to the database, provide to the database the name and any additional
1810 identifiers regarding the requesting practitioner as required by division administrative rule
1811 established under Subsection (3)(b).

1812 (c) An individual employed in the emergency department under this Subsection (4)
1813 may obtain information from the database as provided in Subsection (4)(a) if:

1814 (i) the employee is designated by the hospital as an individual authorized to access the
1815 information on behalf of the emergency department practitioner;

1816 (ii) the hospital operating the emergency department provide written notice to the
1817 division of the identity of the designated employee; and

1818 (iii) the division:

1819 (A) grants the employee access to the database; and

1820 (B) provides the employee with a password that is unique to that employee to access
1821 the database.

1822 (d) The division may impose a fee, in accordance with Section [63J-1-504](#), on a
1823 practitioner who designates an employee under Subsection (2)(i), (2)(j), or (4)(c) to pay for the
1824 costs incurred by the division to conduct the background check and make the determination
1825 described in Subsection (3)(b).

1826 (5) (a) (i) An individual may request that the division provide the information under
1827 Subsection (5)(b) to a third party who is designated by the individual each time a controlled
1828 substance prescription for the individual is dispensed.

1829 (ii) The division shall upon receipt of the request under this Subsection (5)(a) advise
1830 the individual in writing that the individual may direct the division to discontinue providing the
1831 information to a third party and that notice of the individual's direction to discontinue will be
1832 provided to the third party.

1833 (b) The information the division shall provide under Subsection (5)(a) is:

1834 (i) the fact a controlled substance has been dispensed to the individual, but without
1835 identifying the controlled substance; and

1836 (ii) the date the controlled substance was dispensed.

1837 (c) (i) An individual who has made a request under Subsection (5)(a) may direct that
1838 the division discontinue providing information to the third party.

1839 (ii) The division shall:

1840 (A) notify the third party that the individual has directed the division to no longer
1841 provide information to the third party; and

1842 (B) discontinue providing information to the third party.

1843 (6) (a) An individual who is granted access to the database based on the fact that the
1844 individual is a licensed practitioner or a mental health therapist shall be denied access to the
1845 database when the individual is no longer licensed.

1846 (b) An individual who is granted access to the database based on the fact that the
1847 individual is a designated employee of a licensed practitioner shall be denied access to the
1848 database when the practitioner is no longer licensed.

1849 (7) A probation or parole officer is not required to obtain a search warrant to access the
1850 database in accordance with Subsection (2)(m).

1851 (8) The division shall review and adjust the database programming which
1852 automatically logs off an individual who is granted access to the database under Subsections
1853 (2)(h), (2)(i), (2)(j), and (4)(c) to maximize the following objectives:

1854 (a) to protect patient privacy;

1855 (b) to reduce inappropriate access; and

1856 (c) to make the database more useful and helpful to a person accessing the database

1857 under Subsections (2)(h), (2)(i), (2)(j), and (4)(c), especially in high usage locations such as an
1858 emergency department.

1859 (9) Any person who knowingly and intentionally accesses the database without express
1860 authorization under this section is guilty of a class A misdemeanor.

1861 Section 24. Section **58-37f-702** is amended to read:

1862 **58-37f-702. Reporting prescribed controlled substance poisoning or overdose to a**
1863 **practitioner.**

1864 (1) (a) The division shall take the actions described in Subsection (1)(b) if the division
1865 receives a report from a general acute hospital under Section [~~26-21-26~~] [26B-2-225](#) regarding
1866 admission to a general acute hospital for poisoning or overdose involving a prescribed
1867 controlled substance.

1868 (b) The division shall, within three business days after the day on which a report in
1869 Subsection (1)(a) is received:

1870 (i) attempt to identify, through the database, each practitioner who may have prescribed
1871 the controlled substance to the patient; and

1872 (ii) provide each practitioner identified under Subsection (1)(a) with:

1873 (A) a copy of the report provided by the general acute hospital under Section
1874 [~~26-21-26~~] [26B-2-225](#); and

1875 (B) the information obtained from the database that led the division to determine that
1876 the practitioner receiving the information may have prescribed the controlled substance to the
1877 person named in the report.

1878 (2) (a) When the division receives a report from the medical examiner under Section
1879 [~~26-4-10.5~~] [26B-8-210](#) regarding a death caused by poisoning or overdose involving a
1880 prescribed controlled substance, for each practitioner identified by the medical examiner under
1881 Subsection [~~26-4-10.5(1)(c)~~] [26B-8-210\(1\)\(e\)](#), the division:

1882 (i) shall, within five business days after the day on which the division receives the
1883 report, provide the practitioner with a copy of the report; and

1884 (ii) may offer the practitioner an educational visit to review the report.

1885 (b) A practitioner may decline an educational visit described in Subsection (2)(a)(ii).

1886 (c) The division may not use, in a licensing investigation or action by the division:

1887 (i) information from an educational visit described in Subsection (2)(a)(ii); or

1888 (ii) a practitioner's decision to decline an educational visit described in Subsection
1889 (2)(a)(ii).

1890 (3) It is the intent of the Legislature that the information provided under Subsection (1)
1891 or (2) is provided for the purpose of assisting the practitioner in:

1892 (a) discussing with the patient or others issues relating to the poisoning or overdose;

1893 (b) advising the patient or others of measures that may be taken to avoid a future
1894 poisoning or overdose; and

1895 (c) making decisions regarding future prescriptions written for the patient or others.

1896 (4) Any record created by the division as a result of an educational visit described in
1897 Subsection (2)(a)(ii) is a protected record for purposes of Title 63G, Chapter 2, Government
1898 Records Access and Management Act.

1899 (5) Beginning on July 1, 2010, the division shall, in accordance with Section
1900 63J-1-504, increase the licensing fee described in Subsection 58-37-6(1)(b) to pay the startup
1901 and ongoing costs of the division for complying with the requirements of this section.

1902 Section 25. Section 58-41-4 is amended to read:

1903 **58-41-4. Exemptions from chapter.**

1904 (1) In addition to the exemptions from licensure in Section 58-1-307, the following
1905 persons may engage in the practice of speech-language pathology and audiology subject to the
1906 stated circumstances and limitations without being licensed under this chapter:

1907 (a) a qualified person licensed in this state under any law existing in this state prior to
1908 May 13, 1975, engaging in the profession for which the person is licensed;

1909 (b) a medical doctor, physician, physician assistant, or surgeon licensed in this state,
1910 engaging in his or her specialty in the practice of medicine;

1911 (c) a hearing aid dealer or salesperson selling, fitting, adjusting, and repairing hearing
1912 aids, and conducting hearing tests solely for that purpose. However, a hearing aid dealer may
1913 not conduct audiologic testing on persons younger than 18 years old except under the direct
1914 supervision of an audiologist licensed under this chapter;

1915 (d) a person who has obtained a valid and current credential issued by the State Board
1916 of Education while specifically performing the functions of a speech-language pathologist or
1917 audiologist solely within the confines of, under the direction and jurisdiction of, and in the
1918 academic interest of the school employing the person;

1919 (e) a person employed as a speech-language pathologist or audiologist by federal
1920 government agencies or subdivisions or, prior to July 1, 1989, by state or local government
1921 agencies or subdivisions, while specifically performing speech-language pathology or
1922 audiology services solely within the confines of, under the direction and jurisdiction of, and in
1923 the specific interest of the agency or subdivision;

1924 (f) a person identified in Subsections (1)(d) and (e) may offer lectures for a fee, or
1925 monetary or other compensation, without being licensed;

1926 (g) a person employed by an accredited college or university as a speech-language
1927 pathologist or audiologist performing the services or functions described in this chapter if the
1928 services or functions are:

1929 (i) performed solely as an assigned teaching function of the person's employment;

1930 (ii) solely in academic interest and pursuit as a function of the person's employment;

1931 (iii) in no way for the person's own interest; and

1932 (iv) provided for no fee, monetary or otherwise, other than the person's agreed
1933 institutional salary;

1934 (h) a person pursuing a course of study leading to a degree in speech-language
1935 pathology or audiology while enrolled in an accredited college or university, provided:

1936 (i) those activities constitute an assigned, directed, and supervised part of the person's
1937 curricular study, and in no other interest;

1938 (ii) that all examinations, tests, histories, charts, progress notes, reports,
1939 correspondence, documents, and records the person produces be identified clearly as having
1940 been conducted and prepared by a student in training;

1941 (iii) that the person is obviously identified and designated by appropriate title clearly
1942 indicating the person's training status; and

1943 (iv) that the person does not hold out directly or indirectly to the public or otherwise
1944 represent that the person is qualified to practice independently;

1945 (i) a person trained in elementary audiometry and qualified to perform basic
1946 audiometric tests while employed by and under the direct supervision of a licensed medical
1947 doctor to perform solely for the licensed medical doctor, the elementary conventional
1948 audiometric tests of air conduction screening, air conduction threshold testing, and
1949 tympanometry;

1950 (j) a person performing the functions of a speech-language pathologist or audiologist
1951 for the sole purpose of obtaining required professional experience under the provisions of this
1952 chapter and only during the period the person is obtaining the required professional experience,
1953 if the person:

1954 (i) meets all training requirements; and

1955 (ii) is professionally responsible to and under the supervision of a speech-language
1956 pathologist or audiologist who holds the CCC or a state license in speech-language pathology
1957 or audiology;

1958 (k) a corporation, partnership, trust, association, group practice, or similar organization
1959 engaging in speech-language pathology or audiology services without certification or license, if
1960 acting only through employees or consisting only of persons who are licensed under this
1961 chapter;

1962 (l) a person who is not a resident of this state performing speech-language pathology or
1963 audiology services in this state if:

1964 (i) the services are performed for no more than one month in any calendar year in
1965 association with a speech-language pathologist or audiologist licensed under this chapter; and

1966 (ii) the person meets the qualifications and requirements for application for licensure
1967 described in Section [58-41-5](#);

1968 (m) a person certified under Title 53E, Public Education System -- State
1969 Administration, as a teacher of the deaf, from providing the services or performing the
1970 functions the person is certified to perform; and

1971 (n) a person who is:

1972 (i) trained in newborn hearing screening as described in rules made by the Department
1973 of Health and Human Services in accordance with Title 63G, Chapter 3, Utah Administrative
1974 Rulemaking Act; and

1975 (ii) is working under the indirect supervision of a licensed audiologist responsible for a
1976 newborn hearing screening program established by the Department of Health and Human
1977 Services under Section [\[26-10-6\]](#) [26B-4-319](#).

1978 (2) No person is exempt from the requirements of this chapter who performs or
1979 provides any services as a speech-language pathologist or audiologist for which a fee, salary,
1980 bonus, gratuity, or compensation of any kind paid by the recipient of the service; or who

1981 engages any part of his professional work for a fee practicing in conjunction with, by
1982 permission of, or apart from his position of employment as speech-language pathologist or
1983 audiologist in any branch or subdivision of local, state, or federal government or as otherwise
1984 identified in this section.

1985 Section 26. Section **58-57-7** is amended to read:

1986 **58-57-7. Exemptions from licensure.**

1987 (1) (a) For purposes of Subsection (2)(b), "qualified" means an individual who is a
1988 registered polysomnographic technologist or a Diplomate certified by the American Board of
1989 Sleep Medicine.

1990 (b) For purposes of Subsections (2)(f) and (g), "supervision" means one of the
1991 following will be immediately available for consultation in person or by phone:

1992 (i) a practitioner;

1993 (ii) a respiratory therapist;

1994 (iii) a Diplomate of the American Board of Sleep Medicine; or

1995 (iv) a registered polysomnographic technologist.

1996 (2) In addition to the exemptions from licensure in Section **58-1-307**, the following
1997 persons may engage in the practice of respiratory therapy subject to the stated circumstances
1998 and limitations without being licensed under this chapter:

1999 (a) any person who provides gratuitous care for a member of his immediate family
2000 without representing himself as a licensed respiratory care practitioner;

2001 (b) any person who is a licensed or qualified member of another health care profession,
2002 if this practice is consistent with the accepted standards of the profession and if the person does
2003 not represent himself as a respiratory care practitioner;

2004 (c) any person who serves in the Armed Forces of the United States or any other
2005 agency of the federal government and is engaged in the performance of his official duties;

2006 (d) any person who acts under a certification issued pursuant to [~~Title 26, Chapter 8a,~~
2007 ~~Utah Emergency Medical Services System Act~~] Title 26B, Chapter 4, Part 1, Utah Emergency
2008 Medical Services System, while providing emergency medical services;

2009 (e) any person who delivers, installs, or maintains respiratory related durable medical
2010 equipment and who gives instructions regarding the use of that equipment in accordance with
2011 Subsections **58-57-2**(3) and (6), except that this exemption does not include any clinical

2012 evaluation or treatment of the patient;
2013 (f) any person who is working in a practitioner's office, acting under supervision; and
2014 (g) a polysomnographic technician or trainee, acting under supervision, as long as the
2015 technician or trainee administers the following only in a sleep lab, sleep center, or sleep
2016 facility:

- 2017 (i) oxygen titration; and
- 2018 (ii) positive airway pressure that does not include mechanical ventilation.
- 2019 (3) Nothing in this chapter permits a respiratory care practitioner to engage in the
2020 unauthorized practice of other health disciplines.

2021 Section 27. Section **58-60-114** is amended to read:

2022 **58-60-114. Confidentiality -- Exemptions.**

2023 (1) Notwithstanding Title 63G, Chapter 2, Government Records Access and
2024 Management Act, a mental health therapist under this chapter may not disclose any confidential
2025 communication with a client or patient without the express written consent of:

- 2026 (a) the client or patient;
- 2027 (b) the parent or legal guardian of a minor client or patient; or
- 2028 (c) a person authorized to consent to the disclosure of the confidential communication
2029 by the client or patient in a written document:

- 2030 (i) that is signed by the client or the patient; and
- 2031 (ii) in which the client's or the patient's signature is reasonably verifiable.

2032 (2) A mental health therapist under this chapter is not subject to Subsection (1) if:

- 2033 (a) the mental health therapist is permitted or required by state or federal law, rule,
2034 regulation, or order to report or disclose any confidential communication, including:

2035 (i) reporting under [~~Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a~~
2036 ~~Vulnerable Adult~~] Title 26B, Chapter 6, Part 2, Abuse, Neglect, or Exploitation of a
2037 Vulnerable Adult;

2038 (ii) reporting under Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports;

2039 (iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to
2040 Warn; or

2041 (iv) reporting of a communicable disease as required under Section [~~26-6-6~~]

2042 [26B-7-206](#);

2043 (b) the disclosure is part of an administrative, civil, or criminal proceeding and is made
2044 under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or

2045 (c) the disclosure is made under a generally recognized professional or ethical standard
2046 that authorizes or requires the disclosure.

2047 Section 28. Section **58-60-509** is amended to read:

2048 **58-60-509. Confidentiality -- Exemptions.**

2049 (1) A licensee under this part may not disclose any confidential communication with a
2050 client or patient without the express consent of:

2051 (a) the client or patient;

2052 (b) the parent or legal guardian of a minor client or patient; or

2053 (c) the authorized agent of a client or patient.

2054 (2) A licensee under this part is not subject to Subsection (1) if:

2055 (a) the licensee is permitted or required by state or federal law, rule, regulation, or
2056 order to report or disclose any confidential communication, including:

2057 (i) reporting under [~~Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a~~
2058 ~~Vulnerable Adult~~] Title 26B, Chapter 6, Part 2, Abuse, Neglect, or Exploitation of a
2059 Vulnerable Adult;

2060 (ii) reporting under Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports;

2061 (iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to
2062 Warn; or

2063 (iv) reporting of a communicable disease as required under Section [~~26-6-6~~]
2064 [26B-7-206](#);

2065 (b) the disclosure is part of an administrative, civil, or criminal proceeding and is made
2066 under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or

2067 (c) the disclosure is made under a generally recognized professional or ethical standard
2068 that authorizes or requires the disclosure.

2069 Section 29. Section **58-61-602** is amended to read:

2070 **58-61-602. Confidentiality -- Exemptions.**

2071 (1) Notwithstanding Title 63G, Chapter 2, Government Records Access and
2072 Management Act, a psychologist under this chapter may not disclose any confidential
2073 communication with a client or patient without the express written consent of:

2074 (a) the client or patient;
 2075 (b) the parent or legal guardian of a minor client or patient; or
 2076 (c) a person authorized to consent to the disclosure of the confidential communication
 2077 by the client or patient in a written document:

2078 (i) that is signed by the client or the patient; and
 2079 (ii) in which the client's or the patient's signature is reasonably verifiable.

2080 (2) A psychologist under this chapter is not subject to Subsection (1) if:

2081 (a) the psychologist is permitted or required by state or federal law, rule, regulation, or
 2082 order to report or disclose any confidential communication, including:

2083 (i) reporting under [~~Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a~~
 2084 ~~Vulnerable Adult~~] Title 26B, Chapter 6, Part 2, Abuse, Neglect, or Exploitation of a
 2085 Vulnerable Adult;

2086 (ii) reporting under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting
 2087 Requirements;

2088 (iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to
 2089 Warn; or

2090 (iv) reporting of a communicable disease as required under Section [~~26-6-6~~]
 2091 [26B-7-206](#);

2092 (b) the disclosure is part of an administrative, civil, or criminal proceeding and is made
 2093 under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or

2094 (c) the disclosure is made under a generally recognized professional or ethical standard
 2095 that authorizes or requires the disclosure.

2096 Section 30. Section **58-61-704** is amended to read:

2097 **58-61-704. Term of license or registration.**

2098 (1) (a) The division shall issue each license under this part with a two-year renewal
 2099 cycle established by division rule.

2100 (b) The division may by rule extend or shorten a renewal cycle by as much as one year
 2101 to stagger the renewal cycles it administers.

2102 (2) At the time of renewal, the licensed individual shall show satisfactory evidence of
 2103 renewal requirements as required under this part.

2104 (3) Each license or registration expires on the expiration date shown on the license

2105 unless renewed by the licensed individual in accordance with Section 58-1-308.

2106 (4) (a) A registration as a registered behavior specialist or a registered assistant
2107 behavior specialist:

2108 (i) expires on the day the individual is no longer employed in accordance with
2109 Subsection 58-61-705(5)(d) or (6)(d); and

2110 (ii) may not be renewed.

2111 (b) The Department of [~~Human Services~~] Health and Human Services, or an
2112 organization contracted with a division of the Department of [~~Human Services~~] Health and
2113 Human Services, shall notify the Division of Professional Licensing when a person registered
2114 under this part is no longer employed as a registered behavior specialist or a registered assistant
2115 behavior specialist.

2116 Section 31. Section 58-61-713 is amended to read:

2117 **58-61-713. Confidentiality -- Exemptions.**

2118 (1) A behavior analyst or behavior specialist under this chapter may not disclose any
2119 confidential communication with a client or patient without the express written consent of:

2120 (a) the client or patient;

2121 (b) the parent or legal guardian of a minor client or patient; or

2122 (c) a person authorized to consent to the disclosure of the confidential communication
2123 by the client or patient in a written document:

2124 (i) that is signed by the client or the patient; and

2125 (ii) in which the client's or the patient's signature is reasonably verifiable.

2126 (2) A behavior analyst or behavior specialist is not subject to Subsection (1) if:

2127 (a) the behavior analyst or behavior specialist is permitted or required by state or
2128 federal law, rule, regulation, or order to report or disclose any confidential communication,
2129 including:

2130 (i) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a
2131 Vulnerable Adult;

2132 (ii) reporting under Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports;

2133 (iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to
2134 Warn; or

2135 (iv) reporting of a communicable disease as required under Section [~~26-6-6~~]

2136 [26B-7-206](#);

2137 (b) the disclosure is part of an administrative, civil, or criminal proceeding and is made
2138 under an exemption from evidentiary privilege under Utah Rules of Evidence, Rule 506; or

2139 (c) the disclosure is made under a generally recognized professional or ethical standard
2140 that authorizes or requires the disclosure.

2141 Section 32. Section **58-67-302** is amended to read:

2142 **58-67-302. Qualifications for licensure.**

2143 (1) An applicant for licensure as a physician and surgeon, except as set forth in
2144 Subsection (2), shall:

2145 (a) submit an application in a form prescribed by the division, which may include:

2146 (i) submissions by the applicant of information maintained by practitioner data banks,
2147 as designated by division rule, with respect to the applicant;

2148 (ii) a record of professional liability claims made against the applicant and settlements
2149 paid by or on behalf of the applicant; and

2150 (iii) authorization to use a record coordination and verification service approved by the
2151 division in collaboration with the board;

2152 (b) pay a fee determined by the department under Section [63J-1-504](#);

2153 (c) if the applicant is applying to participate in the Interstate Medical Licensure
2154 Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal
2155 background check in accordance with Section [58-67-302.1](#) and any requirements established by
2156 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2157 (d) provide satisfactory documentation of having successfully completed a program of
2158 professional education preparing an individual as a physician and surgeon, as evidenced by:

2159 (i) having received an earned degree of doctor of medicine from an LCME accredited
2160 medical school or college; or

2161 (ii) if the applicant graduated from a medical school or college located outside the
2162 United States or its territories, submitting a current certification by the Educational
2163 Commission for Foreign Medical Graduates or any successor organization approved by the
2164 division in collaboration with the board;

2165 (e) satisfy the division and board that the applicant:

2166 (i) has successfully completed 24 months of progressive resident training in a program

2167 approved by the ACGME, the Royal College of Physicians and Surgeons, the College of
2168 Family Physicians of Canada, or any similar body in the United States or Canada approved by
2169 the division in collaboration with the board; or

2170 (ii) (A) has successfully completed 12 months of resident training in an ACGME
2171 approved program after receiving a degree of doctor of medicine as required under Subsection
2172 (1)(d);

2173 (B) has been accepted in and is successfully participating in progressive resident
2174 training in an ACGME approved program within Utah, in the applicant's second or third year
2175 of postgraduate training; and

2176 (C) has agreed to surrender to the division the applicant's license as a physician and
2177 surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act,
2178 and has agreed the applicant's license as a physician and surgeon will be automatically revoked
2179 by the division if the applicant fails to continue in good standing in an ACGME approved
2180 progressive resident training program within the state;

2181 (f) pass the licensing examination sequence required by division rule made in
2182 collaboration with the board;

2183 (g) be able to read, write, speak, understand, and be understood in the English language
2184 and demonstrate proficiency to the satisfaction of the board if requested by the board;

2185 (h) meet with the board and representatives of the division, if requested, for the
2186 purpose of evaluating the applicant's qualifications for licensure;

2187 (i) designate:

2188 (i) a contact person for access to medical records in accordance with the federal Health
2189 Insurance Portability and Accountability Act; and

2190 (ii) an alternate contact person for access to medical records, in the event the original
2191 contact person is unable or unwilling to serve as the contact person for access to medical
2192 records; and

2193 (j) establish a method for notifying patients of the identity and location of the contact
2194 person and alternate contact person, if the applicant will practice in a location with no other
2195 persons licensed under this chapter.

2196 (2) An applicant for licensure as a physician and surgeon by endorsement who is
2197 currently licensed to practice medicine in any state other than Utah, a district or territory of the

2198 United States, or Canada shall:

2199 (a) be currently licensed with a full unrestricted license in good standing in any state,
2200 district, or territory of the United States, or Canada;

2201 (b) have been actively engaged in the legal practice of medicine in any state, district, or
2202 territory of the United States, or Canada for not less than 6,000 hours during the five years
2203 immediately preceding the date of application for licensure in Utah;

2204 (c) comply with the requirements for licensure under Subsections (1)(a) through (d),
2205 (1)(e)(i), and (1)(g) through (j);

2206 (d) have passed the licensing examination sequence required in Subsection (1)(e) or
2207 another medical licensing examination sequence in another state, district or territory of the
2208 United States, or Canada that the division in collaboration with the board by rulemaking
2209 determines is equivalent to its own required examination;

2210 (e) not have any investigation or action pending against any health care license of the
2211 applicant, not have a health care license that was suspended or revoked in any state, district or
2212 territory of the United States, or Canada, and not have surrendered a health care license in lieu
2213 of a disciplinary action, unless:

2214 (i) the license was subsequently reinstated as a full unrestricted license in good
2215 standing; or

2216 (ii) the division in collaboration with the board determines to its satisfaction, after full
2217 disclosure by the applicant, that:

2218 (A) the conduct has been corrected, monitored, and resolved; or

2219 (B) a mitigating circumstance exists that prevents its resolution, and the division in
2220 collaboration with the board is satisfied that, but for the mitigating circumstance, the license
2221 would be reinstated;

2222 (f) submit to a records review, a practice history review, and comprehensive
2223 assessments, if requested by the division in collaboration with the board; and

2224 (g) produce satisfactory evidence that the applicant meets the requirements of this
2225 Subsection (2) to the satisfaction of the division in collaboration with the board.

2226 (3) An applicant for licensure by endorsement may engage in the practice of medicine
2227 under a temporary license while the applicant's application for licensure is being processed by
2228 the division, provided:

- 2229 (a) the applicant submits a complete application required for temporary licensure to the
2230 division;
- 2231 (b) the applicant submits a written document to the division from:
- 2232 (i) a health care facility licensed under [~~Title 26, Chapter 21, Health Care Facility~~
2233 ~~Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and
2234 Inspection, stating that the applicant is practicing under the:
- 2235 (A) invitation of the health care facility; and
- 2236 (B) the general supervision of a physician practicing at the facility; or
- 2237 (ii) two individuals licensed under this chapter, whose license is in good standing and
2238 who practice in the same clinical location, both stating that:
- 2239 (A) the applicant is practicing under the invitation and general supervision of the
2240 individual; and
- 2241 (B) the applicant will practice at the same clinical location as the individual;
- 2242 (c) the applicant submits a signed certification to the division that the applicant meets
2243 the requirements of Subsection (2);
- 2244 (d) the applicant does not engage in the practice of medicine until the division has
2245 issued a temporary license;
- 2246 (e) the temporary license is only issued for and may not be extended or renewed
2247 beyond the duration of one year from issuance; and
- 2248 (f) the temporary license expires immediately and prior to the expiration of one year
2249 from issuance, upon notification from the division that the applicant's application for licensure
2250 by endorsement is denied.
- 2251 (4) The division shall issue a temporary license under Subsection (3) within 15
2252 business days after the applicant satisfies the requirements of Subsection (3).
- 2253 (5) The division may not require the following requirements for licensure:
- 2254 (a) a post-residency board certification; or
- 2255 (b) a cognitive test when the physician reaches a specified age, unless:
- 2256 (i) the screening is based on evidence of cognitive changes associated with aging that
2257 are relevant to physician performance;
- 2258 (ii) the screening is based on principles of medical ethics;
- 2259 (iii) physicians are involved in the development of standards for assessing competency;

2260 (iv) guidelines, procedures, and methods of assessment, which may include cognitive
2261 screening, are relevant to physician practice and to the physician's ability to perform the tasks
2262 specifically required in the physician's practice environment;

2263 (v) the primary driver for establishing assessment results is the ethical obligation of the
2264 profession to the health of the public and patient safety;

2265 (vi) the goal of the assessment is to optimize physician competency and performance
2266 through education, remediation, and modifications to a physician's practice environment or
2267 scope;

2268 (vii) a credentialing committee determines that public health or patient safety is
2269 directly threatened, the screening permits a physician to retain the right to modify the
2270 physician's practice environment to allow the physician to continue to provide safe and
2271 effective care;

2272 (viii) guidelines, procedures, and methods of assessment are transparent to physicians
2273 and physicians' representatives, if requested by a physician or a physician's representative, and
2274 physicians are made aware of the specific methods used, performance expectations and
2275 standards against which performance will be judged, and the possible outcomes of the
2276 screening or assessment;

2277 (ix) education or remediation practices that result from screening or assessment
2278 procedures are:

2279 (A) supportive of physician wellness;

2280 (B) ongoing; and

2281 (C) proactive; and

2282 (x) procedures and screening mechanisms that are distinctly different from for cause
2283 assessments do not result in undue cost or burden to senior physicians providing patient care.

2284 Section 33. Section **58-67-304** is amended to read:

2285 **58-67-304. License renewal requirements.**

2286 (1) As a condition precedent for license renewal, each licensee shall, during each
2287 two-year licensure cycle or other cycle defined by division rule:

2288 (a) complete qualified continuing professional education requirements in accordance
2289 with the number of hours and standards defined by division rule made in collaboration with the
2290 board;

2291 (b) appoint a contact person for access to medical records and an alternate contact
2292 person for access to medical records in accordance with Subsection 58-67-302(1)(i);

2293 (c) if the licensee practices medicine in a location with no other persons licensed under
2294 this chapter, provide some method of notice to the licensee's patients of the identity and
2295 location of the contact person and alternate contact person for the licensee; and

2296 (d) if the licensee is an associate physician licensed under Section 58-67-302.8,
2297 successfully complete the educational methods and programs described in Subsection
2298 58-67-807(4).

2299 (2) If a renewal period is extended or shortened under Section 58-67-303, the
2300 continuing education hours required for license renewal under this section are increased or
2301 decreased proportionally.

2302 (3) An application to renew a license under this chapter shall:

2303 (a) require a physician to answer the following question: "Do you perform elective
2304 abortions in Utah in a location other than a hospital?"; and

2305 (b) immediately following the question, contain the following statement: "For purposes
2306 of the immediately preceding question, elective abortion means an abortion other than one of
2307 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
2308 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of
2309 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a
2310 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
2311 the woman is pregnant as a result of rape or incest."

2312 (4) In order to assist the Department of [~~Health~~] Health and Human Services in
2313 fulfilling its responsibilities relating to the licensing of an abortion clinic and the enforcement
2314 of Title 76, Chapter 7, Part 3, Abortion, if a physician responds positively to the question
2315 described in Subsection (3)(a), the division shall, within 30 days after the day on which it
2316 renews the physician's license under this chapter, inform the Department of [~~Health~~] Health
2317 and Human Services in writing:

2318 (a) of the name and business address of the physician; and

2319 (b) that the physician responded positively to the question described in Subsection
2320 (3)(a).

2321 (5) The division shall accept and apply toward the hour requirement in Subsection

2322 (1)(a) any continuing education that a physician completes in accordance with Sections
2323 ~~[26-61a-106]~~ 26B-4-204 and ~~[26-61a-403]~~ 26B-4-219.

2324 Section 34. Section **58-67-502** is amended to read:

2325 **58-67-502. Unprofessional conduct.**

2326 (1) "Unprofessional conduct" includes, in addition to the definition in Section
2327 58-1-501:

2328 (a) using or employing the services of any individual to assist a licensee in any manner
2329 not in accordance with the generally recognized practices, standards, or ethics of the
2330 profession, state law, or division rule;

2331 (b) making a material misrepresentation regarding the qualifications for licensure under
2332 Section 58-67-302.7 or Section 58-67-302.8;

2333 (c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
2334 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

2335 (d) violating the requirements of ~~[Title 26, Chapter 61a, Utah Medical Cannabis Act]~~
2336 Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

2337 (e) falsely making an entry in, or altering, a medical record with the intent to conceal:

2338 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
2339 or an individual under the direction or control of an individual licensed under this chapter; or

2340 (ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1).

2341 (2) "Unprofessional conduct" does not include:

2342 (a) in compliance with Section 58-85-103:

2343 (i) obtaining an investigational drug or investigational device;

2344 (ii) administering the investigational drug to an eligible patient; or

2345 (iii) treating an eligible patient with the investigational drug or investigational device;

2346 or

2347 (b) in accordance with ~~[Title 26, Chapter 61a, Utah Medical Cannabis Act]~~ Title 26B,
2348 Chapter 4, Part 2, Cannabidnoid Research and Medical Cannabis:

2349 (i) when registered as a qualified medical provider or acting as a limited medical
2350 provider, as those terms are defined in Section ~~[26-61a-102]~~ 26B-4-201, recommending the use
2351 of medical cannabis;

2352 (ii) when registered as a pharmacy medical provider, as that term is defined in Section

2353 ~~[26-61a-102]~~ [26B-4-201](#), providing pharmacy medical provider services in a medical cannabis
2354 pharmacy; or

2355 (iii) when registered as a state central patient portal medical provider, as that term is
2356 defined in Section ~~[26-61a-102]~~ [26B-4-201](#), providing state central patient portal medical
2357 provider services.

2358 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and
2359 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
2360 unprofessional conduct for a physician described in Subsection (2)(b).

2361 Section 35. Section ~~58-67-601~~ is amended to read:

2362 **58-67-601. Mentally incompetent or incapacitated physician.**

2363 (1) As used in this section:

2364 (a) "Incapacitated person" means a person who is incapacitated, as defined in Section
2365 [75-1-201](#).

2366 (b) "Mental illness" means the same as that term is defined in Section ~~[62A-15-602]~~
2367 [26B-5-301](#).

2368 (c) "Physician" means an individual licensed under this chapter.

2369 (2) If a court of competent jurisdiction determines a physician is an incapacitated
2370 person or that the physician has a mental illness and is unable to safely engage in the practice
2371 of medicine, the director shall immediately suspend the license of the physician upon the entry
2372 of the judgment of the court, without further proceedings under Title 63G, Chapter 4,
2373 Administrative Procedures Act, regardless of whether an appeal from the court's ruling is
2374 pending. The director shall promptly notify the physician, in writing, of the suspension.

2375 (3) (a) If the division and a majority of the board find reasonable cause to believe a
2376 physician, who is not determined judicially to be an incapacitated person or to have a mental
2377 illness, is incapable of practicing medicine with reasonable skill regarding the safety of
2378 patients, because of illness, excessive use of drugs or alcohol, or as a result of any mental or
2379 physical condition, the board shall recommend that the director file a petition with the division,
2380 and cause the petition to be served upon the physician with a notice of hearing on the sole issue
2381 of the capacity of the physician to competently and safely engage in the practice of medicine.

2382 (b) The hearing shall be conducted under Section [58-1-109](#), and Title 63G, Chapter 4,
2383 Administrative Procedures Act, except as provided in Subsection (4).

2384 (4) (a) Every physician who accepts the privilege of being licensed under this chapter
2385 gives consent to:

2386 (i) submitting at the physician's own expense to an immediate mental or physical
2387 examination when directed in writing by the division and a majority of the board to do so; and

2388 (ii) the admissibility of the reports of the examining physician's testimony or
2389 examination, and waives all objections on the ground the reports constitute a privileged
2390 communication.

2391 (b) The examination may be ordered by the division, with the consent of a majority of
2392 the board, only upon a finding of reasonable cause to believe:

2393 (i) the physician has a mental illness, is incapacitated, or otherwise unable to practice
2394 medicine with reasonable skill and safety; and

2395 (ii) immediate action by the division and the board is necessary to prevent harm to the
2396 physician's patients or the general public.

2397 (c) (i) Failure of a physician to submit to the examination ordered under this section is
2398 a ground for the division's immediate suspension of the physician's license by written order of
2399 the director.

2400 (ii) The division may enter the order of suspension without further compliance with
2401 Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to
2402 submit to the examination ordered under this section was due to circumstances beyond the
2403 control of the physician and was not related directly to the illness or incapacity of the
2404 physician.

2405 (5) (a) A physician whose license is suspended under Subsection (2) or (3) has the right
2406 to a hearing to appeal the suspension within 10 days after the license is suspended.

2407 (b) The hearing held under this subsection shall be conducted in accordance with
2408 Sections [58-1-108](#) and [58-1-109](#) for the sole purpose of determining if sufficient basis exists
2409 for the continuance of the order of suspension in order to prevent harm to the physician's
2410 patients or the general public.

2411 (6) A physician whose license is revoked, suspended, or in any way restricted under
2412 this section may request the division and the board to consider, at reasonable intervals,
2413 evidence presented by the physician, under procedures established by division rule, regarding
2414 any change in the physician's condition, to determine whether:

2415 (a) the physician is or is not able to safely and competently engage in the practice of
2416 medicine; and

2417 (b) the physician is qualified to have the physician's license to practice under this
2418 chapter restored completely or in part.

2419 Section 36. Section **58-67-702** is amended to read:

2420 **58-67-702. Opiate antagonist -- Exclusion from unlawful or unprofessional**
2421 **conduct.**

2422 (1) As used in this section:

2423 (a) "Dispense" means the same as that term is defined in Section [58-17b-102](#).

2424 (b) "Increased risk" means the same as that term is defined in Section ~~[26-55-102]~~
2425 [26B-4-501](#).

2426 (c) "Opiate antagonist" means the same as that term is defined in Section ~~[26-55-102]~~
2427 [26B-4-501](#).

2428 (d) "Opiate-related drug overdose event" means the same as that term is defined in
2429 Section ~~[26-55-102]~~ [26B-4-501](#).

2430 (e) "Prescribe" means the same as that term is defined in Section [58-17b-102](#).

2431 (2) The prescribing or dispensing of an opiate antagonist by a licensee under this
2432 chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the
2433 opiate antagonist:

2434 (a) in a good faith effort to assist:

2435 (i) an individual who is at increased risk of experiencing an opiate-related drug
2436 overdose event; or

2437 (ii) a family member of, friend of, or other person, including a person described in
2438 Subsections ~~[26-55-107(1)(a)(i)(A)]~~ [26B-4-512\(1\)\(a\)\(i\)\(A\)](#) through (1)(a)(i)(F), that is in a
2439 position to assist an individual who is at increased risk of experiencing an opiate-related drug
2440 overdose event; or

2441 (b) to an overdose outreach provider pursuant to Subsection ~~[26-55-104(2)(a)(iii)]~~
2442 [26B-4-509\(2\)\(a\)\(iii\)](#).

2443 (3) The provisions of this section and ~~[Title 26, Chapter 55, Opiate Overdose Response~~
2444 ~~Act]~~ [Title 26B, Chapter 4, Part 5, Treatment Access](#), do not establish a duty or standard of care
2445 in the prescribing, dispensing, or administration of an opiate antagonist.

2446 Section 37. Section **58-68-302** is amended to read:

2447 **58-68-302. Qualifications for licensure.**

2448 (1) An applicant for licensure as an osteopathic physician and surgeon, except as set
2449 forth in Subsection (2), shall:

2450 (a) submit an application in a form prescribed by the division, which may include:

2451 (i) submissions by the applicant of information maintained by practitioner data banks,
2452 as designated by division rule, with respect to the applicant;

2453 (ii) a record of professional liability claims made against the applicant and settlements
2454 paid by or on behalf of the applicant; and

2455 (iii) authorization to use a record coordination and verification service approved by the
2456 division in collaboration with the board;

2457 (b) pay a fee determined by the department under Section [63J-1-504](#);

2458 (c) if the applicant is applying to participate in the Interstate Medical Licensure
2459 Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal
2460 background check in accordance with Section [58-68-302.1](#) and any requirements established by
2461 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2462 (d) provide satisfactory documentation of having successfully completed a program of
2463 professional education preparing an individual as an osteopathic physician and surgeon, as
2464 evidenced by:

2465 (i) having received an earned degree of doctor of osteopathic medicine from an AOA
2466 approved medical school or college; or

2467 (ii) submitting a current certification by the Educational Commission for Foreign
2468 Medical Graduates or any successor organization approved by the division in collaboration
2469 with the board, if the applicant is graduated from an osteopathic medical school or college
2470 located outside of the United States or its territories which at the time of the applicant's
2471 graduation, met criteria for accreditation by the AOA;

2472 (e) satisfy the division and board that the applicant:

2473 (i) has successfully completed 24 months of progressive resident training in an
2474 ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine
2475 required under Subsection (1)(d); or

2476 (ii) (A) has successfully completed 12 months of resident training in an ACGME or

2477 AOA approved program after receiving a degree of doctor of osteopathic medicine as required
2478 under Subsection (1)(d);

2479 (B) has been accepted in and is successfully participating in progressive resident
2480 training in an ACGME or AOA approved program within Utah, in the applicant's second or
2481 third year of postgraduate training; and

2482 (C) has agreed to surrender to the division the applicant's license as an osteopathic
2483 physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative
2484 Procedures Act, and has agreed the applicant's license as an osteopathic physician and surgeon
2485 will be automatically revoked by the division if the applicant fails to continue in good standing
2486 in an ACGME or AOA approved progressive resident training program within the state;

2487 (f) pass the licensing examination sequence required by division rule, as made in
2488 collaboration with the board;

2489 (g) be able to read, write, speak, understand, and be understood in the English language
2490 and demonstrate proficiency to the satisfaction of the board, if requested by the board;

2491 (h) meet with the board and representatives of the division, if requested for the purpose
2492 of evaluating the applicant's qualifications for licensure;

2493 (i) designate:

2494 (i) a contact person for access to medical records in accordance with the federal Health
2495 Insurance Portability and Accountability Act; and

2496 (ii) an alternate contact person for access to medical records, in the event the original
2497 contact person is unable or unwilling to serve as the contact person for access to medical
2498 records; and

2499 (j) establish a method for notifying patients of the identity and location of the contact
2500 person and alternate contact person, if the applicant will practice in a location with no other
2501 persons licensed under this chapter.

2502 (2) An applicant for licensure as an osteopathic physician and surgeon by endorsement
2503 who is currently licensed to practice osteopathic medicine in any state other than Utah, a
2504 district or territory of the United States, or Canada shall:

2505 (a) be currently licensed with a full unrestricted license in good standing in any state,
2506 district or territory of the United States, or Canada;

2507 (b) have been actively engaged in the legal practice of osteopathic medicine in any

2508 state, district or territory of the United States, or Canada for not less than 6,000 hours during
2509 the five years immediately preceding the day on which the applicant applied for licensure in
2510 Utah;

2511 (c) comply with the requirements for licensure under Subsections (1)(a) through (d),
2512 (1)(e)(i), and (1)(g) through (j);

2513 (d) have passed the licensing examination sequence required in Subsection (1)(f) or
2514 another medical licensing examination sequence in another state, district or territory of the
2515 United States, or Canada that the division in collaboration with the board by rulemaking
2516 determines is equivalent to its own required examination;

2517 (e) not have any investigation or action pending against any health care license of the
2518 applicant, not have a health care license that was suspended or revoked in any state, district or
2519 territory of the United States, or Canada, and not have surrendered a health care license in lieu
2520 of a disciplinary action, unless:

2521 (i) the license was subsequently reinstated as a full unrestricted license in good
2522 standing; or

2523 (ii) the division in collaboration with the board determines, after full disclosure by the
2524 applicant, that:

2525 (A) the conduct has been corrected, monitored, and resolved; or

2526 (B) a mitigating circumstance exists that prevents its resolution, and the division in
2527 collaboration with the board is satisfied that, but for the mitigating circumstance, the license
2528 would be reinstated;

2529 (f) submit to a records review, a practice review history, and physical and
2530 psychological assessments, if requested by the division in collaboration with the board; and

2531 (g) produce evidence that the applicant meets the requirements of this Subsection (2) to
2532 the satisfaction of the division in collaboration with the board.

2533 (3) An applicant for licensure by endorsement may engage in the practice of medicine
2534 under a temporary license while the applicant's application for licensure is being processed by
2535 the division, provided:

2536 (a) the applicant submits a complete application required for temporary licensure to the
2537 division;

2538 (b) the applicant submits a written document to the division from:

2539 (i) a health care facility licensed under [~~Title 26, Chapter 21, Health Care Facility~~
 2540 ~~Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and
 2541 Inspection, stating that the applicant is practicing under the:

2542 (A) invitation of the health care facility; and

2543 (B) the general supervision of a physician practicing at the health care facility; or

2544 (ii) two individuals licensed under this chapter, whose license is in good standing and
 2545 who practice in the same clinical location, both stating that:

2546 (A) the applicant is practicing under the invitation and general supervision of the
 2547 individual; and

2548 (B) the applicant will practice at the same clinical location as the individual;

2549 (c) the applicant submits a signed certification to the division that the applicant meets
 2550 the requirements of Subsection (2);

2551 (d) the applicant does not engage in the practice of medicine until the division has
 2552 issued a temporary license;

2553 (e) the temporary license is only issued for and may not be extended or renewed
 2554 beyond the duration of one year from issuance; and

2555 (f) the temporary license expires immediately and prior to the expiration of one year
 2556 from issuance, upon notification from the division that the applicant's application for licensure
 2557 by endorsement is denied.

2558 (4) The division shall issue a temporary license under Subsection (3) within 15
 2559 business days after the applicant satisfies the requirements of Subsection (3).

2560 (5) The division may not require a:

2561 (a) post-residency board certification; or

2562 (b) a cognitive test when the physician reaches a specified age, unless the test reflects
 2563 the standards described in Subsections [58-67-302\(5\)\(b\)\(i\)](#) through (x).

2564 Section 38. Section **58-68-304** is amended to read:

2565 **58-68-304. License renewal requirements.**

2566 (1) As a condition precedent for license renewal, each licensee shall, during each
 2567 two-year licensure cycle or other cycle defined by division rule:

2568 (a) complete qualified continuing professional education requirements in accordance
 2569 with the number of hours and standards defined by division rule in collaboration with the

2570 board;

2571 (b) appoint a contact person for access to medical records and an alternate contact
2572 person for access to medical records in accordance with Subsection 58-68-302(1)(i);

2573 (c) if the licensee practices osteopathic medicine in a location with no other persons
2574 licensed under this chapter, provide some method of notice to the licensee's patients of the
2575 identity and location of the contact person and alternate contact person for access to medical
2576 records for the licensee in accordance with Subsection 58-68-302(1)(j); and

2577 (d) if the licensee is an associate physician licensed under Section 58-68-302.5,
2578 successfully complete the educational methods and programs described in Subsection
2579 58-68-807(4).

2580 (2) If a renewal period is extended or shortened under Section 58-68-303, the
2581 continuing education hours required for license renewal under this section are increased or
2582 decreased proportionally.

2583 (3) An application to renew a license under this chapter shall:

2584 (a) require a physician to answer the following question: "Do you perform elective
2585 abortions in Utah in a location other than a hospital?"; and

2586 (b) immediately following the question, contain the following statement: "For purposes
2587 of the immediately preceding question, elective abortion means an abortion other than one of
2588 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
2589 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of
2590 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a
2591 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
2592 the woman is pregnant as a result of rape or incest."

2593 (4) In order to assist the Department of [~~Health~~] Health and Human Services in
2594 fulfilling its responsibilities relating to the licensing of an abortion clinic, if a physician
2595 responds positively to the question described in Subsection (3)(a), the division shall, within 30
2596 days after the day on which it renews the physician's license under this chapter, inform the
2597 Department of [~~Health~~] Health and Human Services in writing:

2598 (a) of the name and business address of the physician; and

2599 (b) that the physician responded positively to the question described in Subsection
2600 (3)(a).

2601 (5) The division shall accept and apply toward the hour requirement in Subsection
2602 (1)(a) any continuing education that a physician completes in accordance with Sections
2603 ~~[26-61a-106]~~ 26B-4-204 and ~~[26-61a-403]~~ 26B-4-219.

2604 Section 39. Section **58-68-502** is amended to read:

2605 **58-68-502. Unprofessional conduct.**

2606 (1) "Unprofessional conduct" includes, in addition to the definition in Section
2607 58-1-501:

2608 (a) using or employing the services of any individual to assist a licensee in any manner
2609 not in accordance with the generally recognized practices, standards, or ethics of the
2610 profession, state law, or division rule;

2611 (b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
2612 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

2613 (c) making a material misrepresentation regarding the qualifications for licensure under
2614 Section 58-68-302.5;

2615 (d) violating the requirements of ~~[Title 26, Chapter 61a, Utah Medical Cannabis Act]~~
2616 Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

2617 (e) falsely making an entry in, or altering, a medical record with the intent to conceal:

2618 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
2619 or an individual under the direction or control of an individual licensed under this chapter; or
2620 (ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1).

2621 (2) "Unprofessional conduct" does not include:

2622 (a) in compliance with Section 58-85-103:

2623 (i) obtaining an investigational drug or investigational device;

2624 (ii) administering the investigational drug to an eligible patient; or

2625 (iii) treating an eligible patient with the investigational drug or investigational device;

2626 or

2627 (b) in accordance with ~~[Title 26, Chapter 61a, Utah Medical Cannabis Act]~~ Title 26B,
2628 Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis:

2629 (i) when registered as a qualified medical provider or acting as a limited medical
2630 provider, as those terms are defined in Section ~~[26-61a-102]~~ 26B-4-201, recommending the use
2631 of medical cannabis;

2632 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
2633 ~~[26-61a-102]~~ [26B-4-201](#), providing pharmacy medical provider services in a medical cannabis
2634 pharmacy; or

2635 (iii) when registered as a state central patient portal medical provider, as that term is
2636 defined in Section ~~[26-61a-102]~~ [26B-4-201](#), providing state central patient portal medical
2637 provider services.

2638 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and
2639 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
2640 unprofessional conduct for a physician described in Subsection (2)(b).

2641 Section 40. Section ~~58-68-601~~ is amended to read:

2642 **58-68-601. Mentally incompetent or incapacitated osteopathic physician.**

2643 (1) As used in this section:

2644 (a) "Incapacitated person" means a person who is incapacitated, as defined in Section
2645 [75-1-201](#).

2646 (b) "Licensee" means an individual licensed under this chapter.

2647 (c) "Mental illness" means the same as that term is defined in Section ~~[62A-15-602]~~
2648 [26B-5-301](#).

2649 (2) If a court of competent jurisdiction determines a licensee is an incapacitated person
2650 or that the licensee has a mental illness and is unable to safely engage in the practice of
2651 medicine, the director shall immediately suspend the license of the licensee upon the entry of
2652 the judgment of the court, without further proceedings under Title 63G, Chapter 4,
2653 Administrative Procedures Act, regardless of whether an appeal from the court's ruling is
2654 pending. The director shall promptly notify the licensee, in writing, of the suspension.

2655 (3) (a) If the division and a majority of the board find reasonable cause to believe a
2656 licensee, who is not determined judicially to be an incapacitated person or to have a mental
2657 illness, is incapable of practicing osteopathic medicine with reasonable skill regarding the
2658 safety of patients, because of illness, excessive use of drugs or alcohol, or as a result of any
2659 mental or physical condition, the board shall recommend that the director file a petition with
2660 the division, and cause the petition to be served upon the licensee with a notice of hearing on
2661 the sole issue of the capacity of the licensee to competently and safely engage in the practice of
2662 medicine.

2663 (b) The hearing shall be conducted under Section 58-1-109, and Title 63G, Chapter 4,
2664 Administrative Procedures Act, except as provided in Subsection (4).

2665 (4) (a) Every individual who accepts the privilege of being licensed under this chapter
2666 gives consent to:

2667 (i) submitting at the licensee's own expense to an immediate mental or physical
2668 examination when directed in writing by the division and a majority of the board to do so; and

2669 (ii) the admissibility of the reports of the examining physician's testimony or
2670 examination, and waives all objections on the ground the reports constitute a privileged
2671 communication.

2672 (b) The examination may be ordered by the division, with the consent of a majority of
2673 the board, only upon a finding of reasonable cause to believe:

2674 (i) the licensee has a mental illness, is incapacitated, or otherwise unable to practice
2675 medicine with reasonable skill and safety; and

2676 (ii) immediate action by the division and the board is necessary to prevent harm to the
2677 licensee's patients or the general public.

2678 (c) (i) Failure of a licensee to submit to the examination ordered under this section is a
2679 ground for the division's immediate suspension of the licensee's license by written order of the
2680 director.

2681 (ii) The division may enter the order of suspension without further compliance with
2682 Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to
2683 submit to the examination ordered under this section was due to circumstances beyond the
2684 control of the licensee and was not related directly to the illness or incapacity of the licensee.

2685 (5) (a) A licensee whose license is suspended under Subsection (2) or (3) has the right
2686 to a hearing to appeal the suspension within 10 days after the license is suspended.

2687 (b) The hearing held under this subsection shall be conducted in accordance with
2688 Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists
2689 for the continuance of the order of suspension in order to prevent harm to the licensee's patients
2690 or the general public.

2691 (6) A licensee whose license is revoked, suspended, or in any way restricted under this
2692 section may request the division and the board to consider, at reasonable intervals, evidence
2693 presented by the licensee, under procedures established by division rule, regarding any change

2694 in the licensee's condition, to determine whether:

2695 (a) the licensee is or is not able to safely and competently engage in the practice of
2696 medicine; and

2697 (b) the licensee is qualified to have the licensee's license to practice under this chapter
2698 restored completely or in part.

2699 Section 41. Section ~~58-68-702~~ is amended to read:

2700 **58-68-702. Opiate antagonist -- Exclusion from unlawful or unprofessional**
2701 **conduct.**

2702 (1) As used in this section:

2703 (a) "Dispense" means the same as that term is defined in Section ~~58-17b-102~~.

2704 (b) "Increased risk" means the same as that term is defined in Section [~~26-55-102~~]
2705 26B-4-501.

2706 (c) "Opiate antagonist" means the same as that term is defined in Section [~~26-55-102~~]
2707 26B-4-501.

2708 (d) "Opiate-related drug overdose event" means the same as that term is defined in
2709 Section [~~26-55-102~~] 26B-4-501.

2710 (e) "Prescribe" means the same as that term is defined in Section ~~58-17b-102~~.

2711 (2) The prescribing or dispensing of an opiate antagonist by a licensee under this
2712 chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the
2713 opiate antagonist:

2714 (a) in a good faith effort to assist:

2715 (i) an individual who is at increased risk of experiencing an opiate-related drug
2716 overdose event; or

2717 (ii) a family member of, friend of, or other person, including a person described in
2718 Subsections [~~26-55-107(1)(a)(i)(A)~~] 26B-4-512(1)(a)(i)(A) through (1)(a)(i)(F), that is in a
2719 position to assist an individual who is at increased risk of experiencing an opiate-related drug
2720 overdose event; or

2721 (b) to an overdose outreach provider pursuant to Subsection [~~26-55-104(2)(a)(iii)~~]
2722 26B-4-504(2)(a)(iii).

2723 (3) The provisions of this section and [~~Title 26, Chapter 55, Opiate Overdose Response~~
2724 ~~Act~~] Title 26B, Chapter 4, Part 5, Treatment Access, do not establish a duty or standard of care

2725 in the prescribing, dispensing, or administration of an opiate antagonist.

2726 Section 42. Section **58-69-601** is amended to read:

2727 **58-69-601. Mentally incompetent or incapacitated dentist or dental hygienist.**

2728 (1) As used in this section:

2729 (a) "Incapacitated person" means a person who is incapacitated, as defined in Section
2730 [75-1-201](#).

2731 (b) "Mental illness" is as defined in Section [~~62A-15-602~~] [26B-5-301](#).

2732 (2) If a court of competent jurisdiction determines a dentist or dental hygienist is an
2733 incapacitated person or that the dentist or hygienist has a mental illness and is unable to safely
2734 engage in the practice of dentistry or dental hygiene, the director shall immediately suspend the
2735 license of the dentist or dental hygienist upon the entry of the judgment of the court, without
2736 further proceedings under Title 63G, Chapter 4, Administrative Procedures Act, regardless of
2737 whether an appeal from the court's ruling is pending. The director shall promptly notify the
2738 dentist or dental hygienist, in writing, of the suspension.

2739 (3) (a) If the division and a majority of the board find reasonable cause to believe a
2740 dentist or dental hygienist, who is not determined judicially to be an incapacitated person or to
2741 have a mental illness, is incapable of practicing dentistry or dental hygiene with reasonable
2742 skill regarding the safety of patients, because of illness, excessive use of drugs or alcohol, or as
2743 a result of any mental or physical condition, the board shall recommend that the director file a
2744 petition with the division, and cause the petition to be served upon the dentist or dental
2745 hygienist with a notice of hearing on the sole issue of the capacity of the dentist or dental
2746 hygienist to competently and safely engage in the practice of dentistry or dental hygiene.

2747 (b) The hearing shall be conducted under Section [58-1-109](#) and Title 63G, Chapter 4,
2748 Administrative Procedures Act, except as provided in Subsection (4).

2749 (4) (a) Every dentist or dental hygienist who accepts the privilege of being licensed
2750 under this chapter gives consent to:

2751 (i) submitting at the dentist or dental hygienist's own expense to an immediate mental
2752 or physical examination when directed in writing by the division and a majority of the board to
2753 do so; and

2754 (ii) the admissibility of the reports of the examining practitioner's testimony or
2755 examination, and waives all objections on the ground the reports constitute a privileged

2756 communication.

2757 (b) The examination may be ordered by the division, with the consent of a majority of
2758 the board, only upon a finding of reasonable cause to believe:

2759 (i) the dentist or dental hygienist has a mental illness, is incapacitated, or otherwise
2760 unable to practice dentistry or dental hygiene with reasonable skill and safety; and

2761 (ii) immediate action by the division and the board is necessary to prevent harm to the
2762 dentist's or dental hygienist's patients or the general public.

2763 (c) (i) Failure of a dentist or dental hygienist to submit to the examination ordered
2764 under this section is a ground for the division's immediate suspension of the dentist's or dental
2765 hygienist's license by written order of the director.

2766 (ii) The division may enter the order of suspension without further compliance with
2767 Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to
2768 submit to the examination ordered under this section was due to circumstances beyond the
2769 control of the dentist or dental hygienist and was not related directly to the illness or incapacity
2770 of the dentist or dental hygienist.

2771 (5) (a) A dentist or dental hygienist whose license is suspended under Subsection (2) or
2772 (3) has the right to a hearing to appeal the suspension within 10 days after the license is
2773 suspended.

2774 (b) The hearing held under this subsection shall be conducted in accordance with
2775 Sections [58-1-108](#) and [58-1-109](#) for the sole purpose of determining if sufficient basis exists
2776 for the continuance of the order of suspension in order to prevent harm to the dentist's or dental
2777 hygienist's patients or the general public.

2778 (6) A dentist or dental hygienist whose license is revoked, suspended, or in any way
2779 restricted under this section may request the division and the board to consider, at reasonable
2780 intervals, evidence presented by the dentist or dental hygienist, under procedures established by
2781 division rule, regarding any change in the dentist's or dental hygienist's condition, to determine
2782 whether:

2783 (a) the dentist or dental hygienist is or is not able to safely and competently engage in
2784 the practice of dentistry or dental hygiene; and

2785 (b) the dentist or dental hygienist is qualified to have the dentist or dental hygienist's
2786 licensure to practice under this chapter restored completely or in part.

2787 Section 43. Section **58-69-702** is amended to read:

2788 **58-69-702. Opiate antagonist -- Exclusion from unlawful or unprofessional**
2789 **conduct.**

2790 (1) As used in this section:

2791 (a) "Dispense" means the same as that term is defined in Section [58-17b-102](#).

2792 (b) "Increased risk" means the same as that term is defined in Section [\[26-55-102\]](#)
2793 [26B-4-501](#).

2794 (c) "Opiate antagonist" means the same as that term is defined in Section [\[26-55-102\]](#)
2795 [26B-4-501](#).

2796 (d) "Opiate-related drug overdose event" means the same as that term is defined in
2797 Section [\[26-55-102\]](#) [26B-4-501](#).

2798 (e) "Prescribe" means the same as that term is defined in Section [58-17b-102](#).

2799 (2) The prescribing or dispensing of an opiate antagonist by an individual licensed
2800 under this chapter to engage in the practice of dentistry is not unprofessional or unlawful
2801 conduct if the licensee prescribed or dispensed the opiate antagonist:

2802 (a) in a good faith effort to assist:

2803 (i) an individual who is at increased risk of experiencing an opiate-related drug
2804 overdose event; or

2805 (ii) a family member of, friend of, or other person, including a person described in
2806 Subsections [\[26-55-107\(1\)\(a\)\(i\)\(A\)\]](#) [26B-55-107\(1\)\(a\)\(i\)\(A\)](#) through (1)(a)(i)(F), that is in a
2807 position to assist an individual who is at increased risk of experiencing an opiate-related drug
2808 overdose event; or

2809 (b) to an overdose outreach provider pursuant to Subsection [\[26-55-104\(2\)\(a\)\(iii\)\]](#)
2810 [26B-4-509\(2\)\(a\)\(iii\)](#).

2811 (3) The provisions of this section and ~~[Title 26, Chapter 55, Opiate Overdose Response~~
2812 ~~Act]~~ [Title 26B, Chapter 4, Part 5, Treatment Access](#), do not establish a duty or standard of care
2813 in the prescribing, dispensing, or administration of an opiate antagonist.

2814 Section 44. Section **58-70a-102** is amended to read:

2815 **58-70a-102. Definitions.**

2816 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

2817 (1) "Board" means the Physician Assistant Licensing Board created in Section

2818 [58-70a-201](#).

2819 (2) "Competence" means possessing the requisite cognitive, non-cognitive, and
2820 communicative abilities and qualities to perform effectively within the scope of practice of the
2821 physician assistant's practice while adhering to professional and ethical standards.

2822 (3) "Health care facility" means the same as that term is defined in Section [\[26-21-2\]](#)
2823 [26B-2-201](#).

2824 (4) "Mental health therapist" means the same as that term is defined in Section
2825 [58-60-102](#).

2826 (5) "Physician" means the same as that term is defined in Section [58-67-102](#).

2827 (6) "Physician assistant" means an individual who is licensed to practice under this
2828 chapter.

2829 (7) "Practice as a physician assistant" means the professional activities and conduct of
2830 a physician assistant, also known as a PA, in diagnosing, treating, advising, or prescribing for
2831 any human disease, ailment, injury, infirmity, deformity, pain, or other condition under the
2832 provisions of this chapter.

2833 (8) "Practice of mental health therapy" means the same as that term is defined in
2834 Section [58-60-102](#).

2835 (9) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)
2836 and [58-70a-502](#).

2837 (10) "Unprofessional conduct" means "unprofessional conduct":

2838 (a) as defined in Sections [58-1-501](#) and [58-70a-503](#); and

2839 (b) as further defined by the division by rule.

2840 Section 45. Section **58-70a-303** is amended to read:

2841 **58-70a-303. Term of license -- Expiration -- Renewal.**

2842 (1) (a) The division shall issue each license under this chapter in accordance with a
2843 two-year renewal cycle established by division rule.

2844 (b) The division may by rule extend or shorten a renewal period by as much as one year
2845 to stagger the renewal cycles it administers.

2846 (2) At the time of renewal, the licensee shall show compliance with continuing
2847 education renewal requirements.

2848 (3) Each license issued under this chapter expires on the expiration date shown on the

2849 license unless renewed in accordance with Section [58-1-308](#).

2850 (4) The division shall accept and apply toward an hour requirement that the division
2851 establishes under Subsection (2) continuing education that a physician assistant completes in
2852 accordance with Section ~~[26-61a-106]~~ [26B-4-204](#).

2853 Section 46. Section **58-70a-503** is amended to read:

2854 **58-70a-503. Unprofessional conduct.**

2855 (1) "Unprofessional conduct" includes:

2856 (a) violation of a patient confidence to any person who does not have a legal right and a
2857 professional need to know the information concerning the patient;

2858 (b) knowingly prescribing, selling, giving away, or directly or indirectly administering,
2859 or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for
2860 a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts
2861 prescribed or provided;

2862 (c) prescribing prescription drugs for oneself or administering prescription drugs to
2863 oneself, except those that have been legally prescribed for the physician assistant by a licensed
2864 practitioner and that are used in accordance with the prescription order for the condition
2865 diagnosed;

2866 (d) in a practice that has physician assistant ownership interests, failure to allow a
2867 physician the independent final decision making authority on treatment decisions for the
2868 physician's patient;

2869 (e) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
2870 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

2871 (f) falsely making an entry in, or altering, a medical record with the intent to conceal:

2872 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
2873 or an individual under the direction or control of an individual licensed under this chapter; or

2874 (ii) conduct described in Subsections (1)(a) through (e) or Subsection [58-1-501\(1\)](#); and

2875 (g) violating the requirements of ~~[Title 26, Chapter 61a, Utah Medical Cannabis Act]~~
2876 Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

2877 (2) (a) "Unprofessional conduct" does not include, in accordance with ~~[Title 26,~~
2878 ~~Chapter 61a, Utah Medical Cannabis Act]~~ Title 26B, Chapter 4, Part 2, Cannabinoid Research
2879 and Medical Cannabis, when registered as a qualified medical provider or acting as a limited

2880 medical provider, as those terms are defined in Section ~~[26-61a-102]~~ [26B-4-201](#),
2881 recommending the use of medical cannabis.

2882 (b) Notwithstanding Subsection (2)(a), the division, in consultation with the board and
2883 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
2884 unprofessional conduct for a physician assistant described in Subsection (2)(a).

2885 Section 47. Section **58-70a-505** is amended to read:

2886 **58-70a-505. Opiate antagonist -- Exclusion from unlawful or unprofessional**
2887 **conduct.**

2888 (1) As used in this section:

2889 (a) "Dispense" means the same as that term is defined in Section [58-17b-102](#).

2890 (b) "Increased risk" means the same as that term is defined in Section ~~[26-55-102]~~
2891 [26B-4-501](#).

2892 (c) "Opiate antagonist" means the same as that term is defined in Section ~~[26-55-102]~~
2893 [26B-4-501](#).

2894 (d) "Opiate-related drug overdose event" means the same as that term is defined in
2895 Section ~~[26-55-102]~~ [26B-4-501](#).

2896 (e) "Prescribe" means the same as that term is defined in Section [58-17b-102](#).

2897 (2) The prescribing or dispensing of an opiate antagonist by a licensee under this
2898 chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the
2899 opiate antagonist:

2900 (a) in a good faith effort to assist:

2901 (i) an individual who is at increased risk of experiencing an opiate-related drug
2902 overdose event; or

2903 (ii) a family member of, friend of, or other person, including a person described in
2904 Subsections ~~[26-55-107(1)(a)(i)(A)]~~ [26B-4-512\(1\)\(a\)\(i\)\(A\)](#) through (1)(a)(i)(F), that is in a
2905 position to assist an individual who is at increased risk of experiencing an opiate-related drug
2906 overdose event; or

2907 (b) to an overdose outreach provider pursuant to Subsection ~~[26-55-104(2)(a)(iii)]~~
2908 [26B-4-509\(2\)\(a\)\(iii\)](#).

2909 (3) The provisions of this section and ~~[Title 26, Chapter 55, Opiate Overdose Response~~
2910 ~~Act]~~ [Title 26B, Chapter 4, Part 5, Treatment Access](#), do not establish a duty or standard of care

2911 in the prescribing, dispensing, or administration of an opiate antagonist.

2912 Section 48. Section **58-71-601** is amended to read:

2913 **58-71-601. Mentally incompetent or incapacitated naturopathic physician.**

2914 (1) As used in this section:

2915 (a) "Incapacitated person" means a person who is incapacitated, as defined in Section
2916 [75-1-201](#).

2917 (b) "Mental illness" is as defined in Section [~~62A-15-602~~] [26B-5-303](#).

2918 (2) If a court of competent jurisdiction determines a naturopathic physician is an
2919 incapacitated person or that the physician has a mental illness and is unable to safely engage in
2920 the practice of medicine, the director shall immediately suspend the license of the naturopathic
2921 physician upon the entry of the judgment of the court, without further proceedings under Title
2922 63G, Chapter 4, Administrative Procedures Act, regardless of whether an appeal from the
2923 court's ruling is pending. The director shall promptly notify the naturopathic physician, in
2924 writing, of the suspension.

2925 (3) (a) If the division and a majority of the board find reasonable cause to believe a
2926 naturopathic physician, who is not determined judicially to be an incapacitated person or to
2927 have a mental illness, is incapable of practicing medicine with reasonable skill regarding the
2928 safety of patients, because of illness, excessive use of drugs or alcohol, or as a result of any
2929 mental or physical condition, the board shall recommend that the director file a petition with
2930 the division, and cause the petition to be served upon the naturopathic physician with a notice
2931 of hearing on the sole issue of the capacity of the naturopathic physician to competently and
2932 safely engage in the practice of medicine.

2933 (b) The hearing shall be conducted under Section [58-1-109](#), and Title 63G, Chapter 4,
2934 Administrative Procedures Act, except as provided in Subsection (4).

2935 (4) (a) Every naturopathic physician who accepts the privilege of being licensed under
2936 this chapter gives consent to:

2937 (i) submitting at the physician's own expense to an immediate mental or physical
2938 examination when directed in writing by the division and a majority of the board to do so; and

2939 (ii) the admissibility of the reports of the examining physician's testimony or
2940 examination, and waives all objections on the ground the reports constitute a privileged
2941 communication.

2942 (b) The examination may be ordered by the division, with the consent of a majority of
2943 the board, only upon a finding of reasonable cause to believe:

2944 (i) the naturopathic physician has a mental illness, is incapacitated, or otherwise unable
2945 to practice medicine with reasonable skill and safety; and

2946 (ii) immediate action by the division and the board is necessary to prevent harm to the
2947 naturopathic physician's patients or the general public.

2948 (c) (i) Failure of a naturopathic physician to submit to the examination ordered under
2949 this section is a ground for the division's immediate suspension of the naturopathic physician's
2950 license by written order of the director.

2951 (ii) The division may enter the order of suspension without further compliance with
2952 Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to
2953 submit to the examination ordered under this section was due to circumstances beyond the
2954 control of the naturopathic physician and was not related directly to the illness or incapacity of
2955 the naturopathic physician.

2956 (5) (a) A naturopathic physician whose license is suspended under Subsection (2) or
2957 (3) has the right to a hearing to appeal the suspension within 10 days after the license is
2958 suspended.

2959 (b) The hearing held under this subsection shall be conducted in accordance with
2960 Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists
2961 for the continuance of the order of suspension in order to prevent harm to the naturopathic
2962 physician's patients or the general public.

2963 (6) A naturopathic physician whose license is revoked, suspended, or in any way
2964 restricted under this section may request the division and the board to consider, at reasonable
2965 intervals, evidence presented by the naturopathic physician, under procedures established by
2966 division rule, regarding any change in the naturopathic physician's condition, to determine
2967 whether:

2968 (a) the physician is or is not able to safely and competently engage in the practice of
2969 medicine; and

2970 (b) the physician is qualified to have the physician's license to practice under this
2971 chapter restored completely or in part.

2972 Section 49. Section **58-80a-601** is amended to read:

2973 **58-80a-601. Priority for certified medical language interpreter.**

2974 The [~~Department of Health and the Department of Human Services~~] Department of
 2975 Health and Human Services may give priority to contracting with companies that use certified
 2976 medical language interpreters.

2977 Section 50. Section **58-85-104** is amended to read:

2978 **58-85-104. Standard of care -- Medical practitioners not liable -- No private right**
 2979 **of action.**

2980 (1) It is not a breach of the applicable standard of care for a physician, other licensed
 2981 health care provider, or hospital to treat an eligible patient with an investigational drug or
 2982 investigational device under this chapter.

2983 (2) A physician, other licensed health care provider, or hospital that treats an eligible
 2984 patient with an investigational drug or investigational device under this chapter may not, for
 2985 any harm done to the eligible patient by the investigational drug or device, be subject to:

2986 (a) civil liability;

2987 (b) criminal liability; or

2988 (c) licensure sanctions under:

2989 (i) for a physician:

2990 (A) Title 58, Chapter 67, Utah Medical Practice Act; or

2991 (B) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

2992 (ii) for the other licensed health care provider, the act governing the other licensed
 2993 health care provider's license; or

2994 (iii) for the hospital, [~~Title 26, Chapter 21, Health Care Facility Licensing and~~
 2995 ~~Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

2996 (3) This chapter does not:

2997 (a) require a manufacturer of an investigational drug or investigational device to agree
 2998 to make an investigational drug or investigational device available to an eligible patient or an
 2999 eligible patient's physician;

3000 (b) require a physician to agree to:

3001 (i) administer an investigational drug to an eligible patient under this chapter; or

3002 (ii) treat an eligible patient with an investigational device under this chapter; or

3003 (c) create a private right of action for an eligible patient:

- 3004 (i) against a physician or hospital, for the physician's or hospital's refusal to:
- 3005 (A) administer an investigational drug to an eligible patient under this chapter; or
- 3006 (B) treat an eligible patient with an investigational device under this chapter; or
- 3007 (ii) against a manufacturer, for the manufacturer's refusal to provide an eligible patient
- 3008 with an investigational drug or an investigational device under this chapter.

3009 Section 51. Section **58-88-201** is amended to read:

3010 **58-88-201. Definitions.**

3011 As used in this part:

3012 (1) (a) "Dispense" means the delivery by a prescriber of a prescription drug or device to

3013 a patient, including the packaging, labeling, and security necessary to prepare and safeguard the

3014 drug or device for supplying to a patient.

3015 (b) "Dispense" does not include:

3016 (i) prescribing or administering a drug or device; or

3017 (ii) delivering to a patient a sample packaged for individual use by a licensed

3018 manufacturer or re-packager of a drug or device.

3019 (2) "Dispensing practitioner" means an individual who:

3020 (a) is currently licensed as:

3021 (i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

3022 (ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical

3023 Practice Act;

3024 (iii) an advanced practice registered nurse under Subsection [58-31b-301\(2\)\(d\)](#); or

3025 (iv) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

3026 (b) is authorized by state law to prescribe and administer drugs in the course of

3027 professional practice; and

3028 (c) practices at a licensed dispensing practice.

3029 (3) "Drug" means the same as that term is defined in Section [58-17b-102](#).

3030 (4) "Health care practice" means:

3031 (a) a health care facility as defined in Section [\[26-21-2\] 26B-2-201](#); or

3032 (b) the offices of one or more private prescribers, whether for individual or group

3033 practice.

3034 (5) "Licensed dispensing practice" means a health care practice that is licensed as a

3035 dispensing practice under Section [58-88-202](#).

3036 Section 52. Section **59-1-210** is amended to read:

3037 **59-1-210. General powers and duties.**

3038 The powers and duties of the commission are as follows:

3039 (1) to sue and be sued in its own name;

3040 (2) to adopt rules and policies consistent with the Constitution and laws of this state to
3041 govern the commission, executive director, division directors, and commission employees in
3042 the performance of their duties;

3043 (3) to adopt rules and policies consistent with the Constitution and laws of the state, to
3044 govern county boards and officers in the performance of any duty relating to assessment,
3045 equalization, and collection of taxes;

3046 (4) to prescribe the use of forms relating to the assessment of property for state or local
3047 taxation, the equalization of those assessments, the reporting of property or income for state or
3048 local taxation purposes, or for the computation of those taxes and the reporting of any
3049 information, statistics, or data required by the commission;

3050 (5) to administer and supervise the tax laws of the state;

3051 (6) to prepare and maintain from year to year a complete record of all lands subject to
3052 taxation in this state, and all machinery used in mining and all property or surface
3053 improvements upon or appurtenant to mines or mining claims;

3054 (7) to exercise general supervision over assessors and county boards of equalization
3055 including the authority to enforce Section [59-2-303.1](#), and over other county officers in the
3056 performance of their duties relating to the assessment of property and collection of taxes, so
3057 that all assessments of property are just and equal, according to fair market value, and that the
3058 tax burden is distributed without favor or discrimination;

3059 (8) to reconvene any county board of equalization which, when reconvened, may only
3060 address business approved by the commission and extend the time for which any county board
3061 of equalization may sit for the equalization of assessments;

3062 (9) to confer with, advise, and direct county treasurers, assessors, and other county
3063 officers in matters relating to the assessment and equalization of property for taxation and the
3064 collection of taxes;

3065 (10) to provide for and hold annually at such time and place as may be convenient a

3066 district or state convention of county assessors, auditors, and other county officers to consider
3067 and discuss matters relative to taxation, uniformity of valuation, and changes in the law relative
3068 to taxation and methods of assessment, to which county assessors and other officers called to
3069 attend shall attend at county expense;

3070 (11) to direct proceedings, actions, and prosecutions to enforce the laws relating to the
3071 penalties, liabilities, and punishments of public officers, persons, and officers or agents of
3072 corporations for failure or neglect to comply with the statutes governing the reporting,
3073 assessment, and taxation of property;

3074 (12) to cause complaints to be made in the proper court seeking removal from office of
3075 assessors, auditors, members of county boards, and other assessing, taxing, or disbursing
3076 officers, who are guilty of official misconduct or neglect of duty;

3077 (13) to require county attorneys to immediately institute and prosecute actions and
3078 proceedings in respect to penalties, forfeitures, removals, and punishments for violations of the
3079 laws relating to the assessment and taxation of property in their respective counties;

3080 (14) to require any person to furnish any information required by the commission to
3081 ascertain the value and the relative burden borne by all kinds of property in the state, and to
3082 require from all state and local officers any information necessary for the proper discharge of
3083 the duties of the commission;

3084 (15) to examine all records relating to the valuation of property of any person;

3085 (16) to subpoena witnesses to appear and give testimony and produce records relating
3086 to any matter before the commission;

3087 (17) to cause depositions of witnesses to be taken as in civil actions at the request of
3088 the commission or any party to any matter or proceeding before the commission;

3089 (18) to authorize any member or employee of the commission to administer oaths and
3090 affirmations in any matter or proceeding relating to the exercise of the powers and duties of the
3091 commission;

3092 (19) to visit periodically each county of the state, to investigate and direct the work and
3093 methods of local assessors and other officials in the assessment, equalization, and taxation of
3094 property, and to ascertain whether the law requiring the assessment of all property not exempt
3095 from taxation, and the collection of taxes, have been properly administered and enforced;

3096 (20) to carefully examine all cases where evasion or violation of the laws for

3097 assessment and taxation of property is alleged, to ascertain whether existing laws are defective
3098 or improperly administered;

3099 (21) to furnish to the governor from time to time such assistance and information as the
3100 governor requires;

3101 (22) to transmit to the governor and to each member of the Legislature
3102 recommendations as to legislation which will correct or eliminate defects in the operation of
3103 the tax laws and will equalize the burden of taxation within the state;

3104 (23) to correct any error in any assessment made by it at any time before the tax is due
3105 and report the correction to the county auditor, who shall enter the corrected assessment upon
3106 the assessment roll;

3107 (24) to compile and publish statistics relating to taxation in the state and prepare and
3108 submit an annual budget to the governor for inclusion in the state budget to be submitted to the
3109 Legislature;

3110 (25) to perform any further duties imposed by law, and exercise all powers necessary in
3111 the performance of its duties;

3112 (26) to adopt a schedule of fees assessed for services provided by the commission,
3113 unless otherwise provided by statute. The fee shall be reasonable and fair, and shall reflect the
3114 cost of services provided. Each fee established in this manner shall be submitted to and
3115 approved by the Legislature as part of the commission's annual appropriations request. The
3116 commission may not charge or collect any fee proposed in this manner without approval by the
3117 Legislature;

3118 (27) to comply with the procedures and requirements of Title 63G, Chapter 4,
3119 Administrative Procedures Act, in its adjudicative proceedings; and

3120 (28) to distribute the money deposited into the Rural Health Care Facilities Account as
3121 required by Section [~~26-9-4~~] [26B-1-308](#).

3122 Section 53. Section **59-1-403** is amended to read:

3123 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

3124 (1) As used in this section:

3125 (a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

3126 (i) the commission administers under:

3127 (A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

- 3128 (B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 3129 (C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 3130 (D) Section 19-6-805;
- 3131 (E) Section 63H-1-205; or
- 3132 (F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges;

3133 and

3134 (ii) with respect to which the commission distributes the revenue collected from the
3135 tax, fee, or charge to a qualifying jurisdiction.

3136 (b) "Qualifying jurisdiction" means:

3137 (i) a county, city, town, or metro township; or

3138 (ii) the military installation development authority created in Section 63H-1-201.

3139 (2) (a) Any of the following may not divulge or make known in any manner any
3140 information gained by that person from any return filed with the commission:

3141 (i) a tax commissioner;

3142 (ii) an agent, clerk, or other officer or employee of the commission; or

3143 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
3144 town.

3145 (b) An official charged with the custody of a return filed with the commission is not
3146 required to produce the return or evidence of anything contained in the return in any action or
3147 proceeding in any court, except:

3148 (i) in accordance with judicial order;

3149 (ii) on behalf of the commission in any action or proceeding under:

3150 (A) this title; or

3151 (B) other law under which persons are required to file returns with the commission;

3152 (iii) on behalf of the commission in any action or proceeding to which the commission
3153 is a party; or

3154 (iv) on behalf of any party to any action or proceeding under this title if the report or
3155 facts shown by the return are directly involved in the action or proceeding.

3156 (c) Notwithstanding Subsection (2)(b), a court may require the production of, and may
3157 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically
3158 pertinent to the action or proceeding.

- 3159 (3) This section does not prohibit:
- 3160 (a) a person or that person's duly authorized representative from receiving a copy of
- 3161 any return or report filed in connection with that person's own tax;
- 3162 (b) the publication of statistics as long as the statistics are classified to prevent the
- 3163 identification of particular reports or returns; and
- 3164 (c) the inspection by the attorney general or other legal representative of the state of the
- 3165 report or return of any taxpayer:
- 3166 (i) who brings action to set aside or review a tax based on the report or return;
- 3167 (ii) against whom an action or proceeding is contemplated or has been instituted under
- 3168 this title; or
- 3169 (iii) against whom the state has an unsatisfied money judgment.
- 3170 (4) (a) Notwithstanding Subsection (2) and for purposes of administration, the
- 3171 commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative
- 3172 Rulemaking Act, provide for a reciprocal exchange of information with:
- 3173 (i) the United States Internal Revenue Service; or
- 3174 (ii) the revenue service of any other state.
- 3175 (b) Notwithstanding Subsection (2) and for all taxes except individual income tax and
- 3176 corporate franchise tax, the commission may by rule, made in accordance with Title 63G,
- 3177 Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and
- 3178 other written statements with the federal government, any other state, any of the political
- 3179 subdivisions of another state, or any political subdivision of this state, except as limited by
- 3180 Sections [59-12-209](#) and [59-12-210](#), if the political subdivision, other state, or the federal
- 3181 government grant substantially similar privileges to this state.
- 3182 (c) Notwithstanding Subsection (2) and for all taxes except individual income tax and
- 3183 corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3,
- 3184 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the
- 3185 identity and other information of taxpayers who have failed to file tax returns or to pay any tax
- 3186 due.
- 3187 (d) Notwithstanding Subsection (2), the commission shall provide to the director of the
- 3188 Division of Environmental Response and Remediation, as defined in Section [19-6-402](#), as
- 3189 requested by the director of the Division of Environmental Response and Remediation, any

3190 records, returns, or other information filed with the commission under Chapter 13, Motor and
3191 Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program
3192 participation fee.

3193 (e) Notwithstanding Subsection (2), at the request of any person the commission shall
3194 provide that person sales and purchase volume data reported to the commission on a report,
3195 return, or other information filed with the commission under:

3196 (i) Chapter 13, Part 2, Motor Fuel; or

3197 (ii) Chapter 13, Part 4, Aviation Fuel.

3198 (f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer,
3199 as defined in Section 59-22-202, the commission shall report to the manufacturer:

3200 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
3201 manufacturer and reported to the commission for the previous calendar year under Section
3202 59-14-407; and

3203 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
3204 manufacturer for which a tax refund was granted during the previous calendar year under
3205 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

3206 (g) Notwithstanding Subsection (2), the commission shall notify manufacturers,
3207 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited
3208 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

3209 (h) Notwithstanding Subsection (2), the commission may:

3210 (i) provide to the Division of Consumer Protection within the Department of
3211 Commerce and the attorney general data:

3212 (A) reported to the commission under Section 59-14-212; or

3213 (B) related to a violation under Section 59-14-211; and

3214 (ii) upon request, provide to any person data reported to the commission under
3215 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

3216 (i) Notwithstanding Subsection (2), the commission shall, at the request of a committee
3217 of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of
3218 Planning and Budget, provide to the committee or office the total amount of revenues collected
3219 by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period
3220 specified by the committee or office.

3221 (j) Notwithstanding Subsection (2), the commission shall make the directory required
3222 by Section 59-14-603 available for public inspection.

3223 (k) Notwithstanding Subsection (2), the commission may share information with
3224 federal, state, or local agencies as provided in Subsection 59-14-606(3).

3225 (l) (i) Notwithstanding Subsection (2), the commission shall provide the Office of
3226 Recovery Services within the Department of [~~Human Services~~] Health and Human Services
3227 any relevant information obtained from a return filed under Chapter 10, Individual Income Tax
3228 Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

3229 (ii) The information described in Subsection (4)(l)(i) may be provided by the Office of
3230 Recovery Services to any other state's child support collection agency involved in enforcing
3231 that support obligation.

3232 (m) (i) Notwithstanding Subsection (2), upon request from the state court
3233 administrator, the commission shall provide to the state court administrator, the name, address,
3234 telephone number, county of residence, and social security number on resident returns filed
3235 under Chapter 10, Individual Income Tax Act.

3236 (ii) The state court administrator may use the information described in Subsection
3237 (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

3238 (n) (i) As used in this Subsection (4)(n):

3239 (A) "GO Utah office" means the Governor's Office of Economic Opportunity created in
3240 Section 63N-1a-301.

3241 (B) "Income tax information" means information gained by the commission that is
3242 required to be attached to or included in a return filed with the commission under Chapter 7,
3243 Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

3244 (C) "Other tax information" means information gained by the commission that is
3245 required to be attached to or included in a return filed with the commission except for a return
3246 filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual
3247 Income Tax Act.

3248 (D) "Tax information" means income tax information or other tax information.

3249 (ii) (A) Notwithstanding Subsection (2) and except as provided in Subsection
3250 (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office provide to the
3251 GO Utah office all income tax information.

3252 (B) For purposes of a request for income tax information made under Subsection
3253 (4)(n)(ii)(A), the GO Utah office may not request and the commission may not provide to the
3254 GO Utah office a person's address, name, social security number, or taxpayer identification
3255 number.

3256 (C) In providing income tax information to the GO Utah office, the commission shall
3257 in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

3258 (iii) (A) Notwithstanding Subsection (2) and except as provided in Subsection
3259 (4)(n)(iii)(B), the commission shall at the request of the GO Utah office provide to the GO
3260 Utah office other tax information.

3261 (B) Before providing other tax information to the GO Utah office, the commission
3262 shall redact or remove any name, address, social security number, or taxpayer identification
3263 number.

3264 (iv) The GO Utah office may provide tax information received from the commission in
3265 accordance with this Subsection (4)(n) only:

3266 (A) as a fiscal estimate, fiscal note information, or statistical information; and

3267 (B) if the tax information is classified to prevent the identification of a particular
3268 return.

3269 (v) (A) A person may not request tax information from the GO Utah office under Title
3270 63G, Chapter 2, Government Records Access and Management Act, or this section, if the GO
3271 Utah office received the tax information from the commission in accordance with this
3272 Subsection (4)(n).

3273 (B) The GO Utah office may not provide to a person that requests tax information in
3274 accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information the
3275 GO Utah office provides in accordance with Subsection (4)(n)(iv).

3276 (o) Notwithstanding Subsection (2), the commission may provide to the governing
3277 board of the agreement or a taxing official of another state, the District of Columbia, the United
3278 States, or a territory of the United States:

3279 (i) the following relating to an agreement sales and use tax:

3280 (A) information contained in a return filed with the commission;

3281 (B) information contained in a report filed with the commission;

3282 (C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

- 3283 (D) a document filed with the commission; or
3284 (ii) a report of an audit or investigation made with respect to an agreement sales and
3285 use tax.
- 3286 (p) Notwithstanding Subsection (2), the commission may provide information
3287 concerning a taxpayer's state income tax return or state income tax withholding information to
3288 the Driver License Division if the Driver License Division:
- 3289 (i) requests the information; and
3290 (ii) provides the commission with a signed release form from the taxpayer allowing the
3291 Driver License Division access to the information.
- 3292 (q) Notwithstanding Subsection (2), the commission shall provide to the Utah
3293 Communications Authority, or a division of the Utah Communications Authority, the
3294 information requested by the authority under Sections [63H-7a-302](#), [63H-7a-402](#), and
3295 [63H-7a-502](#).
- 3296 (r) Notwithstanding Subsection (2), the commission shall provide to the Utah
3297 Educational Savings Plan information related to a resident or nonresident individual's
3298 contribution to a Utah Educational Savings Plan account as designated on the resident or
3299 nonresident's individual income tax return as provided under Section [59-10-1313](#).
- 3300 (s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under
3301 Sections [~~26-18-2.5~~] [26B-3-106](#) and [~~26-40-105~~] [26B-3-903](#), the commission shall provide an
3302 eligibility worker with the Department of [~~Health~~] Health and Human Services or its designee
3303 with the adjusted gross income of an individual if:
- 3304 (i) an eligibility worker with the Department of [~~Health~~] Health and Human Services or
3305 its designee requests the information from the commission; and
3306 (ii) the eligibility worker has complied with the identity verification and consent
3307 provisions of Sections [~~26-18-2.5~~] [26B-3-106](#) and [~~26-40-105~~] [26B-3-903](#).
- 3308 (t) Notwithstanding Subsection (2), the commission may provide to a county, as
3309 determined by the commission, information declared on an individual income tax return in
3310 accordance with Section [59-10-103.1](#) that relates to eligibility to claim a residential exemption
3311 authorized under Section [59-2-103](#).
- 3312 (u) Notwithstanding Subsection (2), the commission shall provide a report regarding
3313 any access line provider that is over 90 days delinquent in payment to the commission of

3314 amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless
3315 Telecommunications Service Charges, to the board of the Utah Communications Authority
3316 created in Section [63H-7a-201](#).

3317 (v) Notwithstanding Subsection (2), the commission shall provide the Department of
3318 Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the
3319 previous calendar year under Section [59-24-103.5](#).

3320 (w) Notwithstanding Subsection (2), the commission may, upon request, provide to the
3321 Department of Workforce Services any information received under Chapter 10, Part 4,
3322 Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

3323 (x) Notwithstanding Subsection (2), the commission may provide the Public Service
3324 Commission or the Division of Public Utilities information related to a seller that collects and
3325 remits to the commission a charge described in Subsection [69-2-405\(2\)](#), including the seller's
3326 identity and the number of charges described in Subsection [69-2-405\(2\)](#) that the seller collects.

3327 (y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying
3328 jurisdiction the collection data necessary to verify the revenue collected by the commission for
3329 a distributed tax, fee, or charge collected within the qualifying jurisdiction.

3330 (ii) In addition to the information provided under Subsection (4)(y)(i), the commission
3331 shall provide a qualifying jurisdiction with copies of returns and other information relating to a
3332 distributed tax, fee, or charge collected within the qualifying jurisdiction.

3333 (iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief
3334 executive officer or the chief executive officer's designee of the qualifying jurisdiction shall
3335 submit a written request to the commission that states the specific information sought and how
3336 the qualifying jurisdiction intends to use the information.

3337 (B) The information described in Subsection (4)(y)(ii) is available only in official
3338 matters of the qualifying jurisdiction.

3339 (iv) Information that a qualifying jurisdiction receives in response to a request under
3340 this subsection is:

3341 (A) classified as a private record under Title 63G, Chapter 2, Government Records
3342 Access and Management Act; and

3343 (B) subject to the confidentiality requirements of this section.

3344 (z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic

3345 Beverage Services Commission, upon request, with taxpayer status information related to state
3346 tax obligations necessary to comply with the requirements described in Section 32B-1-203.

3347 (5) (a) Each report and return shall be preserved for at least three years.

3348 (b) After the three-year period provided in Subsection (5)(a) the commission may
3349 destroy a report or return.

3350 (6) (a) Any individual who violates this section is guilty of a class A misdemeanor.

3351 (b) If the individual described in Subsection (6)(a) is an officer or employee of the
3352 state, the individual shall be dismissed from office and be disqualified from holding public
3353 office in this state for a period of five years thereafter.

3354 (c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting
3355 information in accordance with Subsection (4)(n)(iii), or an individual who requests
3356 information in accordance with Subsection (4)(n)(v):

3357 (i) is not guilty of a class A misdemeanor; and

3358 (ii) is not subject to:

3359 (A) dismissal from office in accordance with Subsection (6)(b); or

3360 (B) disqualification from holding public office in accordance with Subsection (6)(b).

3361 (7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

3362 Section 54. Section 59-2-1901 is amended to read:

3363 **59-2-1901. Definitions.**

3364 As used in this section:

3365 (1) "Active component of the United States Armed Forces" means the same as that
3366 term is defined in Section 59-10-1027.

3367 (2) "Active duty claimant" means a member of an active component of the United
3368 States Armed Forces or a reserve component of the United States Armed Forces who:

3369 (a) performed qualifying active duty military service; and

3370 (b) applies for an exemption described in Section 59-2-1902.

3371 (3) "Adjusted taxable value limit" means:

3372 (a) for the calendar year that begins on January 1, 2015, \$252,126; or

3373 (b) for each calendar year after the calendar year that begins on January 1, 2015, the
3374 amount of the adjusted taxable value limit for the previous year plus an amount calculated by
3375 multiplying the amount of the adjusted taxable value limit for the previous year by the actual

3376 percent change in the consumer price index during the previous calendar year.

3377 (4) "Consumer price index" means the same as that term is described in Section 1(f)(4),
3378 Internal Revenue Code, and defined in Section 1(f)(5), Internal Revenue Code.

3379 (5) "Deceased veteran with a disability" means a deceased individual who was a
3380 veteran with a disability at the time the individual died.

3381 (6) "Military entity" means:

3382 (a) the United States Department of Veterans Affairs;

3383 (b) an active component of the United States Armed Forces; or

3384 (c) a reserve component of the United States Armed Forces.

3385 (7) "Primary residence" includes the residence of a individual who does not reside in
3386 the residence if the individual:

3387 (a) does not reside in the residence because the individual is admitted as an inpatient at
3388 a health care facility as defined in Section ~~[26-55-102]~~ [26B-4-501](#); and

3389 (b) otherwise meets the requirements of this part.

3390 (8) "Qualifying active duty military service" means at least 200 days, regardless of
3391 whether consecutive, in any continuous 365-day period of active duty military service outside
3392 the state in an active component of the United States Armed Forces or a reserve component of
3393 the United States Armed Forces, if the days of active duty military service:

3394 (a) were completed in the year before an individual applies for an exemption described
3395 in Section [59-2-1902](#); and

3396 (b) have not previously been counted as qualifying active duty military service for
3397 purposes of qualifying for an exemption described in Section [59-2-1902](#) or applying for the
3398 exemption described in Section [59-2-1902](#).

3399 (9) "Statement of disability" means the statement of disability described in Section
3400 [59-2-1904](#).

3401 (10) "Reserve component of the United States Armed Forces" means the same as that
3402 term is defined in Section [59-10-1027](#).

3403 (11) "Residence" means real property where an individual resides, including:

3404 (a) a mobile home, as defined in Section [41-1a-102](#); or

3405 (b) a manufactured home, as defined in Section [41-1a-102](#).

3406 (12) "Veteran claimant" means one of the following individuals who applies for an

3407 exemption described in Section 59-2-1903:

3408 (a) a veteran with a disability;

3409 (b) the unmarried surviving spouse:

3410 (i) of a deceased veteran with a disability; or

3411 (ii) a veteran who was killed in action or died in the line of duty; or

3412 (c) a minor orphan:

3413 (i) of a deceased veteran with a disability; or

3414 (ii) a veteran who was killed in action or died in the line of duty.

3415 (13) "Veteran who was killed in action or died in the line of duty" means an individual
3416 who was killed in action or died in the line of duty in an active component of the United States
3417 Armed Forces or a reserve component of the United States Armed Forces, regardless of
3418 whether that individual had a disability at the time that individual was killed in action or died
3419 in the line of duty.

3420 (14) "Veteran with a disability" means an individual with a disability who, during
3421 military training or a military conflict, acquired a disability in the line of duty in an active
3422 component of the United States Armed Forces or a reserve component of the United States
3423 Armed Forces, as determined by a military entity.

3424 Section 55. Section 59-10-529 is amended to read:

3425 **59-10-529. Overpayment of tax -- Credits -- Refunds.**

3426 (1) If there has been an overpayment of any tax imposed by this chapter, the amount of
3427 overpayment is credited as follows:

3428 (a) against an income tax due from a taxpayer;

3429 (b) against:

3430 (i) the amount of a judgment against a taxpayer, including a final judgment or order
3431 requiring payment of a fine or of restitution to a victim under Title 77, Chapter 38b, Crime
3432 Victims Restitution Act, obtained through due process of law by an entity of state or local
3433 government; or

3434 (ii) subject to Subsection (4)(a)(i), a child support obligation that is due or past due, as
3435 determined by the Office of Recovery Services in the Department of [~~Human Services~~] Health
3436 and Human Services and after notice and an opportunity for an adjudicative proceeding, as
3437 provided in Subsection (4)(a)(iii); or

3438 (c) subject to Subsections (3), (5), (6), and (7), as bail to ensure the appearance of a
3439 taxpayer before the appropriate authority to resolve an outstanding warrant against the taxpayer
3440 for which bail is due, if a court of competent jurisdiction has not approved an alternative form
3441 of payment.

3442 (2) If a balance remains after an overpayment is credited in accordance with Subsection
3443 (1), the balance shall be refunded to the taxpayer.

3444 (3) Bail described in Subsection (1)(c) may be applied to any fine or forfeiture:

3445 (a) that is due and related to a warrant that is outstanding on or after February 16, 1984;
3446 and

3447 (b) in accordance with Subsections (5) and (6).

3448 (4) (a) The amount of an overpayment may be credited against an obligation described
3449 in Subsection (1)(b)(ii) if the Office of Recovery Services has sent written notice to the
3450 taxpayer's last-known address or the address on file under Section [~~62A-11-304.4~~] 26B-9-207,
3451 stating:

3452 (i) the amount of child support that is due or past due as of the date of the notice or
3453 other specified date;

3454 (ii) that any overpayment shall be applied to reduce the amount of due or past-due child
3455 support specified in the notice; and

3456 (iii) that the taxpayer may contest the amount of past-due child support specified in the
3457 notice by filing a written request for an adjudicative proceeding with the office within 15 days
3458 of the notice being sent.

3459 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3460 Office of Recovery Services shall establish rules to implement this Subsection (4), including
3461 procedures, in accordance with the other provisions of this section, to ensure:

3462 (i) prompt reimbursement to a taxpayer of any amount of an overpayment that was
3463 credited against a child support obligation in error; and

3464 (ii) prompt distribution of properly credited funds to the obligee parent.

3465 (5) The amount of an overpayment may be credited against bail described in
3466 Subsection (1)(c) if:

3467 (a) a court has issued a warrant for the arrest of the taxpayer for failure to post bail,
3468 appear, or otherwise satisfy the terms of a citation, summons, or court order; and

3469 (b) a notice of intent to apply the overpayment as bail on the issued warrant has been
3470 sent to the taxpayer's current address on file with the commission.

3471 (6) (a) (i) The commission shall deliver an overpayment applied as bail to the court that
3472 issued the warrant of arrest.

3473 (ii) The clerk of the court is authorized to endorse the check or commission warrant of
3474 payment on behalf of the payees and deposit the money in the court treasury.

3475 (b) (i) The court receiving an overpayment applied as bail shall order withdrawal of the
3476 warrant for arrest of the taxpayer if:

3477 (A) the case is a case for which a personal appearance of the taxpayer is not required;
3478 and

3479 (B) the dollar amount of the overpayment represents the full dollar amount of bail.

3480 (ii) In a case except for a case described in Subsection (6)(b)(i):

3481 (A) the court receiving the overpayment applied as bail is not required to order the
3482 withdrawal of the warrant of arrest of the taxpayer during the 40-day period; and

3483 (B) the taxpayer may be arrested on the warrant.

3484 (c) (i) If a taxpayer fails to respond to the notice required by Subsection (5)(b), or to
3485 resolve the warrant within 40 days after the notice is sent under Subsection (5)(b), the
3486 overpayment applied as bail is forfeited.

3487 (ii) A court may issue another warrant or allow the original warrant to remain in force
3488 if:

3489 (A) the taxpayer has not complied with an order of the court;

3490 (B) the taxpayer has failed to appear and respond to a criminal charge for which a
3491 personal appearance is required; or

3492 (C) the taxpayer has paid partial but not full bail in a case for which a personal
3493 appearance is not required.

3494 (d) If the alleged violations named in a warrant are later resolved in favor of the
3495 taxpayer, the bail amount shall be remitted to the taxpayer.

3496 (7) The fine and bail forfeiture provisions of this section apply to all warrants, fines,
3497 fees, and surcharges issued in cases charging a taxpayer with a felony, a misdemeanor, or an
3498 infraction described in this section, which are outstanding on or after February 16, 1984.

3499 (8) If the amount allowed as a credit for tax withheld from a taxpayer exceeds the tax

3500 to which the credit relates, the excess is considered an overpayment.

3501 (9) (a) Subject to Subsection (9)(b), a taxpayer shall claim a credit or refund of an
3502 overpayment that is attributable to a net operating loss carry back or carry forward within three
3503 years after the day on which the return for the taxable year of the net operating loss is due.

3504 (b) The three-year period described in Subsection (9)(a) shall be extended by any
3505 extension of time provided in statute for filing the return described in Subsection (9)(a).

3506 (10) If there is no tax liability for a period in which an amount is paid under this
3507 chapter, the amount is an overpayment.

3508 (11) If a tax under this chapter is assessed or collected after the expiration of the
3509 applicable period of limitation, that amount is an overpayment.

3510 (12) (a) A taxpayer may file a claim for a credit or refund of an overpayment within
3511 two years after the day on which a notice of change, notice of correction, or amended return is
3512 required to be filed with the commission if the taxpayer is required to:

3513 (i) report a change or correction in income reported on the taxpayer's federal income
3514 tax return;

3515 (ii) report a change or correction that is treated in the same manner as if the change or
3516 correction were an overpayment for federal income tax purposes; or

3517 (iii) file an amended return with the commission.

3518 (b) If a report or amended return is not filed within 90 days after the day on which the
3519 report or amended return is due, interest on any resulting refund or credit ceases to accrue after
3520 the 90-day period.

3521 (c) The amount of the credit or refund may not exceed the amount of the reduction in
3522 tax attributable to the federal change, correction, or items amended on the taxpayer's amended
3523 federal income tax return.

3524 (d) Except as provided in Subsection (12)(a), this Subsection (12) does not affect the
3525 amount or the time within which a claim for credit or refund may be filed.

3526 (13) A credit or refund may not be allowed or made if an overpayment is less than \$1.

3527 (14) In the case of an overpayment of tax by an employer under Part 4, Withholding of
3528 Tax, an employer shall receive a refund or credit only to the extent that the amount of the
3529 overpayment is not deducted and withheld from wages under this chapter.

3530 (15) (a) If a taxpayer that is allowed a refund under this chapter dies, the commission

3531 may make payment to the personal representative of the taxpayer's estate.

3532 (b) If there is no personal representative of the taxpayer's estate, the commission may
3533 make payment to those persons that establish entitlement to inherit the property of the decedent
3534 in the proportions established in Title 75, Utah Uniform Probate Code.

3535 (16) If an overpayment relates to a change in net income described in Subsection
3536 59-10-536(2)(a), a credit may be allowed or a refund paid any time before the expiration of the
3537 period within which a deficiency may be assessed.

3538 (17) An overpayment of a tax imposed by this chapter shall accrue interest at the rate
3539 and in the manner prescribed in Section 59-1-402.

3540 (18) A pass-through entity may claim a refund of qualifying excess withholding in
3541 accordance with Section 59-10-1403.3 in lieu of a pass-through entity taxpayer claiming a tax
3542 credit under Section 59-7-614.4 or Section 59-10-1103.

3543 Section 56. Section 59-10-1004 is amended to read:

3544 **59-10-1004. Tax credit for cash contributions to sheltered workshops.**

3545 (1) For tax years beginning January 1, 1983, and thereafter, in computing the tax due
3546 the state under Section 59-10-104 there shall be a nonrefundable tax credit allowed for cash
3547 contributions made by a claimant, estate, or trust within the taxable year to nonprofit
3548 rehabilitation sheltered workshop facilities for persons with a disability operating in Utah that
3549 are certified by the Department of [~~Human Services~~] Health and Human Services as a
3550 qualifying facility.

3551 (2) The allowable tax credit is an amount equal to 50% of the aggregate amount of the
3552 cash contributions to the qualifying rehabilitation facilities, but the allowed tax credit may not
3553 exceed \$200.

3554 (3) The amount of contribution claimed as a tax credit under this section may not also
3555 be claimed as a charitable deduction in determining net taxable income.

3556 Section 57. Section 59-10-1308 is amended to read:

3557 **59-10-1308. Children's organ transplants contribution -- Credit to Kurt Oscarson**
3558 **Children's Organ Transplant Account.**

3559 (1) Except as provided in Section 59-10-1304, a resident or nonresident individual that
3560 files an individual income tax return under this chapter may designate on the resident or
3561 nonresident individual's individual income tax return a contribution to the Kurt Oscarson

3562 Children's Organ Transplant Account created by Section [~~26-18a-4~~] [26B-1-311](#).

3563 (2) The commission shall:

3564 (a) determine annually the total amount of contributions designated in accordance with
3565 this section; and

3566 (b) credit the amount described in Subsection (2)(a) to the Kurt Oscarson Children's
3567 Organ Transplant Account created by Section [~~26-18a-4~~] [26B-1-311](#).

3568 Section 58. Section **59-10-1320** is amended to read:

3569 **59-10-1320. Contribution to the Governor's Suicide Prevention Fund.**

3570 (1) Except as provided in Section [59-10-1304](#), a resident or nonresident individual that
3571 files an individual income tax return under this chapter may designate on the resident or
3572 nonresident individual's individual income tax return a contribution to the Governor's Suicide
3573 Prevention Fund as provided in this part.

3574 (2) The commission shall:

3575 (a) determine annually the total amount of contributions designated in accordance with
3576 this section; and

3577 (b) credit the amount described in Subsection (2)(a) to the Governor's Suicide
3578 Prevention Fund created by Section [~~62A-15-1103~~] [26B-1-325](#).

3579 Section 59. Section **59-12-102** is amended to read:

3580 **59-12-102. Definitions.**

3581 As used in this chapter:

3582 (1) "800 service" means a telecommunications service that:

3583 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

3584 (b) is typically marketed:

3585 (i) under the name 800 toll-free calling;

3586 (ii) under the name 855 toll-free calling;

3587 (iii) under the name 866 toll-free calling;

3588 (iv) under the name 877 toll-free calling;

3589 (v) under the name 888 toll-free calling; or

3590 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

3591 Federal Communications Commission.

3592 (2) (a) "900 service" means an inbound toll telecommunications service that:

- 3593 (i) a subscriber purchases;
- 3594 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 3595 the subscriber's:
 - 3596 (A) prerecorded announcement; or
 - 3597 (B) live service; and
- 3598 (iii) is typically marketed:
 - 3599 (A) under the name 900 service; or
 - 3600 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
 - 3601 Communications Commission.
- 3602 (b) "900 service" does not include a charge for:
 - 3603 (i) a collection service a seller of a telecommunications service provides to a
 - 3604 subscriber; or
 - 3605 (ii) the following a subscriber sells to the subscriber's customer:
 - 3606 (A) a product; or
 - 3607 (B) a service.
- 3608 (3) (a) "Admission or user fees" includes season passes.
- 3609 (b) "Admission or user fees" does not include:
 - 3610 (i) annual membership dues to private organizations; or
 - 3611 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
 - 3612 facility listed in Subsection 59-12-103(1)(f).
- 3613 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
- 3614 person:
 - 3615 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
 - 3616 person; or
 - 3617 (b) is related to the other person because a third person, or a group of third persons who
 - 3618 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
 - 3619 whether direct or indirect, in the related persons.
- 3620 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 3621 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 3622 Agreement after November 12, 2002.
- 3623 (6) "Agreement combined tax rate" means the sum of the tax rates:

- 3624 (a) listed under Subsection (7); and
- 3625 (b) that are imposed within a local taxing jurisdiction.
- 3626 (7) "Agreement sales and use tax" means a tax imposed under:
- 3627 (a) Subsection 59-12-103(2)(a)(i)(A);
- 3628 (b) Subsection 59-12-103(2)(b)(i);
- 3629 (c) Subsection 59-12-103(2)(c)(i);
- 3630 (d) Subsection 59-12-103(2)(d);
- 3631 (e) Subsection 59-12-103(2)(e)(i)(A)(I);
- 3632 (f) Section 59-12-204;
- 3633 (g) Section 59-12-401;
- 3634 (h) Section 59-12-402;
- 3635 (i) Section 59-12-402.1;
- 3636 (j) Section 59-12-703;
- 3637 (k) Section 59-12-802;
- 3638 (l) Section 59-12-804;
- 3639 (m) Section 59-12-1102;
- 3640 (n) Section 59-12-1302;
- 3641 (o) Section 59-12-1402;
- 3642 (p) Section 59-12-1802;
- 3643 (q) Section 59-12-2003;
- 3644 (r) Section 59-12-2103;
- 3645 (s) Section 59-12-2213;
- 3646 (t) Section 59-12-2214;
- 3647 (u) Section 59-12-2215;
- 3648 (v) Section 59-12-2216;
- 3649 (w) Section 59-12-2217;
- 3650 (x) Section 59-12-2218;
- 3651 (y) Section 59-12-2219; or
- 3652 (z) Section 59-12-2220.
- 3653 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 3654 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

- 3655 (a) except for:
- 3656 (i) an airline as defined in Section 59-2-102; or
- 3657 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 3658 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 3659 state, of an airline; and
- 3660 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 3661 whether the business entity performs the following in this state:
- 3662 (i) check, diagnose, overhaul, and repair:
- 3663 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 3664 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 3665 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 3666 engine;
- 3667 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 3668 aircraft:
- 3669 (A) an inspection;
- 3670 (B) a repair, including a structural repair or modification;
- 3671 (C) changing landing gear; and
- 3672 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 3673 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 3674 completely apply new paint to the fixed wing turbine powered aircraft; and
- 3675 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 3676 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 3677 authority that certifies the fixed wing turbine powered aircraft.
- 3678 (10) "Alcoholic beverage" means a beverage that:
- 3679 (a) is suitable for human consumption; and
- 3680 (b) contains .5% or more alcohol by volume.
- 3681 (11) "Alternative energy" means:
- 3682 (a) biomass energy;
- 3683 (b) geothermal energy;
- 3684 (c) hydroelectric energy;
- 3685 (d) solar energy;

- 3686 (e) wind energy; or
- 3687 (f) energy that is derived from:
 - 3688 (i) coal-to-liquids;
 - 3689 (ii) nuclear fuel;
 - 3690 (iii) oil-impregnated diatomaceous earth;
 - 3691 (iv) oil sands;
 - 3692 (v) oil shale;
 - 3693 (vi) petroleum coke; or
 - 3694 (vii) waste heat from:
 - 3695 (A) an industrial facility; or
 - 3696 (B) a power station in which an electric generator is driven through a process in which
 - 3697 water is heated, turns into steam, and spins a steam turbine.
- 3698 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
- 3699 facility" means a facility that:
 - 3700 (i) uses alternative energy to produce electricity; and
 - 3701 (ii) has a production capacity of two megawatts or greater.
- 3702 (b) A facility is an alternative energy electricity production facility regardless of
- 3703 whether the facility is:
 - 3704 (i) connected to an electric grid; or
 - 3705 (ii) located on the premises of an electricity consumer.
- 3706 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
- 3707 provision of telecommunications service.
- 3708 (b) "Ancillary service" includes:
 - 3709 (i) a conference bridging service;
 - 3710 (ii) a detailed communications billing service;
 - 3711 (iii) directory assistance;
 - 3712 (iv) a vertical service; or
 - 3713 (v) a voice mail service.
- 3714 (14) "Area agency on aging" means the same as that term is defined in Section
- 3715 ~~[62A-3-101]~~ [26B-6-101](#).
- 3716 (15) "Assisted amusement device" means an amusement device, skill device, or ride

3717 device that is started and stopped by an individual:

3718 (a) who is not the purchaser or renter of the right to use or operate the amusement
3719 device, skill device, or ride device; and

3720 (b) at the direction of the seller of the right to use the amusement device, skill device,
3721 or ride device.

3722 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or
3723 washing of tangible personal property if the cleaning or washing labor is primarily performed
3724 by an individual:

3725 (a) who is not the purchaser of the cleaning or washing of the tangible personal
3726 property; and

3727 (b) at the direction of the seller of the cleaning or washing of the tangible personal
3728 property.

3729 (17) "Authorized carrier" means:

3730 (a) in the case of vehicles operated over public highways, the holder of credentials
3731 indicating that the vehicle is or will be operated pursuant to both the International Registration
3732 Plan and the International Fuel Tax Agreement;

3733 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
3734 certificate or air carrier's operating certificate; or

3735 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
3736 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
3737 stock in more than one state.

3738 (18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the
3739 following that is used as the primary source of energy to produce fuel or electricity:

3740 (i) material from a plant or tree; or

3741 (ii) other organic matter that is available on a renewable basis, including:

3742 (A) slash and brush from forests and woodlands;

3743 (B) animal waste;

3744 (C) waste vegetable oil;

3745 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
3746 wastewater residuals, or through the conversion of a waste material through a nonincineration,
3747 thermal conversion process;

- 3748 (E) aquatic plants; and
- 3749 (F) agricultural products.
- 3750 (b) "Biomass energy" does not include:
- 3751 (i) black liquor; or
- 3752 (ii) treated woods.
- 3753 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 3754 property, products, or services if the tangible personal property, products, or services are:
- 3755 (i) distinct and identifiable; and
- 3756 (ii) sold for one nonitemized price.
- 3757 (b) "Bundled transaction" does not include:
- 3758 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 3759 the basis of the selection by the purchaser of the items of tangible personal property included in
- 3760 the transaction;
- 3761 (ii) the sale of real property;
- 3762 (iii) the sale of services to real property;
- 3763 (iv) the retail sale of tangible personal property and a service if:
- 3764 (A) the tangible personal property:
- 3765 (I) is essential to the use of the service; and
- 3766 (II) is provided exclusively in connection with the service; and
- 3767 (B) the service is the true object of the transaction;
- 3768 (v) the retail sale of two services if:
- 3769 (A) one service is provided that is essential to the use or receipt of a second service;
- 3770 (B) the first service is provided exclusively in connection with the second service; and
- 3771 (C) the second service is the true object of the transaction;
- 3772 (vi) a transaction that includes tangible personal property or a product subject to
- 3773 taxation under this chapter and tangible personal property or a product that is not subject to
- 3774 taxation under this chapter if the:
- 3775 (A) seller's purchase price of the tangible personal property or product subject to
- 3776 taxation under this chapter is de minimis; or
- 3777 (B) seller's sales price of the tangible personal property or product subject to taxation
- 3778 under this chapter is de minimis; and

- 3779 (vii) the retail sale of tangible personal property that is not subject to taxation under
3780 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 3781 (A) that retail sale includes:
- 3782 (I) food and food ingredients;
- 3783 (II) a drug;
- 3784 (III) durable medical equipment;
- 3785 (IV) mobility enhancing equipment;
- 3786 (V) an over-the-counter drug;
- 3787 (VI) a prosthetic device; or
- 3788 (VII) a medical supply; and
- 3789 (B) subject to Subsection (19)(f):
- 3790 (I) the seller's purchase price of the tangible personal property subject to taxation under
3791 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 3792 (II) the seller's sales price of the tangible personal property subject to taxation under
3793 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 3794 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a
3795 service that is distinct and identifiable does not include:
- 3796 (A) packaging that:
- 3797 (I) accompanies the sale of the tangible personal property, product, or service; and
- 3798 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
3799 service;
- 3800 (B) tangible personal property, a product, or a service provided free of charge with the
3801 purchase of another item of tangible personal property, a product, or a service; or
- 3802 (C) an item of tangible personal property, a product, or a service included in the
3803 definition of "purchase price."
- 3804 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a
3805 product, or a service is provided free of charge with the purchase of another item of tangible
3806 personal property, a product, or a service if the sales price of the purchased item of tangible
3807 personal property, product, or service does not vary depending on the inclusion of the tangible
3808 personal property, product, or service provided free of charge.
- 3809 (d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price

3810 does not include a price that is separately identified by tangible personal property, product, or
3811 service on the following, regardless of whether the following is in paper format or electronic
3812 format:

3813 (A) a binding sales document; or

3814 (B) another supporting sales-related document that is available to a purchaser.

3815 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another
3816 supporting sales-related document that is available to a purchaser includes:

3817 (A) a bill of sale;

3818 (B) a contract;

3819 (C) an invoice;

3820 (D) a lease agreement;

3821 (E) a periodic notice of rates and services;

3822 (F) a price list;

3823 (G) a rate card;

3824 (H) a receipt; or

3825 (I) a service agreement.

3826 (e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal
3827 property or a product subject to taxation under this chapter is de minimis if:

3828 (A) the seller's purchase price of the tangible personal property or product is 10% or
3829 less of the seller's total purchase price of the bundled transaction; or

3830 (B) the seller's sales price of the tangible personal property or product is 10% or less of
3831 the seller's total sales price of the bundled transaction.

3832 (ii) For purposes of Subsection (19)(b)(vi), a seller:

3833 (A) shall use the seller's purchase price or the seller's sales price to determine if the
3834 purchase price or sales price of the tangible personal property or product subject to taxation
3835 under this chapter is de minimis; and

3836 (B) may not use a combination of the seller's purchase price and the seller's sales price
3837 to determine if the purchase price or sales price of the tangible personal property or product
3838 subject to taxation under this chapter is de minimis.

3839 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service
3840 contract to determine if the sales price of tangible personal property or a product is de minimis.

3841 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of
3842 the seller's purchase price and the seller's sales price to determine if tangible personal property
3843 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
3844 price of that retail sale.

3845 (20) "Certified automated system" means software certified by the governing board of
3846 the agreement that:

3847 (a) calculates the agreement sales and use tax imposed within a local taxing
3848 jurisdiction:

3849 (i) on a transaction; and

3850 (ii) in the states that are members of the agreement;

3851 (b) determines the amount of agreement sales and use tax to remit to a state that is a
3852 member of the agreement; and

3853 (c) maintains a record of the transaction described in Subsection (20)(a)(i).

3854 (21) "Certified service provider" means an agent certified:

3855 (a) by the governing board of the agreement; and

3856 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,
3857 as outlined in the contract between the governing board of the agreement and the certified
3858 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the
3859 seller's own purchases.

3860 (22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel
3861 suitable for general use.

3862 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3863 commission shall make rules:

3864 (i) listing the items that constitute "clothing"; and

3865 (ii) that are consistent with the list of items that constitute "clothing" under the
3866 agreement.

3867 (23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

3868 (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
3869 fuels that does not constitute industrial use under Subsection (57) or residential use under
3870 Subsection (112).

3871 (25) (a) "Common carrier" means a person engaged in or transacting the business of

3872 transporting passengers, freight, merchandise, or other property for hire within this state.

3873 (b) (i) "Common carrier" does not include a person that, at the time the person is
3874 traveling to or from that person's place of employment, transports a passenger to or from the
3875 passenger's place of employment.

3876 (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3,
3877 Utah Administrative Rulemaking Act, the commission may make rules defining what
3878 constitutes a person's place of employment.

3879 (c) "Common carrier" does not include a person that provides transportation network
3880 services, as defined in Section [13-51-102](#).

3881 (26) "Component part" includes:

3882 (a) poultry, dairy, and other livestock feed, and their components;

3883 (b) baling ties and twine used in the baling of hay and straw;

3884 (c) fuel used for providing temperature control of orchards and commercial
3885 greenhouses doing a majority of their business in wholesale sales, and for providing power for
3886 off-highway type farm machinery; and

3887 (d) feed, seeds, and seedlings.

3888 (27) "Computer" means an electronic device that accepts information:

3889 (a) (i) in digital form; or

3890 (ii) in a form similar to digital form; and

3891 (b) manipulates that information for a result based on a sequence of instructions.

3892 (28) "Computer software" means a set of coded instructions designed to cause:

3893 (a) a computer to perform a task; or

3894 (b) automatic data processing equipment to perform a task.

3895 (29) "Computer software maintenance contract" means a contract that obligates a seller
3896 of computer software to provide a customer with:

3897 (a) future updates or upgrades to computer software;

3898 (b) support services with respect to computer software; or

3899 (c) a combination of Subsections (29)(a) and (b).

3900 (30) (a) "Conference bridging service" means an ancillary service that links two or
3901 more participants of an audio conference call or video conference call.

3902 (b) "Conference bridging service" may include providing a telephone number as part of

3903 the ancillary service described in Subsection (30)(a).

3904 (c) "Conference bridging service" does not include a telecommunications service used
3905 to reach the ancillary service described in Subsection (30)(a).

3906 (31) "Construction materials" means any tangible personal property that will be
3907 converted into real property.

3908 (32) "Delivered electronically" means delivered to a purchaser by means other than
3909 tangible storage media.

3910 (33) (a) "Delivery charge" means a charge:

3911 (i) by a seller of:

3912 (A) tangible personal property;

3913 (B) a product transferred electronically; or

3914 (C) a service; and

3915 (ii) for preparation and delivery of the tangible personal property, product transferred
3916 electronically, or services described in Subsection (33)(a)(i) to a location designated by the
3917 purchaser.

3918 (b) "Delivery charge" includes a charge for the following:

3919 (i) transportation;

3920 (ii) shipping;

3921 (iii) postage;

3922 (iv) handling;

3923 (v) crating; or

3924 (vi) packing.

3925 (34) "Detailed telecommunications billing service" means an ancillary service of
3926 separately stating information pertaining to individual calls on a customer's billing statement.

3927 (35) "Dietary supplement" means a product, other than tobacco, that:

3928 (a) is intended to supplement the diet;

3929 (b) contains one or more of the following dietary ingredients:

3930 (i) a vitamin;

3931 (ii) a mineral;

3932 (iii) an herb or other botanical;

3933 (iv) an amino acid;

3934 (v) a dietary substance for use by humans to supplement the diet by increasing the total
3935 dietary intake; or

3936 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
3937 described in Subsections (35)(b)(i) through (v);

3938 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:

3939 (A) tablet form;

3940 (B) capsule form;

3941 (C) powder form;

3942 (D) softgel form;

3943 (E) gelcap form; or

3944 (F) liquid form; or

3945 (ii) if the product is not intended for ingestion in a form described in Subsections

3946 (35)(c)(i)(A) through (F), is not represented:

3947 (A) as conventional food; and

3948 (B) for use as a sole item of:

3949 (I) a meal; or

3950 (II) the diet; and

3951 (d) is required to be labeled as a dietary supplement:

3952 (i) identifiable by the "Supplemental Facts" box found on the label; and

3953 (ii) as required by 21 C.F.R. Sec. 101.36.

3954 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
3955 musical, spoken, or other sounds.

3956 (b) "Digital audio work" includes a ringtone.

3957 (37) "Digital audio-visual work" means a series of related images which, when shown
3958 in succession, imparts an impression of motion, together with accompanying sounds, if any.

3959 (38) "Digital book" means a work that is generally recognized in the ordinary and usual
3960 sense as a book.

3961 (39) (a) "Direct mail" means printed material delivered or distributed by United States
3962 mail or other delivery service:

3963 (i) to:

3964 (A) a mass audience; or

- 3965 (B) addressees on a mailing list provided:
- 3966 (I) by a purchaser of the mailing list; or
- 3967 (II) at the discretion of the purchaser of the mailing list; and
- 3968 (ii) if the cost of the printed material is not billed directly to the recipients.
- 3969 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 3970 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 3971 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 3972 single address.
- 3973 (40) "Directory assistance" means an ancillary service of providing:
- 3974 (a) address information; or
- 3975 (b) telephone number information.
- 3976 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
- 3977 or supplies that:
- 3978 (i) cannot withstand repeated use; and
- 3979 (ii) are purchased by, for, or on behalf of a person other than:
- 3980 (A) a health care facility as defined in Section ~~[26-21-2]~~ [26B-2-201](#);
- 3981 (B) a health care provider as defined in Section [78B-3-403](#);
- 3982 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or
- 3983 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).
- 3984 (b) "Disposable home medical equipment or supplies" does not include:
- 3985 (i) a drug;
- 3986 (ii) durable medical equipment;
- 3987 (iii) a hearing aid;
- 3988 (iv) a hearing aid accessory;
- 3989 (v) mobility enhancing equipment; or
- 3990 (vi) tangible personal property used to correct impaired vision, including:
- 3991 (A) eyeglasses; or
- 3992 (B) contact lenses.
- 3993 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3994 commission may by rule define what constitutes medical equipment or supplies.
- 3995 (42) "Drilling equipment manufacturer" means a facility:

- 3996 (a) located in the state;
- 3997 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 3998 consist of manufacturing component parts of drilling equipment;
- 3999 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 4000 manufacturing process; and
- 4001 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 4002 manufacturing process.

4003 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a

4004 compound, substance, or preparation that is:

- 4005 (i) recognized in:
 - 4006 (A) the official United States Pharmacopoeia;
 - 4007 (B) the official Homeopathic Pharmacopoeia of the United States;
 - 4008 (C) the official National Formulary; or
 - 4009 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);
- 4010 (ii) intended for use in the:
 - 4011 (A) diagnosis of disease;
 - 4012 (B) cure of disease;
 - 4013 (C) mitigation of disease;
 - 4014 (D) treatment of disease; or
 - 4015 (E) prevention of disease; or
- 4016 (iii) intended to affect:
 - 4017 (A) the structure of the body; or
 - 4018 (B) any function of the body.

4019 (b) "Drug" does not include:

- 4020 (i) food and food ingredients;
- 4021 (ii) a dietary supplement;
- 4022 (iii) an alcoholic beverage; or
- 4023 (iv) a prosthetic device.

4024 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means

4025 equipment that:

- 4026 (i) can withstand repeated use;

- 4027 (ii) is primarily and customarily used to serve a medical purpose;
- 4028 (iii) generally is not useful to a person in the absence of illness or injury; and
- 4029 (iv) is not worn in or on the body.
- 4030 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 4031 equipment described in Subsection (44)(a).
- 4032 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 4033 (45) "Electronic" means:
- 4034 (a) relating to technology; and
- 4035 (b) having:
- 4036 (i) electrical capabilities;
- 4037 (ii) digital capabilities;
- 4038 (iii) magnetic capabilities;
- 4039 (iv) wireless capabilities;
- 4040 (v) optical capabilities;
- 4041 (vi) electromagnetic capabilities; or
- 4042 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 4043 (46) "Electronic financial payment service" means an establishment:
- 4044 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 4045 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 4046 federal Executive Office of the President, Office of Management and Budget; and
- 4047 (b) that performs electronic financial payment services.
- 4048 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 4049 (48) "Fixed guideway" means a public transit facility that uses and occupies:
- 4050 (a) rail for the use of public transit; or
- 4051 (b) a separate right-of-way for the use of public transit.
- 4052 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
- 4053 (a) is powered by turbine engines;
- 4054 (b) operates on jet fuel; and
- 4055 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 4056 (50) "Fixed wireless service" means a telecommunications service that provides radio
- 4057 communication between fixed points.

- 4058 (51) (a) "Food and food ingredients" means substances:
- 4059 (i) regardless of whether the substances are in:
- 4060 (A) liquid form;
- 4061 (B) concentrated form;
- 4062 (C) solid form;
- 4063 (D) frozen form;
- 4064 (E) dried form; or
- 4065 (F) dehydrated form; and
- 4066 (ii) that are:
- 4067 (A) sold for:
- 4068 (I) ingestion by humans; or
- 4069 (II) chewing by humans; and
- 4070 (B) consumed for the substance's:
- 4071 (I) taste; or
- 4072 (II) nutritional value.
- 4073 (b) "Food and food ingredients" includes an item described in Subsection (96)(b)(iii).
- 4074 (c) "Food and food ingredients" does not include:
- 4075 (i) an alcoholic beverage;
- 4076 (ii) tobacco; or
- 4077 (iii) prepared food.
- 4078 (52) (a) "Fundraising sales" means sales:
- 4079 (i) (A) made by a school; or
- 4080 (B) made by a school student;
- 4081 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 4082 materials, or provide transportation; and
- 4083 (iii) that are part of an officially sanctioned school activity.
- 4084 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"
- 4085 means a school activity:
- 4086 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 4087 district governing the authorization and supervision of fundraising activities;
- 4088 (ii) that does not directly or indirectly compensate an individual teacher or other

4089 educational personnel by direct payment, commissions, or payment in kind; and

4090 (iii) the net or gross revenues from which are deposited in a dedicated account

4091 controlled by the school or school district.

4092 (53) "Geothermal energy" means energy contained in heat that continuously flows

4093 outward from the earth that is used as the sole source of energy to produce electricity.

4094 (54) "Governing board of the agreement" means the governing board of the agreement

4095 that is:

4096 (a) authorized to administer the agreement; and

4097 (b) established in accordance with the agreement.

4098 (55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

4099 (i) the executive branch of the state, including all departments, institutions, boards,
4100 divisions, bureaus, offices, commissions, and committees;

4101 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
4102 Administrative Office of the Courts, and similar administrative units in the judicial branch;

4103 (iii) the legislative branch of the state, including the House of Representatives, the
4104 Senate, the Legislative Printing Office, the Office of Legislative Research and General
4105 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
4106 Analyst;

4107 (iv) the National Guard;

4108 (v) an independent entity as defined in Section 63E-1-102; or

4109 (vi) a political subdivision as defined in Section 17B-1-102.

4110 (b) "Governmental entity" does not include the state systems of public and higher
4111 education, including:

4112 (i) a school;

4113 (ii) the State Board of Education;

4114 (iii) the Utah Board of Higher Education; or

4115 (iv) an institution of higher education described in Section 53B-1-102.

4116 (56) "Hydroelectric energy" means water used as the sole source of energy to produce
4117 electricity.

4118 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
4119 other fuels:

- 4120 (a) in mining or extraction of minerals;
- 4121 (b) in agricultural operations to produce an agricultural product up to the time of
- 4122 harvest or placing the agricultural product into a storage facility, including:
 - 4123 (i) commercial greenhouses;
 - 4124 (ii) irrigation pumps;
 - 4125 (iii) farm machinery;
 - 4126 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
 - 4127 under Title 41, Chapter 1a, Part 2, Registration; and
 - 4128 (v) other farming activities;
- 4129 (c) in manufacturing tangible personal property at an establishment described in:
 - 4130 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
 - 4131 the federal Executive Office of the President, Office of Management and Budget; or
 - 4132 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
 - 4133 American Industry Classification System of the federal Executive Office of the President,
 - 4134 Office of Management and Budget;
- 4135 (d) by a scrap recycler if:
 - 4136 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
 - 4137 one or more of the following items into prepared grades of processed materials for use in new
 - 4138 products:
 - 4139 (A) iron;
 - 4140 (B) steel;
 - 4141 (C) nonferrous metal;
 - 4142 (D) paper;
 - 4143 (E) glass;
 - 4144 (F) plastic;
 - 4145 (G) textile; or
 - 4146 (H) rubber; and
 - 4147 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with
 - 4148 nonrecycled materials; or
- 4149 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 4150 cogeneration facility as defined in Section 54-2-1.

4151 (58) (a) Except as provided in Subsection (58)(b), "installation charge" means a charge
4152 for installing:

4153 (i) tangible personal property; or

4154 (ii) a product transferred electronically.

4155 (b) "Installation charge" does not include a charge for:

4156 (i) repairs or renovations of:

4157 (A) tangible personal property; or

4158 (B) a product transferred electronically; or

4159 (ii) attaching tangible personal property or a product transferred electronically:

4160 (A) to other tangible personal property; and

4161 (B) as part of a manufacturing or fabrication process.

4162 (59) "Institution of higher education" means an institution of higher education listed in
4163 Section [53B-2-101](#).

4164 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible
4165 personal property or a product transferred electronically for:

4166 (i) (A) a fixed term; or

4167 (B) an indeterminate term; and

4168 (ii) consideration.

4169 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
4170 amount of consideration may be increased or decreased by reference to the amount realized
4171 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
4172 Code.

4173 (c) "Lease" or "rental" does not include:

4174 (i) a transfer of possession or control of property under a security agreement or
4175 deferred payment plan that requires the transfer of title upon completion of the required
4176 payments;

4177 (ii) a transfer of possession or control of property under an agreement that requires the
4178 transfer of title:

4179 (A) upon completion of required payments; and

4180 (B) if the payment of an option price does not exceed the greater of:

4181 (I) \$100; or

4182 (II) 1% of the total required payments; or
4183 (iii) providing tangible personal property along with an operator for a fixed period of
4184 time or an indeterminate period of time if the operator is necessary for equipment to perform as
4185 designed.

4186 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to
4187 perform as designed if the operator's duties exceed the:

- 4188 (i) set-up of tangible personal property;
- 4189 (ii) maintenance of tangible personal property; or
- 4190 (iii) inspection of tangible personal property.

4191 (61) "Lesson" means a fixed period of time for the duration of which a trained
4192 instructor:

- 4193 (a) is present with a student in person or by video; and
- 4194 (b) actively instructs the student, including by providing observation or feedback.

4195 (62) "Life science establishment" means an establishment in this state that is classified
4196 under the following NAICS codes of the 2007 North American Industry Classification System
4197 of the federal Executive Office of the President, Office of Management and Budget:

- 4198 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 4199 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
4200 Manufacturing; or
- 4201 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

4202 (63) "Life science research and development facility" means a facility owned, leased,
4203 or rented by a life science establishment if research and development is performed in 51% or
4204 more of the total area of the facility.

4205 (64) "Load and leave" means delivery to a purchaser by use of a tangible storage media
4206 if the tangible storage media is not physically transferred to the purchaser.

4207 (65) "Local taxing jurisdiction" means a:

- 4208 (a) county that is authorized to impose an agreement sales and use tax;
- 4209 (b) city that is authorized to impose an agreement sales and use tax; or
- 4210 (c) town that is authorized to impose an agreement sales and use tax.

4211 (66) "Manufactured home" means the same as that term is defined in Section
4212 [15A-1-302](#).

- 4213 (67) "Manufacturing facility" means:
- 4214 (a) an establishment described in:
- 4215 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 4216 the federal Executive Office of the President, Office of Management and Budget; or
- 4217 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 4218 American Industry Classification System of the federal Executive Office of the President,
- 4219 Office of Management and Budget;
- 4220 (b) a scrap recycler if:
- 4221 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 4222 one or more of the following items into prepared grades of processed materials for use in new
- 4223 products:
- 4224 (A) iron;
- 4225 (B) steel;
- 4226 (C) nonferrous metal;
- 4227 (D) paper;
- 4228 (E) glass;
- 4229 (F) plastic;
- 4230 (G) textile; or
- 4231 (H) rubber; and
- 4232 (ii) the new products under Subsection (67)(b)(i) would otherwise be made with
- 4233 nonrecycled materials; or
- 4234 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is
- 4235 placed in service on or after May 1, 2006.
- 4236 (68) (a) "Marketplace" means a physical or electronic place, platform, or forum where
- 4237 tangible personal property, a product transferred electronically, or a service is offered for sale.
- 4238 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a
- 4239 dedicated sales software application.
- 4240 (69) (a) "Marketplace facilitator" means a person, including an affiliate of the person,
- 4241 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to
- 4242 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or
- 4243 controls and that directly or indirectly:

4244 (i) does any of the following:

4245 (A) lists, makes available, or advertises tangible personal property, a product
4246 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the
4247 person owns, operates, or controls;

4248 (B) facilitates the sale of a marketplace seller's tangible personal property, product
4249 transferred electronically, or service by transmitting or otherwise communicating an offer or
4250 acceptance of a retail sale between the marketplace seller and a purchaser using the
4251 marketplace;

4252 (C) owns, rents, licenses, makes available, or operates any electronic or physical
4253 infrastructure or any property, process, method, copyright, trademark, or patent that connects a
4254 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal
4255 property, a product transferred electronically, or a service;

4256 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible
4257 personal property, a product transferred electronically, or a service, regardless of ownership or
4258 control of the tangible personal property, the product transferred electronically, or the service
4259 that is the subject of the retail sale;

4260 (E) provides software development or research and development activities related to
4261 any activity described in this Subsection (69)(a)(i), if the software development or research and
4262 development activity is directly related to the person's marketplace;

4263 (F) provides or offers fulfillment or storage services for a marketplace seller;

4264 (G) sets prices for the sale of tangible personal property, a product transferred
4265 electronically, or a service by a marketplace seller;

4266 (H) provides or offers customer service to a marketplace seller or a marketplace seller's
4267 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal
4268 property, a product transferred electronically, or a service sold by a marketplace seller on the
4269 person's marketplace; or

4270 (I) brands or otherwise identifies sales as those of the person; and

4271 (ii) does any of the following:

4272 (A) collects the sales price or purchase price of a retail sale of tangible personal
4273 property, a product transferred electronically, or a service;

4274 (B) provides payment processing services for a retail sale of tangible personal property,

4275 a product transferred electronically, or a service;

4276 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
4277 fee, a fee for inserting or making available tangible personal property, a product transferred
4278 electronically, or a service on the person's marketplace, or other consideration for the
4279 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
4280 a service, regardless of ownership or control of the tangible personal property, the product
4281 transferred electronically, or the service that is the subject of the retail sale;

4282 (D) through terms and conditions, an agreement, or another arrangement with a third
4283 person, collects payment from a purchase for a retail sale of tangible personal property, a
4284 product transferred electronically, or a service and transmits that payment to the marketplace
4285 seller, regardless of whether the third person receives compensation or other consideration in
4286 exchange for the service; or

4287 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
4288 property, a product transferred electronically, or service offered for sale.

4289 (b) "Marketplace facilitator" does not include:

4290 (i) a person that only provides payment processing services; or

4291 (ii) a person described in Subsection (69)(a) to the extent the person is facilitating a
4292 sale for a seller that is a restaurant as defined in Section [59-12-602](#).

4293 (70) "Marketplace seller" means a seller that makes one or more retail sales through a
4294 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the
4295 seller is required to be registered to collect and remit the tax under this part.

4296 (71) "Member of the immediate family of the producer" means a person who is related
4297 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:

4298 (a) child or stepchild, regardless of whether the child or stepchild is:

4299 (i) an adopted child or adopted stepchild; or

4300 (ii) a foster child or foster stepchild;

4301 (b) grandchild or stepgrandchild;

4302 (c) grandparent or stepgrandparent;

4303 (d) nephew or stepnephew;

4304 (e) niece or stepniece;

4305 (f) parent or stepparent;

- 4306 (g) sibling or stepsibling;
- 4307 (h) spouse;
- 4308 (i) person who is the spouse of a person described in Subsections (71)(a) through (g);

4309 or

- 4310 (j) person similar to a person described in Subsections (71)(a) through (i) as
- 4311 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 4312 Administrative Rulemaking Act.

4313 (72) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).

4314 (73) "Mobile telecommunications service" means the same as that term is defined in

4315 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

4316 (74) (a) "Mobile wireless service" means a telecommunications service, regardless of

4317 the technology used, if:

- 4318 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 4319 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 4320 (iii) the origination point described in Subsection (74)(a)(i) and the termination point
- 4321 described in Subsection (74)(a)(ii) are not fixed.

4322 (b) "Mobile wireless service" includes a telecommunications service that is provided

4323 by a commercial mobile radio service provider.

4324 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4325 commission may by rule define "commercial mobile radio service provider."

4326 (75) (a) Except as provided in Subsection (75)(c), "mobility enhancing equipment"

4327 means equipment that is:

4328 (i) primarily and customarily used to provide or increase the ability to move from one

4329 place to another;

4330 (ii) appropriate for use in a:

4331 (A) home; or

4332 (B) motor vehicle; and

4333 (iii) not generally used by persons with normal mobility.

4334 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of

4335 the equipment described in Subsection (75)(a).

4336 (c) "Mobility enhancing equipment" does not include:

- 4337 (i) a motor vehicle;
- 4338 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
4339 vehicle manufacturer;
- 4340 (iii) durable medical equipment; or
- 4341 (iv) a prosthetic device.
- 4342 (76) "Model 1 seller" means a seller registered under the agreement that has selected a
4343 certified service provider as the seller's agent to perform the seller's sales and use tax functions
4344 for agreement sales and use taxes, as outlined in the contract between the governing board of
4345 the agreement and the certified service provider, other than the seller's obligation under Section
4346 [59-12-124](#) to remit a tax on the seller's own purchases.
- 4347 (77) "Model 2 seller" means a seller registered under the agreement that:
- 4348 (a) except as provided in Subsection (77)(b), has selected a certified automated system
4349 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 4350 (b) retains responsibility for remitting all of the sales tax:
- 4351 (i) collected by the seller; and
- 4352 (ii) to the appropriate local taxing jurisdiction.
- 4353 (78) (a) Subject to Subsection (78)(b), "model 3 seller" means a seller registered under
4354 the agreement that has:
- 4355 (i) sales in at least five states that are members of the agreement;
- 4356 (ii) total annual sales revenues of at least \$500,000,000;
- 4357 (iii) a proprietary system that calculates the amount of tax:
- 4358 (A) for an agreement sales and use tax; and
- 4359 (B) due to each local taxing jurisdiction; and
- 4360 (iv) entered into a performance agreement with the governing board of the agreement.
- 4361 (b) For purposes of Subsection (78)(a), "model 3 seller" includes an affiliated group of
4362 sellers using the same proprietary system.
- 4363 (79) "Model 4 seller" means a seller that is registered under the agreement and is not a
4364 model 1 seller, model 2 seller, or model 3 seller.
- 4365 (80) "Modular home" means a modular unit as defined in Section [15A-1-302](#).
- 4366 (81) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).
- 4367 (82) "Oil sands" means impregnated bituminous sands that:

4368 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
4369 other hydrocarbons, or otherwise treated;

4370 (b) yield mixtures of liquid hydrocarbon; and

4371 (c) require further processing other than mechanical blending before becoming finished
4372 petroleum products.

4373 (83) "Oil shale" means a group of fine black to dark brown shales containing kerogen
4374 material that yields petroleum upon heating and distillation.

4375 (84) "Optional computer software maintenance contract" means a computer software
4376 maintenance contract that a customer is not obligated to purchase as a condition to the retail
4377 sale of computer software.

4378 (85) (a) "Other fuels" means products that burn independently to produce heat or
4379 energy.

4380 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
4381 personal property.

4382 (86) (a) "Paging service" means a telecommunications service that provides
4383 transmission of a coded radio signal for the purpose of activating a specific pager.

4384 (b) For purposes of Subsection (86)(a), the transmission of a coded radio signal
4385 includes a transmission by message or sound.

4386 (87) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

4387 (88) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

4388 (89) (a) "Permanently attached to real property" means that for tangible personal
4389 property attached to real property:

4390 (i) the attachment of the tangible personal property to the real property:

4391 (A) is essential to the use of the tangible personal property; and

4392 (B) suggests that the tangible personal property will remain attached to the real
4393 property in the same place over the useful life of the tangible personal property; or

4394 (ii) if the tangible personal property is detached from the real property, the detachment
4395 would:

4396 (A) cause substantial damage to the tangible personal property; or

4397 (B) require substantial alteration or repair of the real property to which the tangible
4398 personal property is attached.

- 4399 (b) "Permanently attached to real property" includes:
- 4400 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 4401 (A) essential to the operation of the tangible personal property; and
- 4402 (B) attached only to facilitate the operation of the tangible personal property;
- 4403 (ii) a temporary detachment of tangible personal property from real property for a
- 4404 repair or renovation if the repair or renovation is performed where the tangible personal
- 4405 property and real property are located; or
- 4406 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 4407 Subsection (89)(c)(iii) or (iv).
- 4408 (c) "Permanently attached to real property" does not include:
- 4409 (i) the attachment of portable or movable tangible personal property to real property if
- 4410 that portable or movable tangible personal property is attached to real property only for:
- 4411 (A) convenience;
- 4412 (B) stability; or
- 4413 (C) for an obvious temporary purpose;
- 4414 (ii) the detachment of tangible personal property from real property except for the
- 4415 detachment described in Subsection (89)(b)(ii);
- 4416 (iii) an attachment of the following tangible personal property to real property if the
- 4417 attachment to real property is only through a line that supplies water, electricity, gas,
- 4418 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 4419 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 4420 (A) a computer;
- 4421 (B) a telephone;
- 4422 (C) a television; or
- 4423 (D) tangible personal property similar to Subsections (89)(c)(iii)(A) through (C) as
- 4424 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 4425 Administrative Rulemaking Act; or
- 4426 (iv) an item listed in Subsection (130)(c).
- 4427 (90) "Person" includes any individual, firm, partnership, joint venture, association,
- 4428 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
- 4429 municipality, district, or other local governmental entity of the state, or any group or

4430 combination acting as a unit.

4431 (91) "Place of primary use":

4432 (a) for telecommunications service other than mobile telecommunications service,
4433 means the street address representative of where the customer's use of the telecommunications
4434 service primarily occurs, which shall be:

4435 (i) the residential street address of the customer; or

4436 (ii) the primary business street address of the customer; or

4437 (b) for mobile telecommunications service, means the same as that term is defined in
4438 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

4439 (92) (a) "Postpaid calling service" means a telecommunications service a person
4440 obtains by making a payment on a call-by-call basis:

4441 (i) through the use of a:

4442 (A) bank card;

4443 (B) credit card;

4444 (C) debit card; or

4445 (D) travel card; or

4446 (ii) by a charge made to a telephone number that is not associated with the origination
4447 or termination of the telecommunications service.

4448 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
4449 service, that would be a prepaid wireless calling service if the service were exclusively a
4450 telecommunications service.

4451 (93) "Postproduction" means an activity related to the finishing or duplication of a
4452 medium described in Subsection [59-12-104\(54\)\(a\)](#).

4453 (94) "Prepaid calling service" means a telecommunications service:

4454 (a) that allows a purchaser access to telecommunications service that is exclusively
4455 telecommunications service;

4456 (b) that:

4457 (i) is paid for in advance; and

4458 (ii) enables the origination of a call using an:

4459 (A) access number; or

4460 (B) authorization code;

- 4461 (c) that is dialed:
- 4462 (i) manually; or
- 4463 (ii) electronically; and
- 4464 (d) sold in predetermined units or dollars that decline:
- 4465 (i) by a known amount; and
- 4466 (ii) with use.
- 4467 (95) "Prepaid wireless calling service" means a telecommunications service:
- 4468 (a) that provides the right to utilize:
- 4469 (i) mobile wireless service; and
- 4470 (ii) other service that is not a telecommunications service, including:
- 4471 (A) the download of a product transferred electronically;
- 4472 (B) a content service; or
- 4473 (C) an ancillary service;
- 4474 (b) that:
- 4475 (i) is paid for in advance; and
- 4476 (ii) enables the origination of a call using an:
- 4477 (A) access number; or
- 4478 (B) authorization code;
- 4479 (c) that is dialed:
- 4480 (i) manually; or
- 4481 (ii) electronically; and
- 4482 (d) sold in predetermined units or dollars that decline:
- 4483 (i) by a known amount; and
- 4484 (ii) with use.
- 4485 (96) (a) "Prepared food" means:
- 4486 (i) food:
- 4487 (A) sold in a heated state; or
- 4488 (B) heated by a seller;
- 4489 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 4490 item; or
- 4491 (iii) except as provided in Subsection (96)(c), food sold with an eating utensil provided

4492 by the seller, including a:

4493 (A) plate;

4494 (B) knife;

4495 (C) fork;

4496 (D) spoon;

4497 (E) glass;

4498 (F) cup;

4499 (G) napkin; or

4500 (H) straw.

4501 (b) "Prepared food" does not include:

4502 (i) food that a seller only:

4503 (A) cuts;

4504 (B) repackages; or

4505 (C) pasteurizes; or

4506 (ii) (A) the following:

4507 (I) raw egg;

4508 (II) raw fish;

4509 (III) raw meat;

4510 (IV) raw poultry; or

4511 (V) a food containing an item described in Subsections (96)(b)(ii)(A)(I) through (IV);

4512 and

4513 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the

4514 Food and Drug Administration's Food Code that a consumer cook the items described in

4515 Subsection (96)(b)(ii)(A) to prevent food borne illness; or

4516 (iii) the following if sold without eating utensils provided by the seller:

4517 (A) food and food ingredients sold by a seller if the seller's proper primary

4518 classification under the 2002 North American Industry Classification System of the federal

4519 Executive Office of the President, Office of Management and Budget, is manufacturing in

4520 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla

4521 Manufacturing;

4522 (B) food and food ingredients sold in an unheated state:

- 4523 (I) by weight or volume; and
- 4524 (II) as a single item; or
- 4525 (C) a bakery item, including:
 - 4526 (I) a bagel;
 - 4527 (II) a bar;
 - 4528 (III) a biscuit;
 - 4529 (IV) bread;
 - 4530 (V) a bun;
 - 4531 (VI) a cake;
 - 4532 (VII) a cookie;
 - 4533 (VIII) a croissant;
 - 4534 (IX) a danish;
 - 4535 (X) a donut;
 - 4536 (XI) a muffin;
 - 4537 (XII) a pastry;
 - 4538 (XIII) a pie;
 - 4539 (XIV) a roll;
 - 4540 (XV) a tart;
 - 4541 (XVI) a torte; or
 - 4542 (XVII) a tortilla.
- 4543 (c) An eating utensil provided by the seller does not include the following used to
- 4544 transport the food:
 - 4545 (i) a container; or
 - 4546 (ii) packaging.
- 4547 (97) "Prescription" means an order, formula, or recipe that is issued:
 - 4548 (a) (i) orally;
 - 4549 (ii) in writing;
 - 4550 (iii) electronically; or
 - 4551 (iv) by any other manner of transmission; and
 - 4552 (b) by a licensed practitioner authorized by the laws of a state.
- 4553 (98) (a) Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten computer

4554 software" means computer software that is not designed and developed:

4555 (i) by the author or other creator of the computer software; and

4556 (ii) to the specifications of a specific purchaser.

4557 (b) "Prewritten computer software" includes:

4558 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
4559 software is not designed and developed:

4560 (A) by the author or other creator of the computer software; and

4561 (B) to the specifications of a specific purchaser;

4562 (ii) computer software designed and developed by the author or other creator of the
4563 computer software to the specifications of a specific purchaser if the computer software is sold
4564 to a person other than the purchaser; or

4565 (iii) except as provided in Subsection (98)(c), prewritten computer software or a
4566 prewritten portion of prewritten computer software:

4567 (A) that is modified or enhanced to any degree; and

4568 (B) if the modification or enhancement described in Subsection (98)(b)(iii)(A) is
4569 designed and developed to the specifications of a specific purchaser.

4570 (c) "Prewritten computer software" does not include a modification or enhancement
4571 described in Subsection (98)(b)(iii) if the charges for the modification or enhancement are:

4572 (i) reasonable; and

4573 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the
4574 invoice or other statement of price provided to the purchaser at the time of sale or later, as
4575 demonstrated by:

4576 (A) the books and records the seller keeps at the time of the transaction in the regular
4577 course of business, including books and records the seller keeps at the time of the transaction in
4578 the regular course of business for nontax purposes;

4579 (B) a preponderance of the facts and circumstances at the time of the transaction; and

4580 (C) the understanding of all of the parties to the transaction.

4581 (99) (a) "Private communications service" means a telecommunications service:

4582 (i) that entitles a customer to exclusive or priority use of one or more communications
4583 channels between or among termination points; and

4584 (ii) regardless of the manner in which the one or more communications channels are

4585 connected.

4586 (b) "Private communications service" includes the following provided in connection
4587 with the use of one or more communications channels:

4588 (i) an extension line;

4589 (ii) a station;

4590 (iii) switching capacity; or

4591 (iv) another associated service that is provided in connection with the use of one or
4592 more communications channels as defined in Section 59-12-215.

4593 (100) (a) Except as provided in Subsection (100)(b), "product transferred
4594 electronically" means a product transferred electronically that would be subject to a tax under
4595 this chapter if that product was transferred in a manner other than electronically.

4596 (b) "Product transferred electronically" does not include:

4597 (i) an ancillary service;

4598 (ii) computer software; or

4599 (iii) a telecommunications service.

4600 (101) (a) "Prosthetic device" means a device that is worn on or in the body to:

4601 (i) artificially replace a missing portion of the body;

4602 (ii) prevent or correct a physical deformity or physical malfunction; or

4603 (iii) support a weak or deformed portion of the body.

4604 (b) "Prosthetic device" includes:

4605 (i) parts used in the repairs or renovation of a prosthetic device;

4606 (ii) replacement parts for a prosthetic device;

4607 (iii) a dental prosthesis; or

4608 (iv) a hearing aid.

4609 (c) "Prosthetic device" does not include:

4610 (i) corrective eyeglasses; or

4611 (ii) contact lenses.

4612 (102) (a) "Protective equipment" means an item:

4613 (i) for human wear; and

4614 (ii) that is:

4615 (A) designed as protection:

4616 (I) to the wearer against injury or disease; or
4617 (II) against damage or injury of other persons or property; and
4618 (B) not suitable for general use.
4619 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4620 commission shall make rules:
4621 (i) listing the items that constitute "protective equipment"; and
4622 (ii) that are consistent with the list of items that constitute "protective equipment"
4623 under the agreement.
4624 (103) (a) For purposes of Subsection [59-12-104](#)(41), "publication" means any written
4625 or printed matter, other than a photocopy:
4626 (i) regardless of:
4627 (A) characteristics;
4628 (B) copyright;
4629 (C) form;
4630 (D) format;
4631 (E) method of reproduction; or
4632 (F) source; and
4633 (ii) made available in printed or electronic format.
4634 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4635 commission may by rule define the term "photocopy."
4636 (104) (a) "Purchase price" and "sales price" mean the total amount of consideration:
4637 (i) valued in money; and
4638 (ii) for which tangible personal property, a product transferred electronically, or
4639 services are:
4640 (A) sold;
4641 (B) leased; or
4642 (C) rented.
4643 (b) "Purchase price" and "sales price" include:
4644 (i) the seller's cost of the tangible personal property, a product transferred
4645 electronically, or services sold;
4646 (ii) expenses of the seller, including:

- 4647 (A) the cost of materials used;
- 4648 (B) a labor cost;
- 4649 (C) a service cost;
- 4650 (D) interest;
- 4651 (E) a loss;
- 4652 (F) the cost of transportation to the seller; or
- 4653 (G) a tax imposed on the seller;
- 4654 (iii) a charge by the seller for any service necessary to complete the sale; or
- 4655 (iv) consideration a seller receives from a person other than the purchaser if:
- 4656 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 4657 and
- 4658 (II) the consideration described in Subsection (104)(b)(iv)(A)(I) is directly related to a
- 4659 price reduction or discount on the sale;
- 4660 (B) the seller has an obligation to pass the price reduction or discount through to the
- 4661 purchaser;
- 4662 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 4663 the seller at the time of the sale to the purchaser; and
- 4664 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 4665 seller to claim a price reduction or discount; and
- 4666 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 4667 coupon, or other documentation with the understanding that the person other than the seller
- 4668 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 4669 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 4670 organization allowed a price reduction or discount, except that a preferred customer card that is
- 4671 available to any patron of a seller does not constitute membership in a group or organization
- 4672 allowed a price reduction or discount; or
- 4673 (III) the price reduction or discount is identified as a third party price reduction or
- 4674 discount on the:
- 4675 (Aa) invoice the purchaser receives; or
- 4676 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 4677 (c) "Purchase price" and "sales price" do not include:

- 4678 (i) a discount:
- 4679 (A) in a form including:
- 4680 (I) cash;
- 4681 (II) term; or
- 4682 (III) coupon;
- 4683 (B) that is allowed by a seller;
- 4684 (C) taken by a purchaser on a sale; and
- 4685 (D) that is not reimbursed by a third party; or
- 4686 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately
- 4687 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 4688 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 4689 transaction in the regular course of business, including books and records the seller keeps at the
- 4690 time of the transaction in the regular course of business for nontax purposes, by a
- 4691 preponderance of the facts and circumstances at the time of the transaction, and by the
- 4692 understanding of all of the parties to the transaction:
- 4693 (A) the following from credit extended on the sale of tangible personal property or
- 4694 services:
- 4695 (I) a carrying charge;
- 4696 (II) a financing charge; or
- 4697 (III) an interest charge;
- 4698 (B) a delivery charge;
- 4699 (C) an installation charge;
- 4700 (D) a manufacturer rebate on a motor vehicle; or
- 4701 (E) a tax or fee legally imposed directly on the consumer.
- 4702 (105) "Purchaser" means a person to whom:
- 4703 (a) a sale of tangible personal property is made;
- 4704 (b) a product is transferred electronically; or
- 4705 (c) a service is furnished.
- 4706 (106) "Qualifying data center" means a data center facility that:
- 4707 (a) houses a group of networked server computers in one physical location in order to
- 4708 disseminate, manage, and store data and information;

- 4709 (b) is located in the state;
- 4710 (c) is a new operation constructed on or after July 1, 2016;
- 4711 (d) consists of one or more buildings that total 150,000 or more square feet;
- 4712 (e) is owned or leased by:
 - 4713 (i) the operator of the data center facility; or
 - 4714 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
 - 4715 of the data center facility; and
- 4716 (f) is located on one or more parcels of land that are owned or leased by:
 - 4717 (i) the operator of the data center facility; or
 - 4718 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
 - 4719 of the data center facility.
- 4720 (107) "Regularly rented" means:
 - 4721 (a) rented to a guest for value three or more times during a calendar year; or
 - 4722 (b) advertised or held out to the public as a place that is regularly rented to guests for
 - 4723 value.
- 4724 (108) "Rental" means the same as that term is defined in Subsection (60).
- 4725 (109) (a) Except as provided in Subsection (109)(b), "repairs or renovations of tangible
- 4726 personal property" means:
 - 4727 (i) a repair or renovation of tangible personal property that is not permanently attached
 - 4728 to real property; or
 - 4729 (ii) attaching tangible personal property or a product transferred electronically to other
 - 4730 tangible personal property or detaching tangible personal property or a product transferred
 - 4731 electronically from other tangible personal property if:
 - 4732 (A) the other tangible personal property to which the tangible personal property or
 - 4733 product transferred electronically is attached or from which the tangible personal property or
 - 4734 product transferred electronically is detached is not permanently attached to real property; and
 - 4735 (B) the attachment of tangible personal property or a product transferred electronically
 - 4736 to other tangible personal property or detachment of tangible personal property or a product
 - 4737 transferred electronically from other tangible personal property is made in conjunction with a
 - 4738 repair or replacement of tangible personal property or a product transferred electronically.
 - 4739 (b) "Repairs or renovations of tangible personal property" does not include:

4740 (i) attaching prewritten computer software to other tangible personal property if the
4741 other tangible personal property to which the prewritten computer software is attached is not
4742 permanently attached to real property; or

4743 (ii) detaching prewritten computer software from other tangible personal property if the
4744 other tangible personal property from which the prewritten computer software is detached is
4745 not permanently attached to real property.

4746 (110) "Research and development" means the process of inquiry or experimentation
4747 aimed at the discovery of facts, devices, technologies, or applications and the process of
4748 preparing those devices, technologies, or applications for marketing.

4749 (111) (a) "Residential telecommunications services" means a telecommunications
4750 service or an ancillary service that is provided to an individual for personal use:

4751 (i) at a residential address; or

4752 (ii) at an institution, including a nursing home or a school, if the telecommunications
4753 service or ancillary service is provided to and paid for by the individual residing at the
4754 institution rather than the institution.

4755 (b) For purposes of Subsection (111)(a)(i), a residential address includes an:

4756 (i) apartment; or

4757 (ii) other individual dwelling unit.

4758 (112) "Residential use" means the use in or around a home, apartment building,
4759 sleeping quarters, and similar facilities or accommodations.

4760 (113) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
4761 than:

4762 (a) resale;

4763 (b) sublease; or

4764 (c) subrent.

4765 (114) (a) "Retailer" means any person, unless prohibited by the Constitution of the
4766 United States or federal law, that is engaged in a regularly organized business in tangible
4767 personal property or any other taxable transaction under Subsection [59-12-103\(1\)](#), and who is
4768 selling to the user or consumer and not for resale.

4769 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
4770 engaged in the business of selling to users or consumers within the state.

4771 (115) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
4772 otherwise, in any manner, of tangible personal property or any other taxable transaction under
4773 Subsection 59-12-103(1), for consideration.

4774 (b) "Sale" includes:

4775 (i) installment and credit sales;

4776 (ii) any closed transaction constituting a sale;

4777 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
4778 chapter;

4779 (iv) any transaction if the possession of property is transferred but the seller retains the
4780 title as security for the payment of the price; and

4781 (v) any transaction under which right to possession, operation, or use of any article of
4782 tangible personal property is granted under a lease or contract and the transfer of possession
4783 would be taxable if an outright sale were made.

4784 (116) "Sale at retail" means the same as that term is defined in Subsection (113).

4785 (117) "Sale-leaseback transaction" means a transaction by which title to tangible
4786 personal property or a product transferred electronically that is subject to a tax under this
4787 chapter is transferred:

4788 (a) by a purchaser-lessee;

4789 (b) to a lessor;

4790 (c) for consideration; and

4791 (d) if:

4792 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
4793 of the tangible personal property or product transferred electronically;

4794 (ii) the sale of the tangible personal property or product transferred electronically to the
4795 lessor is intended as a form of financing:

4796 (A) for the tangible personal property or product transferred electronically; and

4797 (B) to the purchaser-lessee; and

4798 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
4799 is required to:

4800 (A) capitalize the tangible personal property or product transferred electronically for
4801 financial reporting purposes; and

- 4802 (B) account for the lease payments as payments made under a financing arrangement.
- 4803 (118) "Sales price" means the same as that term is defined in Subsection (104).
- 4804 (119) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
- 4805 amounts charged by a school:
 - 4806 (i) sales that are directly related to the school's educational functions or activities
 - 4807 including:
 - 4808 (A) the sale of:
 - 4809 (I) textbooks;
 - 4810 (II) textbook fees;
 - 4811 (III) laboratory fees;
 - 4812 (IV) laboratory supplies; or
 - 4813 (V) safety equipment;
 - 4814 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
 - 4815 that:
 - 4816 (I) a student is specifically required to wear as a condition of participation in a
 - 4817 school-related event or school-related activity; and
 - 4818 (II) is not readily adaptable to general or continued usage to the extent that it takes the
 - 4819 place of ordinary clothing;
 - 4820 (C) sales of the following if the net or gross revenues generated by the sales are
 - 4821 deposited into a school district fund or school fund dedicated to school meals:
 - 4822 (I) food and food ingredients; or
 - 4823 (II) prepared food; or
 - 4824 (D) transportation charges for official school activities; or
 - 4825 (ii) amounts paid to or amounts charged by a school for admission to a school-related
 - 4826 event or school-related activity.
 - 4827 (b) "Sales relating to schools" does not include:
 - 4828 (i) bookstore sales of items that are not educational materials or supplies;
 - 4829 (ii) except as provided in Subsection (119)(a)(i)(B):
 - 4830 (A) clothing;
 - 4831 (B) clothing accessories or equipment;
 - 4832 (C) protective equipment; or

- 4833 (D) sports or recreational equipment; or
- 4834 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 4835 event or school-related activity if the amounts paid or charged are passed through to a person:
- 4836 (A) other than a:
- 4837 (I) school;
- 4838 (II) nonprofit organization authorized by a school board or a governing body of a
- 4839 private school to organize and direct a competitive secondary school activity; or
- 4840 (III) nonprofit association authorized by a school board or a governing body of a
- 4841 private school to organize and direct a competitive secondary school activity; and
- 4842 (B) that is required to collect sales and use taxes under this chapter.
- 4843 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4844 commission may make rules defining the term "passed through."
- 4845 (120) For purposes of this section and Section 59-12-104, "school" means:
- 4846 (a) an elementary school or a secondary school that:
- 4847 (i) is a:
- 4848 (A) public school; or
- 4849 (B) private school; and
- 4850 (ii) provides instruction for one or more grades kindergarten through 12; or
- 4851 (b) a public school district.
- 4852 (121) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 4853 (i) tangible personal property;
- 4854 (ii) a product transferred electronically; or
- 4855 (iii) a service.
- 4856 (b) "Seller" includes a marketplace facilitator.
- 4857 (122) (a) "Semiconductor fabricating, processing, research, or development materials"
- 4858 means tangible personal property or a product transferred electronically if the tangible personal
- 4859 property or product transferred electronically is:
- 4860 (i) used primarily in the process of:
- 4861 (A) (I) manufacturing a semiconductor;
- 4862 (II) fabricating a semiconductor; or
- 4863 (III) research or development of a:

- 4864 (Aa) semiconductor; or
- 4865 (Bb) semiconductor manufacturing process; or
- 4866 (B) maintaining an environment suitable for a semiconductor; or
- 4867 (ii) consumed primarily in the process of:
- 4868 (A) (I) manufacturing a semiconductor;
- 4869 (II) fabricating a semiconductor; or
- 4870 (III) research or development of a:
- 4871 (Aa) semiconductor; or
- 4872 (Bb) semiconductor manufacturing process; or
- 4873 (B) maintaining an environment suitable for a semiconductor.
- 4874 (b) "Semiconductor fabricating, processing, research, or development materials"
- 4875 includes:
- 4876 (i) parts used in the repairs or renovations of tangible personal property or a product
- 4877 transferred electronically described in Subsection (122)(a); or
- 4878 (ii) a chemical, catalyst, or other material used to:
- 4879 (A) produce or induce in a semiconductor a:
- 4880 (I) chemical change; or
- 4881 (II) physical change;
- 4882 (B) remove impurities from a semiconductor; or
- 4883 (C) improve the marketable condition of a semiconductor.
- 4884 (123) "Senior citizen center" means a facility having the primary purpose of providing
- 4885 services to the aged as defined in Section [~~62A-3-101~~] [26B-6-101](#).
- 4886 (124) (a) Subject to Subsections (124)(b) and (c), "short-term lodging consumable"
- 4887 means tangible personal property that:
- 4888 (i) a business that provides accommodations and services described in Subsection
- 4889 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services
- 4890 to a purchaser;
- 4891 (ii) is intended to be consumed by the purchaser; and
- 4892 (iii) is:
- 4893 (A) included in the purchase price of the accommodations and services; and
- 4894 (B) not separately stated on an invoice, bill of sale, or other similar document provided

4895 to the purchaser.

4896 (b) "Short-term lodging consumable" includes:

4897 (i) a beverage;

4898 (ii) a brush or comb;

4899 (iii) a cosmetic;

4900 (iv) a hair care product;

4901 (v) lotion;

4902 (vi) a magazine;

4903 (vii) makeup;

4904 (viii) a meal;

4905 (ix) mouthwash;

4906 (x) nail polish remover;

4907 (xi) a newspaper;

4908 (xii) a notepad;

4909 (xiii) a pen;

4910 (xiv) a pencil;

4911 (xv) a razor;

4912 (xvi) saline solution;

4913 (xvii) a sewing kit;

4914 (xviii) shaving cream;

4915 (xix) a shoe shine kit;

4916 (xx) a shower cap;

4917 (xxi) a snack item;

4918 (xxii) soap;

4919 (xxiii) toilet paper;

4920 (xxiv) a toothbrush;

4921 (xxv) toothpaste; or

4922 (xxvi) an item similar to Subsections (124)(b)(i) through (xxv) as the commission may

4923 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

4924 Rulemaking Act.

4925 (c) "Short-term lodging consumable" does not include:

4926 (i) tangible personal property that is cleaned or washed to allow the tangible personal
4927 property to be reused; or

4928 (ii) a product transferred electronically.

4929 (125) "Simplified electronic return" means the electronic return:

4930 (a) described in Section 318(C) of the agreement; and

4931 (b) approved by the governing board of the agreement.

4932 (126) "Solar energy" means the sun used as the sole source of energy for producing
4933 electricity.

4934 (127) (a) "Sports or recreational equipment" means an item:

4935 (i) designed for human use; and

4936 (ii) that is:

4937 (A) worn in conjunction with:

4938 (I) an athletic activity; or

4939 (II) a recreational activity; and

4940 (B) not suitable for general use.

4941 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4942 commission shall make rules:

4943 (i) listing the items that constitute "sports or recreational equipment"; and

4944 (ii) that are consistent with the list of items that constitute "sports or recreational
4945 equipment" under the agreement.

4946 (128) "State" means the state of Utah, its departments, and agencies.

4947 (129) "Storage" means any keeping or retention of tangible personal property or any
4948 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except
4949 sale in the regular course of business.

4950 (130) (a) Except as provided in Subsection (130)(d) or (e), "tangible personal property"
4951 means personal property that:

4952 (i) may be:

4953 (A) seen;

4954 (B) weighed;

4955 (C) measured;

4956 (D) felt; or

- 4957 (E) touched; or
- 4958 (ii) is in any manner perceptible to the senses.
- 4959 (b) "Tangible personal property" includes:
- 4960 (i) electricity;
- 4961 (ii) water;
- 4962 (iii) gas;
- 4963 (iv) steam; or
- 4964 (v) prewritten computer software, regardless of the manner in which the prewritten
- 4965 computer software is transferred.
- 4966 (c) "Tangible personal property" includes the following regardless of whether the item
- 4967 is attached to real property:
- 4968 (i) a dishwasher;
- 4969 (ii) a dryer;
- 4970 (iii) a freezer;
- 4971 (iv) a microwave;
- 4972 (v) a refrigerator;
- 4973 (vi) a stove;
- 4974 (vii) a washer; or
- 4975 (viii) an item similar to Subsections (130)(c)(i) through (vii) as determined by the
- 4976 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 4977 Rulemaking Act.
- 4978 (d) "Tangible personal property" does not include a product that is transferred
- 4979 electronically.
- 4980 (e) "Tangible personal property" does not include the following if attached to real
- 4981 property, regardless of whether the attachment to real property is only through a line that
- 4982 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 4983 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 4984 Rulemaking Act:
- 4985 (i) a hot water heater;
- 4986 (ii) a water filtration system; or
- 4987 (iii) a water softener system.

4988 (131) (a) "Telecommunications enabling or facilitating equipment, machinery, or
4989 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
4990 primarily to enable or facilitate one or more of the following to function:

4991 (i) telecommunications switching or routing equipment, machinery, or software; or

4992 (ii) telecommunications transmission equipment, machinery, or software.

4993 (b) The following apply to Subsection (131)(a):

4994 (i) a pole;

4995 (ii) software;

4996 (iii) a supplementary power supply;

4997 (iv) temperature or environmental equipment or machinery;

4998 (v) test equipment;

4999 (vi) a tower; or

5000 (vii) equipment, machinery, or software that functions similarly to an item listed in
5001 Subsections (131)(b)(i) through (vi) as determined by the commission by rule made in
5002 accordance with Subsection (131)(c).

5003 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5004 commission may by rule define what constitutes equipment, machinery, or software that
5005 functions similarly to an item listed in Subsections (131)(b)(i) through (vi).

5006 (132) "Telecommunications equipment, machinery, or software required for 911
5007 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
5008 Sec. 20.18.

5009 (133) "Telecommunications maintenance or repair equipment, machinery, or software"
5010 means equipment, machinery, or software purchased or leased primarily to maintain or repair
5011 one or more of the following, regardless of whether the equipment, machinery, or software is
5012 purchased or leased as a spare part or as an upgrade or modification to one or more of the
5013 following:

5014 (a) telecommunications enabling or facilitating equipment, machinery, or software;

5015 (b) telecommunications switching or routing equipment, machinery, or software; or

5016 (c) telecommunications transmission equipment, machinery, or software.

5017 (134) (a) "Telecommunications service" means the electronic conveyance, routing, or
5018 transmission of audio, data, video, voice, or any other information or signal to a point, or

5019 among or between points.

5020 (b) "Telecommunications service" includes:

5021 (i) an electronic conveyance, routing, or transmission with respect to which a computer
5022 processing application is used to act:

5023 (A) on the code, form, or protocol of the content;

5024 (B) for the purpose of electronic conveyance, routing, or transmission; and

5025 (C) regardless of whether the service:

5026 (I) is referred to as voice over Internet protocol service; or

5027 (II) is classified by the Federal Communications Commission as enhanced or value
5028 added;

5029 (ii) an 800 service;

5030 (iii) a 900 service;

5031 (iv) a fixed wireless service;

5032 (v) a mobile wireless service;

5033 (vi) a postpaid calling service;

5034 (vii) a prepaid calling service;

5035 (viii) a prepaid wireless calling service; or

5036 (ix) a private communications service.

5037 (c) "Telecommunications service" does not include:

5038 (i) advertising, including directory advertising;

5039 (ii) an ancillary service;

5040 (iii) a billing and collection service provided to a third party;

5041 (iv) a data processing and information service if:

5042 (A) the data processing and information service allows data to be:

5043 (I) (Aa) acquired;

5044 (Bb) generated;

5045 (Cc) processed;

5046 (Dd) retrieved; or

5047 (Ee) stored; and

5048 (II) delivered by an electronic transmission to a purchaser; and

5049 (B) the purchaser's primary purpose for the underlying transaction is the processed data

5050 or information;

5051 (v) installation or maintenance of the following on a customer's premises:

5052 (A) equipment; or

5053 (B) wiring;

5054 (vi) Internet access service;

5055 (vii) a paging service;

5056 (viii) a product transferred electronically, including:

5057 (A) music;

5058 (B) reading material;

5059 (C) a ring tone;

5060 (D) software; or

5061 (E) video;

5062 (ix) a radio and television audio and video programming service:

5063 (A) regardless of the medium; and

5064 (B) including:

5065 (I) furnishing conveyance, routing, or transmission of a television audio and video

5066 programming service by a programming service provider;

5067 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or

5068 (III) audio and video programming services delivered by a commercial mobile radio

5069 service provider as defined in 47 C.F.R. Sec. 20.3;

5070 (x) a value-added nonvoice data service; or

5071 (xi) tangible personal property.

5072 (135) (a) "Telecommunications service provider" means a person that:

5073 (i) owns, controls, operates, or manages a telecommunications service; and

5074 (ii) engages in an activity described in Subsection (135)(a)(i) for the shared use with or

5075 resale to any person of the telecommunications service.

5076 (b) A person described in Subsection (135)(a) is a telecommunications service provider

5077 whether or not the Public Service Commission of Utah regulates:

5078 (i) that person; or

5079 (ii) the telecommunications service that the person owns, controls, operates, or

5080 manages.

5081 (136) (a) "Telecommunications switching or routing equipment, machinery, or
5082 software" means an item listed in Subsection (136)(b) if that item is purchased or leased
5083 primarily for switching or routing:

- 5084 (i) an ancillary service;
- 5085 (ii) data communications;
- 5086 (iii) voice communications; or
- 5087 (iv) telecommunications service.

5088 (b) The following apply to Subsection (136)(a):

- 5089 (i) a bridge;
- 5090 (ii) a computer;
- 5091 (iii) a cross connect;
- 5092 (iv) a modem;
- 5093 (v) a multiplexer;
- 5094 (vi) plug in circuitry;
- 5095 (vii) a router;
- 5096 (viii) software;
- 5097 (ix) a switch; or
- 5098 (x) equipment, machinery, or software that functions similarly to an item listed in
5099 Subsections (136)(b)(i) through (ix) as determined by the commission by rule made in
5100 accordance with Subsection (136)(c).

5101 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5102 commission may by rule define what constitutes equipment, machinery, or software that
5103 functions similarly to an item listed in Subsections (136)(b)(i) through (ix).

5104 (137) (a) "Telecommunications transmission equipment, machinery, or software"
5105 means an item listed in Subsection (137)(b) if that item is purchased or leased primarily for
5106 sending, receiving, or transporting:

- 5107 (i) an ancillary service;
- 5108 (ii) data communications;
- 5109 (iii) voice communications; or
- 5110 (iv) telecommunications service.

5111 (b) The following apply to Subsection (137)(a):

- 5112 (i) an amplifier;
- 5113 (ii) a cable;
- 5114 (iii) a closure;
- 5115 (iv) a conduit;
- 5116 (v) a controller;
- 5117 (vi) a duplexer;
- 5118 (vii) a filter;
- 5119 (viii) an input device;
- 5120 (ix) an input/output device;
- 5121 (x) an insulator;
- 5122 (xi) microwave machinery or equipment;
- 5123 (xii) an oscillator;
- 5124 (xiii) an output device;
- 5125 (xiv) a pedestal;
- 5126 (xv) a power converter;
- 5127 (xvi) a power supply;
- 5128 (xvii) a radio channel;
- 5129 (xviii) a radio receiver;
- 5130 (xix) a radio transmitter;
- 5131 (xx) a repeater;
- 5132 (xxi) software;
- 5133 (xxii) a terminal;
- 5134 (xxiii) a timing unit;
- 5135 (xxiv) a transformer;
- 5136 (xxv) a wire; or
- 5137 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 5138 Subsections (137)(b)(i) through (xxv) as determined by the commission by rule made in
- 5139 accordance with Subsection (137)(c).

5140 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5141 commission may by rule define what constitutes equipment, machinery, or software that
5142 functions similarly to an item listed in Subsections (137)(b)(i) through (xxv).

5143 (138) (a) "Textbook for a higher education course" means a textbook or other printed
5144 material that is required for a course:

5145 (i) offered by an institution of higher education; and

5146 (ii) that the purchaser of the textbook or other printed material attends or will attend.

5147 (b) "Textbook for a higher education course" includes a textbook in electronic format.

5148 (139) "Tobacco" means:

5149 (a) a cigarette;

5150 (b) a cigar;

5151 (c) chewing tobacco;

5152 (d) pipe tobacco; or

5153 (e) any other item that contains tobacco.

5154 (140) "Unassisted amusement device" means an amusement device, skill device, or
5155 ride device that is started and stopped by the purchaser or renter of the right to use or operate
5156 the amusement device, skill device, or ride device.

5157 (141) (a) "Use" means the exercise of any right or power over tangible personal
5158 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),
5159 incident to the ownership or the leasing of that tangible personal property, product transferred
5160 electronically, or service.

5161 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
5162 property, a product transferred electronically, or a service in the regular course of business and
5163 held for resale.

5164 (142) "Value-added nonvoice data service" means a service:

5165 (a) that otherwise meets the definition of a telecommunications service except that a
5166 computer processing application is used to act primarily for a purpose other than conveyance,
5167 routing, or transmission; and

5168 (b) with respect to which a computer processing application is used to act on data or
5169 information:

5170 (i) code;

5171 (ii) content;

5172 (iii) form; or

5173 (iv) protocol.

5174 (143) (a) Subject to Subsection (143)(b), "vehicle" means the following that are
5175 required to be titled, registered, or titled and registered:

- 5176 (i) an aircraft as defined in Section 72-10-102;
- 5177 (ii) a vehicle as defined in Section 41-1a-102;
- 5178 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 5179 (iv) a vessel as defined in Section 41-1a-102.

5180 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 5181 (i) a vehicle described in Subsection (143)(a); or
- 5182 (ii) (A) a locomotive;
- 5183 (B) a freight car;
- 5184 (C) railroad work equipment; or
- 5185 (D) other railroad rolling stock.

5186 (144) "Vehicle dealer" means a person engaged in the business of buying, selling, or
5187 exchanging a vehicle as defined in Subsection (143).

5188 (145) (a) "Vertical service" means an ancillary service that:

- 5189 (i) is offered in connection with one or more telecommunications services; and
- 5190 (ii) offers an advanced calling feature that allows a customer to:
 - 5191 (A) identify a caller; and
 - 5192 (B) manage multiple calls and call connections.

5193 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
5194 conference bridging service.

5195 (146) (a) "Voice mail service" means an ancillary service that enables a customer to
5196 receive, send, or store a recorded message.

5197 (b) "Voice mail service" does not include a vertical service that a customer is required
5198 to have in order to utilize a voice mail service.

5199 (147) (a) Except as provided in Subsection (147)(b), "waste energy facility" means a
5200 facility that generates electricity:

- 5201 (i) using as the primary source of energy waste materials that would be placed in a
5202 landfill or refuse pit if it were not used to generate electricity, including:
 - 5203 (A) tires;
 - 5204 (B) waste coal;

- 5205 (C) oil shale; or
- 5206 (D) municipal solid waste; and
- 5207 (ii) in amounts greater than actually required for the operation of the facility.
- 5208 (b) "Waste energy facility" does not include a facility that incinerates:
- 5209 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 5210 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 5211 (148) "Watercraft" means a vessel as defined in Section 73-18-2.
- 5212 (149) "Wind energy" means wind used as the sole source of energy to produce
- 5213 electricity.
- 5214 (150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
- 5215 location by the United States Postal Service.
- 5216 Section 60. Section **59-12-103** is amended to read:
- 5217 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
- 5218 **tax revenues.**
- 5219 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
- 5220 sales price for amounts paid or charged for the following transactions:
- 5221 (a) retail sales of tangible personal property made within the state;
- 5222 (b) amounts paid for:
- 5223 (i) telecommunications service, other than mobile telecommunications service, that
- 5224 originates and terminates within the boundaries of this state;
- 5225 (ii) mobile telecommunications service that originates and terminates within the
- 5226 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 5227 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 5228 (iii) an ancillary service associated with a:
- 5229 (A) telecommunications service described in Subsection (1)(b)(i); or
- 5230 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 5231 (c) sales of the following for commercial use:
- 5232 (i) gas;
- 5233 (ii) electricity;
- 5234 (iii) heat;
- 5235 (iv) coal;

- 5236 (v) fuel oil; or
- 5237 (vi) other fuels;
- 5238 (d) sales of the following for residential use:
 - 5239 (i) gas;
 - 5240 (ii) electricity;
 - 5241 (iii) heat;
 - 5242 (iv) coal;
 - 5243 (v) fuel oil; or
 - 5244 (vi) other fuels;
- 5245 (e) sales of prepared food;
- 5246 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 5247 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 5248 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 5249 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 5250 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 5251 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 5252 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 5253 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 5254 exhibition, cultural, or athletic activity;
- 5255 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 5256 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
 - 5257 (i) the tangible personal property; and
 - 5258 (ii) parts used in the repairs or renovations of the tangible personal property described
 - 5259 in Subsection (1)(g)(i), regardless of whether:
 - 5260 (A) any parts are actually used in the repairs or renovations of that tangible personal
 - 5261 property; or
 - 5262 (B) the particular parts used in the repairs or renovations of that tangible personal
 - 5263 property are exempt from a tax under this chapter;
 - 5264 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
 - 5265 assisted cleaning or washing of tangible personal property;
 - 5266 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court

5267 accommodations and services that are regularly rented for less than 30 consecutive days;

5268 (j) amounts paid or charged for laundry or dry cleaning services;

5269 (k) amounts paid or charged for leases or rentals of tangible personal property if within

5270 this state the tangible personal property is:

5271 (i) stored;

5272 (ii) used; or

5273 (iii) otherwise consumed;

5274 (l) amounts paid or charged for tangible personal property if within this state the

5275 tangible personal property is:

5276 (i) stored;

5277 (ii) used; or

5278 (iii) consumed; and

5279 (m) amounts paid or charged for a sale:

5280 (i) (A) of a product transferred electronically; or

5281 (B) of a repair or renovation of a product transferred electronically; and

5282 (ii) regardless of whether the sale provides:

5283 (A) a right of permanent use of the product; or

5284 (B) a right to use the product that is less than a permanent use, including a right:

5285 (I) for a definite or specified length of time; and

5286 (II) that terminates upon the occurrence of a condition.

5287 (2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax

5288 are imposed on a transaction described in Subsection (1) equal to the sum of:

5289 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

5290 (A) 4.70% plus the rate specified in Subsection (12)(a); and

5291 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

5292 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)

5293 through [59-12-215](#) is in a county in which the state imposes the tax under Part 18, Additional

5294 State Sales and Use Tax Act; and

5295 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

5296 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)

5297 through [59-12-215](#) is in a city, town, or the unincorporated area of a county in which the state

5298 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

5299 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
5300 transaction under this chapter other than this part.

5301 (b) Except as provided in Subsection (2)(e) or (f) and subject to Subsection (2)(k), a
5302 state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to
5303 the sum of:

5304 (i) a state tax imposed on the transaction at a tax rate of 2%; and

5305 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
5306 transaction under this chapter other than this part.

5307 (c) Except as provided in Subsection (2)(e) or (f), a state tax and a local tax are
5308 imposed on amounts paid or charged for food and food ingredients equal to the sum of:

5309 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
5310 a tax rate of 1.75%; and

5311 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
5312 amounts paid or charged for food and food ingredients under this chapter other than this part.

5313 (d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts
5314 paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at
5315 a rate of 4.85%.

5316 (e) (i) For a bundled transaction that is attributable to food and food ingredients and
5317 tangible personal property other than food and food ingredients, a state tax and a local tax is
5318 imposed on the entire bundled transaction equal to the sum of:

5319 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

5320 (I) the tax rate described in Subsection (2)(a)(i)(A); and

5321 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
5322 Sales and Use Tax Act, if the location of the transaction as determined under Sections
5323 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
5324 Additional State Sales and Use Tax Act; and

5325 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
5326 Sales and Use Tax Act, if the location of the transaction as determined under Sections
5327 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
5328 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

5329 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
5330 described in Subsection (2)(a)(ii).

5331 (ii) If an optional computer software maintenance contract is a bundled transaction that
5332 consists of taxable and nontaxable products that are not separately itemized on an invoice or
5333 similar billing document, the purchase of the optional computer software maintenance contract
5334 is 40% taxable under this chapter and 60% nontaxable under this chapter.

5335 (iii) Subject to Subsection (2)(e)(iv), for a bundled transaction other than a bundled
5336 transaction described in Subsection (2)(e)(i) or (ii):

5337 (A) if the sales price of the bundled transaction is attributable to tangible personal
5338 property, a product, or a service that is subject to taxation under this chapter and tangible
5339 personal property, a product, or service that is not subject to taxation under this chapter, the
5340 entire bundled transaction is subject to taxation under this chapter unless:

5341 (I) the seller is able to identify by reasonable and verifiable standards the tangible
5342 personal property, product, or service that is not subject to taxation under this chapter from the
5343 books and records the seller keeps in the seller's regular course of business; or

5344 (II) state or federal law provides otherwise; or

5345 (B) if the sales price of a bundled transaction is attributable to two or more items of
5346 tangible personal property, products, or services that are subject to taxation under this chapter
5347 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
5348 higher tax rate unless:

5349 (I) the seller is able to identify by reasonable and verifiable standards the tangible
5350 personal property, product, or service that is subject to taxation under this chapter at the lower
5351 tax rate from the books and records the seller keeps in the seller's regular course of business; or

5352 (II) state or federal law provides otherwise.

5353 (iv) For purposes of Subsection (2)(e)(iii), books and records that a seller keeps in the
5354 seller's regular course of business includes books and records the seller keeps in the regular
5355 course of business for nontax purposes.

5356 (f) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(f)(ii)
5357 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
5358 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
5359 of tangible personal property, other property, a product, or a service that is not subject to

5360 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
5361 the seller, at the time of the transaction:

5362 (A) separately states the portion of the transaction that is not subject to taxation under
5363 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

5364 (B) is able to identify by reasonable and verifiable standards, from the books and
5365 records the seller keeps in the seller's regular course of business, the portion of the transaction
5366 that is not subject to taxation under this chapter.

5367 (ii) A purchaser and a seller may correct the taxability of a transaction if:

5368 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
5369 the transaction that is not subject to taxation under this chapter was not separately stated on an
5370 invoice, bill of sale, or similar document provided to the purchaser because of an error or
5371 ignorance of the law; and

5372 (B) the seller is able to identify by reasonable and verifiable standards, from the books
5373 and records the seller keeps in the seller's regular course of business, the portion of the
5374 transaction that is not subject to taxation under this chapter.

5375 (iii) For purposes of Subsections (2)(f)(i) and (ii), books and records that a seller keeps
5376 in the seller's regular course of business includes books and records the seller keeps in the
5377 regular course of business for nontax purposes.

5378 (g) (i) If the sales price of a transaction is attributable to two or more items of tangible
5379 personal property, products, or services that are subject to taxation under this chapter at
5380 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
5381 unless the seller, at the time of the transaction:

5382 (A) separately states the items subject to taxation under this chapter at each of the
5383 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

5384 (B) is able to identify by reasonable and verifiable standards the tangible personal
5385 property, product, or service that is subject to taxation under this chapter at the lower tax rate
5386 from the books and records the seller keeps in the seller's regular course of business.

5387 (ii) For purposes of Subsection (2)(g)(i), books and records that a seller keeps in the
5388 seller's regular course of business includes books and records the seller keeps in the regular
5389 course of business for nontax purposes.

5390 (h) Subject to Subsections (2)(i) and (j), a tax rate repeal or tax rate change for a tax

5391 rate imposed under the following shall take effect on the first day of a calendar quarter:

5392 (i) Subsection (2)(a)(i)(A);

5393 (ii) Subsection (2)(b)(i);

5394 (iii) Subsection (2)(c)(i); or

5395 (iv) Subsection (2)(e)(i)(A)(I).

5396 (i) (i) A tax rate increase takes effect on the first day of the first billing period that

5397 begins on or after the effective date of the tax rate increase if the billing period for the

5398 transaction begins before the effective date of a tax rate increase imposed under:

5399 (A) Subsection (2)(a)(i)(A);

5400 (B) Subsection (2)(b)(i);

5401 (C) Subsection (2)(c)(i); or

5402 (D) Subsection (2)(e)(i)(A)(I).

5403 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing

5404 statement for the billing period is rendered on or after the effective date of the repeal of the tax

5405 or the tax rate decrease imposed under:

5406 (A) Subsection (2)(a)(i)(A);

5407 (B) Subsection (2)(b)(i);

5408 (C) Subsection (2)(c)(i); or

5409 (D) Subsection (2)(e)(i)(A)(I).

5410 (j) (i) For a tax rate described in Subsection (2)(j)(ii), if a tax due on a catalogue sale is

5411 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or

5412 change in a tax rate takes effect:

5413 (A) on the first day of a calendar quarter; and

5414 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

5415 (ii) Subsection (2)(j)(i) applies to the tax rates described in the following:

5416 (A) Subsection (2)(a)(i)(A);

5417 (B) Subsection (2)(b)(i);

5418 (C) Subsection (2)(c)(i); or

5419 (D) Subsection (2)(e)(i)(A)(I).

5420 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

5421 the commission may by rule define the term "catalogue sale."

5422 (k) (i) For a location described in Subsection (2)(k)(ii), the commission shall determine
5423 the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the
5424 predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

5425 (ii) Subsection (2)(k)(i) applies to a location where gas, electricity, heat, coal, fuel oil,
5426 or other fuel is furnished through a single meter for two or more of the following uses:

5427 (A) a commercial use;

5428 (B) an industrial use; or

5429 (C) a residential use.

5430 (3) (a) The following state taxes shall be deposited into the General Fund:

5431 (i) the tax imposed by Subsection (2)(a)(i)(A);

5432 (ii) the tax imposed by Subsection (2)(b)(i);

5433 (iii) the tax imposed by Subsection (2)(c)(i); and

5434 (iv) the tax imposed by Subsection (2)(e)(i)(A)(I).

5435 (b) The following local taxes shall be distributed to a county, city, or town as provided
5436 in this chapter:

5437 (i) the tax imposed by Subsection (2)(a)(ii);

5438 (ii) the tax imposed by Subsection (2)(b)(ii);

5439 (iii) the tax imposed by Subsection (2)(c)(ii); and

5440 (iv) the tax imposed by Subsection (2)(e)(i)(B).

5441 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General
5442 Fund.

5443 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
5444 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
5445 through (g):

5446 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

5447 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

5448 (B) for the fiscal year; or

5449 (ii) \$17,500,000.

5450 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
5451 described in Subsection (4)(a) shall be transferred each year as designated sales and use tax
5452 revenue to the Department of Natural Resources to:

5453 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
5454 protect sensitive plant and animal species; or

5455 (B) award grants, up to the amount authorized by the Legislature in an appropriations
5456 act, to political subdivisions of the state to implement the measures described in Subsections
5457 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

5458 (ii) Money transferred to the Department of Natural Resources under Subsection
5459 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
5460 person to list or attempt to have listed a species as threatened or endangered under the
5461 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

5462 (iii) At the end of each fiscal year:

5463 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the
5464 Water Resources Conservation and Development Fund created in Section 73-10-24;

5465 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the
5466 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

5467 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the
5468 Drinking Water Loan Program Subaccount created in Section 73-10c-5.

5469 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
5470 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
5471 created in Section 4-18-106.

5472 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
5473 in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to
5474 the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for
5475 the adjudication of water rights.

5476 (ii) At the end of each fiscal year:

5477 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the
5478 Water Resources Conservation and Development Fund created in Section 73-10-24;

5479 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the
5480 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

5481 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the
5482 Drinking Water Loan Program Subaccount created in Section 73-10c-5.

5483 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described

5484 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
5485 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

5486 (ii) In addition to the uses allowed of the Water Resources Conservation and
5487 Development Fund under Section 73-10-24, the Water Resources Conservation and
5488 Development Fund may also be used to:

5489 (A) conduct hydrologic and geotechnical investigations by the Division of Water
5490 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
5491 quantifying surface and ground water resources and describing the hydrologic systems of an
5492 area in sufficient detail so as to enable local and state resource managers to plan for and
5493 accommodate growth in water use without jeopardizing the resource;

5494 (B) fund state required dam safety improvements; and

5495 (C) protect the state's interest in interstate water compact allocations, including the
5496 hiring of technical and legal staff.

5497 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
5498 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
5499 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

5500 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
5501 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
5502 created in Section 73-10c-5 for use by the Division of Drinking Water to:

5503 (i) provide for the installation and repair of collection, treatment, storage, and
5504 distribution facilities for any public water system, as defined in Section 19-4-102;

5505 (ii) develop underground sources of water, including springs and wells; and

5506 (iii) develop surface water sources.

5507 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
5508 2006, the difference between the following amounts shall be expended as provided in this
5509 Subsection (5), if that difference is greater than \$1:

5510 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
5511 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

5512 (ii) \$17,500,000.

5513 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

5514 (A) transferred each fiscal year to the Department of Natural Resources as designated

5515 sales and use tax revenue; and

5516 (B) expended by the Department of Natural Resources for watershed rehabilitation or
5517 restoration.

5518 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use
5519 tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation
5520 and Development Fund created in Section 73-10-24.

5521 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
5522 remaining difference described in Subsection (5)(a) shall be:

5523 (A) transferred each fiscal year to the Division of Water Resources as designated sales
5524 and use tax revenue; and

5525 (B) expended by the Division of Water Resources for cloud-seeding projects
5526 authorized by Title 73, Chapter 15, Modification of Weather.

5527 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use
5528 tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation
5529 and Development Fund created in Section 73-10-24.

5530 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
5531 remaining difference described in Subsection (5)(a) shall be deposited into the Water
5532 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
5533 Division of Water Resources for:

5534 (i) preconstruction costs:

5535 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
5536 26, Bear River Development Act; and

5537 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
5538 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

5539 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
5540 Chapter 26, Bear River Development Act;

5541 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
5542 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

5543 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
5544 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

5545 (e) After making the transfers required by Subsections (5)(b) and (c), 15% of the

5546 remaining difference described in Subsection (5)(a) shall be deposited each year into the Water
5547 Rights Restricted Account created by Section 73-2-1.6.

5548 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
5549 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
5550 (1) for the fiscal year shall be deposited as follows:

5551 (a) for fiscal year 2020-21 only:

5552 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
5553 Transportation Investment Fund of 2005 created by Section 72-2-124; and

5554 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
5555 Water Infrastructure Restricted Account created by Section 73-10g-103; and

5556 (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
5557 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
5558 created by Section 73-10g-103.

5559 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
5560 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
5561 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
5562 created by Section 72-2-124:

5563 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
5564 the revenues collected from the following taxes, which represents a portion of the
5565 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
5566 on vehicles and vehicle-related products:

5567 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

5568 (B) the tax imposed by Subsection (2)(b)(i);

5569 (C) the tax imposed by Subsection (2)(c)(i); and

5570 (D) the tax imposed by Subsection (2)(e)(i)(A)(I); plus

5571 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
5572 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
5573 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
5574 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

5575 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
5576 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total

5577 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
5578 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
5579 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
5580 (7)(a) equal to the product of:

5581 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
5582 previous fiscal year; and

5583 (B) the total sales and use tax revenue generated by the taxes described in Subsections
5584 (7)(a)(i)(A) through (D) in the current fiscal year.

5585 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
5586 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
5587 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
5588 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
5589 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

5590 (iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in
5591 which 17% of the revenues collected from the sales and use taxes described in Subsections
5592 (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall
5593 annually deposit 17% of the revenues collected from the sales and use taxes described in
5594 Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

5595 (iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the
5596 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%
5597 the relevant revenue collected in the previous fiscal year.

5598 (B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined
5599 total amount of money deposited into the Cottonwood Canyons fund under Subsections
5600 (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

5601 (C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the
5602 Cottonwood Canyons Transportation Investment Fund created in Subsection [72-2-124\(10\)](#).

5603 (D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes
5604 listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in
5605 Subsections (7)(a)(i)(A) through (D).

5606 (E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually
5607 reduce the deposit under Subsection (7)(b)(iii) into the Transportation Investment Fund of 2005

5608 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the
5609 Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue,
5610 subject to the limit in Subsection (7)(b)(iv)(F).

5611 (F) The commission shall annually deposit the amount described in Subsection
5612 (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined
5613 amount for any single fiscal year of \$20,000,000.

5614 (G) If the amount of relevant revenue declines in a fiscal year compared to the previous
5615 fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood
5616 Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant
5617 revenue.

5618 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
5619 Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning
5620 on or after July 1, 2018, the commission shall annually deposit into the Transportation
5621 Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under
5622 Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following
5623 taxes:

- 5624 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
- 5625 (ii) the tax imposed by Subsection (2)(b)(i);
- 5626 (iii) the tax imposed by Subsection (2)(c)(i); and
- 5627 (iv) the tax imposed by Subsection (2)(e)(i)(A)(I).

5628 (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
5629 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by
5630 an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by
5631 the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale
5632 or use in this state that exceeds 29.4 cents per gallon.

5633 (c) The commission shall annually deposit the amount described in Subsection (8)(b)
5634 into the Transit Transportation Investment Fund created in Section 72-2-124.

5635 (d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the
5636 amount of relevant revenue collected in the current fiscal year that exceeds by more than 3%
5637 the relevant revenue collected in the previous fiscal year.

5638 (ii) As used in this Subsection (8)(d), "combined amount" means the combined total

5639 amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F)
5640 and (8)(d)(vi) in any single fiscal year.

5641 (iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the
5642 Cottonwood Canyons Transportation Investment Fund created in Subsection [72-2-124](#)(10).

5643 (iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes
5644 listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described
5645 in Subsections (8)(a)(i) through (iv).

5646 (v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually
5647 reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by
5648 an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood
5649 Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the
5650 limit in Subsection (8)(d)(vi).

5651 (vi) The commission shall annually deposit the amount described in Subsection
5652 (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount
5653 for any single fiscal year of \$20,000,000.

5654 (vii) If the amount of relevant revenue declines in a fiscal year compared to the
5655 previous fiscal year, the commission shall decrease the amount of the contribution to the
5656 Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in
5657 relevant revenue.

5658 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
5659 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
5660 created by Section [35A-8-1009](#) and expended as provided in Section [35A-8-1009](#).

5661 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b),
5662 and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of
5663 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
5664 [72-2-124](#) the amount of revenue described as follows:

5665 (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05%
5666 tax rate on the transactions described in Subsection (1); and

5667 (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
5668 tax rate on the transactions described in Subsection (1).

5669 (b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into

5670 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
5671 charged for food and food ingredients, except for tax revenue generated by a bundled
5672 transaction attributable to food and food ingredients and tangible personal property other than
5673 food and food ingredients described in Subsection (2)(e).

5674 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
5675 fiscal year during which the Division of Finance receives notice under Section [63N-2-510](#) that
5676 construction on a qualified hotel, as defined in Section [63N-2-502](#), has begun, the Division of
5677 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
5678 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
5679 created in Section [63N-2-512](#).

5680 (12) (a) The rate specified in this subsection is 0.15%.

5681 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year
5682 beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the
5683 rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax
5684 under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section
5685 ~~[26-36b-208]~~ [26B-1-315](#).

5686 (13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
5687 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a dedicated
5688 credit solely for use of the Search and Rescue Financial Assistance Program created in, and
5689 expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

5690 (14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of
5691 Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation
5692 Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

5693 (b) If the total revenue deposited into the Transportation Investment Fund of 2005
5694 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of
5695 Finance shall transfer the total revenue deposited into the Transportation Investment Fund of
5696 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

5697 (15) Notwithstanding Subsection (3)(a), and as described in Section [63N-3-610](#),
5698 beginning the first day of the calendar quarter one year after the sales and use tax boundary for
5699 a housing and transit reinvestment zone is established, the commission, at least annually, shall
5700 transfer an amount equal to 15% of the sales and use tax increment within an established sales

5701 and use tax boundary, as defined in Section [63N-3-602](#), into the Transit Transportation
5702 Investment Fund created in Section [72-2-124](#).

5703 (16) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year
5704 beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure
5705 Restricted Account, created in Section [51-9-902](#), a portion of the taxes listed under Subsection
5706 (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

5707 (a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

5708 (b) the tax imposed by Subsection (2)(b)(i);

5709 (c) the tax imposed by Subsection (2)(c)(i); and

5710 (d) the tax imposed by Subsection (2)(e)(i)(A)(I).

5711 Section 61. Section **59-12-104.10** is amended to read:

5712 **59-12-104.10. Exemption from sales tax for cannabis.**

5713 (1) As used in this section:

5714 (a) "Cannabis" means the same as that term is defined in Section [~~26-61a-102~~]

5715 [26B-4-201](#).

5716 (b) "Cannabis product" means the same as that term is defined in Section [~~26-61a-102~~]

5717 [26B-4-201](#).

5718 (c) "Medical cannabis device" means the same as that term is defined in Section

5719 [~~26-61a-102~~] [26B-4-201](#).

5720 (d) "Medical cannabis pharmacy" means the same as that term is defined in Section

5721 [~~26-61a-102~~] [26B-4-201](#).

5722 (e) "Medicinal dosage form" means the same as that term is defined in Section

5723 [~~26-61a-102~~] [26B-4-201](#).

5724 (2) In addition to the exemptions described in Section [59-12-104](#), the sale by a licensed
5725 medical cannabis pharmacy of the following is not subject to the taxes this chapter imposes:

5726 (a) cannabis in a medicinal dosage form; or

5727 (b) a cannabis product in a medicinal dosage form.

5728 (3) The sale of a medical cannabis device by a medical cannabis pharmacy is subject to
5729 the taxes this chapter imposes.

5730 Section 62. Section **59-12-801** is amended to read:

5731 **59-12-801. Definitions.**

5732 As used in this part:

5733 (1) "Emergency medical services" is as defined in Section [~~26-8a-102~~] [26B-4-101](#).

5734 (2) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.

5735 (3) "Freestanding urgent care center" means a facility that provides outpatient health
5736 care service:

5737 (a) on an as-needed basis, without an appointment;

5738 (b) to the public;

5739 (c) for the diagnosis and treatment of a medical condition if that medical condition
5740 does not require hospitalization or emergency intervention for a life threatening or potentially
5741 permanently disabling condition; and

5742 (d) including one or more of the following services:

5743 (i) a medical history physical examination;

5744 (ii) an assessment of health status; or

5745 (iii) treatment:

5746 (A) for a variety of medical conditions; and

5747 (B) that is commonly offered in a physician's office.

5748 (4) "Nursing care facility" is as defined in Section [~~26-21-2~~] [26B-2-201](#).

5749 (5) "Rural city hospital" means a hospital owned by a city that is located within a third,
5750 fourth, fifth, or sixth class county.

5751 (6) "Rural county health care facility" means a:

5752 (a) rural county hospital; or

5753 (b) rural county nursing care facility.

5754 (7) "Rural county hospital" means a hospital owned by a county that is:

5755 (a) a third, fourth, fifth, or sixth class county, as defined in Section [17-50-501](#); and

5756 (b) located outside of a standard metropolitan statistical area, as designated by the
5757 United States Bureau of the Census.

5758 (8) "Rural county nursing care facility" means a nursing care facility owned by:

5759 (a) a county that is:

5760 (i) a third, fourth, fifth, or sixth class county, as defined in Section [17-50-501](#); and

5761 (ii) located outside of a standard metropolitan statistical area, as designated by the
5762 United States Census Bureau; or

5763 (b) a special service district if the special service district is:
 5764 (i) created for the purpose of operating the nursing care facility; and
 5765 (ii) within a county that is:
 5766 (A) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and
 5767 (B) located outside of a standard metropolitan statistical area, as designated by the
 5768 United States Census Bureau.

5769 (9) "Rural emergency medical services" means emergency medical services that are
 5770 provided by a county that is:

5771 (a) a fifth or sixth class county, as defined in Section 17-50-501; and
 5772 (b) located outside of a standard metropolitan statistical area, as designated by the
 5773 United States Census Bureau.

5774 (10) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.

5775 Section 63. Section 59-14-807 is amended to read:

5776 **59-14-807. Electronic Cigarette Substance and Nicotine Product Tax Restricted**
 5777 **Account.**

5778 (1) There is created within the General Fund a restricted account known as the
 5779 "Electronic Cigarette Substance and Nicotine Product Tax Restricted Account."

5780 (2) The Electronic Cigarette Substance and Nicotine Product Tax Restricted Account
 5781 consists of:

5782 (a) revenues collected from the tax imposed by Section 59-14-804; and
 5783 (b) amounts appropriated by the Legislature.

5784 (3) For each fiscal year, beginning with fiscal year 2021, and subject to appropriation
 5785 by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette
 5786 Substance and Nicotine Product Tax Restricted Account:

5787 (a) \$2,000,000 which shall be allocated to the local health departments by the
 5788 Department of ~~[Health]~~ Health and Human Services using the formula created in accordance
 5789 with Section 26A-1-116;

5790 (b) \$2,000,000 to the Department of ~~[Health]~~ Health and Human Services for statewide
 5791 cessation programs and prevention education;

5792 (c) \$1,180,000 to the Department of Public Safety for law enforcement officers aimed
 5793 at disrupting organizations and networks that provide tobacco products, electronic cigarette

5794 products, nicotine products, and other illegal controlled substances to minors;

5795 (d) \$3,000,000 which shall be allocated to the local health departments by the
5796 Department of [~~Health~~] Health and Human Services using the formula created in accordance
5797 with Section [26A-1-116](#);

5798 (e) \$5,084,200 to the State Board of Education for school-based prevention programs;
5799 and

5800 (f) \$2,000,000 to the Department of Health for alcohol, tobacco, and other drug
5801 prevention, reduction, cessation, and control programs that promote unified messages and
5802 make use of media outlets, including radio, newspaper, billboards, and television.

5803 (4) (a) The local health departments shall use the money received in accordance with
5804 Subsection (3)(a) for enforcing:

5805 (i) the regulation provisions described in Section [~~26-57-103~~] [26B-7-505](#);

5806 (ii) the labeling requirement described in Section [~~26-57-104~~] [26B-7-505](#); and

5807 (iii) the penalty provisions described in Section [~~26-62-305~~] [26B-7-518](#).

5808 (b) The Department of [~~Health~~] Health and Human Services shall use the money
5809 received in accordance with Subsection (3)(b) for the Youth Electronic Cigarette, Marijuana,
5810 and Other Drug Prevention Program created in Section [~~26-7-10~~] [26B-1-428](#).

5811 (c) The local health departments shall use the money received in accordance with
5812 Subsection (3)(d) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug
5813 Prevention Grant Program created in Section [26A-1-129](#).

5814 (d) The State Board of Education shall use the money received in accordance with
5815 Subsection (3)(e) to distribute to local education agencies to pay for:

5816 (i) stipends for positive behaviors specialists as described in Subsection
5817 [53G-10-407\(4\)\(a\)\(i\)](#);

5818 (ii) the cost of administering the positive behaviors plan as described in Subsection
5819 [53G-10-407\(4\)\(a\)\(ii\)](#); and

5820 (iii) the cost of implementing an Underage Drinking and Substance Abuse Prevention
5821 Program in grade 4 or 5, as described in Subsection [53G-10-406\(3\)\(b\)](#).

5822 (5) (a) The fund shall earn interest.

5823 (b) All interest earned on fund money shall be deposited into the fund.

5824 (6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette

5825 Substance and Nicotine Product Tax Restricted Account after the distribution described in
5826 Subsection (3) may only be used for programs and activities related to the prevention and
5827 cessation of electronic cigarette, nicotine products, marijuana, and other drug use.

5828 Section 64. Section **61-1-13** is amended to read:

5829 **61-1-13. Definitions.**

5830 (1) As used in this chapter:

5831 (a) "Affiliate" means a person that, directly or indirectly, through one or more
5832 intermediaries, controls or is controlled by, or is under common control with a person
5833 specified.

5834 (b) (i) "Agent" means an individual other than a broker-dealer who represents a
5835 broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities.

5836 (ii) "Agent" does not include an individual who represents:

5837 (A) an issuer, who receives no commission or other remuneration, directly or
5838 indirectly, for effecting or attempting to effect purchases or sales of securities in this state, and
5839 who effects transactions:

5840 (I) in securities exempted by Subsection 61-1-14(1)(a), (b), (c), or (g);

5841 (II) exempted by Subsection 61-1-14(2);

5842 (III) in a covered security as described in Sections 18(b)(3) and 18(b)(4)(F) of the
5843 Securities Act of 1933; or

5844 (IV) with existing employees, partners, officers, or directors of the issuer; or

5845 (B) a broker-dealer in effecting transactions in this state limited to those transactions
5846 described in Section 15(h)(2) of the Securities Exchange Act of 1934.

5847 (iii) A partner, officer, or director of a broker-dealer or issuer, or a person occupying a
5848 similar status or performing similar functions, is an agent only if the partner, officer, director,
5849 or person otherwise comes within the definition of "agent."

5850 (iv) "Agent" does not include a person described in Subsection (3).

5851 (c) (i) "Broker-dealer" means a person engaged in the business of effecting transactions
5852 in securities for the account of others or for the person's own account.

5853 (ii) "Broker-dealer" does not include:

5854 (A) an agent;

5855 (B) an issuer;

- 5856 (C) a depository institution or trust company;
- 5857 (D) a person who has no place of business in this state if:
- 5858 (I) the person effects transactions in this state exclusively with or through:
- 5859 (Aa) the issuers of the securities involved in the transactions;
- 5860 (Bb) other broker-dealers;
- 5861 (Cc) a depository institution, whether acting for itself or as a trustee;
- 5862 (Dd) a trust company, whether acting for itself or as a trustee;
- 5863 (Ee) an insurance company, whether acting for itself or as a trustee;
- 5864 (Ff) an investment company, as defined in the Investment Company Act of 1940,
- 5865 whether acting for itself or as a trustee;
- 5866 (Gg) a pension or profit-sharing trust, whether acting for itself or as a trustee; or
- 5867 (Hh) another financial institution or institutional buyer, whether acting for itself or as a
- 5868 trustee; or
- 5869 (II) during any period of 12 consecutive months the person does not direct more than
- 5870 15 offers to sell or buy into this state in any manner to persons other than those specified in
- 5871 Subsection (1)(c)(ii)(D)(I), whether or not the offeror or an offeree is then present in this state;
- 5872 (E) a general partner who organizes and effects transactions in securities of three or
- 5873 fewer limited partnerships, of which the person is the general partner, in any period of 12
- 5874 consecutive months;
- 5875 (F) a person whose participation in transactions in securities is confined to those
- 5876 transactions made by or through a broker-dealer licensed in this state;
- 5877 (G) a person who is a principal broker or associate broker licensed in this state and
- 5878 who effects transactions in a bond or other evidence of indebtedness secured by a real or chattel
- 5879 mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire
- 5880 mortgage, deed of trust, or agreement, together with all the bonds or other evidences of
- 5881 indebtedness secured thereby, is offered and sold as a unit;
- 5882 (H) a person effecting transactions in commodity contracts or commodity options;
- 5883 (I) a person described in Subsection (3); or
- 5884 (J) other persons as the division, by rule or order, may designate, consistent with the
- 5885 public interest and protection of investors, as not within the intent of this Subsection (1)(c).
- 5886 (d) "Buy" or "purchase" means a contract for purchase of, contract to buy, or

5887 acquisition of a security or interest in a security for value.

5888 (e) "Commission" means the Securities Commission created in Section 61-1-18.5.

5889 (f) "Commodity" means, except as otherwise specified by the division by rule:

5890 (i) an agricultural, grain, or livestock product or byproduct, except real property or a
5891 timber, agricultural, or livestock product grown or raised on real property and offered or sold
5892 by the owner or lessee of the real property;

5893 (ii) a metal or mineral, including a precious metal, except a numismatic coin whose fair
5894 market value is at least 15% greater than the value of the metal it contains;

5895 (iii) a gem or gemstone, whether characterized as precious, semi-precious, or
5896 otherwise;

5897 (iv) a fuel, whether liquid, gaseous, or otherwise;

5898 (v) a foreign currency; and

5899 (vi) all other goods, articles, products, or items of any kind, except a work of art
5900 offered or sold by art dealers, at public auction or offered or sold through a private sale by the
5901 owner of the work.

5902 (g) (i) "Commodity contract" means an account, agreement, or contract for the
5903 purchase or sale, primarily for speculation or investment purposes and not for use or
5904 consumption by the offeree or purchaser, of one or more commodities, whether for immediate
5905 or subsequent delivery or whether delivery is intended by the parties, and whether characterized
5906 as a cash contract, deferred shipment or deferred delivery contract, forward contract, futures
5907 contract, installment or margin contract, leverage contract, or otherwise.

5908 (ii) A commodity contract offered or sold shall, in the absence of evidence to the
5909 contrary, be presumed to be offered or sold for speculation or investment purposes.

5910 (iii) (A) A commodity contract may not include a contract or agreement that requires,
5911 and under which the purchaser receives, within 28 calendar days from the payment in good
5912 funds any portion of the purchase price, physical delivery of the total amount of each
5913 commodity to be purchased under the contract or agreement.

5914 (B) A purchaser is not considered to have received physical delivery of the total
5915 amount of each commodity to be purchased under the contract or agreement when the
5916 commodity or commodities are held as collateral for a loan or are subject to a lien of any
5917 person when the loan or lien arises in connection with the purchase of each commodity or

5918 commodities.

5919 (h) (i) "Commodity option" means an account, agreement, or contract giving a party to
5920 the option the right but not the obligation to purchase or sell one or more commodities or one
5921 or more commodity contracts, or both whether characterized as an option, privilege, indemnity,
5922 bid, offer, put, call, advance guaranty, decline guaranty, or otherwise.

5923 (ii) "Commodity option" does not include an option traded on a national securities
5924 exchange registered:

5925 (A) with the Securities and Exchange Commission; or

5926 (B) on a board of trade designated as a contract market by the Commodity Futures
5927 Trading Commission.

5928 (i) "Depository institution" means the same as that term is defined in Section 7-1-103.

5929 (j) "Director" means the director of the division appointed in accordance with Section
5930 61-1-18.

5931 (k) "Division" means the Division of Securities established by Section 61-1-18.

5932 (l) "Executive director" means the executive director of the Department of Commerce.

5933 (m) "Federal covered adviser" means a person who:

5934 (i) is registered under Section 203 of the Investment Advisers Act of 1940; or

5935 (ii) is excluded from the definition of "investment adviser" under Section 202(a)(11) of
5936 the Investment Advisers Act of 1940.

5937 (n) "Federal covered security" means a security that is a covered security under Section
5938 18(b) of the Securities Act of 1933 or rules or regulations promulgated under Section 18(b) of
5939 the Securities Act of 1933.

5940 (o) "Fraud," "deceit," and "defraud" are not limited to their common-law meanings.

5941 (p) "Guaranteed" means guaranteed as to payment of principal or interest as to debt
5942 securities, or dividends as to equity securities.

5943 (q) (i) "Investment adviser" means a person who:

5944 (A) for compensation, engages in the business of advising others, either directly or
5945 through publications or writings, as to the value of securities or as to the advisability of
5946 investing in, purchasing, or selling securities; or

5947 (B) for compensation and as a part of a regular business, issues or promulgates
5948 analyses or reports concerning securities.

- 5949 (ii) "Investment adviser" includes a financial planner or other person who:
- 5950 (A) as an integral component of other financially related services, provides the
- 5951 investment advisory services described in Subsection (1)(q)(i) to others as part of a business;
- 5952 (B) holds the person out as providing the investment advisory services described in
- 5953 Subsection (1)(q)(i) to others; or
- 5954 (C) holds the person out as a financial adviser, financial consultant, or any other similar
- 5955 title as the division may specify in rule made in accordance with Title 63G, Chapter 3, Utah
- 5956 Administrative Rulemaking Act, in any way as to imply that the person is generally engaged in
- 5957 an investment advisory business, including a person who does not hold a securities license and
- 5958 uses a title described in this Subsection (1)(q)(ii)(C) in any advertising or marketing material.
- 5959 (iii) "Investment adviser" does not include:
- 5960 (A) an investment adviser representative;
- 5961 (B) a depository institution or trust company;
- 5962 (C) a lawyer, accountant, engineer, or teacher whose performance of these services is
- 5963 solely incidental to the practice of the profession;
- 5964 (D) a broker-dealer or its agent whose performance of these services is solely
- 5965 incidental to the conduct of its business as a broker-dealer and who receives no special
- 5966 compensation for the services;
- 5967 (E) a publisher of a bona fide newspaper, news column, news letter, news magazine, or
- 5968 business or financial publication or service, of general, regular, and paid circulation, whether
- 5969 communicated in hard copy form, or by electronic means, or otherwise, that does not consist of
- 5970 the rendering of advice on the basis of the specific investment situation of each client;
- 5971 (F) a person who is a federal covered adviser;
- 5972 (G) a person described in Subsection (3); or
- 5973 (H) such other persons not within the intent of this Subsection (1)(q) as the division
- 5974 may by rule or order designate.
- 5975 (r) (i) "Investment adviser representative" means a partner, officer, director of, or a
- 5976 person occupying a similar status or performing similar functions, or other individual, except
- 5977 clerical or ministerial personnel, who:
- 5978 (A) (I) is employed by or associated with an investment adviser who is licensed or
- 5979 required to be licensed under this chapter; or

5980 (II) has a place of business located in this state and is employed by or associated with a
5981 federal covered adviser; and

5982 (B) does any of the following:

5983 (I) makes a recommendation or otherwise renders advice regarding securities;

5984 (II) manages accounts or portfolios of clients;

5985 (III) determines which recommendation or advice regarding securities should be given;

5986 (IV) solicits, offers, or negotiates for the sale of or sells investment advisory services;

5987 or

5988 (V) supervises employees who perform any of the acts described in this Subsection

5989 (1)(r)(i)(B).

5990 (ii) "Investment adviser representative" does not include a person described in
5991 Subsection (3).

5992 (s) "Investment contract" includes:

5993 (i) an investment in a common enterprise with the expectation of profit to be derived
5994 through the essential managerial efforts of someone other than the investor; or

5995 (ii) an investment by which:

5996 (A) an offeree furnishes initial value to an offerer;

5997 (B) a portion of the initial value is subjected to the risks of the enterprise;

5998 (C) the furnishing of the initial value is induced by the offerer's promises or
5999 representations that give rise to a reasonable understanding that a valuable benefit of some kind
6000 over and above the initial value will accrue to the offeree as a result of the operation of the
6001 enterprise; and

6002 (D) the offeree does not receive the right to exercise practical and actual control over
6003 the managerial decisions of the enterprise.

6004 (t) "Isolated transaction" means not more than a total of two transactions that occur
6005 anywhere during six consecutive months.

6006 (u) (i) "Issuer" means a person who issues or proposes to issue a security or has
6007 outstanding a security that it has issued.

6008 (ii) With respect to a preorganization certificate or subscription, "issuer" means the one
6009 or more promoters of the person to be organized.

6010 (iii) "Issuer" means the one or more persons performing the acts and assuming duties

6011 of a depositor or manager under the provisions of the trust or other agreement or instrument
6012 under which the security is issued with respect to:

6013 (A) interests in trusts, including collateral trust certificates, voting trust certificates, and
6014 certificates of deposit for securities; or

6015 (B) shares in an investment company without a board of directors.

6016 (iv) With respect to an equipment trust certificate, a conditional sales contract, or
6017 similar securities serving the same purpose, "issuer" means the person by whom the equipment
6018 or property is to be used.

6019 (v) With respect to interests in partnerships, general or limited, "issuer" means the
6020 partnership itself and not the general partner or partners.

6021 (vi) With respect to certificates of interest or participation in oil, gas, or mining titles or
6022 leases or in payment out of production under the titles or leases, "issuer" means the owner of
6023 the title or lease or right of production, whether whole or fractional, who creates fractional
6024 interests therein for the purpose of sale.

6025 (v) (i) "Life settlement interest" means the entire interest or a fractional interest in any
6026 of the following that is the subject of a life settlement:

6027 (A) a policy; or

6028 (B) the death benefit under a policy.

6029 (ii) "Life settlement interest" does not include the initial purchase from the owner by a
6030 life settlement provider.

6031 (w) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

6032 (x) "Person" means:

6033 (i) an individual;

6034 (ii) a corporation;

6035 (iii) a partnership;

6036 (iv) a limited liability company;

6037 (v) an association;

6038 (vi) a joint-stock company;

6039 (vii) a joint venture;

6040 (viii) a trust where the interests of the beneficiaries are evidenced by a security;

6041 (ix) an unincorporated organization;

- 6042 (x) a government; or
- 6043 (xi) a political subdivision of a government.
- 6044 (y) "Precious metal" means the following, whether in coin, bullion, or other form:
- 6045 (i) silver;
- 6046 (ii) gold;
- 6047 (iii) platinum;
- 6048 (iv) palladium;
- 6049 (v) copper; and
- 6050 (vi) such other substances as the division may specify by rule.
- 6051 (z) "Promoter" means a person who, acting alone or in concert with one or more
- 6052 persons, takes initiative in founding or organizing the business or enterprise of a person.
- 6053 (aa) (i) Except as provided in Subsection (1)(aa)(ii), "record" means information that
- 6054 is:
- 6055 (A) inscribed in a tangible medium; or
- 6056 (B) (I) stored in an electronic or other medium; and
- 6057 (II) retrievable in perceivable form.
- 6058 (ii) This Subsection (1)(aa) does not apply when the context requires otherwise,
- 6059 including when "record" is used in the following phrases:
- 6060 (A) "of record";
- 6061 (B) "official record"; or
- 6062 (C) "public record."
- 6063 (bb) (i) "Sale" or "sell" includes a contract for sale of, contract to sell, or disposition of,
- 6064 a security or interest in a security for value.
- 6065 (ii) "Offer" or "offer to sell" includes an attempt or offer to dispose of, or solicitation of
- 6066 an offer to buy, a security or interest in a security for value.
- 6067 (iii) The following are examples of the definitions in Subsection (1)(bb)(i) or (ii):
- 6068 (A) a security given or delivered with or as a bonus on account of a purchase of a
- 6069 security or any other thing, is part of the subject of the purchase, and is offered and sold for
- 6070 value;
- 6071 (B) a purported gift of assessable stock is an offer or sale as is each assessment levied
- 6072 on the stock;

6073 (C) an offer or sale of a security that is convertible into, or entitles its holder to acquire
6074 or subscribe to another security of the same or another issuer is an offer or sale of that security,
6075 and also an offer of the other security, whether the right to convert or acquire is exercisable
6076 immediately or in the future;

6077 (D) a conversion or exchange of one security for another constitutes an offer or sale of
6078 the security received in a conversion or exchange, and the offer to buy or the purchase of the
6079 security converted or exchanged;

6080 (E) securities distributed as a dividend wherein the person receiving the dividend
6081 surrenders the right, or the alternative right, to receive a cash or property dividend is an offer or
6082 sale;

6083 (F) a dividend of a security of another issuer is an offer or sale; or

6084 (G) the issuance of a security under a merger, consolidation, reorganization,
6085 recapitalization, reclassification, or acquisition of assets constitutes the offer or sale of the
6086 security issued as well as the offer to buy or the purchase of a security surrendered in
6087 connection therewith, unless the sole purpose of the transaction is to change the issuer's
6088 domicile.

6089 (iv) The terms defined in Subsections (1)(bb)(i) and (ii) do not include:

6090 (A) a good faith gift;

6091 (B) a transfer by death;

6092 (C) a transfer by termination of a trust or of a beneficial interest in a trust;

6093 (D) a security dividend not within Subsection (1)(bb)(iii)(E) or (F); or

6094 (E) a securities split or reverse split.

6095 (cc) "Securities Act of 1933," "Securities Exchange Act of 1934," and "Investment
6096 Company Act of 1940" mean the federal statutes of those names as amended before or after the
6097 effective date of this chapter.

6098 (dd) "Securities Exchange Commission" means the United States Securities Exchange
6099 Commission created by the Securities Exchange Act of 1934.

6100 (ee) (i) "Security" means a:

6101 (A) note;

6102 (B) stock;

6103 (C) treasury stock;

- 6104 (D) bond;
- 6105 (E) debenture;
- 6106 (F) evidence of indebtedness;
- 6107 (G) certificate of interest or participation in a profit-sharing agreement;
- 6108 (H) collateral-trust certificate;
- 6109 (I) preorganization certificate or subscription;
- 6110 (J) transferable share;
- 6111 (K) investment contract;
- 6112 (L) burial certificate or burial contract;
- 6113 (M) voting-trust certificate;
- 6114 (N) certificate of deposit for a security;
- 6115 (O) certificate of interest or participation in an oil, gas, or mining title or lease or in
- 6116 payments out of production under such a title or lease;
- 6117 (P) commodity contract or commodity option;
- 6118 (Q) interest in a limited liability company;
- 6119 (R) life settlement interest; or
- 6120 (S) in general, an interest or instrument commonly known as a "security," or a
- 6121 certificate of interest or participation in, temporary or interim certificate for, receipt for,
- 6122 guarantee of, or warrant or right to subscribe to or purchase an item listed in Subsections
- 6123 (1)(ee)(i)(A) through (R).
- 6124 (ii) "Security" does not include:
- 6125 (A) an insurance or endowment policy or annuity contract under which an insurance
- 6126 company promises to pay money in a lump sum or periodically for life or some other specified
- 6127 period;
- 6128 (B) an interest in a limited liability company in which the limited liability company is
- 6129 formed as part of an estate plan where all of the members are related by blood or marriage, or
- 6130 the person claiming this exception can prove that all of the members are actively engaged in the
- 6131 management of the limited liability company; or
- 6132 (C) (I) a whole long-term estate in real property;
- 6133 (II) an undivided fractionalized long-term estate in real property that consists of 10 or
- 6134 fewer owners; or

6135 (III) an undivided fractionalized long-term estate in real property that consists of more
6136 than 10 owners if, when the real property estate is subject to a management agreement:

6137 (Aa) the management agreement permits a simple majority of owners of the real
6138 property estate to not renew or to terminate the management agreement at the earlier of the end
6139 of the management agreement's current term, or 180 days after the day on which the owners
6140 give notice of termination to the manager; and

6141 (Bb) the management agreement prohibits, directly or indirectly, the lending of the
6142 proceeds earned from the real property estate or the use or pledge of its assets to a person or
6143 entity affiliated with or under common control of the manager.

6144 (iii) For purposes of Subsection (1)(ee)(ii)(B), evidence that members vote or have the
6145 right to vote, or the right to information concerning the business and affairs of the limited
6146 liability company, or the right to participate in management, may not establish, without more,
6147 that all members are actively engaged in the management of the limited liability company.

6148 (ff) "State" means a state, territory, or possession of the United States, the District of
6149 Columbia, and Puerto Rico.

6150 (gg) (i) "Undivided fractionalized long-term estate" means the same as that term is
6151 defined in Section [57-29-102](#).

6152 (ii) "Undivided fractionalized long-term estate" does not include a joint tenancy.

6153 (hh) "Undue influence" means that a person uses a relationship or position of authority,
6154 trust, or confidence:

6155 (i) that is unrelated to a relationship created:

6156 (A) in the ordinary course of making investments regulated under this chapter; or

6157 (B) by a licensee providing services under this chapter;

6158 (ii) that results in:

6159 (A) an investor perceiving the person as having heightened credibility, personal
6160 trustworthiness, or dependability; or

6161 (B) the person having special access to or control of an investor's financial resources,
6162 information, or circumstances; and

6163 (iii) to:

6164 (A) exploit the trust, dependence, or fear of the investor;

6165 (B) knowingly assist or cause another to exploit the trust, dependence, or fear of the

6166 investor; or

6167 (C) gain control deceptively over the decision making of the investor.

6168 (ii) "Vulnerable adult" means the same as that term is defined in Section [~~62A-3-301~~]

6169 [26B-6-201](#).

6170 (jj) "Whole long-term estate" means a person owns or persons through joint tenancy
6171 own real property through a fee estate.

6172 (kk) "Working days" means 8 a.m. to 5 p.m., Monday through Friday, exclusive of
6173 legal holidays listed in Section [63G-1-301](#).

6174 (2) A term not defined in this section shall have the meaning as established by division
6175 rule. The meaning of a term neither defined in this section nor by rule of the division shall be
6176 the meaning commonly accepted in the business community.

6177 (3) (a) This Subsection (3) applies to the offer or sale of a real property estate
6178 exempted from the definition of security under Subsection (1)(ee)(ii)(C).

6179 (b) A person who, directly or indirectly receives compensation in connection with the
6180 offer or sale as provided in this Subsection (3) of a real property estate is not an agent,
6181 broker-dealer, investment adviser, or investment adviser representative under this chapter if
6182 that person is licensed under Chapter 2f, Real Estate Licensing and Practices Act, as:

6183 (i) a principal broker;

6184 (ii) an associate broker; or

6185 (iii) a sales agent.

6186 Section 65. Section **61-1-201** is amended to read:

6187 **61-1-201. Definitions.**

6188 As used in this part:

6189 (1) "Adult Protective Services" means the same as that term is defined in Section

6190 [~~62A-3-301~~] [26B-6-201](#).

6191 (2) "Eligible adult" means:

6192 (a) an individual who is 65 years of age or older; or

6193 (b) a vulnerable adult as defined in Section [~~62A-3-301~~] [26B-6-201](#).

6194 (3) "Financial exploitation of an eligible adult" means:

6195 (a) the wrongful or unauthorized taking, withholding, appropriation, or use of money,
6196 assets, or other property of an eligible adult; or

6197 (b) an act or omission, including through a power of attorney, guardianship, or
6198 conservatorship of an eligible adult, to:

6199 (i) obtain control, through deception, intimidation, or undue influence, over an eligible
6200 adult's money, assets, or other property to deprive the eligible adult of the ownership, use,
6201 benefit, or possession of the eligible adult's money, assets, or other property; or

6202 (ii) convert an eligible adult's money, assets, or other property to deprive the eligible
6203 adult of the ownership, use, benefit, or possession of the eligible adult's money, assets, or other
6204 property.

6205 (4) "Law enforcement agency" means the same as that term is defined in Section
6206 [53-1-102](#).

6207 (5) "Qualified individual" means:

6208 (a) an agent;

6209 (b) an investment adviser representative; or

6210 (c) an individual who serves in a supervisory, compliance, or legal capacity for a
6211 broker-dealer or an investment adviser.

6212 Section 66. Section **62A-2-101** is amended to read:

6213 **62A-2-101. Definitions.**

6214 As used in this chapter:

6215 (1) "Adoption services" means the same as that term is defined in Section [80-2-801](#).

6216 (2) "Adult day care" means nonresidential care and supervision:

6217 (a) for three or more adults for at least four but less than 24 hours a day; and

6218 (b) that meets the needs of functionally impaired adults through a comprehensive
6219 program that provides a variety of health, social, recreational, and related support services in a
6220 protective setting.

6221 (3) "Applicant" means a person that applies for an initial license or a license renewal
6222 under this chapter.

6223 (4) (a) "Associated with the licensee" means that an individual is:

6224 (i) affiliated with a licensee as an owner, director, member of the governing body,
6225 employee, agent, provider of care, department contractor, or volunteer; or

6226 (ii) applying to become affiliated with a licensee in a capacity described in Subsection
6227 (4)(a)(i).

- 6228 (b) "Associated with the licensee" does not include:
- 6229 (i) service on the following bodies, unless that service includes direct access to a child
- 6230 or a vulnerable adult:
- 6231 (A) a local mental health authority described in Section 17-43-301;
- 6232 (B) a local substance abuse authority described in Section 17-43-201; or
- 6233 (C) a board of an organization operating under a contract to provide mental health or
- 6234 substance abuse programs, or services for the local mental health authority or substance abuse
- 6235 authority; or
- 6236 (ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised
- 6237 at all times.
- 6238 (5) (a) "Boarding school" means a private school that:
- 6239 (i) uses a regionally accredited education program;
- 6240 (ii) provides a residence to the school's students:
- 6241 (A) for the purpose of enabling the school's students to attend classes at the school; and
- 6242 (B) as an ancillary service to educating the students at the school;
- 6243 (iii) has the primary purpose of providing the school's students with an education, as
- 6244 defined in Subsection (5)(b)(i); and
- 6245 (iv) (A) does not provide the treatment or services described in Subsection (38)(a); or
- 6246 (B) provides the treatment or services described in Subsection (38)(a) on a limited
- 6247 basis, as described in Subsection (5)(b)(ii).
- 6248 (b) (i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for
- 6249 one or more of grades kindergarten through 12th grade.
- 6250 (ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment or
- 6251 services described in Subsection (38)(a) on a limited basis if:
- 6252 (A) the treatment or services described in Subsection (38)(a) are provided only as an
- 6253 incidental service to a student; and
- 6254 (B) the school does not:
- 6255 (I) specifically solicit a student for the purpose of providing the treatment or services
- 6256 described in Subsection (38)(a); or
- 6257 (II) have a primary purpose of providing the treatment or services described in
- 6258 Subsection (38)(a).

- 6259 (c) "Boarding school" does not include a therapeutic school.
- 6260 (6) "Child" means an individual under 18 years old.
- 6261 (7) "Child placing" means receiving, accepting, or providing custody or care for any
- 6262 child, temporarily or permanently, for the purpose of:
 - 6263 (a) finding a person to adopt the child;
 - 6264 (b) placing the child in a home for adoption; or
 - 6265 (c) foster home placement.
- 6266 (8) "Child-placing agency" means a person that engages in child placing.
- 6267 (9) "Client" means an individual who receives or has received services from a licensee.
- 6268 (10) (a) "Congregate care program" means any of the following that provide services to
- 6269 a child:
 - 6270 (i) an outdoor youth program;
 - 6271 (ii) a residential support program;
 - 6272 (iii) a residential treatment program; or
 - 6273 (iv) a therapeutic school.
- 6274 (b) "Congregate care program" does not include a human services program that:
 - 6275 (i) is licensed to serve adults; and
 - 6276 (ii) is approved by the office to service a child for a limited time.
- 6277 (11) "Day treatment" means specialized treatment that is provided to:
 - 6278 (a) a client less than 24 hours a day; and
 - 6279 (b) four or more persons who:
 - 6280 (i) are unrelated to the owner or provider; and
 - 6281 (ii) have emotional, psychological, developmental, physical, or behavioral
 - 6282 dysfunctions, impairments, or chemical dependencies.
- 6283 (12) "Department" means the Department of [~~Human Services~~] Health and Human
- 6284 Services.
- 6285 (13) "Department contractor" means an individual who:
 - 6286 (a) provides services under a contract with the department; and
 - 6287 (b) due to the contract with the department, has or will likely have direct access to a
 - 6288 child or vulnerable adult.
- 6289 (14) "Direct access" means that an individual has, or likely will have:

6290 (a) contact with or access to a child or vulnerable adult that provides the individual
6291 with an opportunity for personal communication or touch; or

6292 (b) an opportunity to view medical, financial, or other confidential personal identifying
6293 information of the child, the child's parents or legal guardians, or the vulnerable adult.

6294 (15) "Directly supervised" means that an individual is being supervised under the
6295 uninterrupted visual and auditory surveillance of another individual who has a current
6296 background screening approval issued by the office.

6297 (16) "Director" means the director of the office.

6298 (17) "Domestic violence" means the same as that term is defined in Section [77-36-1](#).

6299 (18) "Domestic violence treatment program" means a nonresidential program designed
6300 to provide psychological treatment and educational services to perpetrators and victims of
6301 domestic violence.

6302 (19) "Elder adult" means a person 65 years old or older.

6303 (20) "Executive director" means the executive director of the department.

6304 (21) "Foster home" means a residence that is licensed or certified by the office for the
6305 full-time substitute care of a child.

6306 (22) "Health benefit plan" means the same as that term is defined in Section
6307 [31A-1-301](#).

6308 (23) "Health care provider" means the same as that term is defined in Section
6309 [78B-3-403](#).

6310 (24) "Health insurer" means the same as that term is defined in Section [31A-22-615.5](#).

6311 (25) (a) "Human services program" means:

6312 (i) a foster home;

6313 (ii) a therapeutic school;

6314 (iii) a youth program;

6315 (iv) an outdoor youth program;

6316 (v) a residential treatment program;

6317 (vi) a residential support program;

6318 (vii) a resource family home;

6319 (viii) a recovery residence; or

6320 (ix) a facility or program that provides:

- 6321 (A) adult day care;
- 6322 (B) day treatment;
- 6323 (C) outpatient treatment;
- 6324 (D) domestic violence treatment;
- 6325 (E) child-placing services;
- 6326 (F) social detoxification; or
- 6327 (G) any other human services that are required by contract with the department to be
- 6328 licensed with the department.
- 6329 (b) "Human services program" does not include:
- 6330 (i) a boarding school; or
- 6331 (ii) a residential, vocational and life skills program, as defined in Section 13-53-102.
- 6332 (26) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 6333 (27) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.
- 6334 (28) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 6335 (29) "Intermediate secure treatment" means 24-hour specialized residential treatment or
- 6336 care for an individual who:
- 6337 (a) cannot live independently or in a less restrictive environment; and
- 6338 (b) requires, without the individual's consent or control, the use of locked doors to care
- 6339 for the individual.
- 6340 (30) "Licensee" means an individual or a human services program licensed by the
- 6341 office.
- 6342 (31) "Local government" means a city, town, metro township, or county.
- 6343 (32) "Minor" means child.
- 6344 (33) "Office" means the Office of Licensing within the Department of [Human
- 6345 Services] Health and Human Services.
- 6346 (34) "Outdoor youth program" means a program that provides:
- 6347 (a) services to a child that has:
- 6348 (i) a chemical dependency; or
- 6349 (ii) a dysfunction or impairment that is emotional, psychological, developmental,
- 6350 physical, or behavioral;
- 6351 (b) a 24-hour outdoor group living environment; and

6352 (c) (i) regular therapy, including group, individual, or supportive family therapy; or
6353 (ii) informal therapy or similar services, including wilderness therapy, adventure
6354 therapy, or outdoor behavioral healthcare.

6355 (35) "Outpatient treatment" means individual, family, or group therapy or counseling
6356 designed to improve and enhance social or psychological functioning for those whose physical
6357 and emotional status allows them to continue functioning in their usual living environment.

6358 (36) "Practice group" or "group practice" means two or more health care providers
6359 legally organized as a partnership, professional corporation, or similar association, for which:

6360 (a) substantially all of the services of the health care providers who are members of the
6361 group are provided through the group and are billed in the name of the group and amounts
6362 received are treated as receipts of the group; and

6363 (b) the overhead expenses of and the income from the practice are distributed in
6364 accordance with methods previously determined by members of the group.

6365 (37) "Private-placement child" means a child whose parent or guardian enters into a
6366 contract with a congregate care program for the child to receive services.

6367 (38) (a) "Recovery residence" means a home, residence, or facility that meets at least
6368 two of the following requirements:

6369 (i) provides a supervised living environment for individuals recovering from a
6370 substance use disorder;

6371 (ii) provides a living environment in which more than half of the individuals in the
6372 residence are recovering from a substance use disorder;

6373 (iii) provides or arranges for residents to receive services related to their recovery from
6374 a substance use disorder, either on or off site;

6375 (iv) is held out as a living environment in which individuals recovering from substance
6376 abuse disorders live together to encourage continued sobriety; or

6377 (v) (A) receives public funding; or

6378 (B) is run as a business venture, either for-profit or not-for-profit.

6379 (b) "Recovery residence" does not mean:

6380 (i) a residential treatment program;

6381 (ii) residential support program; or

6382 (iii) a home, residence, or facility, in which:

6383 (A) residents, by their majority vote, establish, implement, and enforce policies
6384 governing the living environment, including the manner in which applications for residence are
6385 approved and the manner in which residents are expelled;

6386 (B) residents equitably share rent and housing-related expenses; and

6387 (C) a landlord, owner, or operator does not receive compensation, other than fair
6388 market rental income, for establishing, implementing, or enforcing policies governing the
6389 living environment.

6390 (39) "Regular business hours" means:

6391 (a) the hours during which services of any kind are provided to a client; or

6392 (b) the hours during which a client is present at the facility of a licensee.

6393 (40) (a) "Residential support program" means a program that arranges for or provides
6394 the necessities of life as a protective service to individuals or families who have a disability or
6395 who are experiencing a dislocation or emergency that prevents them from providing these
6396 services for themselves or their families.

6397 (b) "Residential support program" includes a program that provides a supervised living
6398 environment for individuals with dysfunctions or impairments that are:

6399 (i) emotional;

6400 (ii) psychological;

6401 (iii) developmental; or

6402 (iv) behavioral.

6403 (c) Treatment is not a necessary component of a residential support program.

6404 (d) "Residential support program" does not include:

6405 (i) a recovery residence; or

6406 (ii) a program that provides residential services that are performed:

6407 (A) exclusively under contract with the department and provided to individuals through
6408 the Division of Services for People with Disabilities; or

6409 (B) in a facility that serves fewer than four individuals.

6410 (41) (a) "Residential treatment" means a 24-hour group living environment for four or
6411 more individuals unrelated to the owner or provider that offers room or board and specialized
6412 treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation
6413 services for persons with emotional, psychological, developmental, or behavioral dysfunctions,

6414 impairments, or chemical dependencies.

6415 (b) "Residential treatment" does not include a:

6416 (i) boarding school;

6417 (ii) foster home; or

6418 (iii) recovery residence.

6419 (42) "Residential treatment program" means a program or facility that provides:

6420 (a) residential treatment; or

6421 (b) intermediate secure treatment.

6422 (43) "Seclusion" means the involuntary confinement of an individual in a room or an
6423 area:

6424 (a) away from the individual's peers; and

6425 (b) in a manner that physically prevents the individual from leaving the room or area.

6426 (44) "Social detoxification" means short-term residential services for persons who are
6427 experiencing or have recently experienced drug or alcohol intoxication, that are provided
6428 outside of a health care facility licensed under [~~Title 26, Chapter 21, Health Care Facility
6429 Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and
6430 Inspection, and that include:

6431 (a) room and board for persons who are unrelated to the owner or manager of the
6432 facility;

6433 (b) specialized rehabilitation to acquire sobriety; and

6434 (c) aftercare services.

6435 (45) "Substance abuse disorder" or "substance use disorder" mean the same as
6436 "substance use disorder" is defined in Section [~~62A-15-1202~~] 26B-5-501.

6437 (46) "Substance abuse treatment program" or "substance use disorder treatment
6438 program" means a program:

6439 (a) designed to provide:

6440 (i) specialized drug or alcohol treatment;

6441 (ii) rehabilitation; or

6442 (iii) habilitation services; and

6443 (b) that provides the treatment or services described in Subsection (46)(a) to persons

6444 with:

- 6445 (i) a diagnosed substance use disorder; or
6446 (ii) chemical dependency disorder.
- 6447 (47) "Therapeutic school" means a residential group living facility:
6448 (a) for four or more individuals that are not related to:
6449 (i) the owner of the facility; or
6450 (ii) the primary service provider of the facility;
6451 (b) that serves students who have a history of failing to function:
6452 (i) at home;
6453 (ii) in a public school; or
6454 (iii) in a nonresidential private school; and
6455 (c) that offers:
6456 (i) room and board; and
6457 (ii) an academic education integrated with:
6458 (A) specialized structure and supervision; or
6459 (B) services or treatment related to:
6460 (I) a disability;
6461 (II) emotional development;
6462 (III) behavioral development;
6463 (IV) familial development; or
6464 (V) social development.
- 6465 (48) "Unrelated persons" means persons other than parents, legal guardians,
6466 grandparents, brothers, sisters, uncles, or aunts.
- 6467 (49) "Vulnerable adult" means an elder adult or an adult who has a temporary or
6468 permanent mental or physical impairment that substantially affects the person's ability to:
6469 (a) provide personal protection;
6470 (b) provide necessities such as food, shelter, clothing, or mental or other health care;
6471 (c) obtain services necessary for health, safety, or welfare;
6472 (d) carry out the activities of daily living;
6473 (e) manage the adult's own resources; or
6474 (f) comprehend the nature and consequences of remaining in a situation of abuse,
6475 neglect, or exploitation.

6476 (50) (a) "Youth program" means a program designed to provide behavioral, substance
6477 abuse, or mental health services to minors that:

- 6478 (i) serves adjudicated or nonadjudicated youth;
- 6479 (ii) charges a fee for its services;
- 6480 (iii) may provide host homes or other arrangements for overnight accommodation of
6481 the youth;
- 6482 (iv) may provide all or part of its services in the outdoors;
- 6483 (v) may limit or censor access to parents or guardians; and
- 6484 (vi) prohibits or restricts a minor's ability to leave the program at any time of the
6485 minor's own free will.

6486 (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl
6487 Scouts, 4-H, and other such organizations.

6488 (51) (a) "Youth transportation company" means any person that transports a child for
6489 payment to or from a congregate care program in Utah.

6490 (b) "Youth transportation company" does not include:

- 6491 (i) a relative of the child;
- 6492 (ii) a state agency; or
- 6493 (iii) a congregate care program's employee who transports the child from the
6494 congregate care program that employs the employee and returns the child to the same
6495 congregate care program.

6496 Section 67. Section **62A-2-106** is amended to read:

6497 **62A-2-106. Office responsibilities.**

6498 (1) Subject to the requirements of federal and state law, the office shall:

6499 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
6500 Rulemaking Act, to establish:

6501 (i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for
6502 licensees, that shall be limited to:

- 6503 (A) fire safety;
- 6504 (B) food safety;
- 6505 (C) sanitation;
- 6506 (D) infectious disease control;

- 6507 (E) safety of the:
- 6508 (I) physical facility and grounds; and
- 6509 (II) area and community surrounding the physical facility;
- 6510 (F) transportation safety;
- 6511 (G) emergency preparedness and response;
- 6512 (H) the administration of medical standards and procedures, consistent with the related
- 6513 provisions of this title;
- 6514 (I) staff and client safety and protection;
- 6515 (J) the administration and maintenance of client and service records;
- 6516 (K) staff qualifications and training, including standards for permitting experience to
- 6517 be substituted for education, unless prohibited by law;
- 6518 (L) staff to client ratios;
- 6519 (M) access to firearms; and
- 6520 (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;
- 6521 (ii) basic health and safety standards for therapeutic schools, that shall be limited to:
- 6522 (A) fire safety, except that the standards are limited to those required by law or rule
- 6523 under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;
- 6524 (B) food safety;
- 6525 (C) sanitation;
- 6526 (D) infectious disease control, except that the standards are limited to:
- 6527 (I) those required by law or rule under [~~Title 26, Utah Health Code, or~~] Title 26A,
- 6528 Local Health Authorities, or Title 26B, Utah Health and Human Services Code; and
- 6529 (II) requiring a separate room for clients who are sick;
- 6530 (E) safety of the physical facility and grounds, except that the standards are limited to
- 6531 those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks
- 6532 Act;
- 6533 (F) transportation safety;
- 6534 (G) emergency preparedness and response;
- 6535 (H) access to appropriate medical care, including:
- 6536 (I) subject to the requirements of law, designation of a person who is authorized to
- 6537 dispense medication; and

- 6538 (II) storing, tracking, and securing medication;
- 6539 (I) staff and client safety and protection that permits the school to provide for the direct
- 6540 supervision of clients at all times;
- 6541 (J) the administration and maintenance of client and service records;
- 6542 (K) staff qualifications and training, including standards for permitting experience to
- 6543 be substituted for education, unless prohibited by law;
- 6544 (L) staff to client ratios;
- 6545 (M) access to firearms; and
- 6546 (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;
- 6547 (iii) procedures and standards for permitting a licensee to:
- 6548 (A) provide in the same facility and under the same conditions as children, residential
- 6549 treatment services to a person 18 years old or older who:
- 6550 (I) begins to reside at the licensee's residential treatment facility before the person's
- 6551 18th birthday;
- 6552 (II) has resided at the licensee's residential treatment facility continuously since the
- 6553 time described in Subsection (1)(a)(iii)(A)(I);
- 6554 (III) has not completed the course of treatment for which the person began residing at
- 6555 the licensee's residential treatment facility; and
- 6556 (IV) voluntarily consents to complete the course of treatment described in Subsection
- 6557 (1)(a)(iii)(A)(III); or
- 6558 (B) (I) provide residential treatment services to a child who is:
- 6559 (Aa) at least 12 years old or, as approved by the office, younger than 12 years old; and
- 6560 (Bb) under the custody of the Department of [~~Human Services~~] Health and Human
- 6561 Services, or one of its divisions; and
- 6562 (II) provide, in the same facility as a child described in Subsection (1)(a)(iii)(B)(I),
- 6563 residential treatment services to a person who is:
- 6564 (Aa) at least 18 years old, but younger than 21 years old; and
- 6565 (Bb) under the custody of the Department of [~~Human Services~~] Health and Human
- 6566 Services, or one of its divisions;
- 6567 (iv) minimum administration and financial requirements for licensees;
- 6568 (v) guidelines for variances from rules established under this Subsection (1);

6569 (vi) ethical standards, as described in Subsection [78B-6-106\(3\)](#), and minimum
6570 responsibilities of a child-placing agency that provides adoption services and that is licensed
6571 under this chapter;

6572 (vii) what constitutes an "outpatient treatment program" for purposes of this chapter;

6573 (viii) a procedure requiring a licensee to provide an insurer the licensee's records
6574 related to any services or supplies billed to the insurer, and a procedure allowing the licensee
6575 and the insurer to contact the Insurance Department to resolve any disputes;

6576 (ix) a protocol for the office to investigate and process complaints about licensees;

6577 (x) a procedure for a licensee to:

6578 (A) report the use of a restraint or seclusion within one business day after the day on
6579 which the use of the restraint or seclusion occurs; and

6580 (B) report a critical incident within one business day after the day on which the
6581 incident occurs;

6582 (xi) guidelines for the policies and procedures described in Sections [~~62A-2-123~~ and
6583 ~~62A-2-124~~] [26B-2-123](#) and [26B-2-109](#);

6584 (xii) a procedure for the office to review and approve the policies and procedures
6585 described in Sections [~~62A-2-123~~ and ~~62A-2-124~~] [26B-2-123](#) and [26B-2-109](#); and

6586 (xiii) a requirement that each human services program publicly post information that
6587 informs an individual how to submit a complaint about a human services program to the office;

6588 (b) enforce rules relating to the office;

6589 (c) issue licenses in accordance with this chapter;

6590 (d) if the United States Department of State executes an agreement with the office that
6591 designates the office to act as an accrediting entity in accordance with the Intercountry
6592 Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more agencies and persons to
6593 provide intercountry adoption services pursuant to:

6594 (i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and

6595 (ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L.
6596 No. 106-279;

6597 (e) make rules to implement the provisions of Subsection (1)(d);

6598 (f) conduct surveys and inspections of licensees and facilities in accordance with
6599 Section [~~62A-2-118~~] [26B-2-107](#);

- 6600 (g) collect licensure fees;
- 6601 (h) notify licensees of the name of a person within the department to contact when
- 6602 filing a complaint;
- 6603 (i) investigate complaints regarding any licensee or human services program;
- 6604 (j) have access to all records, correspondence, and financial data required to be
- 6605 maintained by a licensee;
- 6606 (k) have authority to interview any client, family member of a client, employee, or
- 6607 officer of a licensee;
- 6608 (l) have authority to deny, condition, revoke, suspend, or extend any license issued by
- 6609 the department under this chapter by following the procedures and requirements of Title 63G,
- 6610 Chapter 4, Administrative Procedures Act;
- 6611 (m) electronically post notices of agency action issued to a human services program,
- 6612 with the exception of a foster home, on the office's website, in accordance with Title 63G,
- 6613 Chapter 2, Government Records Access and Management Act; and
- 6614 (n) upon receiving a local government's request under Section [~~62A-2-108.4~~]
- 6615 [26B-2-118](#), notify the local government of new human services program license applications,
- 6616 except for foster homes, for human services programs located within the local government's
- 6617 jurisdiction.
- 6618 (2) In establishing rules under Subsection (1)(a)(ii)(G), the office shall require a
- 6619 licensee to establish and comply with an emergency response plan that requires clients and staff
- 6620 to:
- 6621 (a) immediately report to law enforcement any significant criminal activity, as defined
- 6622 by rule, committed:
- 6623 (i) on the premises where the licensee operates its human services program;
- 6624 (ii) by or against its clients; or
- 6625 (iii) by or against a staff member while the staff member is on duty;
- 6626 (b) immediately report to emergency medical services any medical emergency, as
- 6627 defined by rule:
- 6628 (i) on the premises where the licensee operates its human services program;
- 6629 (ii) involving its clients; or
- 6630 (iii) involving a staff member while the staff member is on duty; and

6631 (c) immediately report other emergencies that occur on the premises where the licensee
6632 operates its human services program to the appropriate emergency services agency.

6633 Section 68. Section **62A-2-110** is amended to read:

6634 **62A-2-110. Exclusions from chapter.**

6635 The provisions of this chapter do not apply to:

6636 (1) a facility or program owned or operated by an agency of the United States
6637 government;

6638 (2) a facility or program operated by or under an exclusive contract with the
6639 Department of Corrections;

6640 (3) unless required otherwise by a contract with the department, individual or group
6641 counseling by a mental health professional licensed under Title 58, Chapter 60, Mental Health
6642 Professional Practice Act;

6643 (4) a general acute hospital, small health care facility, specialty hospital, nursing care
6644 facility, or other health care facility licensed by the [~~Department of Health under Title 26,
6645 Chapter 21, Health Care Facility Licensing and Inspection Act~~] Department of Health and
6646 Human Services under Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and
6647 Inspection; or

6648 (5) a boarding school.

6649 Section 69. Section **62A-3-322** is amended to read:

6650 **62A-3-322. Medical cannabis use by a vulnerable adult or guardian.**

6651 A peace officer or an employee or agent of the division may not solicit or provide, and a
6652 court may not order, emergency services for a vulnerable adult based solely on:

6653 (1) the vulnerable adult's possession or use of cannabis in accordance with [~~Title 26,
6654 Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research
6655 and Medical Cannabis; or

6656 (2) the guardian of the vulnerable adult assisting with the use of or possessing cannabis
6657 in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4,
6658 Part 2, Cannabinoid Research and Medical Cannabis.

6659 Section 70. Section **62A-5a-102** is amended to read:

6660 **62A-5a-102. Definitions.**

6661 As used in this chapter:

- 6662 (1) "Council" means the Coordinating Council for Persons with Disabilities.
- 6663 (2) "State agencies" means:
- 6664 (a) the Division of Services for People with Disabilities and the Division of Substance
- 6665 Abuse and Mental Health, within the Department of [~~Human Services~~] Health and Human
- 6666 Services;
- 6667 (b) the Division of Health Care Financing within the Department of [~~Health~~] Health
- 6668 and Human Services;
- 6669 (c) family health services programs established under Title 26, Chapter 10, Family
- 6670 Health Services, operated by the Department of [~~Health~~] Health and Human Services;
- 6671 (d) the Utah State Office of Rehabilitation created in Section [35A-1-202](#); and
- 6672 (e) special education programs operated by the State Board of Education or an LEA
- 6673 under Title 53E, Chapter 7, Part 2, Special Education Program.

6674 Section 71. Section **62A-11-103** is amended to read:

6675 **62A-11-103. Definitions.**

6676 As used in this part:

- 6677 (1) "Account" means a demand deposit account, checking or negotiable withdrawal
- 6678 order account, savings account, time deposit account, or money-market mutual fund account.
- 6679 (2) "Cash medical support" means an obligation to equally share all reasonable and
- 6680 necessary medical and dental expenses of children.
- 6681 (3) "Child support services" or "IV-D child support services" means services provided
- 6682 pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651, et seq.
- 6683 (4) "Director" means the director of the Office of Recovery Services.
- 6684 (5) "Disposable earnings" means that part of the earnings of an individual remaining
- 6685 after the deduction of all amounts required by law to be withheld.
- 6686 (6) "Financial institution" means:
- 6687 (a) a depository institution as defined in Section [7-1-103](#) or the Federal Deposit
- 6688 Insurance Act, 12 U.S.C. Sec. 1813(c);
- 6689 (b) an institution-affiliated party as defined in the Federal Deposit Insurance Act, 12
- 6690 U.S.C. Sec. 1813(u);
- 6691 (c) any federal credit union or state credit union as defined in the Federal Credit Union
- 6692 Act, 12 U.S.C. Sec. 1752, including an institution-affiliated party of such a credit union as

6693 defined in 12 U.S.C. Sec. 1786(r);

6694 (d) a broker-dealer as defined in Section 61-1-13; or

6695 (e) any benefit association, insurance company, safe deposit company, money-market
6696 mutual fund, or similar entity authorized to do business in the state.

6697 (7) "Financial record" is defined in the Right to Financial Privacy Act of 1978, 12
6698 U.S.C. Sec. 3401.

6699 (8) "Income" means earnings, compensation, or other payment due to an individual,
6700 regardless of source, whether denominated as wages, salary, commission, bonus, pay, or
6701 contract payment, or denominated as advances on future wages, salary, commission, bonus,
6702 pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and
6703 incentive pay. "Income" includes:

6704 (a) all gain derived from capital assets, labor, or both, including profit gained through
6705 sale or conversion of capital assets;

6706 (b) interest and dividends;

6707 (c) periodic payments made under pension or retirement programs or insurance policies
6708 of any type;

6709 (d) unemployment compensation benefits;

6710 (e) workers' compensation benefits; and

6711 (f) disability benefits.

6712 (9) "IV-D" means Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651 et
6713 seq.

6714 (10) "New hire registry" means the centralized new hire registry created in Section
6715 35A-7-103.

6716 (11) "Obligee" means an individual, this state, another state, or other comparable
6717 jurisdiction to whom a debt is owed or who is entitled to reimbursement of child support or
6718 public assistance.

6719 (12) "Obligor" means a person, firm, corporation, or the estate of a decedent owing
6720 money to this state, to an individual, to another state, or other comparable jurisdiction in whose
6721 behalf this state is acting.

6722 (13) "Office" means the Office of Recovery Services.

6723 (14) "Provider" means a person or entity that receives compensation from any public

6724 assistance program for goods or services provided to a public assistance recipient.

6725 (15) "Public assistance" or "assistance" means:

6726 (a) services or benefits provided under Title 35A, Chapter 3, Employment Support Act;

6727 (b) medical assistance provided under [~~Title 26, Chapter 18, Medical Assistance Act~~]

6728 Title 26B, Chapter 3, Health Care - Delivery and Assistance;

6729 (c) foster care maintenance payments under Part E of Title IV of the Social Security

6730 Act, 42 U.S.C. Sec. 670, et seq.;

6731 (d) SNAP benefits as defined in Section 35A-1-102; or

6732 (e) any other public funds expended for the benefit of a person in need of financial,
6733 medical, food, housing, or related assistance.

6734 (16) "State case registry" means the central, automated record system maintained by

6735 the office and the central, automated district court record system maintained by the

6736 Administrative Office of the Courts, that contains records which use standardized data

6737 elements, such as names, Social Security numbers and other uniform identification numbers,

6738 dates of birth, and case identification numbers, with respect to:

6739 (a) each case in which services are being provided by the office under the state IV-D

6740 child support services plan; and

6741 (b) each support order established or modified in the state on or after October 1, 1998.

6742 Section 72. Section **63A-5b-303** is amended to read:

6743 **63A-5b-303. Duties and authority of division.**

6744 (1) (a) The division shall:

6745 (i) subject to Subsection (1)(b), supervise and control the allocation of space, in
6746 accordance with legislative directive through annual appropriations acts, other legislation, or
6747 statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except
6748 as provided in Subsection (3) or as otherwise provided by statute;

6749 (ii) assure the efficient use of all building space under the division's supervision and
6750 control;

6751 (iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by
6752 the state or an agency, as authorized by the Legislature through an appropriation act, other
6753 legislation, or statute, subject to Subsection (1)(c);

6754 (iv) except as otherwise provided by statute, hold title to all real property, buildings,

6755 fixtures, and appurtenances owned by the state or an agency;

6756 (v) collect and maintain all deeds, abstracts of title, and all other documents evidencing
6757 title to or an interest in property belonging to the state or to the state's departments, except
6758 institutions of higher education and the trust lands administration;

6759 (vi) (A) periodically conduct a market analysis of proposed rates and fees; and
6760 (B) include in a market analysis a comparison of the division's rates and fees with the
6761 rates and fees of other public or private sector providers of comparable services, if rates and
6762 fees for comparable services are reasonably available;

6763 (vii) fulfill the division's responsibilities under Part 10, Energy Conservation and
6764 Efficiency, including responsibilities:

6765 (A) to implement the state building energy efficiency program under Section
6766 [63A-5b-1002](#); and
6767 (B) related to the approval of loans from the State Facility Energy Efficiency Fund
6768 under Section [63A-5b-1003](#);

6769 (viii) convey, lease, or dispose of the real property, water rights, or water shares
6770 associated with the Utah State Developmental Center if directed to do so by the Utah State
6771 Developmental Center board, as provided in Subsection [~~62A-5-206.6(2)~~] [26B-6-507\(2\)](#); and
6772 (ix) take all other action that the division is required to do under this chapter or other
6773 applicable statute.

6774 (b) In making an allocation of space under Subsection (1)(a)(i), the division shall
6775 conduct one or more studies to determine the actual needs of each agency.

6776 (c) The division may, without legislative approval, acquire title to real property for use
6777 by the state or an agency if the acquisition cost does not exceed \$500,000.

6778 (2) The division may:

6779 (a) sue and be sued;

6780 (b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or
6781 otherwise, and hold real or personal property necessary for the discharge of the division's
6782 duties; and

6783 (c) take all other action necessary for carrying out the purposes of this chapter.

6784 (3) (a) The division may not supervise or control the allocation of space for an entity in
6785 the public education system.

6786 (b) The supervision and control of the legislative area is reserved to the Legislature.

6787 (c) The supervision and control of capitol hill facilities and capitol hill grounds is
6788 reserved to the State Capitol Preservation Board.

6789 (d) (i) Subject to Subsection (3)(d)(ii), the supervision and control of the allocation of
6790 space for an institution of higher education is reserved to the Utah Board of Higher Education.

6791 (ii) The Utah Board of Higher Education shall consult and cooperate with the division
6792 in the establishment and enforcement of standards for the supervision and control of the
6793 allocation of space for an institution of higher education.

6794 (e) (i) Subject to Subsection (3)(e)(ii), the supervision and control of the allocation of
6795 space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the
6796 Administrative Office of the Courts referred to in Subsection 78A-2-108(3).

6797 (ii) The Administrative Office of the Courts shall consult and cooperate with the
6798 division in the establishment and enforcement of standards for the supervision and control of
6799 the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

6800 (4) Before the division charges a rate, fee, or other amount for a service provided by
6801 the division's internal service fund to an executive branch agency, or to a service subscriber
6802 other than an executive branch agency, the division shall:

6803 (a) submit an analysis of the proposed rate, fee, or other amount to the rate committee
6804 created in Section 63A-1-114; and

6805 (b) obtain the approval of the Legislature as required by Section 63J-1-410 or
6806 63J-1-504.

6807 Section 73. Section 63A-5b-607 is amended to read:

6808 **63A-5b-607. Health insurance requirements -- Penalties.**

6809 (1) As used in this section:

6810 (a) "Aggregate amount" means the dollar sum of all contracts, change orders, and
6811 modifications for a single project.

6812 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.

6813 (c) "Eligible employee" means an employee, as defined in Section 34A-2-104, who:

6814 (i) works at least 30 hours per calendar week; and

6815 (ii) meets the employer eligibility waiting period for qualified health insurance
6816 coverage provided by the employer.

- 6817 (d) "Health benefit plan" means:
- 6818 (i) the same as that term is defined in Section [31A-1-301](#); or
- 6819 (ii) an employee welfare benefit plan:
- 6820 (A) established under the Employee Retirement Income Security Act of 1974, 29
- 6821 U.S.C. Sec. 1001 et seq.;
- 6822 (B) for an employer with 100 or more employees; and
- 6823 (C) in which the employer establishes a self-funded or partially self-funded group
- 6824 health plan to provide medical care for the employer's employees and dependents of the
- 6825 employees.
- 6826 (e) "Qualified health insurance coverage" means the same as that term is defined in
- 6827 Section [~~26-40-115~~] [26B-3-909](#).
- 6828 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).
- 6829 (g) "Third party administrator" or "administrator" means the same as that term is
- 6830 defined in Section [31A-1-301](#).
- 6831 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 6832 (a) a contractor of a design or construction contract with the division if the prime
- 6833 contract is in an aggregate amount of \$2,000,000 or more; and
- 6834 (b) a subcontractor of a contractor of a design or construction contract with the division
- 6835 if the subcontract is in an aggregate amount of \$1,000,000 or more.
- 6836 (3) The requirements of this section do not apply to a contractor or subcontractor if:
- 6837 (a) the application of this section jeopardizes the division's receipt of federal funds;
- 6838 (b) the contract is a sole source contract, as defined in Section [63G-6a-103](#); or
- 6839 (c) the contract is the result of an emergency procurement.
- 6840 (4) A person who intentionally uses a change order, contract modification, or multiple
- 6841 contracts to circumvent the requirements of this section is guilty of an infraction.
- 6842 (5) (a) A contractor that is subject to the requirements of this section shall:
- 6843 (i) make and maintain an offer of qualified health coverage for the contractor's eligible
- 6844 employees and the eligible employees' dependents; and
- 6845 (ii) submit to the director a written statement demonstrating that the contractor is in
- 6846 compliance with Subsection (5)(a)(i).
- 6847 (b) A statement under Subsection (5)(a)(ii):

- 6848 (i) shall be from:
- 6849 (A) an actuary selected by the contractor or the contractor's insurer;
- 6850 (B) an underwriter who is responsible for developing the employer group's premium
- 6851 rates; or
- 6852 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),
- 6853 an actuary or underwriter selected by a third party administrator; and
- 6854 (ii) may not be created more than one year before the day on which the contractor
- 6855 submits the statement to the director.
- 6856 (c) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)
- 6857 shall provide the actuary or underwriter selected by an administrator, as described in
- 6858 Subsection (5)(b)(i)(C), sufficient information to determine whether the contractor's
- 6859 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the
- 6860 requirements of qualified health coverage.
- 6861 (ii) A contractor may not make a change to the contractor's contribution to the health
- 6862 benefit plan, unless the contractor provides notice to:
- 6863 (A) the actuary or underwriter selected by an administrator, as described in Subsection
- 6864 (5)(b)(i)(C), for the actuary or underwriter to update the written statement described in
- 6865 Subsection (5)(a) in compliance with this section; and
- 6866 (B) the division.
- 6867 (6) (a) A contractor that is subject to the requirements of this section shall:
- 6868 (i) ensure that each contract the contractor enters with a subcontractor that is subject to
- 6869 the requirements of this section requires the subcontractor to obtain and maintain an offer of
- 6870 qualified health coverage for the subcontractor's eligible employees and the eligible employees'
- 6871 dependents during the duration of the subcontract; and
- 6872 (ii) obtain from a subcontractor referred to in Subsection (6)(a)(i) a written statement
- 6873 demonstrating that the subcontractor offers qualified health coverage to eligible employees and
- 6874 eligible employees' dependents.
- 6875 (b) A statement under Subsection (6)(a)(ii):
- 6876 (i) shall be from:
- 6877 (A) an actuary selected by the subcontractor or the subcontractor's insurer;
- 6878 (B) an underwriter who is responsible for developing the employer group's premium

6879 rates; or

6880 (C) if the subcontractor provides a health benefit plan described in Subsection

6881 (1)(d)(ii), an actuary or underwriter selected by an administrator; and

6882 (ii) may not be created more than one year before the day on which the contractor

6883 obtains the statement from the subcontractor.

6884 (7) (a) (i) A contractor that fails to maintain an offer of qualified health coverage

6885 during the duration of the contract as required in this section is subject to penalties in

6886 accordance with administrative rules made by the division under this section, in accordance

6887 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

6888 (ii) A contractor is not subject to penalties for the failure of a subcontractor to obtain

6889 and maintain an offer of qualified health coverage as required in this section.

6890 (b) (i) A subcontractor that fails to obtain and maintain an offer of qualified health

6891 coverage during the duration of the subcontract as required in this section is subject to penalties

6892 in accordance with administrative rules made by the division under this section, in accordance

6893 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

6894 (ii) A subcontractor is not subject to penalties for the failure of a contractor to maintain

6895 an offer of qualified health coverage as required in this section.

6896 (8) The division shall make rules:

6897 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

6898 (b) in coordination with:

6899 (i) the Department of Environmental Quality in accordance with Section 19-1-206;

6900 (ii) the Department of Natural Resources in accordance with Section 79-2-404;

6901 (iii) a public transit district in accordance with Section 17B-2a-818.5;

6902 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

6903 (v) the Department of Transportation in accordance with Section 72-6-107.5; and

6904 (vi) the Legislature's Administrative Rules Review and General Oversight Committee;

6905 and

6906 (c) that establish:

6907 (i) the requirements and procedures for a contractor and a subcontractor to demonstrate

6908 compliance with this section, including:

6909 (A) a provision that a contractor or subcontractor's compliance with this section is

6910 subject to an audit by the division or the Office of the Legislative Auditor General;

6911 (B) a provision that a contractor that is subject to the requirements of this section
6912 obtain a written statement as provided in Subsection (5); and

6913 (C) a provision that a subcontractor that is subject to the requirements of this section
6914 obtain a written statement as provided in Subsection (6);

6915 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
6916 violates the provisions of this section, which may include:

6917 (A) a three-month suspension of the contractor or subcontractor from entering into a
6918 future contract with the state upon the first violation;

6919 (B) a six-month suspension of the contractor or subcontractor from entering into a
6920 future contract with the state upon the second violation;

6921 (C) an action for debarment of the contractor or subcontractor in accordance with
6922 Section [63G-6a-904](#) upon the third or subsequent violation; and

6923 (D) monetary penalties which may not exceed 50% of the amount necessary to
6924 purchase qualified health coverage for eligible employees and dependents of eligible
6925 employees of the contractor or subcontractor who were not offered qualified health coverage
6926 during the duration of the contract; and

6927 (iii) a website for the department to post the commercially equivalent benchmark for
6928 the qualified health coverage that is provided by the Department of ~~[Health]~~ Health and Human
6929 Services in accordance with Subsection ~~[26-40-115(2)]~~ [26B-3-909\(2\)](#).

6930 (9) During the duration of a contract, the division may perform an audit to verify a
6931 contractor or subcontractor's compliance with this section.

6932 (10) (a) Upon the division's request, a contractor or subcontractor shall provide the
6933 division:

6934 (i) a signed actuarial certification that the coverage the contractor or subcontractor
6935 offers is qualified health coverage; or

6936 (ii) all relevant documents and information necessary for the division to determine
6937 compliance with this section.

6938 (b) If a contractor or subcontractor provides the documents and information described
6939 in Subsection (10)(a)(i), the Insurance Department shall assist the division in determining if the
6940 coverage the contractor or subcontractor offers is qualified health coverage.

6941 (11) (a) (i) In addition to the penalties imposed under Subsection (7), a contractor or
6942 subcontractor that intentionally violates the provisions of this section is liable to an eligible
6943 employee for health care costs that would have been covered by qualified health coverage.

6944 (ii) An employer has an affirmative defense to a cause of action under Subsection
6945 (11)(a)(i) if:

6946 (A) the employer relied in good faith on a written statement described in Subsection (5)
6947 or (6); or

6948 (B) the department determines that compliance with this section is not required under
6949 the provisions of Subsection (3).

6950 (b) An eligible employee has a private right of action against the employee's employer
6951 only as provided in this Subsection (11).

6952 (12) The director shall cause money collected from the imposition and collection of a
6953 penalty under this section to be deposited into the Medicaid Restricted Account created by
6954 Section [~~26-18-402~~] [26B-1-309](#).

6955 (13) The failure of a contractor or subcontractor to provide qualified health coverage as
6956 required by this section:

6957 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
6958 or contractor under:

6959 (i) Section [63G-6a-1602](#); or

6960 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

6961 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
6962 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
6963 or construction.

6964 (14) An employer's waiting period for an employee to become eligible for qualified
6965 health coverage may not extend beyond the first day of the calendar month following 60 days
6966 after the day on which the employee is hired.

6967 (15) An administrator, including an administrator's actuary or underwriter, who
6968 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health
6969 coverage of a contractor or subcontractor who provides a health benefit plan described in
6970 Subsection (1)(d)(ii):

6971 (a) subject to Subsection (11)(b), is not liable for an error in the written statement,

6972 unless the administrator commits gross negligence in preparing the written statement;

6973 (b) is not liable for any error in the written statement if the administrator relied in good
6974 faith on information from the contractor or subcontractor; and

6975 (c) may require as a condition of providing the written statement that a contractor or
6976 subcontractor hold the administrator harmless for an action arising under this section.

6977 Section 74. Section **63A-5b-910** is amended to read:

6978 **63A-5b-910. Disposition of proceeds received by division from sale of vacant**
6979 **division-owned property.**

6980 (1) (a) Except as provided in Section [~~62A-5-206.7~~] [26B-1-331](#), the division shall pay
6981 into the state treasury the money received from the transfer of ownership or lease of vacant
6982 division-owned property.

6983 (b) Money paid into the state treasury under Subsection (1)(a):

6984 (i) becomes a part of the funds provided by law for carrying out the building program
6985 of the state; and

6986 (ii) is appropriated for the purpose described in Subsection (1)(b)(i).

6987 (2) The proceeds from the transfer of ownership or lease of vacant division-owned
6988 property belonging to or used by a particular state agency shall, to the extent practicable, be
6989 expended for the construction of buildings or in the performance of other work for the benefit
6990 of that state agency.

6991 Section 75. Section **63A-9-701** is amended to read:

6992 **63A-9-701. Subscription to motor pool by certain local government entities.**

6993 (1) The following local government entities may subscribe to the central motor pool
6994 service provided by the division subject to the conditions established in Subsection (2):

6995 (a) local health departments as defined in Title 26A, Chapter 1, Part 1, Local Health
6996 Department Act;

6997 (b) local substance abuse authorities as defined in Section [17-43-201](#);

6998 (c) local area agencies, as authorized by Section [~~62A-3-104~~] [26B-6-104](#), or their
6999 subcontractors who are local governmental or public entities; and

7000 (d) local mental health authorities as defined in Section [17-43-301](#).

7001 (2) The local government entities outlined in Subsection (1) may subscribe to the
7002 central motor pool service provided by the division only if:

7003 (a) the director of the local government entity determines it will result in substantial
7004 cost savings or increased efficiency to the local government entity; and

7005 (b) the central motor pool has sufficient vehicles available.

7006 Section 76. Section **63A-13-102** is amended to read:

7007 **63A-13-102. Definitions.**

7008 As used in this chapter:

7009 (1) "Abuse" means:

7010 (a) an action or practice that:

7011 (i) is inconsistent with sound fiscal, business, or medical practices; and

7012 (ii) results, or may result, in unnecessary Medicaid related costs; or

7013 (b) reckless or negligent upcoding.

7014 (2) "Claimant" means a person that:

7015 (a) provides a service; and

7016 (b) submits a claim for Medicaid reimbursement for the service.

7017 (3) "Department" means the Department of Health and Human Services created in
7018 Section [26B-1-201](#).

7019 (4) "Division" means the Division of Medicaid and Health Financing, created in
7020 Section [~~26-18-2.1~~] [26B-3-102](#).

7021 (5) "Extrapolation" means a method of using a mathematical formula that takes the
7022 audit results from a small sample of Medicaid claims and projects those results over a much
7023 larger group of Medicaid claims.

7024 (6) "Fraud" means intentional or knowing:

7025 (a) deception, misrepresentation, or upcoding in relation to Medicaid funds, costs, a
7026 claim, reimbursement, or services; or

7027 (b) a violation of a provision of Sections [~~26-20-3~~] [26B-3-1102](#) through [~~26-20-7~~]
7028 [26B-3-1106](#).

7029 (7) "Fraud unit" means the Medicaid Fraud Control Unit of the attorney general's
7030 office.

7031 (8) "Health care professional" means a person licensed under:

7032 (a) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

7033 (b) Title 58, Chapter 16a, Utah Optometry Practice Act;

- 7034 (c) Title 58, Chapter 17b, Pharmacy Practice Act;
- 7035 (d) Title 58, Chapter 24b, Physical Therapy Practice Act;
- 7036 (e) Title 58, Chapter 31b, Nurse Practice Act;
- 7037 (f) Title 58, Chapter 40, Recreational Therapy Practice Act;
- 7038 (g) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act;
- 7039 (h) Title 58, Chapter 42a, Occupational Therapy Practice Act;
- 7040 (i) Title 58, Chapter 44a, Nurse Midwife Practice Act;
- 7041 (j) Title 58, Chapter 49, Dietitian Certification Act;
- 7042 (k) Title 58, Chapter 60, Mental Health Professional Practice Act;
- 7043 (l) Title 58, Chapter 67, Utah Medical Practice Act;
- 7044 (m) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
- 7045 (n) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;
- 7046 (o) Title 58, Chapter 70a, Utah Physician Assistant Act; and
- 7047 (p) Title 58, Chapter 73, Chiropractic Physician Practice Act.
- 7048 (9) "Inspector general" means the inspector general of the office, appointed under
- 7049 Section [63A-13-201](#).
- 7050 (10) "Office" means the Office of Inspector General of Medicaid Services, created in
- 7051 Section [63A-13-201](#).
- 7052 (11) "Provider" means a person that provides:
- 7053 (a) medical assistance, including supplies or services, in exchange, directly or
- 7054 indirectly, for Medicaid funds; or
- 7055 (b) billing or recordkeeping services relating to Medicaid funds.
- 7056 (12) "Upcoding" means assigning an inaccurate billing code for a service that is
- 7057 payable or reimbursable by Medicaid funds, if the correct billing code for the service, taking
- 7058 into account reasonable opinions derived from official published coding definitions, would
- 7059 result in a lower Medicaid payment or reimbursement.
- 7060 (13) (a) "Waste" means the act of using or expending a resource carelessly,
- 7061 extravagantly, or to no purpose.
- 7062 (b) "Waste" includes an activity that:
- 7063 (i) does not constitute abuse or necessarily involve a violation of law; and
- 7064 (ii) relates primarily to mismanagement, an inappropriate action, or inadequate

7065 oversight.

7066 Section 77. Section **63A-13-204** is amended to read:

7067 **63A-13-204. Selection and review of claims.**

7068 (1) (a) The office shall periodically select and review a representative sample of claims
7069 submitted for reimbursement under the state Medicaid program to determine whether fraud,
7070 waste, or abuse occurred.

7071 (b) The office shall limit its review for waste and abuse under Subsection (1)(a) to 36
7072 months prior to the date of the inception of the investigation or 72 months if there is a credible
7073 allegation of fraud. In the event the office or the fraud unit determines that there is fraud as
7074 defined in Section **63A-13-102**, then the statute of limitations defined in Subsection
7075 [~~26-20-15(1)~~] 26B-3-1115 shall apply.

7076 (2) The office may directly contact the recipient of record for a Medicaid reimbursed
7077 service to determine whether the service for which reimbursement was claimed was actually
7078 provided to the recipient of record.

7079 (3) The office shall:

7080 (a) generate statistics from the sample described in Subsection (1) to determine the
7081 type of fraud, waste, or abuse that is most advantageous to focus on in future audits or
7082 investigations;

7083 (b) ensure that the office, or any entity that contracts with the office to conduct audits:

7084 (i) has on staff or contracts with a medical or dental professional who is experienced in
7085 the treatment, billing, and coding procedures used by the type of provider being audited; and

7086 (ii) uses the services of the appropriate professional described in Subsection (3)(b)(i) if
7087 the provider that is the subject of the audit disputes the findings of the audit;

7088 (c) ensure that a finding of overpayment or underpayment to a provider is not based on
7089 extrapolation, unless:

7090 (i) there is a determination that the level of payment error involving the provider
7091 exceeds a 10% error rate:

7092 (A) for a sample of claims for a particular service code; and

7093 (B) over a three year period of time;

7094 (ii) documented education intervention has failed to correct the level of payment error;

7095 and

7096 (iii) the value of the claims for the provider, in aggregate, exceeds \$200,000 in
7097 reimbursement for a particular service code on an annual basis; and

7098 (d) require that any entity with which the office contracts, for the purpose of
7099 conducting an audit of a service provider, shall be paid on a flat fee basis for identifying both
7100 overpayments and underpayments.

7101 (4) (a) If the office, or a contractor on behalf of the department:

7102 (i) intends to implement the use of extrapolation as a method of auditing claims, the
7103 department shall, prior to adopting the extrapolation method of auditing, report its intent to use
7104 extrapolation:

7105 (A) to the Social Services Appropriations Subcommittee; and

7106 (B) as required under Section 63A-13-502; and

7107 (ii) determines Subsections (3)(c)(i) through (iii) are applicable to a provider, the office
7108 or the contractor may use extrapolation only for the service code associated with the findings
7109 under Subsections (3)(c)(i) through (iii).

7110 (b) (i) If extrapolation is used under this section, a provider may, at the provider's
7111 option, appeal the results of the audit based on:

7112 (A) each individual claim; or

7113 (B) the extrapolation sample.

7114 (ii) Nothing in this section limits a provider's right to appeal the audit under Title 63G,
7115 Chapter 4, Administrative Procedures Act, the Medicaid program and its manual or rules, or
7116 other laws or rules that may provide remedies to providers.

7117 Section 78. Section 63A-13-301 is amended to read:

7118 **63A-13-301. Access to records -- Retention of designation under Government**
7119 **Records Access and Management Act.**

7120 (1) In order to fulfill the duties described in Section 63A-13-202, and in the manner
7121 provided in Subsection (4), the office shall have unrestricted access to all records of state
7122 executive branch entities, all local government entities, and all providers relating, directly or
7123 indirectly, to:

7124 (a) the state Medicaid program;

7125 (b) state or federal Medicaid funds;

7126 (c) the provision of Medicaid related services;

- 7127 (d) the regulation or management of any aspect of the state Medicaid program;
- 7128 (e) the use or expenditure of state or federal Medicaid funds;
- 7129 (f) suspected or proven fraud, waste, or abuse of state or federal Medicaid funds;
- 7130 (g) Medicaid program policies, practices, and procedures;
- 7131 (h) monitoring of Medicaid services or funds; or
- 7132 (i) a fatality review of a person who received Medicaid funded services.
- 7133 (2) The office shall have access to information in any database maintained by the state
- 7134 or a local government to verify identity, income, employment status, or other factors that affect
- 7135 eligibility for Medicaid services.
- 7136 (3) The records described in Subsections (1) and (2) include records held or maintained
- 7137 by the department, the division, the Department of [~~Human Services~~] Health and Human
- 7138 Services, the Department of Workforce Services, a local health department, a local mental
- 7139 health authority, or a school district. The records described in Subsection (1) include records
- 7140 held or maintained by a provider. When conducting an audit of a provider, the office shall, to
- 7141 the extent possible, limit the records accessed to the scope of the audit.
- 7142 (4) A record, described in Subsection (1) or (2), that is accessed or copied by the
- 7143 office:
- 7144 (a) may be reviewed or copied by the office during normal business hours, unless
- 7145 otherwise requested by the provider or health care professional under Subsection (4)(b);
- 7146 (b) unless there is a credible allegation of fraud, shall be accessed, reviewed, and
- 7147 copied in a manner, on a day, and at a time that is minimally disruptive to the health care
- 7148 professional's or provider's care of patients, as requested by the health care professional or
- 7149 provider;
- 7150 (c) may be submitted electronically;
- 7151 (d) may be submitted together with other records for multiple claims; and
- 7152 (e) if it is a government record, shall retain the classification made by the entity
- 7153 responsible for the record, under Title 63G, Chapter 2, Government Records Access and
- 7154 Management Act.
- 7155 (5) Except as provided in Subsection (7), notwithstanding any provision of state law to
- 7156 the contrary, the office shall have the same access to all records, information, and databases to
- 7157 which the department or the division has access.

7158 (6) The office shall comply with the requirements of federal law, including the Health
 7159 Insurance Portability and Accountability Act of 1996 and 42 C.F.R., Part 2, relating to the
 7160 office's:

7161 (a) access, review, retention, and use of records; and

7162 (b) use of information included in, or derived from, records.

7163 (7) The office's access to data held by the Health Data Committee:

7164 (a) is not subject to this section; and

7165 (b) is subject to [~~Title 26, Chapter 33a, Utah Health Data Authority Act~~] Title 26B,

7166 Chapter 8, Part 5, Utah Health Data Authority.

7167 Section 79. Section **63A-16-803** is amended to read:

7168 **63A-16-803. Single sign-on citizen portal -- Creation.**

7169 (1) The division shall, in consultation with the entities described in Subsection (4),
 7170 design and create a single sign-on citizen portal that is:

7171 (a) a web portal through which an individual may access information and services
 7172 described in Subsection (2), as agreed upon by the entities described in Subsection (4); and

7173 (b) secure, centralized, and interconnected.

7174 (2) The division shall ensure that the single sign-on citizen portal allows an individual,
 7175 at a single point of entry, to:

7176 (a) access and submit an application for:

7177 (i) medical and support programs including:

7178 (A) a medical assistance program administered under [~~Title 26, Chapter 18, Medical~~
 7179 ~~Assistance Act~~] Title 26B, Chapter 3, Health Care - Delivery and Assistance, including
 7180 Medicaid;

7181 (B) the Children's Health Insurance Program under [~~Title 26, Chapter 40, Utah~~
 7182 ~~Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance
 7183 Program;

7184 (C) the Primary Care Network as defined in Section [~~26-18-416~~] 26B-3-211; and

7185 (D) the Women, Infants, and Children program administered under 42 U.S.C. Sec.

7186 1786;

7187 (ii) unemployment insurance under Title 35A, Chapter 4, Employment Security Act;

7188 (iii) workers' compensation under Title 34A, Chapter 2, Workers' Compensation Act;

- 7189 (iv) employment with a state agency;
- 7190 (v) a driver license or state identification card renewal under Title 53, Chapter 3,
7191 Uniform Driver License Act;
- 7192 (vi) a birth or death certificate under [~~Title 26, Chapter 2, Utah Vital Statistics Act~~]
7193 Title 26B, Chapter 8, Part 1, Vital Statistics; and
- 7194 (vii) a hunting or fishing license under Title 23, Chapter 19, Licenses, Permits, and
7195 Tags;
- 7196 (b) access the individual's:
- 7197 (i) transcripts from an institution of higher education described in Section [53B-2-101](#);
7198 and
- 7199 (ii) immunization records maintained by the Utah Department of [~~Health~~] Health and
7200 Human Services;
- 7201 (c) register the individual's vehicle under Title 41, Chapter 1a, Part 2, Registration,
7202 with the Motor Vehicle Division of the State Tax Commission;
- 7203 (d) file the individual's state income taxes under Title 59, Chapter 10, Individual
7204 Income Tax Act, beginning December 1, 2020;
- 7205 (e) access information about positions available for employment with the state; and
- 7206 (f) access any other service or information the department determines is appropriate in
7207 consultation with the entities described in Subsection (4).
- 7208 (3) The division shall develop the single sign-on citizen portal using an open platform
7209 that:
- 7210 (a) facilitates participation in the portal by a state entity;
- 7211 (b) allows for optional participation in the portal by a political subdivision of the state;
7212 and
- 7213 (c) contains a link to the State Tax Commission website.
- 7214 (4) In developing the single sign-on citizen portal, the department shall consult with:
- 7215 (a) each state executive branch agency that administers a program, provides a service,
7216 or manages applicable information described in Subsection (2);
- 7217 (b) the Utah League of Cities and Towns;
- 7218 (c) the Utah Association of Counties; and
- 7219 (d) other appropriate state executive branch agencies.

7220 (5) The division shall ensure that the single sign-on citizen portal is fully operational
7221 no later than January 1, 2025.

7222 Section 80. Section **63A-17-806** is amended to read:

7223 **63A-17-806. Definitions -- Infant at Work Pilot Program -- Administration --**
7224 **Report.**

7225 (1) As used in this section:

7226 (a) "Eligible employee" means an employee who has been employed by the
7227 Department of [~~Health~~] Health and Human Services for a minimum of:

7228 (i) 12 consecutive months; and

7229 (ii) 1,250 hours, excluding paid time off during the 12-month period immediately
7230 preceding the day on which the employee applies for participation in the program.

7231 (b) "Infant" means a baby that is at least six weeks of age and no more than six months
7232 of age.

7233 (c) "Parent" means:

7234 (i) a biological or adoptive parent of an infant; or

7235 (ii) an individual who has an infant placed in the individual's foster care by the
7236 Division of Child and Family Services.

7237 (d) "Program" means the Infant at Work Pilot Program established in this section.

7238 (2) There is created the Infant at Work Pilot Program for eligible employees.

7239 (3) The program shall:

7240 (a) allow an eligible employee to bring the eligible employee's infant to work subject to
7241 the provisions of this section;

7242 (b) be administered by the division; and

7243 (c) be implemented for a minimum of one year.

7244 (4) The division shall establish an application process for eligible employees of the
7245 Department of [~~Health~~] Health and Human Services to apply to the program that includes:

7246 (a) a process for evaluating whether an eligible employee's work environment is
7247 appropriate for an infant;

7248 (b) guidelines for infant health and safety; and

7249 (c) guidelines regarding an eligible employee's initial and ongoing participation in the
7250 program.

7251 (5) If the division approves the eligible employee for participation in the program, the
7252 eligible employee shall have the sole responsibility for the care and safety of the infant at the
7253 workplace.

7254 (6) The division may not require the Department of ~~[Health]~~ Health and Human
7255 Services to designate or set aside space for an eligible employee's infant other than the eligible
7256 employee's existing work space.

7257 (7) The division, in consultation with the Department of ~~[Health]~~ Health and Human
7258 Services, shall make rules that the department determines necessary to establish the program in
7259 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

7260 (8) On or before June 30, 2022, the division, in consultation with the Department of
7261 ~~[Health]~~ Health and Human Services, shall submit a written report to the Business and Labor
7262 Interim Committee that describes the efficacy of the program, including any recommendations
7263 for additional legislative action.

7264 Section 81. Section **63A-17-1001** is amended to read:

7265 **63A-17-1001. Controlled substances and alcohol use prohibited.**

7266 Except as provided in ~~[Title 26, Chapter 61a, Utah Medical Cannabis Act]~~ Title 26B,
7267 Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, an employee may not:

7268 (1) manufacture, dispense, possess, use, distribute, or be under the influence of a
7269 controlled substance or alcohol during work hours or on state property except where legally
7270 permissible;

7271 (2) manufacture, dispense, possess, use, or distribute a controlled substance or alcohol
7272 if the activity prevents:

7273 (a) state agencies from receiving federal grants or performing under federal contracts of
7274 \$25,000 or more; or

7275 (b) the employee to perform his services or work for state government effectively as
7276 regulated by the rules of the executive director in accordance with Section **63A-17-1002**; or

7277 (3) refuse to submit to a drug or alcohol test under Section **63A-17-1004**.

7278 Section 82. Section **63B-16-401** is amended to read:

7279 **63B-16-401. Authorizations to acquire, sell, lease, or exchange property.**

7280 (1) It is the intent of the Legislature that:

7281 (a) the Southeast Applied Technology Campus of the Utah College of Applied

7282 Technology and Utah State University Eastern may cooperatively enter into negotiations with a
7283 nonstate entity and complete a real property exchange to acquire an applied technology facility
7284 in Price;

7285 (b) no state funds be used for any portion of this project; and

7286 (c) the college may request state funds for operations and maintenance costs and capital
7287 improvements to the extent that the college is able to demonstrate to the Board of Regents that
7288 the facility meets approved academic and training purposes under Board of Regents policy
7289 R710.

7290 (2) It is the intent of the Legislature that:

7291 (a) the Mountainland Applied Technology Campus of the Utah College of Applied
7292 Technology may exercise its option to purchase additional property in northern Utah County
7293 adjacent to property purchased with the appropriation in Chapter 367, Item 41, Laws of Utah
7294 2006;

7295 (b) the purchase be financed through donations, institutional funds, a land exchange
7296 involving Lehi City and the Utah Transit Authority, or some combination of donations,
7297 institutional funds, and a land exchange involving Lehi City and the Utah Transit Authority for
7298 future development of a commuter rail station;

7299 (c) the purchase be conducted under the direction of the director of the Division of
7300 Facilities Construction and Management; and

7301 (d) no state funds be used for any portion of this purchase.

7302 (3) It is the intent of the Legislature that:

7303 (a) the Department of Human Services Complex located at 120 North 200 West, Salt
7304 Lake City, Utah be sold for \$11,000,000;

7305 (b) that the proceeds from the sale be used to:

7306 (i) payoff the outstanding bond on the Human Services Complex;

7307 (ii) purchase the Brigham Young University Salt Lake Center located at 3760 South
7308 Highland Drive, Salt Lake City, Utah for up to \$6,000,000 for occupancy by the Utah State
7309 Board of Education Schools for the Deaf and Blind; and

7310 (iii) the remaining funds be used to remodel the Salt Lake Center; and

7311 (c) the Division of Facilities, Construction and Management enter into a lease with the
7312 buyer of the Human Services Complex for and on behalf of the Department of Health and

7313 Human Services that allows the Department of Health and Human Services to continue to
7314 occupy the complex for the period of time needed for the state to purchase, construct, or lease a
7315 replacement facility for the Department of Health and Human Services.

7316 Section 83. Section **63C-9-403** is amended to read:

7317 **63C-9-403. Contracting power of executive director -- Health insurance coverage.**

7318 (1) As used in this section:

7319 (a) "Aggregate" means the sum of all contracts, change orders, and modifications
7320 related to a single project.

7321 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

7322 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or
7323 "operative" who:

7324 (i) works at least 30 hours per calendar week; and

7325 (ii) meets employer eligibility waiting requirements for health care insurance, which
7326 may not exceed the first of the calendar month following 60 days after the day on which the
7327 individual is hired.

7328 (d) "Health benefit plan" means:

7329 (i) the same as that term is defined in Section [31A-1-301](#); or

7330 (ii) an employee welfare benefit plan:

7331 (A) established under the Employee Retirement Income Security Act of 1974, 29
7332 U.S.C. Sec. 1001 et seq.;

7333 (B) for an employer with 100 or more employees; and

7334 (C) in which the employer establishes a self-funded or partially self-funded group
7335 health plan to provide medical care for the employer's employees and dependents of the
7336 employees.

7337 (e) "Qualified health coverage" means the same as that term is defined in Section
7338 [~~26-40-115~~] [26B-3-909](#).

7339 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).

7340 (g) "Third party administrator" or "administrator" means the same as that term is
7341 defined in Section [31A-1-301](#).

7342 (2) Except as provided in Subsection (3), the requirements of this section apply to:

7343 (a) a contractor of a design or construction contract entered into by the board, or on

7344 behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate amount
7345 equal to or greater than \$2,000,000; and

7346 (b) a subcontractor of a contractor of a design or construction contract entered into by
7347 the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in an
7348 aggregate amount equal to or greater than \$1,000,000.

7349 (3) The requirements of this section do not apply to a contractor or subcontractor
7350 described in Subsection (2) if:

7351 (a) the application of this section jeopardizes the receipt of federal funds;

7352 (b) the contract is a sole source contract; or

7353 (c) the contract is an emergency procurement.

7354 (4) A person that intentionally uses change orders, contract modifications, or multiple
7355 contracts to circumvent the requirements of this section is guilty of an infraction.

7356 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
7357 executive director that the contractor has and will maintain an offer of qualified health
7358 coverage for the contractor's employees and the employees' dependents during the duration of
7359 the contract by submitting to the executive director a written statement that:

7360 (i) the contractor offers qualified health coverage that complies with Section
7361 ~~[26-40-115]~~ [26B-3-909](#);

7362 (ii) is from:

7363 (A) an actuary selected by the contractor or the contractor's insurer;

7364 (B) an underwriter who is responsible for developing the employer group's premium
7365 rates; or

7366 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),
7367 an actuary or underwriter selected by a third party administrator; and

7368 (iii) was created within one year before the day on which the statement is submitted.

7369 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)
7370 shall provide the actuary or underwriter selected by the administrator, as described in
7371 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's
7372 contribution to the health benefit plan and the health benefit plan's actuarial value meets the
7373 requirements of qualified health coverage.

7374 (ii) A contractor may not make a change to the contractor's contribution to the health

7375 benefit plan, unless the contractor provides notice to:

7376 (A) the actuary or underwriter selected by the administrator, as described in Subsection
7377 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in
7378 Subsection (5)(a) in compliance with this section; and

7379 (B) the executive director.

7380 (c) A contractor that is subject to the requirements of this section shall:

7381 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
7382 is subject to the requirements of this section shall obtain and maintain an offer of qualified
7383 health coverage for the subcontractor's employees and the employees' dependents during the
7384 duration of the subcontract; and

7385 (ii) obtain from a subcontractor that is subject to the requirements of this section a
7386 written statement that:

7387 (A) the subcontractor offers qualified health coverage that complies with Section
7388 [\[26-40-115\] 26B-3-909](#);

7389 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an
7390 underwriter who is responsible for developing the employer group's premium rates, or if the
7391 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or
7392 underwriter selected by an administrator; and

7393 (C) was created within one year before the day on which the contractor obtains the
7394 statement.

7395 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage as
7396 described in Subsection (5)(a) during the duration of the contract is subject to penalties in
7397 accordance with administrative rules adopted by the division under Subsection (6).

7398 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain
7399 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

7400 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health
7401 coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to
7402 penalties in accordance with administrative rules adopted by the department under Subsection
7403 (6).

7404 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain
7405 an offer of qualified health coverage described in Subsection (5)(a).

7406 (6) The department shall adopt administrative rules:
7407 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
7408 (b) in coordination with:
7409 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
7410 (ii) the Department of Natural Resources in accordance with Section 79-2-404;
7411 (iii) the Division of Facilities Construction and Management in accordance with
7412 Section 63A-5b-607;
7413 (iv) a public transit district in accordance with Section 17B-2a-818.5;
7414 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
7415 (vi) the Legislature's Administrative Rules Review and General Oversight Committee;
7416 and
7417 (c) that establish:
7418 (i) the requirements and procedures a contractor and a subcontractor shall follow to
7419 demonstrate compliance with this section, including:
7420 (A) that a contractor or subcontractor's compliance with this section is subject to an
7421 audit by the department or the Office of the Legislative Auditor General;
7422 (B) that a contractor that is subject to the requirements of this section shall obtain a
7423 written statement described in Subsection (5)(a); and
7424 (C) that a subcontractor that is subject to the requirements of this section shall obtain a
7425 written statement described in Subsection (5)(c)(ii);
7426 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
7427 violates the provisions of this section, which may include:
7428 (A) a three-month suspension of the contractor or subcontractor from entering into
7429 future contracts with the state upon the first violation;
7430 (B) a six-month suspension of the contractor or subcontractor from entering into future
7431 contracts with the state upon the second violation;
7432 (C) an action for debarment of the contractor or subcontractor in accordance with
7433 Section 63G-6a-904 upon the third or subsequent violation; and
7434 (D) monetary penalties which may not exceed 50% of the amount necessary to
7435 purchase qualified health coverage for employees and dependents of employees of the
7436 contractor or subcontractor who were not offered qualified health coverage during the duration

7437 of the contract; and

7438 (iii) a website on which the department shall post the commercially equivalent
7439 benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by
7440 the Department of [~~Health~~] Health and Human Services, in accordance with Subsection
7441 [~~26-40-115(2)~~] 26B-3-909(2).

7442 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor
7443 or subcontractor who intentionally violates the provisions of this section is liable to the
7444 employee for health care costs that would have been covered by qualified health coverage.

7445 (ii) An employer has an affirmative defense to a cause of action under Subsection
7446 (7)(a)(i) if:

7447 (A) the employer relied in good faith on a written statement described in Subsection
7448 (5)(a) or (5)(c)(ii); or

7449 (B) the department determines that compliance with this section is not required under
7450 the provisions of Subsection (3).

7451 (b) An employee has a private right of action only against the employee's employer to
7452 enforce the provisions of this Subsection (7).

7453 (8) Any penalties imposed and collected under this section shall be deposited into the
7454 Medicaid Restricted Account created in Section [~~26-18-402~~] 26B-1-309.

7455 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
7456 required by this section:

7457 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
7458 or contractor under:

7459 (i) Section 63G-6a-1602; or

7460 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

7461 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
7462 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
7463 or construction.

7464 (10) An administrator, including the administrator's actuary or underwriter, who
7465 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health
7466 coverage of a contractor or subcontractor who provides a health benefit plan described in
7467 Subsection (1)(d)(ii):

7468 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,
7469 unless the administrator commits gross negligence in preparing the written statement;

7470 (b) is not liable for any error in the written statement if the administrator relied in good
7471 faith on information from the contractor or subcontractor; and

7472 (c) may require as a condition of providing the written statement that a contractor or
7473 subcontractor hold the administrator harmless for an action arising under this section.

7474 Section 84. Section **63C-18-102** is amended to read:

7475 **63C-18-102. Definitions.**

7476 As used in this chapter:

7477 (1) "Commission" means the Behavioral Health Crisis Response Commission created
7478 in Section [63C-18-202](#).

7479 (2) "Local mental health crisis line" means the same as that term is defined in Section
7480 ~~[62A-15-1301]~~ [26B-5-610](#).

7481 (3) "Statewide mental health crisis line" means the same as that term is defined in
7482 Section ~~[62A-15-1301]~~ [26B-5-610](#).

7483 (4) "Statewide warm line" means the same as that term is defined in Section
7484 ~~[62A-15-1301]~~ [26B-5-610](#).

7485 Section 85. Section **63C-18-202** is amended to read:

7486 **63C-18-202. Commission established -- Members.**

7487 (1) There is created the Behavioral Health Crisis Response Commission, composed of
7488 the following members:

7489 (a) the executive director of the University Neuropsychiatric Institute;

7490 (b) the governor or the governor's designee;

7491 (c) the director of the Division of Substance Abuse and Mental Health;

7492 (d) one representative of the Office of the Attorney General, appointed by the attorney
7493 general;

7494 (e) one member of the public, appointed by the chair of the commission and approved
7495 by the commission;

7496 (f) two individuals who are mental or behavioral health clinicians licensed to practice
7497 in the state, appointed by the chair of the commission and approved by the commission, at least
7498 one of whom is an individual who:

- 7499 (i) is licensed as a physician under:
- 7500 (A) Title 58, Chapter 67, Utah Medical Practice Act;
- 7501 (B) Title 58, Chapter 67b, Interstate Medical Licensure Compact; or
- 7502 (C) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and
- 7503 (ii) is board eligible for a psychiatry specialization recognized by the American Board
- 7504 of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic
- 7505 Specialists;
- 7506 (g) one individual who represents a county of the first or second class, appointed by the
- 7507 Utah Association of Counties;
- 7508 (h) one individual who represents a county of the third, fourth, or fifth class, appointed
- 7509 by the Utah Association of Counties;
- 7510 (i) one individual who represents the Utah Hospital Association, appointed by the chair
- 7511 of the commission;
- 7512 (j) one individual who represents law enforcement, appointed by the chair of the
- 7513 commission;
- 7514 (k) one individual who has lived with a mental health disorder, appointed by the chair
- 7515 of the commission;
- 7516 (l) one individual who represents an integrated health care system that:
- 7517 (i) is not affiliated with the chair of the commission; and
- 7518 (ii) provides inpatient behavioral health services and emergency room services to
- 7519 individuals in the state;
- 7520 (m) one individual who represents an accountable care organization, as defined in
- 7521 Section [~~26-18-423~~] [26B-3-219](#), with a statewide membership base;
- 7522 (n) three members of the House of Representatives, appointed by the speaker of the
- 7523 House of Representatives, no more than two of whom may be from the same political party;
- 7524 (o) three members of the Senate, appointed by the president of the Senate, no more
- 7525 than two of whom may be from the same political party;
- 7526 (p) one individual who represents 911 call centers and public safety answering points,
- 7527 appointed by the chair of the commission;
- 7528 (q) one individual who represents Emergency Medical Services, appointed by the chair
- 7529 of the commission;

7530 (r) one individual who represents the mobile wireless service provider industry,
7531 appointed by the chair of the commission;

7532 (s) one individual who represents rural telecommunications providers, appointed by the
7533 chair of the commission;

7534 (t) one individual who represents voice over internet protocol and land line providers,
7535 appointed by the chair of the commission; and

7536 (u) one individual who represents the Utah League of Cities and Towns, appointed by
7537 the chair of the commission.

7538 (2) On December 31, 2022:

7539 (a) the number of members described in Subsection (1)(n) and the number of members
7540 described in Subsection (1)(o) is reduced to one, with no restriction relating to party
7541 membership; and

7542 (b) the members described in Subsections (1)(p) through (u) are removed from the
7543 commission.

7544 (3) (a) The executive director of the University Neuropsychiatric Institute is the chair
7545 of the commission.

7546 (b) The chair of the commission shall appoint a member of the commission to serve as
7547 the vice chair of the commission, with the approval of the commission.

7548 (c) The chair of the commission shall set the agenda for each commission meeting.

7549 (4) (a) A majority of the members of the commission constitutes a quorum.

7550 (b) The action of a majority of a quorum constitutes the action of the commission.

7551 (5) (a) Except as provided in Subsection (5)(b), a member may not receive
7552 compensation, benefits, per diem, or travel expenses for the member's service on the
7553 commission.

7554 (b) Compensation and expenses of a member who is a legislator are governed by
7555 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

7556 (6) The Office of the Attorney General shall provide staff support to the commission.
7557 Section 86. Section 63C-18-203 is amended to read:

7558 **63C-18-203. Commission duties -- Reporting requirements.**

7559 (1) The commission shall:

7560 (a) identify a method to integrate existing local mental health crisis lines to ensure each

7561 individual who accesses a local mental health crisis line is connected to a qualified mental or
7562 behavioral health professional, regardless of the time, date, or number of individuals trying to
7563 simultaneously access the local mental health crisis line;

7564 (b) study how to establish and implement a statewide mental health crisis line and a
7565 statewide warm line, including identifying:

7566 (i) a statewide phone number or other means for an individual to easily access the
7567 statewide mental health crisis line, including a short code for text messaging and a three-digit
7568 number for calls;

7569 (ii) a statewide phone number or other means for an individual to easily access the
7570 statewide warm line, including a short code for text messaging and a three-digit number for
7571 calls;

7572 (iii) a supply of:

7573 (A) qualified mental or behavioral health professionals to staff the statewide mental
7574 health crisis line; and

7575 (B) qualified mental or behavioral health professionals or certified peer support
7576 specialists to staff the statewide warm line; and

7577 (iv) a funding mechanism to operate and maintain the statewide mental health crisis
7578 line and the statewide warm line;

7579 (c) coordinate with local mental health authorities in fulfilling the commission's duties
7580 described in Subsections (1)(a) and (b); and

7581 (d) recommend standards for the certifications described in Section [[62A-15-1302](#)]
7582 [26B-5-610](#).

7583 (2) In preparation for the implementation of the statewide 988 hotline, the commission
7584 shall study and make recommendations regarding:

7585 (a) crisis line practices and needs, including:

7586 (i) quality and timeliness of service;

7587 (ii) service volume projections;

7588 (iii) a statewide assessment of crisis line staffing needs, including required
7589 certifications; and

7590 (iv) a statewide assessment of technology needs;

7591 (b) primary duties performed by crisis line workers;

- 7592 (c) coordination or redistribution of secondary duties performed by crisis line workers,
- 7593 including responding to non-emergency calls;
- 7594 (d) establishing a statewide 988 hotline:
- 7595 (i) in accordance with federal law;
- 7596 (ii) that ensures the efficient and effective routing of calls to an appropriate crisis
- 7597 center; and
- 7598 (iii) that includes directly responding to calls with trained personnel and the provision
- 7599 of acute mental health, crisis outreach, and stabilization services;
- 7600 (e) opportunities to increase operational and technological efficiencies and
- 7601 effectiveness between 988 and 911, utilizing current technology;
- 7602 (f) needs for interoperability partnerships and policies related to 911 call transfers and
- 7603 public safety responses;
- 7604 (g) standards for statewide mobile crisis outreach teams, including:
- 7605 (i) current models and projected needs;
- 7606 (ii) quality and timeliness of service;
- 7607 (iii) hospital and jail diversions; and
- 7608 (iv) staffing and certification;
- 7609 (h) resource centers, including:
- 7610 (i) current models and projected needs; and
- 7611 (ii) quality and timeliness of service;
- 7612 (i) policy considerations related to whether the state should:
- 7613 (i) manage, operate, and pay for a complete behavioral health system; or
- 7614 (ii) create partnerships with private industry; and
- 7615 (j) sustainable funding source alternatives, including:
- 7616 (i) charging a 988 fee, including a recommendation on the fee amount;
- 7617 (ii) General Fund appropriations;
- 7618 (iii) other government funding options;
- 7619 (iv) private funding sources;
- 7620 (v) grants;
- 7621 (vi) insurance partnerships, including coverage for support and treatment after initial
- 7622 call and triage; and

7623 (vii) other funding resources.

7624 (3) The commission shall:

7625 (a) before December 31, 2021, present an initial report on the matters described in

7626 Subsection (2), including any proposed legislation, to the Executive Appropriations

7627 Committee; and

7628 (b) before December 31, 2022, present a final report on the items described in

7629 Subsection (2), including any proposed legislation, to the Executive Appropriations

7630 Committee.

7631 (4) The duties described in Subsection (2) are removed on December 31, 2022.

7632 (5) The commission may conduct other business related to the commission's duties

7633 described in this section.

7634 (6) The commission shall consult with the Division of Substance Abuse and Mental

7635 Health regarding the standards and operation of the statewide mental health crisis line and the

7636 statewide warm line, in accordance with Title 62A, Chapter 15, Part 13, Statewide Mental

7637 Health Crisis Line and Statewide Warm Line.

7638 Section 87. Section **63G-2-202** is amended to read:

7639 **63G-2-202. Access to private, controlled, and protected documents.**

7640 (1) Except as provided in Subsection (11)(a), a governmental entity:

7641 (a) shall, upon request, disclose a private record to:

7642 (i) the subject of the record;

7643 (ii) the parent or legal guardian of an unemancipated minor who is the subject of the

7644 record;

7645 (iii) the legal guardian of a legally incapacitated individual who is the subject of the

7646 record;

7647 (iv) any other individual who:

7648 (A) has a power of attorney from the subject of the record;

7649 (B) submits a notarized release from the subject of the record or the individual's legal

7650 representative dated no more than 90 days before the date the request is made; or

7651 (C) if the record is a medical record described in Subsection [63G-2-302\(1\)\(b\)](#), is a

7652 health care provider, as defined in Section ~~[26-33a-102]~~ [26B-8-501](#), if releasing the record or

7653 information in the record is consistent with normal professional practice and medical ethics; or

- 7654 (v) any person to whom the record must be provided pursuant to:
- 7655 (A) court order as provided in Subsection (7); or
- 7656 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
- 7657 Powers; and
- 7658 (b) may disclose a private record described in Subsections 63G-2-302(1)(j) through
- 7659 (m), without complying with Section 63G-2-206, to another governmental entity for a purpose
- 7660 related to:
 - 7661 (i) voter registration; or
 - 7662 (ii) the administration of an election.
- 7663 (2) (a) Upon request, a governmental entity shall disclose a controlled record to:
- 7664 (i) a physician, physician assistant, psychologist, certified social worker, insurance
- 7665 provider or producer, or a government public health agency upon submission of:
 - 7666 (A) a release from the subject of the record that is dated no more than 90 days prior to
 - 7667 the date the request is made; and
 - 7668 (B) a signed acknowledgment of the terms of disclosure of controlled information as
 - 7669 provided by Subsection (2)(b); and
 - 7670 (ii) any person to whom the record must be disclosed pursuant to:
 - 7671 (A) a court order as provided in Subsection (7); or
 - 7672 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
 - 7673 Powers.
- 7674 (b) A person who receives a record from a governmental entity in accordance with
- 7675 Subsection (2)(a)(i) may not disclose controlled information from that record to any person,
- 7676 including the subject of the record.
- 7677 (3) If there is more than one subject of a private or controlled record, the portion of the
- 7678 record that pertains to another subject shall be segregated from the portion that the requester is
- 7679 entitled to inspect.
- 7680 (4) Upon request, and except as provided in Subsection (11)(b), a governmental entity
- 7681 shall disclose a protected record to:
 - 7682 (a) the person that submitted the record;
 - 7683 (b) any other individual who:
 - 7684 (i) has a power of attorney from all persons, governmental entities, or political

- 7685 subdivisions whose interests were sought to be protected by the protected classification; or
7686 (ii) submits a notarized release from all persons, governmental entities, or political
7687 subdivisions whose interests were sought to be protected by the protected classification or from
7688 their legal representatives dated no more than 90 days prior to the date the request is made;
- 7689 (c) any person to whom the record must be provided pursuant to:
- 7690 (i) a court order as provided in Subsection (7); or
7691 (ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
7692 Powers; or
7693 (d) the owner of a mobile home park, subject to the conditions of Subsection
7694 [41-1a-116\(5\)](#).
- 7695 (5) Except as provided in Subsection (1)(b), a governmental entity may disclose a
7696 private, controlled, or protected record to another governmental entity, political subdivision,
7697 state, the United States, or a foreign government only as provided by Section [63G-2-206](#).
- 7698 (6) Before releasing a private, controlled, or protected record, the governmental entity
7699 shall obtain evidence of the requester's identity.
- 7700 (7) A governmental entity shall disclose a record pursuant to the terms of a court order
7701 signed by a judge from a court of competent jurisdiction, provided that:
- 7702 (a) the record deals with a matter in controversy over which the court has jurisdiction;
7703 (b) the court has considered the merits of the request for access to the record;
7704 (c) the court has considered and, where appropriate, limited the requester's use and
7705 further disclosure of the record in order to protect:
- 7706 (i) privacy interests in the case of private or controlled records;
7707 (ii) business confidentiality interests in the case of records protected under Subsection
7708 [63G-2-305\(1\), \(2\), \(40\)\(a\)\(ii\), or \(40\)\(a\)\(vi\)](#); and
7709 (iii) privacy interests or the public interest in the case of other protected records;
- 7710 (d) to the extent the record is properly classified private, controlled, or protected, the
7711 interests favoring access, considering limitations thereon, are greater than or equal to the
7712 interests favoring restriction of access; and
7713 (e) where access is restricted by a rule, statute, or regulation referred to in Subsection
7714 [63G-2-201\(3\)\(b\)](#), the court has authority independent of this chapter to order disclosure.
- 7715 (8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or

7716 authorize disclosure of private or controlled records for research purposes if the governmental
7717 entity:

7718 (i) determines that the research purpose cannot reasonably be accomplished without
7719 use or disclosure of the information to the researcher in individually identifiable form;

7720 (ii) determines that:

7721 (A) the proposed research is bona fide; and

7722 (B) the value of the research is greater than or equal to the infringement upon personal
7723 privacy;

7724 (iii) (A) requires the researcher to assure the integrity, confidentiality, and security of
7725 the records; and

7726 (B) requires the removal or destruction of the individual identifiers associated with the
7727 records as soon as the purpose of the research project has been accomplished;

7728 (iv) prohibits the researcher from:

7729 (A) disclosing the record in individually identifiable form, except as provided in
7730 Subsection (8)(b); or

7731 (B) using the record for purposes other than the research approved by the governmental
7732 entity; and

7733 (v) secures from the researcher a written statement of the researcher's understanding of
7734 and agreement to the conditions of this Subsection (8) and the researcher's understanding that
7735 violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution
7736 under Section [63G-2-801](#).

7737 (b) A researcher may disclose a record in individually identifiable form if the record is
7738 disclosed for the purpose of auditing or evaluating the research program and no subsequent use
7739 or disclosure of the record in individually identifiable form will be made by the auditor or
7740 evaluator except as provided by this section.

7741 (c) A governmental entity may require indemnification as a condition of permitting
7742 research under this Subsection (8).

7743 (d) A governmental entity may not disclose or authorize disclosure of a private record
7744 for research purposes as described in this Subsection (8) if the private record is a record
7745 described in Subsection [63G-2-302\(1\)\(w\)](#).

7746 (9) (a) Under Subsections [63G-2-201\(5\)\(b\)](#) and [63G-2-401\(6\)](#), a governmental entity

7747 may disclose to persons other than those specified in this section records that are:

7748 (i) private under Section [63G-2-302](#); or

7749 (ii) protected under Section [63G-2-305](#), subject to Section [63G-2-309](#) if a claim for
7750 business confidentiality has been made under Section [63G-2-309](#).

7751 (b) Under Subsection [63G-2-403\(11\)\(b\)](#), the State Records Committee may require the
7752 disclosure to persons other than those specified in this section of records that are:

7753 (i) private under Section [63G-2-302](#);

7754 (ii) controlled under Section [63G-2-304](#); or

7755 (iii) protected under Section [63G-2-305](#), subject to Section [63G-2-309](#) if a claim for
7756 business confidentiality has been made under Section [63G-2-309](#).

7757 (c) Under Subsection [63G-2-404\(7\)](#), the court may require the disclosure of records
7758 that are private under Section [63G-2-302](#), controlled under Section [63G-2-304](#), or protected
7759 under Section [63G-2-305](#) to persons other than those specified in this section.

7760 (10) (a) A private record described in Subsection [63G-2-302\(2\)\(f\)](#) may only be
7761 disclosed as provided in Subsection (1)(a)(v).

7762 (b) A protected record described in Subsection [63G-2-305\(43\)](#) may only be disclosed
7763 as provided in Subsection (4)(c) or Section [~~62A-3-312~~] [26B-6-212](#).

7764 (11) (a) A private, protected, or controlled record described in Section [~~62A-16-301~~]
7765 [26B-1-506](#) shall be disclosed as required under:

7766 (i) Subsections [~~62A-16-301(1)(b), (2), and (4)(c)~~] [26B-1-506\(1\)\(b\), \(2\), and \(4\)\(c\)](#);

7767 and

7768 (ii) Subsections [~~62A-16-302(1) and (6)~~] [26B-1-507\(1\) and \(6\)](#).

7769 (b) A record disclosed under Subsection (11)(a) shall retain its character as private,
7770 protected, or controlled.

7771 Section 88. Section [63G-2-302](#) is amended to read:

7772 **[63G-2-302](#). Private records.**

7773 (1) The following records are private:

7774 (a) records concerning an individual's eligibility for unemployment insurance benefits,
7775 social services, welfare benefits, or the determination of benefit levels;

7776 (b) records containing data on individuals describing medical history, diagnosis,
7777 condition, treatment, evaluation, or similar medical data;

7778 (c) records of publicly funded libraries that when examined alone or with other records
7779 identify a patron;

7780 (d) records received by or generated by or for:

7781 (i) the Independent Legislative Ethics Commission, except for:

7782 (A) the commission's summary data report that is required under legislative rule; and

7783 (B) any other document that is classified as public under legislative rule; or

7784 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
7785 unless the record is classified as public under legislative rule;

7786 (e) records received by, or generated by or for, the Independent Executive Branch
7787 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review
7788 of Executive Branch Ethics Complaints;

7789 (f) records received or generated for a Senate confirmation committee concerning
7790 character, professional competence, or physical or mental health of an individual:

7791 (i) if, prior to the meeting, the chair of the committee determines release of the records:

7792 (A) reasonably could be expected to interfere with the investigation undertaken by the
7793 committee; or

7794 (B) would create a danger of depriving a person of a right to a fair proceeding or
7795 impartial hearing; and

7796 (ii) after the meeting, if the meeting was closed to the public;

7797 (g) employment records concerning a current or former employee of, or applicant for
7798 employment with, a governmental entity that would disclose that individual's home address,
7799 home telephone number, social security number, insurance coverage, marital status, or payroll
7800 deductions;

7801 (h) records or parts of records under Section [63G-2-303](#) that a current or former
7802 employee identifies as private according to the requirements of that section;

7803 (i) that part of a record indicating a person's social security number or federal employer
7804 identification number if provided under Section [31A-23a-104](#), [31A-25-202](#), [31A-26-202](#),
7805 [58-1-301](#), [58-55-302](#), [61-1-4](#), or [61-2f-203](#);

7806 (j) that part of a voter registration record identifying a voter's:

7807 (i) driver license or identification card number;

7808 (ii) social security number, or last four digits of the social security number;

- 7809 (iii) email address;
- 7810 (iv) date of birth; or
- 7811 (v) phone number;
- 7812 (k) a voter registration record that is classified as a private record by the lieutenant
- 7813 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or
- 7814 20A-2-204(4)(b);
- 7815 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- 7816 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any
- 7817 verification submitted in support of the form;
- 7818 (n) a record that:
- 7819 (i) contains information about an individual;
- 7820 (ii) is voluntarily provided by the individual; and
- 7821 (iii) goes into an electronic database that:
- 7822 (A) is designated by and administered under the authority of the Chief Information
- 7823 Officer; and
- 7824 (B) acts as a repository of information about the individual that can be electronically
- 7825 retrieved and used to facilitate the individual's online interaction with a state agency;
- 7826 (o) information provided to the Commissioner of Insurance under:
- 7827 (i) Subsection 31A-23a-115(3)(a);
- 7828 (ii) Subsection 31A-23a-302(4); or
- 7829 (iii) Subsection 31A-26-210(4);
- 7830 (p) information obtained through a criminal background check under Title 11, Chapter
- 7831 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- 7832 (q) information provided by an offender that is:
- 7833 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap
- 7834 Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and
- 7835 (ii) not required to be made available to the public under Subsection 77-41-110(4) or
- 7836 77-43-108(4);
- 7837 (r) a statement and any supporting documentation filed with the attorney general in
- 7838 accordance with Section 34-45-107, if the federal law or action supporting the filing involves
- 7839 homeland security;

7840 (s) electronic toll collection customer account information received or collected under
7841 Section 72-6-118 and customer information described in Section 17B-2a-815 received or
7842 collected by a public transit district, including contact and payment information and customer
7843 travel data;

7844 (t) an email address provided by a military or overseas voter under Section
7845 20A-16-501;

7846 (u) a completed military-overseas ballot that is electronically transmitted under Title
7847 20A, Chapter 16, Uniform Military and Overseas Voters Act;

7848 (v) records received by or generated by or for the Political Subdivisions Ethics Review
7849 Commission established in Section 63A-15-201, except for:

7850 (i) the commission's summary data report that is required in Section 63A-15-202; and

7851 (ii) any other document that is classified as public in accordance with Title 63A,
7852 Chapter 15, Political Subdivisions Ethics Review Commission;

7853 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of
7854 an incident or threat;

7855 (x) a criminal background check or credit history report conducted in accordance with
7856 Section 63A-3-201;

7857 (y) a record described in Subsection 53-5a-104(7);

7858 (z) on a record maintained by a county for the purpose of administering property taxes,
7859 an individual's:

7860 (i) email address;

7861 (ii) phone number; or

7862 (iii) personal financial information related to a person's payment method;

7863 (aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an
7864 exemption, deferral, abatement, or relief under:

7865 (i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;

7866 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

7867 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

7868 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;

7869 (bb) a record provided by the State Tax Commission in response to a request under
7870 Subsection 59-1-403(4)(y)(iii);

- 7871 (cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual
7872 child welfare case, as described in Subsection [36-33-103\(3\)](#); and
- 7873 (dd) a record relating to drug or alcohol testing of a state employee under Section
7874 [63A-17-1004](#).
- 7875 (2) The following records are private if properly classified by a governmental entity:
- 7876 (a) records concerning a current or former employee of, or applicant for employment
7877 with a governmental entity, including performance evaluations and personal status information
7878 such as race, religion, or disabilities, but not including records that are public under Subsection
7879 [63G-2-301\(2\)\(b\)](#) or [63G-2-301\(3\)\(o\)](#) or private under Subsection (1)(b);
- 7880 (b) records describing an individual's finances, except that the following are public:
- 7881 (i) records described in Subsection [63G-2-301\(2\)](#);
- 7882 (ii) information provided to the governmental entity for the purpose of complying with
7883 a financial assurance requirement; or
- 7884 (iii) records that must be disclosed in accordance with another statute;
- 7885 (c) records of independent state agencies if the disclosure of those records would
7886 conflict with the fiduciary obligations of the agency;
- 7887 (d) other records containing data on individuals the disclosure of which constitutes a
7888 clearly unwarranted invasion of personal privacy;
- 7889 (e) records provided by the United States or by a government entity outside the state
7890 that are given with the requirement that the records be managed as private records, if the
7891 providing entity states in writing that the record would not be subject to public disclosure if
7892 retained by it;
- 7893 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
7894 created in Section [~~[62A-3-102](#)~~] [26B-6-102](#), that may disclose, or lead to the discovery of, the
7895 identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable
7896 adult; and
- 7897 (g) audio and video recordings created by a body-worn camera, as defined in Section
7898 [77-7a-103](#), that record sound or images inside a home or residence except for recordings that:
- 7899 (i) depict the commission of an alleged crime;
- 7900 (ii) record any encounter between a law enforcement officer and a person that results in
7901 death or bodily injury, or includes an instance when an officer fires a weapon;

7902 (iii) record any encounter that is the subject of a complaint or a legal proceeding
7903 against a law enforcement officer or law enforcement agency;

7904 (iv) contain an officer involved critical incident as defined in Subsection
7905 76-2-408(1)(f); or

7906 (v) have been requested for reclassification as a public record by a subject or
7907 authorized agent of a subject featured in the recording.

7908 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
7909 records, statements, history, diagnosis, condition, treatment, and evaluation.

7910 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
7911 doctors, or affiliated entities are not private records or controlled records under Section
7912 63G-2-304 when the records are sought:

7913 (i) in connection with any legal or administrative proceeding in which the patient's
7914 physical, mental, or emotional condition is an element of any claim or defense; or

7915 (ii) after a patient's death, in any legal or administrative proceeding in which any party
7916 relies upon the condition as an element of the claim or defense.

7917 (c) Medical records are subject to production in a legal or administrative proceeding
7918 according to state or federal statutes or rules of procedure and evidence as if the medical
7919 records were in the possession of a nongovernmental medical care provider.

7920 Section 89. Section 63G-2-305 is amended to read:

7921 **63G-2-305. Protected records.**

7922 The following records are protected if properly classified by a governmental entity:

7923 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
7924 has provided the governmental entity with the information specified in Section 63G-2-309;

7925 (2) commercial information or nonindividual financial information obtained from a
7926 person if:

7927 (a) disclosure of the information could reasonably be expected to result in unfair
7928 competitive injury to the person submitting the information or would impair the ability of the
7929 governmental entity to obtain necessary information in the future;

7930 (b) the person submitting the information has a greater interest in prohibiting access
7931 than the public in obtaining access; and

7932 (c) the person submitting the information has provided the governmental entity with

7933 the information specified in Section [63G-2-309](#);

7934 (3) commercial or financial information acquired or prepared by a governmental entity
7935 to the extent that disclosure would lead to financial speculations in currencies, securities, or
7936 commodities that will interfere with a planned transaction by the governmental entity or cause
7937 substantial financial injury to the governmental entity or state economy;

7938 (4) records, the disclosure of which could cause commercial injury to, or confer a
7939 competitive advantage upon a potential or actual competitor of, a commercial project entity as
7940 defined in Subsection [11-13-103\(4\)](#);

7941 (5) test questions and answers to be used in future license, certification, registration,
7942 employment, or academic examinations;

7943 (6) records, the disclosure of which would impair governmental procurement
7944 proceedings or give an unfair advantage to any person proposing to enter into a contract or
7945 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
7946 Subsection (6) does not restrict the right of a person to have access to, after the contract or
7947 grant has been awarded and signed by all parties:

7948 (a) a bid, proposal, application, or other information submitted to or by a governmental
7949 entity in response to:

7950 (i) an invitation for bids;

7951 (ii) a request for proposals;

7952 (iii) a request for quotes;

7953 (iv) a grant; or

7954 (v) other similar document; or

7955 (b) an unsolicited proposal, as defined in Section [63G-6a-712](#);

7956 (7) information submitted to or by a governmental entity in response to a request for
7957 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
7958 the right of a person to have access to the information, after:

7959 (a) a contract directly relating to the subject of the request for information has been
7960 awarded and signed by all parties; or

7961 (b) (i) a final determination is made not to enter into a contract that relates to the
7962 subject of the request for information; and

7963 (ii) at least two years have passed after the day on which the request for information is

7964 issued;

7965 (8) records that would identify real property or the appraisal or estimated value of real
7966 or personal property, including intellectual property, under consideration for public acquisition
7967 before any rights to the property are acquired unless:

7968 (a) public interest in obtaining access to the information is greater than or equal to the
7969 governmental entity's need to acquire the property on the best terms possible;

7970 (b) the information has already been disclosed to persons not employed by or under a
7971 duty of confidentiality to the entity;

7972 (c) in the case of records that would identify property, potential sellers of the described
7973 property have already learned of the governmental entity's plans to acquire the property;

7974 (d) in the case of records that would identify the appraisal or estimated value of
7975 property, the potential sellers have already learned of the governmental entity's estimated value
7976 of the property; or

7977 (e) the property under consideration for public acquisition is a single family residence
7978 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
7979 the property as required under Section [78B-6-505](#);

7980 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
7981 compensated transaction of real or personal property including intellectual property, which, if
7982 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
7983 of the subject property, unless:

7984 (a) the public interest in access is greater than or equal to the interests in restricting
7985 access, including the governmental entity's interest in maximizing the financial benefit of the
7986 transaction; or

7987 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
7988 the value of the subject property have already been disclosed to persons not employed by or
7989 under a duty of confidentiality to the entity;

7990 (10) records created or maintained for civil, criminal, or administrative enforcement
7991 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
7992 release of the records:

7993 (a) reasonably could be expected to interfere with investigations undertaken for
7994 enforcement, discipline, licensing, certification, or registration purposes;

7995 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
7996 proceedings;

7997 (c) would create a danger of depriving a person of a right to a fair trial or impartial
7998 hearing;

7999 (d) reasonably could be expected to disclose the identity of a source who is not
8000 generally known outside of government and, in the case of a record compiled in the course of
8001 an investigation, disclose information furnished by a source not generally known outside of
8002 government if disclosure would compromise the source; or

8003 (e) reasonably could be expected to disclose investigative or audit techniques,
8004 procedures, policies, or orders not generally known outside of government if disclosure would
8005 interfere with enforcement or audit efforts;

8006 (11) records the disclosure of which would jeopardize the life or safety of an
8007 individual;

8008 (12) records the disclosure of which would jeopardize the security of governmental
8009 property, governmental programs, or governmental recordkeeping systems from damage, theft,
8010 or other appropriation or use contrary to law or public policy;

8011 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
8012 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
8013 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

8014 (14) records that, if disclosed, would reveal recommendations made to the Board of
8015 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
8016 Board of Pardons and Parole, or the Department of ~~[Human Services]~~ Health and Human
8017 Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of
8018 any person within the board's jurisdiction;

8019 (15) records and audit workpapers that identify audit, collection, and operational
8020 procedures and methods used by the State Tax Commission, if disclosure would interfere with
8021 audits or collections;

8022 (16) records of a governmental audit agency relating to an ongoing or planned audit
8023 until the final audit is released;

8024 (17) records that are subject to the attorney client privilege;

8025 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,

8026 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
8027 quasi-judicial, or administrative proceeding;

8028 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
8029 from a member of the Legislature; and

8030 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
8031 legislative action or policy may not be classified as protected under this section; and

8032 (b) (i) an internal communication that is part of the deliberative process in connection
8033 with the preparation of legislation between:

8034 (A) members of a legislative body;

8035 (B) a member of a legislative body and a member of the legislative body's staff; or

8036 (C) members of a legislative body's staff; and

8037 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
8038 legislative action or policy may not be classified as protected under this section;

8039 (20) (a) records in the custody or control of the Office of Legislative Research and
8040 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated

8041 legislation or contemplated course of action before the legislator has elected to support the
8042 legislation or course of action, or made the legislation or course of action public; and

8043 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
8044 Office of Legislative Research and General Counsel is a public document unless a legislator
8045 asks that the records requesting the legislation be maintained as protected records until such
8046 time as the legislator elects to make the legislation or course of action public;

8047 (21) research requests from legislators to the Office of Legislative Research and
8048 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
8049 in response to these requests;

8050 (22) drafts, unless otherwise classified as public;

8051 (23) records concerning a governmental entity's strategy about:

8052 (a) collective bargaining; or

8053 (b) imminent or pending litigation;

8054 (24) records of investigations of loss occurrences and analyses of loss occurrences that
8055 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
8056 Uninsured Employers' Fund, or similar divisions in other governmental entities;

8057 (25) records, other than personnel evaluations, that contain a personal recommendation
8058 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
8059 personal privacy, or disclosure is not in the public interest;

8060 (26) records that reveal the location of historic, prehistoric, paleontological, or
8061 biological resources that if known would jeopardize the security of those resources or of
8062 valuable historic, scientific, educational, or cultural information;

8063 (27) records of independent state agencies if the disclosure of the records would
8064 conflict with the fiduciary obligations of the agency;

8065 (28) records of an institution within the state system of higher education defined in
8066 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,
8067 retention decisions, and promotions, which could be properly discussed in a meeting closed in
8068 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
8069 the final decisions about tenure, appointments, retention, promotions, or those students
8070 admitted, may not be classified as protected under this section;

8071 (29) records of the governor's office, including budget recommendations, legislative
8072 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
8073 policies or contemplated courses of action before the governor has implemented or rejected
8074 those policies or courses of action or made them public;

8075 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
8076 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
8077 recommendations in these areas;

8078 (31) records provided by the United States or by a government entity outside the state
8079 that are given to the governmental entity with a requirement that they be managed as protected
8080 records if the providing entity certifies that the record would not be subject to public disclosure
8081 if retained by it;

8082 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a
8083 public body except as provided in Section 52-4-206;

8084 (33) records that would reveal the contents of settlement negotiations but not including
8085 final settlements or empirical data to the extent that they are not otherwise exempt from
8086 disclosure;

8087 (34) memoranda prepared by staff and used in the decision-making process by an

8088 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
8089 other body charged by law with performing a quasi-judicial function;

8090 (35) records that would reveal negotiations regarding assistance or incentives offered
8091 by or requested from a governmental entity for the purpose of encouraging a person to expand
8092 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
8093 person or place the governmental entity at a competitive disadvantage, but this section may not
8094 be used to restrict access to a record evidencing a final contract;

8095 (36) materials to which access must be limited for purposes of securing or maintaining
8096 the governmental entity's proprietary protection of intellectual property rights including patents,
8097 copyrights, and trade secrets;

8098 (37) the name of a donor or a prospective donor to a governmental entity, including an
8099 institution within the state system of higher education defined in Section 53B-1-102, and other
8100 information concerning the donation that could reasonably be expected to reveal the identity of
8101 the donor, provided that:

8102 (a) the donor requests anonymity in writing;

8103 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
8104 classified protected by the governmental entity under this Subsection (37); and

8105 (c) except for an institution within the state system of higher education defined in
8106 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
8107 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
8108 over the donor, a member of the donor's immediate family, or any entity owned or controlled
8109 by the donor or the donor's immediate family;

8110 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
8111 73-18-13;

8112 (39) a notification of workers' compensation insurance coverage described in Section
8113 34A-2-205;

8114 (40) (a) the following records of an institution within the state system of higher
8115 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
8116 or received by or on behalf of faculty, staff, employees, or students of the institution:

8117 (i) unpublished lecture notes;

8118 (ii) unpublished notes, data, and information:

- 8119 (A) relating to research; and
- 8120 (B) of:
- 8121 (I) the institution within the state system of higher education defined in Section
- 8122 [53B-1-102](#); or
- 8123 (II) a sponsor of sponsored research;
- 8124 (iii) unpublished manuscripts;
- 8125 (iv) creative works in process;
- 8126 (v) scholarly correspondence; and
- 8127 (vi) confidential information contained in research proposals;
- 8128 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
- 8129 information required pursuant to Subsection [53B-16-302\(2\)\(a\)](#) or (b); and
- 8130 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
- 8131 (41) (a) records in the custody or control of the Office of the Legislative Auditor
- 8132 General that would reveal the name of a particular legislator who requests a legislative audit
- 8133 prior to the date that audit is completed and made public; and
- 8134 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
- 8135 Office of the Legislative Auditor General is a public document unless the legislator asks that
- 8136 the records in the custody or control of the Office of the Legislative Auditor General that would
- 8137 reveal the name of a particular legislator who requests a legislative audit be maintained as
- 8138 protected records until the audit is completed and made public;
- 8139 (42) records that provide detail as to the location of an explosive, including a map or
- 8140 other document that indicates the location of:
- 8141 (a) a production facility; or
- 8142 (b) a magazine;
- 8143 (43) information contained in the statewide database of the Division of Aging and
- 8144 Adult Services created by Section [~~62A-3-311.1~~] [26B-6-210](#);
- 8145 (44) information contained in the Licensing Information System described in Title 80,
- 8146 Chapter 2, Child Welfare Services;
- 8147 (45) information regarding National Guard operations or activities in support of the
- 8148 National Guard's federal mission;
- 8149 (46) records provided by any pawn or secondhand business to a law enforcement

8150 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop,
8151 Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
8152 (47) information regarding food security, risk, and vulnerability assessments performed
8153 by the Department of Agriculture and Food;
8154 (48) except to the extent that the record is exempt from this chapter pursuant to Section
8155 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or
8156 prepared or maintained by the Division of Emergency Management, and the disclosure of
8157 which would jeopardize:
8158 (a) the safety of the general public; or
8159 (b) the security of:
8160 (i) governmental property;
8161 (ii) governmental programs; or
8162 (iii) the property of a private person who provides the Division of Emergency
8163 Management information;
8164 (49) records of the Department of Agriculture and Food that provides for the
8165 identification, tracing, or control of livestock diseases, including any program established under
8166 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
8167 of Animal Disease;
8168 (50) as provided in Section ~~[26-39-501]~~ [26B-2-408](#):
8169 (a) information or records held by the Department of ~~[Health]~~ Health and Human
8170 Services related to a complaint regarding a child care program or residential child care which
8171 the department is unable to substantiate; and
8172 (b) information or records related to a complaint received by the Department of
8173 ~~[Health]~~ Health and Human Services from an anonymous complainant regarding a child care
8174 program or residential child care;
8175 (51) unless otherwise classified as public under Section [63G-2-301](#) and except as
8176 provided under Section [41-1a-116](#), an individual's home address, home telephone number, or
8177 personal mobile phone number, if:
8178 (a) the individual is required to provide the information in order to comply with a law,
8179 ordinance, rule, or order of a government entity; and
8180 (b) the subject of the record has a reasonable expectation that this information will be

8181 kept confidential due to:

8182 (i) the nature of the law, ordinance, rule, or order; and

8183 (ii) the individual complying with the law, ordinance, rule, or order;

8184 (52) the portion of the following documents that contains a candidate's residential or
8185 mailing address, if the candidate provides to the filing officer another address or phone number
8186 where the candidate may be contacted:

8187 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
8188 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408,
8189 20A-9-408.5, 20A-9-502, or 20A-9-601;

8190 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or

8191 (c) a notice of intent to gather signatures for candidacy, described in Section
8192 20A-9-408;

8193 (53) the name, home address, work addresses, and telephone numbers of an individual
8194 that is engaged in, or that provides goods or services for, medical or scientific research that is:

8195 (a) conducted within the state system of higher education, as defined in Section
8196 53B-1-102; and

8197 (b) conducted using animals;

8198 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
8199 Evaluation Commission concerning an individual commissioner's vote, in relation to whether a
8200 judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and
8201 information disclosed under Subsection 78A-12-203(5)(e);

8202 (55) information collected and a report prepared by the Judicial Performance
8203 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter
8204 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
8205 the information or report;

8206 (56) records provided or received by the Public Lands Policy Coordinating Office in
8207 furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

8208 (57) information requested by and provided to the 911 Division under Section
8209 63H-7a-302;

8210 (58) in accordance with Section 73-10-33:

8211 (a) a management plan for a water conveyance facility in the possession of the Division

8212 of Water Resources or the Board of Water Resources; or

8213 (b) an outline of an emergency response plan in possession of the state or a county or
8214 municipality;

8215 (59) the following records in the custody or control of the Office of Inspector General
8216 of Medicaid Services, created in Section [63A-13-201](#):

8217 (a) records that would disclose information relating to allegations of personal
8218 misconduct, gross mismanagement, or illegal activity of a person if the information or
8219 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
8220 through other documents or evidence, and the records relating to the allegation are not relied
8221 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
8222 report or final audit report;

8223 (b) records and audit workpapers to the extent they would disclose the identity of a
8224 person who, during the course of an investigation or audit, communicated the existence of any
8225 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
8226 regulation adopted under the laws of this state, a political subdivision of the state, or any
8227 recognized entity of the United States, if the information was disclosed on the condition that
8228 the identity of the person be protected;

8229 (c) before the time that an investigation or audit is completed and the final
8230 investigation or final audit report is released, records or drafts circulated to a person who is not
8231 an employee or head of a governmental entity for the person's response or information;

8232 (d) records that would disclose an outline or part of any investigation, audit survey
8233 plan, or audit program; or

8234 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
8235 investigation or audit;

8236 (60) records that reveal methods used by the Office of Inspector General of Medicaid
8237 Services, the fraud unit, or the Department of [~~Health~~] Health and Human Services, to discover
8238 Medicaid fraud, waste, or abuse;

8239 (61) information provided to the Department of [~~Health~~] Health and Human Services
8240 or the Division of Professional Licensing under Subsections [58-67-304](#)(3) and (4) and
8241 Subsections [58-68-304](#)(3) and (4);

8242 (62) a record described in Section [63G-12-210](#);

- 8243 (63) captured plate data that is obtained through an automatic license plate reader
8244 system used by a governmental entity as authorized in Section 41-6a-2003;
- 8245 (64) any record in the custody of the Utah Office for Victims of Crime relating to a
8246 victim, including:
- 8247 (a) a victim's application or request for benefits;
 - 8248 (b) a victim's receipt or denial of benefits; and
 - 8249 (c) any administrative notes or records made or created for the purpose of, or used to,
8250 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim
8251 Reparations Fund;
- 8252 (65) an audio or video recording created by a body-worn camera, as that term is
8253 defined in Section 77-7a-103, that records sound or images inside a hospital or health care
8254 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care
8255 provider, as that term is defined in Section 78B-3-403, or inside a human service program as
8256 that term is defined in Section 62A-2-101, except for recordings that:
- 8257 (a) depict the commission of an alleged crime;
 - 8258 (b) record any encounter between a law enforcement officer and a person that results in
8259 death or bodily injury, or includes an instance when an officer fires a weapon;
 - 8260 (c) record any encounter that is the subject of a complaint or a legal proceeding against
8261 a law enforcement officer or law enforcement agency;
 - 8262 (d) contain an officer involved critical incident as defined in Subsection
8263 76-2-408(1)(f); or
 - 8264 (e) have been requested for reclassification as a public record by a subject or
8265 authorized agent of a subject featured in the recording;
- 8266 (66) a record pertaining to the search process for a president of an institution of higher
8267 education described in Section 53B-2-102, except for application materials for a publicly
8268 announced finalist;
- 8269 (67) an audio recording that is:
- 8270 (a) produced by an audio recording device that is used in conjunction with a device or
8271 piece of equipment designed or intended for resuscitating an individual or for treating an
8272 individual with a life-threatening condition;
 - 8273 (b) produced during an emergency event when an individual employed to provide law

8274 enforcement, fire protection, paramedic, emergency medical, or other first responder service:

8275 (i) is responding to an individual needing resuscitation or with a life-threatening
8276 condition; and

8277 (ii) uses a device or piece of equipment designed or intended for resuscitating an
8278 individual or for treating an individual with a life-threatening condition; and

8279 (c) intended and used for purposes of training emergency responders how to improve
8280 their response to an emergency situation;

8281 (68) records submitted by or prepared in relation to an applicant seeking a
8282 recommendation by the Research and General Counsel Subcommittee, the Budget
8283 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an
8284 employment position with the Legislature;

8285 (69) work papers as defined in Section 31A-2-204;

8286 (70) a record made available to Adult Protective Services or a law enforcement agency
8287 under Section 61-1-206;

8288 (71) a record submitted to the Insurance Department in accordance with Section
8289 31A-37-201;

8290 (72) a record described in Section 31A-37-503;

8291 (73) any record created by the Division of Professional Licensing as a result of
8292 Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

8293 (74) a record described in Section 72-16-306 that relates to the reporting of an injury
8294 involving an amusement ride;

8295 (75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual
8296 on a political petition, or on a request to withdraw a signature from a political petition,
8297 including a petition or request described in the following titles:

8298 (a) Title 10, Utah Municipal Code;

8299 (b) Title 17, Counties;

8300 (c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

8301 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

8302 (e) Title 20A, Election Code;

8303 (76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in
8304 a voter registration record;

8305 (77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a
8306 signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a
8307 local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

8308 (78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part
8309 5, Victims Guidelines for Prosecutors Act;

8310 (79) a record submitted to the Insurance Department under Section 31A-48-103;

8311 (80) personal information, as defined in Section 63G-26-102, to the extent disclosure is
8312 prohibited under Section 63G-26-103;

8313 (81) an image taken of an individual during the process of booking the individual into
8314 jail, unless:

8315 (a) the individual is convicted of a criminal offense based upon the conduct for which
8316 the individual was incarcerated at the time the image was taken;

8317 (b) a law enforcement agency releases or disseminates the image:

8318 (i) after determining that the individual is a fugitive or an imminent threat to an
8319 individual or to public safety and releasing or disseminating the image will assist in
8320 apprehending the individual or reducing or eliminating the threat; or

8321 (ii) to a potential witness or other individual with direct knowledge of events relevant
8322 to a criminal investigation or criminal proceeding for the purpose of identifying or locating an
8323 individual in connection with the criminal investigation or criminal proceeding; or

8324 (c) a judge orders the release or dissemination of the image based on a finding that the
8325 release or dissemination is in furtherance of a legitimate law enforcement interest;

8326 (82) a record:

8327 (a) concerning an interstate claim to the use of waters in the Colorado River system;

8328 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
8329 representative from another state or the federal government as provided in Section
8330 63M-14-205; and

8331 (c) the disclosure of which would:

8332 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
8333 Colorado River system;

8334 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to
8335 negotiate the best terms and conditions regarding the use of water in the Colorado River

8336 system; or

8337 (iii) give an advantage to another state or to the federal government in negotiations
8338 regarding the use of water in the Colorado River system;

8339 (83) any part of an application described in Section 63N-16-201 that the Governor's
8340 Office of Economic Opportunity determines is nonpublic, confidential information that if
8341 disclosed would result in actual economic harm to the applicant, but this Subsection (83) may
8342 not be used to restrict access to a record evidencing a final contract or approval decision;

8343 (84) the following records of a drinking water or wastewater facility:

8344 (a) an engineering or architectural drawing of the drinking water or wastewater facility;
8345 and

8346 (b) except as provided in Section 63G-2-106, a record detailing tools or processes the
8347 drinking water or wastewater facility uses to secure, or prohibit access to, the records described
8348 in Subsection (84)(a); and

8349 (85) a statement that an employee of a governmental entity provides to the
8350 governmental entity as part of the governmental entity's personnel or administrative
8351 investigation into potential misconduct involving the employee if the governmental entity:

8352 (a) requires the statement under threat of employment disciplinary action, including
8353 possible termination of employment, for the employee's refusal to provide the statement; and

8354 (b) provides the employee assurance that the statement cannot be used against the
8355 employee in any criminal proceeding.

8356 Section 90. Section 63G-3-501 is amended to read:

8357 **63G-3-501. Administrative Rules Review and General Oversight Committee.**

8358 (1) (a) There is created an Administrative Rules Review and General Oversight
8359 Committee of the following 10 permanent members:

8360 (i) five members of the Senate appointed by the president of the Senate, no more than
8361 three of whom may be from the same political party; and

8362 (ii) five members of the House of Representatives appointed by the speaker of the
8363 House of Representatives, no more than three of whom may be from the same political party.

8364 (b) Each permanent member shall serve:

8365 (i) for a two-year term; or

8366 (ii) until the permanent member's successor is appointed.

- 8367 (c) (i) A vacancy exists when a permanent member ceases to be a member of the
8368 Legislature, or when a permanent member resigns from the committee.
- 8369 (ii) When a vacancy exists:
- 8370 (A) if the departing member is a member of the Senate, the president of the Senate
8371 shall appoint a member of the Senate to fill the vacancy; or
- 8372 (B) if the departing member is a member of the House of Representatives, the speaker
8373 of the House of Representatives shall appoint a member of the House of Representatives to fill
8374 the vacancy.
- 8375 (iii) The newly appointed member shall serve the remainder of the departing member's
8376 unexpired term.
- 8377 (d) (i) The president of the Senate shall designate a member of the Senate appointed
8378 under Subsection (1)(a)(i) as a cochair of the committee.
- 8379 (ii) The speaker of the House of Representatives shall designate a member of the
8380 House of Representatives appointed under Subsection (1)(a)(ii) as a cochair of the committee.
- 8381 (e) Three representatives and three senators from the permanent members are a quorum
8382 for the transaction of business at any meeting.
- 8383 (f) (i) Subject to Subsection (1)(f)(ii), the committee shall meet at least once each
8384 month to review new agency rules, amendments to existing agency rules, and repeals of
8385 existing agency rules.
- 8386 (ii) The committee chairs may suspend the meeting requirement described in
8387 Subsection (1)(f)(i) at the committee chairs' discretion.
- 8388 (2) The office shall submit a copy of each issue of the bulletin to the committee.
- 8389 (3) (a) The committee shall exercise continuous oversight of the rulemaking process.
- 8390 (b) The committee shall examine each rule, including any rule made according to the
8391 emergency rulemaking procedure described in Section [63G-3-304](#), submitted by an agency to
8392 determine:
- 8393 (i) whether the rule is authorized by statute;
- 8394 (ii) whether the rule complies with legislative intent;
- 8395 (iii) the rule's impact on the economy and the government operations of the state and
8396 local political subdivisions;
- 8397 (iv) the rule's impact on affected persons;

- 8398 (v) the rule's total cost to entities regulated by the state;
- 8399 (vi) the rule's benefit to the citizens of the state; and
- 8400 (vii) whether adoption of the rule requires legislative review or approval.
- 8401 (c) The committee may examine and review:
- 8402 (i) any executive order issued pursuant to Title 53, Chapter 2a, Part 2, Disaster
- 8403 Response and Recovery Act;
- 8404 (ii) any public health order issued during a public health emergency declared in
- 8405 accordance with [~~Title 26, Utah Health Code, or~~] Title 26A, Local Health Authorities or Title
- 8406 26B, Utah Health and Human Services Code; or
- 8407 (iii) an agency's policies that:
- 8408 (A) affect a class of persons other than the agency; or
- 8409 (B) are contrary to legislative intent.
- 8410 (d) (i) To carry out these duties, the committee may examine any other issues that the
- 8411 committee considers necessary.
- 8412 (ii) Notwithstanding anything to the contrary in this section, the committee may not
- 8413 examine an agency's internal policies, procedures, or practices.
- 8414 (iii) The committee may also notify and refer rules to the chairs of the interim
- 8415 committee that has jurisdiction over a particular agency when the committee determines that an
- 8416 issue involved in an agency's rules may be more appropriately addressed by that committee.
- 8417 (e) An agency shall respond to a request from the committee for:
- 8418 (i) an agency's policy described in Subsection (3)(c)(iii); or
- 8419 (ii) information related to an agency's policy described in Subsection (3)(c)(iii).
- 8420 (f) In reviewing a rule, the committee shall follow generally accepted principles of
- 8421 statutory construction.
- 8422 (4) When the committee reviews an existing rule, the committee chairs shall invite the
- 8423 Senate and House chairs of the standing committee and of the appropriation subcommittee that
- 8424 have jurisdiction over the agency whose existing rule is being reviewed to participate as
- 8425 nonvoting, ex officio members with the committee.
- 8426 (5) The committee may request that the Office of the Legislative Fiscal Analyst prepare
- 8427 a fiscal note on any rule.
- 8428 (6) In order to accomplish the committee's functions described in this chapter, the

8429 committee has all the powers granted to legislative interim committees under Section 36-12-11.

8430 (7) (a) The committee may prepare written findings of the committee's review of a rule,
8431 policy, practice, or procedure and may include any recommendation, including:

8432 (i) legislative action; or

8433 (ii) action by a standing committee or interim committee.

8434 (b) When the committee reviews a rule, the committee shall provide to the agency that
8435 enacted the rule:

8436 (i) the committee's findings, if any; and

8437 (ii) a request that the agency notify the committee of any changes the agency makes to
8438 the rule.

8439 (c) The committee shall provide a copy of the committee's findings described in
8440 Subsection (7)(a), if any, to:

8441 (i) any member of the Legislature, upon request;

8442 (ii) any person affected by the rule, upon request;

8443 (iii) the president of the Senate;

8444 (iv) the speaker of the House of Representatives;

8445 (v) the Senate and House chairs of the standing committee that has jurisdiction over the
8446 agency whose rule, policy, practice, or procedure is the subject of the finding; and

8447 (vi) the Senate and House chairs of the appropriation subcommittee that has
8448 jurisdiction over the agency that made the rule.

8449 (8) (a) (i) The committee may submit a report on the committee's review under this
8450 section to each member of the Legislature at each regular session.

8451 (ii) The report shall include:

8452 (A) any finding or recommendation the committee made under Subsection (7);

8453 (B) any action an agency took in response to a committee recommendation; and

8454 (C) any recommendation by the committee for legislation.

8455 (b) If the committee receives a recommendation not to reauthorize a rule, as described
8456 in Subsection 63G-3-301(13)(b), and the committee recommends to the Legislature
8457 reauthorization of the rule, the committee shall submit a report to each member of the
8458 Legislature detailing the committee's decision.

8459 (c) If the committee recommends legislation, the committee may prepare legislation for

8460 consideration by the Legislature at the next general session.

8461 Section 91. Section **63G-4-102** is amended to read:

8462 **63G-4-102. Scope and applicability of chapter.**

8463 (1) Except as set forth in Subsection (2), and except as otherwise provided by a statute
8464 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
8465 this chapter apply to every agency of the state and govern:

8466 (a) state agency action that determines the legal rights, duties, privileges, immunities,
8467 or other legal interests of an identifiable person, including agency action to grant, deny, revoke,
8468 suspend, modify, annul, withdraw, or amend an authority, right, or license; and

8469 (b) judicial review of the action.

8470 (2) This chapter does not govern:

8471 (a) the procedure for making agency rules, or judicial review of the procedure or rules;

8472 (b) the issuance of a notice of a deficiency in the payment of a tax, the decision to
8473 waive a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the
8474 issuance of a tax assessment, except that this chapter governs an agency action commenced by
8475 a taxpayer or by another person authorized by law to contest the validity or correctness of the
8476 action;

8477 (c) state agency action relating to extradition, to the granting of a pardon or parole, a
8478 commutation or termination of a sentence, or to the rescission, termination, or revocation of
8479 parole or probation, to the discipline of, resolution of a grievance of, supervision of,
8480 confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah
8481 State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction
8482 of the Division of Substance Abuse and Mental Health, or a person on probation or parole, or
8483 judicial review of the action;

8484 (d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a
8485 student or teacher in a school or educational institution, or judicial review of the action;

8486 (e) an application for employment and internal personnel action within an agency
8487 concerning its own employees, or judicial review of the action;

8488 (f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah
8489 Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that
8490 this chapter governs an agency action commenced by the employer, licensee, or other person

- 8491 authorized by law to contest the validity or correctness of the citation or assessment;
- 8492 (g) state agency action relating to management of state funds, the management and
8493 disposal of school and institutional trust land assets, and contracts for the purchase or sale of
8494 products, real property, supplies, goods, or services by or for the state, or by or for an agency of
8495 the state, except as provided in those contracts, or judicial review of the action;
- 8496 (h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of
8497 Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution
8498 by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or
8499 Holding Companies, and Chapter 7, Governmental Immunity Act of Utah, or judicial review of
8500 the action;
- 8501 (i) the initial determination of a person's eligibility for unemployment benefits, the
8502 initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers'
8503 Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial
8504 determination of a person's unemployment tax liability;
- 8505 (j) state agency action relating to the distribution or award of a monetary grant to or
8506 between governmental units, or for research, development, or the arts, or judicial review of the
8507 action;
- 8508 (k) the issuance of a notice of violation or order under [~~Title 26, Chapter 8a, Utah~~
8509 ~~Emergency Medical Services System Act~~] Title 26B, Chapter 4, Part 1, Utah Emergency
8510 Medical Services System, Title 19, Chapter 2, Air Conservation Act, Title 19, Chapter 3,
8511 Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19, Chapter 5,
8512 Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, Title 19,
8513 Chapter 6, Part 4, Underground Storage Tank Act, or Title 19, Chapter 6, Part 7, Used Oil
8514 Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except that
8515 this chapter governs an agency action commenced by a person authorized by law to contest the
8516 validity or correctness of the notice or order;
- 8517 (l) state agency action, to the extent required by federal statute or regulation, to be
8518 conducted according to federal procedures;
- 8519 (m) the initial determination of a person's eligibility for government or public
8520 assistance benefits;
- 8521 (n) state agency action relating to wildlife licenses, permits, tags, and certificates of

- 8522 registration;
- 8523 (o) a license for use of state recreational facilities;
- 8524 (p) state agency action under Chapter 2, Government Records Access and Management
8525 Act, except as provided in Section [63G-2-603](#);
- 8526 (q) state agency action relating to the collection of water commissioner fees and
8527 delinquency penalties, or judicial review of the action;
- 8528 (r) state agency action relating to the installation, maintenance, and repair of headgates,
8529 caps, valves, or other water controlling works and weirs, flumes, meters, or other water
8530 measuring devices, or judicial review of the action;
- 8531 (s) the issuance and enforcement of an initial order under Section [73-2-25](#);
- 8532 (t) (i) a hearing conducted by the Division of Securities under Section [61-1-11.1](#); and
8533 (ii) an action taken by the Division of Securities under a hearing conducted under
8534 Section [61-1-11.1](#), including a determination regarding the fairness of an issuance or exchange
8535 of securities described in Subsection [61-1-11.1\(1\)](#);
- 8536 (u) state agency action relating to water well driller licenses, water well drilling
8537 permits, water well driller registration, or water well drilling construction standards, or judicial
8538 review of the action;
- 8539 (v) the issuance of a determination and order under Title 34A, Chapter 5, Utah
8540 Antidiscrimination Act;
- 8541 (w) state environmental studies and related decisions by the Department of
8542 Transportation approving state or locally funded projects, or judicial review of the action;
- 8543 (x) the suspension of operations under Subsection [32B-1-304\(3\)](#); or
- 8544 (y) the issuance of a determination of violation by the Governor's Office of Economic
8545 Opportunity under Section [11-41-104](#).
- 8546 (3) This chapter does not affect a legal remedy otherwise available to:
- 8547 (a) compel an agency to take action; or
- 8548 (b) challenge an agency's rule.
- 8549 (4) This chapter does not preclude an agency, prior to the beginning of an adjudicative
8550 proceeding, or the presiding officer during an adjudicative proceeding from:
- 8551 (a) requesting or ordering a conference with parties and interested persons to:
- 8552 (i) encourage settlement;

- 8553 (ii) clarify the issues;
- 8554 (iii) simplify the evidence;
- 8555 (iv) facilitate discovery; or
- 8556 (v) expedite the proceeding; or
- 8557 (b) granting a timely motion to dismiss or for summary judgment if the requirements of
- 8558 Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party,
- 8559 except to the extent that the requirements of those rules are modified by this chapter.
- 8560 (5) (a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by
- 8561 this chapter, except as explicitly provided in that section.
- 8562 (b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is
- 8563 governed by this chapter.
- 8564 (6) This chapter does not preclude an agency from enacting a rule affecting or
- 8565 governing an adjudicative proceeding or from following the rule, if the rule is enacted
- 8566 according to the procedures outlined in Chapter 3, Utah Administrative Rulemaking Act, and if
- 8567 the rule conforms to the requirements of this chapter.
- 8568 (7) (a) If the attorney general issues a written determination that a provision of this
- 8569 chapter would result in the denial of funds or services to an agency of the state from the federal
- 8570 government, the applicability of the provision to that agency shall be suspended to the extent
- 8571 necessary to prevent the denial.
- 8572 (b) The attorney general shall report the suspension to the Legislature at its next
- 8573 session.
- 8574 (8) Nothing in this chapter may be interpreted to provide an independent basis for
- 8575 jurisdiction to review final agency action.
- 8576 (9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good
- 8577 cause shown, from lengthening or shortening a time period prescribed in this chapter, except
- 8578 the time period established for judicial review.
- 8579 (10) Notwithstanding any other provision of this section, this chapter does not apply to
- 8580 a special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent
- 8581 expressly provided in Section 19-1-301.5.
- 8582 (11) Subsection (2)(w), regarding action taken based on state environmental studies
- 8583 and policies of the Department of Transportation, applies to any claim for which a court of

8584 competent jurisdiction has not issued a final unappealable judgment or order before May 14,
8585 2019.

8586 Section 92. Section **63G-7-201** is amended to read:

8587 **63G-7-201. Immunity of governmental entities and employees from suit.**

8588 (1) Except as otherwise provided in this chapter, each governmental entity and each
8589 employee of a governmental entity are immune from suit for any injury that results from the
8590 exercise of a governmental function.

8591 (2) Notwithstanding the waiver of immunity provisions of Section **63G-7-301**, a
8592 governmental entity, its officers, and its employees are immune from suit:

8593 (a) as provided in Section **78B-4-517**; and

8594 (b) for any injury or damage resulting from the implementation of or the failure to
8595 implement measures to:

8596 (i) control the causes of epidemic and communicable diseases and other conditions
8597 significantly affecting the public health or necessary to protect the public health as set out in
8598 Title 26A, Chapter 1, Local Health Departments;

8599 (ii) investigate and control suspected bioterrorism and disease as set out in [~~Title 26,~~
8600 ~~Chapter 23b, Detection of Public Health Emergencies Act~~] Title 26B, Chapter 7, Part 3,
8601 Treatment, Isolation, and Quarantine Procedures for Communicable Diseases;

8602 (iii) respond to a national, state, or local emergency, a public health emergency as
8603 defined in Section [~~26-23b-102~~] 26B-7-301, or a declaration by the President of the United
8604 States or other federal official requesting public health related activities, including the use,
8605 provision, operation, and management of:

8606 (A) an emergency shelter;

8607 (B) housing;

8608 (C) a staging place; or

8609 (D) a medical facility; and

8610 (iv) adopt methods or measures, in accordance with Section [~~26-1-30~~] 26B-1-202, for
8611 health care providers, public health entities, and health care insurers to coordinate among
8612 themselves to verify the identity of the individuals they serve.

8613 (3) A governmental entity, its officers, and its employees are immune from suit, and
8614 immunity is not waived, for any injury if the injury arises out of or in connection with, or

8615 results from:

8616 (a) a latent dangerous or latent defective condition of:

8617 (i) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or
8618 viaduct; or

8619 (ii) another structure located on any of the items listed in Subsection (3)(a)(i); or

8620 (b) a latent dangerous or latent defective condition of any public building, structure,
8621 dam, reservoir, or other public improvement.

8622 (4) A governmental entity, its officers, and its employees are immune from suit, and
8623 immunity is not waived, for any injury proximately caused by a negligent act or omission of an
8624 employee committed within the scope of employment, if the injury arises out of or in
8625 connection with, or results from:

8626 (a) the exercise or performance, or the failure to exercise or perform, a discretionary
8627 function, whether or not the discretion is abused;

8628 (b) except as provided in Subsections 63G-7-301(2)(j), (3), and (4), assault, battery,
8629 false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process,
8630 libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation
8631 of civil rights;

8632 (c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue,
8633 deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar
8634 authorization;

8635 (d) a failure to make an inspection or making an inadequate or negligent inspection;

8636 (e) the institution or prosecution of any judicial or administrative proceeding, even if
8637 malicious or without probable cause;

8638 (f) a misrepresentation by an employee whether or not the misrepresentation is
8639 negligent or intentional;

8640 (g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

8641 (h) the collection or assessment of taxes;

8642 (i) an activity of the Utah National Guard;

8643 (j) the incarceration of a person in a state prison, county or city jail, or other place of
8644 legal confinement;

8645 (k) a natural condition on publicly owned or controlled land;

- 8646 (l) a condition existing in connection with an abandoned mine or mining operation;
- 8647 (m) an activity authorized by the School and Institutional Trust Lands Administration
- 8648 or the Division of Forestry, Fire, and State Lands;
- 8649 (n) the operation or existence of a pedestrian or equestrian trail that is along a ditch,
- 8650 canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river,
- 8651 if:
 - 8652 (i) the trail is designated under a general plan adopted by a municipality under Section
 - 8653 [10-9a-401](#) or by a county under Section [17-27a-401](#);
 - 8654 (ii) the trail right-of-way or the right-of-way where the trail is located is open to public
 - 8655 use as evidenced by a written agreement between:
 - 8656 (A) the owner or operator of the trail right-of-way or of the right-of-way where the trail
 - 8657 is located; and
 - 8658 (B) the municipality or county where the trail is located; and
 - 8659 (iii) the written agreement:
 - 8660 (A) contains a plan for operation and maintenance of the trail; and
 - 8661 (B) provides that an owner or operator of the trail right-of-way or of the right-of-way
 - 8662 where the trail is located has, at a minimum, the same level of immunity from suit as the
 - 8663 governmental entity in connection with or resulting from the use of the trail;
 - 8664 (o) research or implementation of cloud management or seeding for the clearing of fog;
 - 8665 (p) the management of flood waters, earthquakes, or natural disasters;
 - 8666 (q) the construction, repair, or operation of flood or storm systems;
 - 8667 (r) the operation of an emergency vehicle, while being driven in accordance with the
 - 8668 requirements of Section [41-6a-212](#);
 - 8669 (s) the activity of:
 - 8670 (i) providing emergency medical assistance;
 - 8671 (ii) fighting fire;
 - 8672 (iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;
 - 8673 (iv) an emergency evacuation;
 - 8674 (v) transporting or removing an injured person to a place where emergency medical
 - 8675 assistance can be rendered or where the person can be transported by a licensed ambulance
 - 8676 service; or

- 8677 (vi) intervening during a dam emergency;
- 8678 (t) the exercise or performance, or the failure to exercise or perform, any function
- 8679 pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;
- 8680 (u) an unauthorized access to government records, data, or electronic information
- 8681 systems by any person or entity;
- 8682 (v) an activity of wildlife, as defined in Section [23-13-2](#), that arises during the use of a
- 8683 public or private road; or
- 8684 (w) a communication between employees of one or more law enforcement agencies
- 8685 related to the employment, disciplinary history, character, professional competence, or physical
- 8686 or mental health of a peace officer, or a former, current, or prospective employee of a law
- 8687 enforcement agency, including any communication made in accordance with Section
- 8688 [53-14-101](#).
- 8689 Section 93. Section [63I-1-226](#) is repealed and reenacted to read:
- 8690 **63I-1-226. Repeal dates: Title 26A through 26B.**
- 8691 (1) Subsection [26B-1-204\(2\)\(i\)](#), related to the Residential Child Care Licensing
- 8692 Advisory Committee, is repealed July 1, 2024.
- 8693 (2) Subsection [26B-1-204\(2\)\(k\)](#), related to the Primary Care Grant Committee, is
- 8694 repealed July 1, 2025.
- 8695 (3) Section [26B-1-230](#), related to governmental entities requiring COVID-19 vaccines,
- 8696 is repealed July 1, 2024.
- 8697 (4) Section [26B-1-315](#), which creates the Medicaid Expansion Fund, is repealed July 1,
- 8698 2024.
- 8699 (5) Section [26B-1-319](#), which creates the Spinal Cord and Brain Injury Rehabilitation
- 8700 Fund, is repealed January 1, 2025.
- 8701 (6) Section [26B-1-320](#), which creates the Pediatric Neuro-Rehabilitation Fund, is
- 8702 repealed January 1, 2025.
- 8703 (7) Subsection [26B-1-329\(6\)](#), related to the Behavioral Health Crisis Response
- 8704 Commission, is repealed July 1, 2023.
- 8705 (8) Section [26B-1-402](#), related to the Rare Disease Advisory Council Grant Program, is
- 8706 repealed July 1, 2026.
- 8707 (9) Section [26B-1-409](#), which creates the Utah Digital Health Service Commission, is

8708 repealed July 1, 2025.

8709 (10) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed
8710 July 1, 2025.

8711 (11) Section 26B-1-415, which creates the Residential Child Care Licensing Advisory
8712 Committee, is repealed July 1, 2024.

8713 (12) Section 26B-1-416, which creates the Utah Children's Health Insurance Program
8714 Advisory Council, is repealed July 1, 2025.

8715 (13) Section 26B-1-417, which creates the Traumatic Brain Injury Advisory
8716 Committee, is repealed July 1, 2025.

8717 (14) Section 26B-1-418, which creates the Spinal Cord and Brain Injury Rehabilitation
8718 Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1,
8719 2025.

8720 (15) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is
8721 repealed July 1, 2026.

8722 (16) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and
8723 Other Drug Prevention Program, is repealed July 1, 2025.

8724 (17) Section 26B-1-430, which creates the Coordinating Council for Persons with
8725 Disabilities, is repealed July 1, 2027.

8726 (18) Section 26B-1-431, which creates the Forensic Mental Health Coordinating
8727 Council, is repealed July 1, 2023.

8728 (19) Section 26B-2-309, related to assisted living facility transfers, is repealed July 1,
8729 2023.

8730 (20) Section 26B-2-407, related to drinking water quality in child care centers, is
8731 repealed July 1, 2027.

8732 (21) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is
8733 repealed July 1, 2028.

8734 (22) Section 26B-3-136, which creates the Children's Health Care Coverage Program,
8735 is repealed July 1, 2025.

8736 (23) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention
8737 Program, is repealed June 30, 2027.

8738 (24) Subsection 26B-3-213(2), the language that states "and the Behavioral Health

- 8739 Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.
- 8740 (25) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1,
- 8741 2024.
- 8742 (26) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is
- 8743 repealed July 1, 2024.
- 8744 (27) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1,
- 8745 2024.
- 8746 (28) Section 26B-4-136, related to the Volunteer Emergency Medical Service
- 8747 Personnel Health Insurance Program, is repealed July 1, 2027.
- 8748 (29) Subsection 26B-4-319(5), which creates the Newborn Hearing Screening
- 8749 Committee, is repealed July 1, 2026.
- 8750 (30) Section 26B-4-710, related to rural residency training programs, is repealed July 1,
- 8751 2025.
- 8752 (31) Subsections 26B-5-112(1) and (5), the language that states "In consultation with
- 8753 the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is
- 8754 repealed January 1, 2023.
- 8755 (32) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant
- 8756 Program, is repealed December 31, 2023.
- 8757 (33) Section 26B-5-118, related to collaborative care grant programs, is repealed
- 8758 December 31, 2024.
- 8759 (34) In relation to the Behavioral Health Crisis Response Commission, on July 1, 2023:
- 8760 (a) Subsection 26B-5-609(1)(a) is repealed;
- 8761 (b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from
- 8762 the commission," is repealed;
- 8763 (c) Subsection 26B-5-610(1)(b) is repealed; and
- 8764 (d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the
- 8765 commission," is repealed.
- 8766 (35) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and
- 8767 Mental Health Advisory Council, are repealed January 1, 2033.
- 8768 (36) Section 26B-5-612, related to integrated behavioral health care grant programs, is
- 8769 repealed December 31, 2025.

8770 (37) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of
8771 the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

8772 (38) Section 26B-7-224, related to reports to the Legislature on violent incidents and
8773 fatalities involving substance abuse, is repealed December 31, 2027.

8774 (39) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

8775 (40) Section 26B-8-513, related to identifying overuse of non-evidence-based health
8776 care, is repealed December 31, 2023.

8777 Section 94. Section **63I-1-262** is amended to read:

8778 **63I-1-262. Repeal dates: Title 62.**

8779 [~~(1) Section 62A-3-209 is repealed July 1, 2023.~~]

8780 [~~(2) Sections 62A-5a-101, 62A-5a-102, 62A-5a-103, and 62A-5a-104, which create the~~
8781 ~~Coordinating Council for Persons with Disabilities, are repealed July 1, 2027.~~]

8782 [~~(3) Subsections 62A-15-116(1) and (5), the language that states "In consultation with~~
8783 ~~the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is~~
8784 ~~repealed January 1, 2023.~~]

8785 [~~(4) Section 62A-15-118 is repealed December 31, 2023.~~]

8786 [~~(5) Section 62A-15-124 is repealed December 31, 2024.~~]

8787 [~~(6) Section 62A-15-605, which creates the Forensic Mental Health Coordinating~~
8788 ~~Council, is repealed July 1, 2023.~~]

8789 [~~(7) Subsections 62A-15-1100(1) and 62A-15-1101(9), in relation to the Utah~~
8790 ~~Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.~~]

8791 [~~(8) In relation to the Behavioral Health Crisis Response Commission, on July 1,~~
8792 ~~2023.~~]

8793 [~~(a) Subsections 62A-15-1301(2) and 62A-15-1401(1) are repealed;~~]

8794 [~~(b) Subsection 62A-15-1302(1)(b), the language that states "and in consultation with~~
8795 ~~the commission" is repealed;~~]

8796 [~~(c) Subsection 62A-15-1303(1), the language that states "In consultation with the~~
8797 ~~commission," is repealed;~~]

8798 [~~(d) Subsection 62A-15-1402(2)(a), the language that states "With recommendations~~
8799 ~~from the commission," is repealed; and]~~

8800 [~~(e) Subsection 62A-15-1702(6) is repealed.~~]

- 8801 Section 95. Section [63I-2-226](#) is repealed and reenacted to read:
- 8802 **63I-2-226. Repeal dates: Title 26A through 26B.**
- 8803 (1) Subsection [26B-1-204](#)(2)(f), related to the Air Ambulance Committee, is repealed
- 8804 July 1, 2024.
- 8805 (2) Section [26B-1-405](#), related to the Air Ambulance Committee, is repealed on July 1,
- 8806 2024.
- 8807 (3) Section [26B-1-419](#), which creates the Utah Health Care Workforce Financial
- 8808 Assistance Program Advisory Committee, is repealed July 1, 2027.
- 8809 (4) In relation to the Air Ambulance Committee, July 1, 2024, Subsection
- 8810 [26B-2-231](#)(1)(a) is amended to read:
- 8811 "(a) provide the patient or the patient's representative with the following information
- 8812 before contacting an air medical transport provider:
- 8813 (i) which health insurers in the state the air medical transport provider contracts with;
- 8814 (ii) if sufficient data is available, the average charge for air medical transport services
- 8815 for a patient who is uninsured or out of network; and
- 8816 (iii) whether the air medical transport provider balance bills a patient for any charge
- 8817 not paid by the patient's health insurer; and".
- 8818 (5) Subsection [26B-3-215](#)(5), related to reporting on coverage for in vitro fertilization
- 8819 and genetic testing, is repealed July 1, 2030.
- 8820 (6) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection
- 8821 [26B-4-135](#)(1)(a) is amended to read:
- 8822 "(a) provide the patient or the patient's representative with the following information
- 8823 before contacting an air medical transport provider:
- 8824 (i) which health insurers in the state the air medical transport provider contracts with;
- 8825 (ii) if sufficient data is available, the average charge for air medical transport services
- 8826 for a patient who is uninsured or out of network; and
- 8827 (iii) whether the air medical transport provider balance bills a patient for any charge
- 8828 not paid by the patient's health insurer; and".
- 8829 (7) Section [26B-4-702](#), related to the Utah Health Care Workforce Financial Assistance
- 8830 Program, is repealed July 1, 2027.
- 8831 (8) Section [26B-5-117](#), related to early childhood mental health support grant

8832 programs, is repealed January 2, 2025.

8833 (9) Subsection [26B-7-117\(3\)](#), related to reports to the Legislature on syringe exchange
8834 and education, is repealed January 1, 2027.

8835 Section 96. Section **63I-2-262** is amended to read:

8836 **63I-2-262. Repeal dates: Title 62.**

8837 [~~(1) Section [62A-4a-1003.5](#), relating to the Management Information System, is~~
8838 ~~repealed September 1, 2022.]~~

8839 [~~(2) Subsection [62A-5-103.1\(6\)](#) is repealed January 1, 2023.]~~

8840 [~~(3) Section [62A-15-122](#) is repealed January 2, 2025]~~

8841 [~~(4) Title 62A, Chapter 15, Part 19, Mental Health Crisis Intervention Council, is~~
8842 ~~repealed January 1, 2023.]~~

8843 Section 97. Section **63J-1-315** is amended to read:

8844 **63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account --**
8845 **Transfers of Medicaid growth savings -- Base budget adjustments.**

8846 (1) As used in this section:

8847 (a) "Department" means the Department of Health and Human Services created in
8848 Section [26B-1-201](#).

8849 (b) "Division" means the Division of Medicaid and Health Financing created in Section
8850 [~~26-18-2.1~~] [26B-3-102](#).

8851 (c) "General Fund revenue surplus" means a situation where actual General Fund
8852 revenues collected in a completed fiscal year exceed the estimated revenues for the General
8853 Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the
8854 Legislature.

8855 (d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid
8856 program expenditures, if Medicaid program expenditures are less than the Medicaid growth
8857 target.

8858 (e) "Medicaid growth target" means Medicaid program expenditures for the previous
8859 year multiplied by 1.08.

8860 (f) "Medicaid program" is as defined in Section [~~26-18-2~~] [26B-3-103](#).

8861 (g) "Medicaid program expenditures" means total state revenue expended for the
8862 Medicaid program from the General Fund, including restricted accounts within the General

8863 Fund, during a fiscal year.

8864 (h) "Medicaid program expenditures for the previous year" means total state revenue
8865 expended for the Medicaid program from the General Fund, including restricted accounts
8866 within the General Fund, during the fiscal year immediately preceding a fiscal year for which
8867 Medicaid program expenditures are calculated.

8868 (i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund
8869 balance in the General Fund is less than zero.

8870 (j) "State revenue" means revenue other than federal revenue.

8871 (k) "State revenue expended for the Medicaid program" includes money transferred or
8872 appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the
8873 extent the money is appropriated for the Medicaid program by the Legislature.

8874 (2) There is created within the General Fund a restricted account to be known as the
8875 Medicaid Growth Reduction and Budget Stabilization Account.

8876 (3) (a) (i) Except as provided in Subsection (6), if, at the end of a fiscal year, there is a
8877 General Fund revenue surplus, the Division of Finance shall transfer an amount equal to
8878 Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and
8879 Budget Stabilization Account.

8880 (ii) If the amount transferred is reduced to prevent an operating deficit, as provided in
8881 Subsection (6), the Legislature shall include, to the extent revenue is available, an amount
8882 equal to the reduction as an appropriation from the General Fund to the account in the base
8883 budget for the second fiscal year following the fiscal year for which the reduction was made.

8884 (b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the
8885 Legislature shall include, to the extent revenue is available, an amount equal to Medicaid
8886 growth savings as an appropriation from the General Fund to the account in the base budget for
8887 the second fiscal year following the fiscal year for which the reduction was made.

8888 (c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department
8889 implements the proposal developed under Section [~~26-18-405~~] [26B-3-202](#) to reduce the
8890 long-term growth in state expenditures for the Medicaid program, and to each fiscal year after
8891 that year.

8892 (4) The Division of Finance shall calculate the amount to be transferred under
8893 Subsection (3):

- 8894 (a) before transferring revenue from the General Fund revenue surplus to:
8895 (i) the General Fund Budget Reserve Account under Section 63J-1-312;
8896 (ii) the Wildland Fire Suppression Fund created in Section 65A-8-204, as described in
8897 Section 63J-1-314; and
8898 (iii) the State Disaster Recovery Restricted Account under Section 63J-1-314;
8899 (b) before earmarking revenue from the General Fund revenue surplus to the Industrial
8900 Assistance Account under Section 63N-3-106; and
8901 (c) before making any other year-end contingency appropriations, year-end set-asides,
8902 or other year-end transfers required by law.
- 8903 (5) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay
8904 additional debt service for any bonded debt authorized by the Legislature, the Division of
8905 Finance may hold back from any General Fund revenue surplus money sufficient to pay the
8906 additional debt service requirements resulting from issuance of bonded debt that was
8907 authorized by the Legislature.
- 8908 (b) The Division of Finance may not spend the hold back amount for debt service
8909 under Subsection (5)(a) unless and until it is appropriated by the Legislature.
- 8910 (c) If, after calculating the amount for transfer under Subsection (3), the remaining
8911 General Fund revenue surplus is insufficient to cover the hold back for debt service required by
8912 Subsection (5)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth
8913 Reduction and Budget Stabilization Account by the amount necessary to cover the debt service
8914 hold back.
- 8915 (d) Notwithstanding Subsections (3) and (4), the Division of Finance shall hold back
8916 the General Fund balance for debt service authorized by this Subsection (5) before making any
8917 transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other
8918 designation or allocation of General Fund revenue surplus.
- 8919 (6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division
8920 of Finance determines that an operating deficit exists and that holding back earmarks to the
8921 Industrial Assistance Account under Section 63N-3-106, transfers to the Wildland Fire
8922 Suppression Fund and State Disaster Recovery Restricted Account under Section 63J-1-314,
8923 transfers to the General Fund Budget Reserve Account under Section 63J-1-312, or earmarks
8924 and transfers to more than one of those accounts, in that order, does not eliminate the operating

8925 deficit, the Division of Finance may reduce the transfer to the Medicaid Growth Reduction and
8926 Budget Stabilization Account by the amount necessary to eliminate the operating deficit.

8927 (7) The Legislature may appropriate money from the Medicaid Growth Reduction and
8928 Budget Stabilization Account only:

8929 (a) if Medicaid program expenditures for the fiscal year for which the appropriation is
8930 made are estimated to be 108% or more of Medicaid program expenditures for the previous
8931 year; and

8932 (b) for the Medicaid program.

8933 (8) The Division of Finance shall deposit interest or other earnings derived from
8934 investment of Medicaid Growth Reduction and Budget Stabilization Account money into the
8935 General Fund.

8936 Section 98. **Revisor instructions.**

8937 The Legislature intends that the Office of Legislative Research and General Counsel, in
8938 preparing the Utah Code database for publication, not enroll this bill if any of the following
8939 bills do not pass:

8940 (a) S.B. 38, Health and Human Services Recodification - Administration, Licensing,
8941 and Recovery Services;

8942 (b) S.B. 39, Health and Human Services Recodification - Prevention, Supports,
8943 Substance Use and Mental Health;

8944 (c) S.B. 40, Health and Human Services Recodification - Health Care Assistance and
8945 Data; or

8946 (d) S.B. 41, Health and Human Services Recodification - Health Care Delivery and
8947 Repeals.