

1                   **HEALTH AND HUMAN SERVICES FUNDING AMENDMENTS**

2   2024 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Robert M. Spendlove**

5                                   Senate Sponsor: Michael S. Kennedy

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7 **LONG TITLE**

8 **Committee Note:**

9                   The Health and Human Services Interim Committee recommended this bill.

10                   Legislative Vote: 15 voting for 0 voting against 4 absent

11 **General Description:**

12                   This bill addresses risk analysis and budgetary buffers related to the Medicaid program.

13 **Highlighted Provisions:**

14                   This bill:

15                   ▶ directs the Office of the Legislative Fiscal Analyst to analyze risks associated with  
16 the funding of the Medicaid program and to recommend budgetary actions based on  
17 that analysis;

18                   ▶ renames the Medicaid Expansion Fund as the Medicaid ACA Fund and extends that  
19 fund's sunset date;

20                   ▶ merges the Medicaid Restricted Account into the Medicaid Growth Reduction and  
21 Budget Stabilization Account;

22                   ▶ allows the Legislature to appropriate money to and from the Medicaid Growth  
23 Reduction and Budget Stabilization Account, with certain conditions; and

24                   ▶ makes technical and conforming changes.

25 **Money Appropriated in this Bill:**

26                   This bill appropriates in fiscal year 2024:

27                   ▶ to the General Fund Restricted -- Medicaid Growth Reduction and Budget



28 Stabilization Account, as a one-time appropriation:

- 29 • from the General Fund Restricted -- Medicaid Restricted Account, \$23,700,000.

30 **Other Special Clauses:**

31 This bill provides a special effective date.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **17B-2a-818.5**, as last amended by Laws of Utah 2023, Chapter 327

35 **19-1-206**, as last amended by Laws of Utah 2023, Chapter 327

36 **26B-1-315**, as last amended by Laws of Utah 2023, Chapter 471 and renumbered and  
37 amended by Laws of Utah 2023, Chapter 305

38 **26B-3-113**, as renumbered and amended by Laws of Utah 2023, Chapter 306

39 **26B-3-210**, as renumbered and amended by Laws of Utah 2023, Chapter 306

40 **26B-3-211**, as renumbered and amended by Laws of Utah 2023, Chapter 306

41 **26B-3-504**, as renumbered and amended by Laws of Utah 2023, Chapter 306

42 **26B-3-508**, as renumbered and amended by Laws of Utah 2023, Chapter 306

43 **26B-3-512**, as renumbered and amended by Laws of Utah 2023, Chapter 306

44 **26B-3-601**, as renumbered and amended by Laws of Utah 2023, Chapter 306

45 **26B-3-604**, as renumbered and amended by Laws of Utah 2023, Chapter 306

46 **26B-3-605**, as renumbered and amended by Laws of Utah 2023, Chapter 306

47 **26B-3-608**, as renumbered and amended by Laws of Utah 2023, Chapter 306

48 **26B-3-612**, as renumbered and amended by Laws of Utah 2023, Chapter 306

49 **36-12-13**, as last amended by Laws of Utah 2023, Chapters 16, 430

50 **59-12-103 (Contingently Superseded 01/01/25)**, as last amended by Laws of Utah  
51 2023, Chapters 22, 213, 329, 361, and 471

52 **59-12-103 (Contingently Effective 01/01/25)**, as last amended by Laws of Utah 2023,  
53 Chapters 22, 213, 329, 361, 459, and 471

54 **63A-5b-607**, as last amended by Laws of Utah 2023, Chapter 329

55 **63C-9-403**, as last amended by Laws of Utah 2023, Chapter 329

56 **63I-1-226 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters  
57 249, 269, 270, 275, 332, 335, 420, and 495 and repealed and reenacted by Laws of  
58 Utah 2023, Chapter 329

59 **63I-1-226 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 249,  
 60 269, 270, 275, 310, 332, 335, 420, and 495 and repealed and reenacted by Laws of  
 61 Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah  
 62 2023, Chapters 329, 332

63 **63I-2-226 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 33,  
 64 139, 249, 295, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter  
 65 329

66 **63I-2-226 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 33,  
 67 139, 249, 295, 310, and 465 and repealed and reenacted by Laws of Utah 2023,  
 68 Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapter  
 69 329

70 **63J-1-315**, as last amended by Laws of Utah 2023, Chapter 329

71 **72-6-107.5**, as last amended by Laws of Utah 2023, Chapter 330

72 **79-2-404**, as last amended by Laws of Utah 2023, Chapter 330

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

75 Section 1. Section **17B-2a-818.5** is amended to read:

76 **17B-2a-818.5. Contracting powers of public transit districts -- Health insurance**  
 77 **coverage.**

78 (1) As used in this section:

79 (a) "Aggregate" means the sum of all contracts, change orders, and modifications  
 80 related to a single project.

81 (b) "Change order" means the same as that term is defined in Section **63G-6a-103**.

82 (c) "Employee" means, as defined in Section **34A-2-104**, an "employee," "worker," or  
 83 "operative" who:

84 (i) works at least 30 hours per calendar week; and

85 (ii) meets employer eligibility waiting requirements for health care insurance, which  
 86 may not exceed the first day of the calendar month following 60 days after the day on which  
 87 the individual is hired.

88 (d) "Health benefit plan" means:

89 (i) the same as that term is defined in Section **31A-1-301**; or

90 (ii) an employee welfare benefit plan:

91 (A) established under the Employee Retirement Income Security Act of 1974, 29  
92 U.S.C. Sec. 1001 et seq.;

93 (B) for an employer with 100 or more employees; and

94 (C) in which the employer establishes a self-funded or partially self-funded group  
95 health plan to provide medical care for the employer's employees and dependents of the  
96 employees.

97 (e) "Qualified health coverage" means the same as that term is defined in Section  
98 [26B-3-909](#).

99 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).

100 (g) "Third party administrator" or "administrator" means the same as that term is  
101 defined in Section [31A-1-301](#).

102 (2) Except as provided in Subsection (3), the requirements of this section apply to:

103 (a) a contractor of a design or construction contract entered into by the public transit  
104 district on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or  
105 greater than \$2,000,000; and

106 (b) a subcontractor of a contractor of a design or construction contract entered into by  
107 the public transit district on or after July 1, 2009, if the subcontract is in an aggregate amount  
108 equal to or greater than \$1,000,000.

109 (3) The requirements of this section do not apply to a contractor or subcontractor  
110 described in Subsection (2) if:

111 (a) the application of this section jeopardizes the receipt of federal funds;

112 (b) the contract is a sole source contract; or

113 (c) the contract is an emergency procurement.

114 (4) A person that intentionally uses change orders, contract modifications, or multiple  
115 contracts to circumvent the requirements of this section is guilty of an infraction.

116 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the  
117 public transit district that the contractor has and will maintain an offer of qualified health  
118 coverage for the contractor's employees and the employee's dependents during the duration of  
119 the contract by submitting to the public transit district a written statement that:

120 (i) the contractor offers qualified health coverage that complies with Section

121 26B-3-909;

122 (ii) is from:

123 (A) an actuary selected by the contractor or the contractor's insurer;

124 (B) an underwriter who is responsible for developing the employer group's premium  
125 rates; or

126 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),  
127 an actuary or underwriter selected by a third party administrator; and

128 (iii) was created within one year before the day on which the statement is submitted.

129 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)  
130 shall provide the actuary or underwriter selected by an administrator, as described in  
131 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's  
132 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the  
133 requirements of qualified health coverage.

134 (ii) A contractor may not make a change to the contractor's contribution to the health  
135 benefit plan, unless the contractor provides notice to:

136 (A) the actuary or underwriter selected by an administrator as described in Subsection  
137 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in  
138 Subsection (5)(a) in compliance with this section; and

139 (B) the public transit district.

140 (c) A contractor that is subject to the requirements of this section shall:

141 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that  
142 is subject to the requirements of this section shall obtain and maintain an offer of qualified  
143 health coverage for the subcontractor's employees and the employees' dependents during the  
144 duration of the subcontract; and

145 (ii) obtain from a subcontractor that is subject to the requirements of this section a  
146 written statement that:

147 (A) the subcontractor offers qualified health coverage that complies with Section  
148 26B-3-909;

149 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an  
150 underwriter who is responsible for developing the employer group's premium rates, or if the  
151 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or

152 underwriter selected by an administrator; and

153 (C) was created within one year before the day on which the contractor obtains the  
154 statement.

155 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage as  
156 described in Subsection (5)(a) during the duration of the contract is subject to penalties in  
157 accordance with an ordinance adopted by the public transit district under Subsection (6).

158 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain  
159 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

160 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health  
161 coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to  
162 penalties in accordance with an ordinance adopted by the public transit district under  
163 Subsection (6).

164 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain  
165 an offer of qualified health coverage described in Subsection (5)(a).

166 (6) The public transit district shall adopt ordinances:

167 (a) in coordination with:

168 (i) the Department of Environmental Quality in accordance with Section 19-1-206;

169 (ii) the Department of Natural Resources in accordance with Section 79-2-404;

170 (iii) the Division of Facilities Construction and Management in accordance with  
171 Section 63A-5b-607;

172 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403; and

173 (v) the Department of Transportation in accordance with Section 72-6-107.5; and

174 (b) that establish:

175 (i) the requirements and procedures a contractor and a subcontractor shall follow to  
176 demonstrate compliance with this section, including:

177 (A) that a contractor or subcontractor's compliance with this section is subject to an  
178 audit by the public transit district or the Office of the Legislative Auditor General;

179 (B) that a contractor that is subject to the requirements of this section shall obtain a  
180 written statement described in Subsection (5)(a); and

181 (C) that a subcontractor that is subject to the requirements of this section shall obtain a  
182 written statement described in Subsection (5)(c)(ii);

183 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally  
184 violates the provisions of this section, which may include:

185 (A) a three-month suspension of the contractor or subcontractor from entering into  
186 future contracts with the public transit district upon the first violation;

187 (B) a six-month suspension of the contractor or subcontractor from entering into future  
188 contracts with the public transit district upon the second violation;

189 (C) an action for debarment of the contractor or subcontractor in accordance with  
190 Section [63G-6a-904](#) upon the third or subsequent violation; and

191 (D) monetary penalties which may not exceed 50% of the amount necessary to  
192 purchase qualified health coverage for employees and dependents of employees of the  
193 contractor or subcontractor who were not offered qualified health coverage during the duration  
194 of the contract; and

195 (iii) a website on which the district shall post the commercially equivalent benchmark,  
196 for the qualified health coverage identified in Subsection (1)(e), that is provided by the  
197 Department of Health and Human Services, in accordance with Subsection [26B-3-909\(2\)](#).

198 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor  
199 or subcontractor who intentionally violates the provisions of this section is liable to the  
200 employee for health care costs that would have been covered by qualified health coverage.

201 (ii) An employer has an affirmative defense to a cause of action under Subsection  
202 (7)(a)(i) if:

203 (A) the employer relied in good faith on a written statement described in Subsection  
204 (5)(a) or (5)(c)(ii); or

205 (B) a department or division determines that compliance with this section is not  
206 required under the provisions of Subsection (3).

207 (b) An employee has a private right of action only against the employee's employer to  
208 enforce the provisions of this Subsection (7).

209 (8) Any penalties imposed and collected under this section shall be deposited into the  
210 Medicaid [~~Restricted~~] Growth Reduction and Budget Stabilization Account created in Section  
211 [~~26B-1-309~~] [63J-1-315](#).

212 (9) The failure of a contractor or subcontractor to provide qualified health coverage as  
213 required by this section:

214 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,  
215 or contractor under:

216 (i) Section 63G-6a-1602; or

217 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

218 (b) may not be used by the procurement entity or a prospective bidder, offeror, or  
219 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design  
220 or construction.

221 (10) An administrator, including an administrator's actuary or underwriter, who  
222 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health  
223 coverage of a contractor or subcontractor who provides a health benefit plan described in  
224 Subsection (1)(d)(ii):

225 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,  
226 unless the administrator commits gross negligence in preparing the written statement;

227 (b) is not liable for any error in the written statement if the administrator relied in good  
228 faith on information from the contractor or subcontractor; and

229 (c) may require as a condition of providing the written statement that a contractor or  
230 subcontractor hold the administrator harmless for an action arising under this section.

231 Section 2. Section 19-1-206 is amended to read:

232 **19-1-206. Contracting powers of department -- Health insurance coverage.**

233 (1) As used in this section:

234 (a) "Aggregate" means the sum of all contracts, change orders, and modifications  
235 related to a single project.

236 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.

237 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or  
238 "operative" who:

239 (i) works at least 30 hours per calendar week; and

240 (ii) meets employer eligibility waiting requirements for health care insurance, which  
241 may not exceed the first day of the calendar month following 60 days after the day on which  
242 the individual is hired.

243 (d) "Health benefit plan" means:

244 (i) the same as that term is defined in Section 31A-1-301; or



245 (ii) an employee welfare benefit plan:

246 (A) established under the Employee Retirement Income Security Act of 1974, 29

247 U.S.C. Sec. 1001 et seq.;

248 (B) for an employer with 100 or more employees; and

249 (C) in which the employer establishes a self-funded or partially self-funded group

250 health plan to provide medical care for the employer's employees and dependents of the

251 employees.

252 (e) "Qualified health coverage" means the same as that term is defined in Section

253 [26B-3-909](#).

254 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).

255 (g) "Third party administrator" or "administrator" means the same as that term is

256 defined in Section [31A-1-301](#).

257 (2) Except as provided in Subsection (3), the requirements of this section apply to:

258 (a) a contractor of a design or construction contract entered into by, or delegated to, the

259 department, or a division or board of the department, on or after July 1, 2009, if the prime

260 contract is in an aggregate amount equal to or greater than \$2,000,000; and

261 (b) a subcontractor of a contractor of a design or construction contract entered into by,

262 or delegated to, the department, or a division or board of the department, on or after July 1,

263 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

264 (3) This section does not apply to contracts entered into by the department or a division

265 or board of the department if:

266 (a) the application of this section jeopardizes the receipt of federal funds;

267 (b) the contract or agreement is between:

268 (i) the department or a division or board of the department; and

269 (ii) (A) another agency of the state;

270 (B) the federal government;

271 (C) another state;

272 (D) an interstate agency;

273 (E) a political subdivision of this state; or

274 (F) a political subdivision of another state;

275 (c) the executive director determines that applying the requirements of this section to a

276 particular contract interferes with the effective response to an immediate health and safety  
277 threat from the environment; or

278 (d) the contract is:

279 (i) a sole source contract; or

280 (ii) an emergency procurement.

281 (4) A person that intentionally uses change orders, contract modifications, or multiple  
282 contracts to circumvent the requirements of this section is guilty of an infraction.

283 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the  
284 executive director that the contractor has and will maintain an offer of qualified health  
285 coverage for the contractor's employees and the employees' dependents during the duration of  
286 the contract by submitting to the executive director a written statement that:

287 (i) the contractor offers qualified health coverage that complies with Section

288 [26B-3-909](#);

289 (ii) is from:

290 (A) an actuary selected by the contractor or the contractor's insurer;

291 (B) an underwriter who is responsible for developing the employer group's premium  
292 rates; or

293 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),  
294 an actuary or underwriter selected by a third party administrator; and

295 (iii) was created within one year before the day on which the statement is submitted.

296 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)  
297 shall provide the actuary or underwriter selected by an administrator, as described in  
298 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's  
299 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the  
300 requirements of qualified health coverage.

301 (ii) A contractor may not make a change to the contractor's contribution to the health  
302 benefit plan, unless the contractor provides notice to:

303 (A) the actuary or underwriter selected by an administrator, as described in Subsection  
304 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in  
305 Subsection (5)(a) in compliance with this section; and

306 (B) the department.

307 (c) A contractor that is subject to the requirements of this section shall:

308 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that  
309 is subject to the requirements of this section shall obtain and maintain an offer of qualified  
310 health coverage for the subcontractor's employees and the employees' dependents during the  
311 duration of the subcontract; and

312 (ii) obtain from a subcontractor that is subject to the requirements of this section a  
313 written statement that:

314 (A) the subcontractor offers qualified health coverage that complies with Section  
315 [26B-3-909](#);

316 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an  
317 underwriter who is responsible for developing the employer group's premium rates, or if the  
318 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or  
319 underwriter selected by an administrator; and

320 (C) was created within one year before the day on which the contractor obtains the  
321 statement.

322 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage  
323 described in Subsection (5)(a) during the duration of the contract is subject to penalties in  
324 accordance with administrative rules adopted by the department under Subsection (6).

325 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain  
326 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

327 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health  
328 coverage described in Subsection (5)(c) during the duration of the subcontract is subject to  
329 penalties in accordance with administrative rules adopted by the department under Subsection  
330 (6).

331 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain  
332 an offer of qualified health coverage described in Subsection (5)(a).

333 (6) The department shall adopt administrative rules:

334 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

335 (b) in coordination with:

336 (i) a public transit district in accordance with Section [17B-2a-818.5](#);

337 (ii) the Department of Natural Resources in accordance with Section [79-2-404](#);

338 (iii) the Division of Facilities Construction and Management in accordance with  
339 Section 63A-5b-607;  
340 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;  
341 (v) the Department of Transportation in accordance with Section 72-6-107.5; and  
342 (vi) the Legislature's Administrative Rules Review and General Oversight Committee;  
343 and

344 (c) that establish:

345 (i) the requirements and procedures a contractor and a subcontractor shall follow to  
346 demonstrate compliance with this section, including:

347 (A) that a contractor or subcontractor's compliance with this section is subject to an  
348 audit by the department or the Office of the Legislative Auditor General;

349 (B) that a contractor that is subject to the requirements of this section shall obtain a  
350 written statement described in Subsection (5)(a); and

351 (C) that a subcontractor that is subject to the requirements of this section shall obtain a  
352 written statement described in Subsection (5)(c)(ii);

353 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally  
354 violates the provisions of this section, which may include:

355 (A) a three-month suspension of the contractor or subcontractor from entering into  
356 future contracts with the state upon the first violation;

357 (B) a six-month suspension of the contractor or subcontractor from entering into future  
358 contracts with the state upon the second violation;

359 (C) an action for debarment of the contractor or subcontractor in accordance with  
360 Section 63G-6a-904 upon the third or subsequent violation; and

361 (D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50%  
362 of the amount necessary to purchase qualified health coverage for an employee and the  
363 dependents of an employee of the contractor or subcontractor who was not offered qualified  
364 health coverage during the duration of the contract; and

365 (iii) a website on which the department shall post the commercially equivalent  
366 benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by  
367 the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

368 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor

369 or subcontractor who intentionally violates the provisions of this section is liable to the  
370 employee for health care costs that would have been covered by qualified health coverage.

371 (ii) An employer has an affirmative defense to a cause of action under Subsection  
372 (7)(a)(i) if:

373 (A) the employer relied in good faith on a written statement described in Subsection  
374 (5)(a) or (5)(c)(ii); or

375 (B) the department determines that compliance with this section is not required under  
376 the provisions of Subsection (3).

377 (b) An employee has a private right of action only against the employee's employer to  
378 enforce the provisions of this Subsection (7).

379 (8) Any penalties imposed and collected under this section shall be deposited into the  
380 Medicaid [~~Restricted~~] Growth Reduction and Budget Stabilization Account created in Section  
381 [~~26B-1-309~~] 63J-1-315.

382 (9) The failure of a contractor or subcontractor to provide qualified health coverage as  
383 required by this section:

384 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,  
385 or contractor under:

386 (i) Section 63G-6a-1602; or

387 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

388 (b) may not be used by the procurement entity or a prospective bidder, offeror, or  
389 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design  
390 or construction.

391 (10) An administrator, including an administrator's actuary or underwriter, who  
392 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health  
393 coverage of a contractor or subcontractor who provides a health benefit plan described in  
394 Subsection (1)(d)(ii):

395 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,  
396 unless the administrator commits gross negligence in preparing the written statement;

397 (b) is not liable for any error in the written statement if the administrator relied in good  
398 faith on information from the contractor or subcontractor; and

399 (c) may require as a condition of providing the written statement that a contractor or

400 subcontractor hold the administrator harmless for an action arising under this section.

401 Section 3. Section **26B-1-315** is amended to read:

402 **26B-1-315. Medicaid ACA Fund.**

403 (1) There is created an expendable special revenue fund known as the "Medicaid  
404 [~~Expansion~~] ACA Fund."

405 (2) The fund consists of:

406 (a) assessments collected under Chapter 3, Part 5, Inpatient Hospital Assessment;

407 (b) intergovernmental transfers under Section [26B-3-508](#);

408 (c) savings attributable to the health coverage improvement program, as defined in  
409 Section [26B-3-501](#), as determined by the department;

410 (d) savings attributable to the enhancement waiver program, as defined in Section  
411 [26B-3-501](#), as determined by the department;

412 (e) savings attributable to the Medicaid waiver expansion, as defined in Section  
413 [26B-3-501](#), as determined by the department;

414 (f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list  
415 under Subsection [26B-3-105](#)(3) as determined by the department;

416 (g) revenues collected from the sales tax described in Subsection [59-12-103](#)(11);

417 (h) gifts, grants, donations, or any other conveyance of money that may be made to the  
418 fund from private sources;

419 (i) interest earned on money in the fund; and

420 (j) additional amounts as appropriated by the Legislature.

421 (3) (a) The fund shall earn interest.

422 (b) All interest earned on fund money shall be deposited into the fund.

423 (4) (a) A state agency administering the provisions of Chapter 3, Part 5, Inpatient  
424 Hospital Assessment, may use money from the fund to pay the costs, not otherwise paid for  
425 with federal funds or other revenue sources, of:

426 (i) the health coverage improvement program as defined in Section [26B-3-501](#);

427 (ii) the enhancement waiver program as defined in Section [26B-3-501](#);

428 (iii) a Medicaid waiver expansion as defined in Section [26B-3-501](#); and

429 (iv) the outpatient upper payment limit supplemental payments under Section  
430 [26B-3-511](#).

431 (b) A state agency administering the provisions of Chapter 3, Part 5, Inpatient Hospital  
432 Assessment, may not use:

433 (i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper  
434 payment limit supplemental payments; or

435 (ii) money in the fund for any purpose not described in Subsection (4)(a).

436 Section 4. Section **26B-3-113** is amended to read:

437 **26B-3-113. Expanding the Medicaid program.**

438 (1) As used in this section:

439 (a) "Federal poverty level" means the same as that term is defined in Section  
440 [26B-3-207](#).

441 [~~(b) "Medicaid expansion" means an expansion of the Medicaid program in accordance~~  
442 ~~with this section.~~]

443 [~~(c)~~] (b) "Medicaid [~~Expansion~~] ACA Fund" means the Medicaid [~~Expansion~~] ACA  
444 Fund created in Section [26B-1-315](#).

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

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

449 (b) The department shall continue to seek approval from CMS to implement the  
450 Medicaid waiver expansion as defined in Section [~~26B-1-112~~] [26B-3-210](#).

451 (c) The department may implement any provision described in Subsections  
452 [~~26B-3-112(2)(b)(iii) through (viii)~~] [26B-3-210\(2\)\(b\)\(iii\) through \(viii\)](#) in a Medicaid  
453 expansion if the department receives approval from CMS to implement that provision.

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

456 (a) receives approval from CMS to:

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

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

461 (iii) permit the state to close enrollment in the Medicaid expansion under this

462 Subsection (3) if the department has insufficient funds to provide services to new enrollment  
463 under the Medicaid expansion under this Subsection (3);

464 (b) pays the state portion of costs for the Medicaid expansion under this Subsection (3)  
465 with funds from:

466 (i) the Medicaid [~~Expansion~~] ACA Fund;

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

468 (iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid  
469 expenditures; and

470 (c) closes the Medicaid program to new enrollment under the Medicaid expansion  
471 under this Subsection (3) if the department projects that the cost of the Medicaid expansion  
472 under this Subsection (3) will exceed the appropriations for the fiscal year that are authorized  
473 by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter  
474 1, Budgetary Procedures Act.

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

477 (i) receives approval from CMS to:

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

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

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

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

487 (A) the Medicaid [~~Expansion~~] ACA Fund;

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

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

491 (iii) closes the Medicaid program to new enrollment under the Medicaid expansion  
492 under this Subsection (4) if the department projects that the cost of the Medicaid expansion



493 under this Subsection (4) will exceed the appropriations for the fiscal year that are authorized  
494 by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter  
495 1, Budgetary Procedures Act.

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

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

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

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

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

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

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

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

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

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

523 (iii) The department shall submit the request for a waiver or state plan amendment

524 developed under Subsection (5)(a)(i) on or before March 15, 2020.

525 (b) Notwithstanding Sections 26B-3-127 and 63J-5-204, and in accordance with this  
526 Subsection (5), eligibility for the Medicaid program shall be expanded to include all persons in  
527 the optional Medicaid expansion population under PPACA and the Health Care Education  
528 Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance,  
529 on the earlier of:

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

532 (ii) July 1, 2020.

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

535 (i) implement each provision described in Subsections 26B-3-210(2)(b)(iii) through  
536 (viii) in a Medicaid expansion under this Subsection (5);

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

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

542 (d) The eligibility criteria in this Subsection (5) shall be construed to include all  
543 individuals eligible for the health coverage improvement program under Section 26B-3-207.

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

546 (i) the Medicaid [~~Expansion~~] ACA Fund;

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

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

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

552 (i) the department may reduce or eliminate optional Medicaid services under this  
553 chapter;

554 (ii) savings, as determined by the department, from the reduction or elimination of

555 optional Medicaid services under Subsection (5)(f)(i) shall be deposited into the Medicaid  
556 [~~Expansion~~] ACA Fund; and

557 (iii) the department may submit to CMS a request for waivers, or an amendment of  
558 existing waivers, from federal law necessary to implement budget controls within the Medicaid  
559 program to address the deficiency.

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

563 (i) the governor shall direct the department and Department of Workforce Services to  
564 reduce commitments and expenditures by an amount sufficient to offset the deficiency:

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

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

568 (ii) the Division of Finance shall reduce allotments to the department and Department  
569 of Workforce Services by a percentage:

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

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

572 and

573 (iii) the Division of Finance shall deposit the total amount from the reduced allotments  
574 described in Subsection (5)(g)(ii) into the Medicaid [~~Expansion~~] ACA Fund.

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

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

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

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

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

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

586 (d) recommendations to control costs of the Medicaid expansion; and  
587 (e) as calculated in accordance with Subsections 26B-3-506(4) and 26B-3-606(2), the  
588 state's net cost of the qualified Medicaid expansion.

589 Section 5. Section 26B-3-210 is amended to read:

590 **26B-3-210. Medicaid waiver expansion.**

591 (1) As used in this section:

592 (a) "Federal poverty level" means the same as that term is defined in Section  
593 26B-3-207.

594 (b) "Medicaid waiver expansion" means an expansion of the Medicaid program in  
595 accordance with this section.

596 (2) (a) Before January 1, 2019, the department shall apply to CMS for approval of a  
597 waiver or state plan amendment to implement the Medicaid waiver expansion.

598 (b) The Medicaid waiver expansion shall:

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

601 (ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for  
602 enrolling an individual in the Medicaid program;

603 (iii) provide Medicaid benefits through the state's Medicaid accountable care  
604 organizations in areas where a Medicaid accountable care organization is implemented;

605 (iv) integrate the delivery of behavioral health services and physical health services  
606 with Medicaid accountable care organizations in select geographic areas of the state that  
607 choose an integrated model;

608 (v) include a path to self-sufficiency, including work activities as defined in 42 U.S.C.  
609 Sec. 607(d), for qualified adults;

610 (vi) require an individual who is offered a private health benefit plan by an employer to  
611 enroll in the employer's health plan;

612 (vii) sunset in accordance with Subsection (5)(a); and

613 (viii) permit the state to close enrollment in the Medicaid waiver expansion if the  
614 department has insufficient funding to provide services to additional eligible individuals.

615 (3) If the Medicaid waiver described in Subsection (2)(a) is approved, the department  
616 may only pay the state portion of costs for the Medicaid waiver expansion with appropriations

617 from:

618 (a) the Medicaid [~~Expansion~~] ACA Fund, created in Section 26B-1-315;

619 (b) county contributions to the non-federal share of Medicaid expenditures; and

620 (c) any other contributions, funds, or transfers from a non-state agency for Medicaid  
621 expenditures.

622 (4) (a) In consultation with the department, Medicaid accountable care organizations  
623 and counties that elect to integrate care under Subsection (2)(b)(iv) shall collaborate on  
624 enrollment, engagement of patients, and coordination of services.

625 (b) As part of the provision described in Subsection (2)(b)(iv), the department shall  
626 apply for a waiver to permit the creation of an integrated delivery system:

627 (i) for any geographic area that expresses interest in integrating the delivery of services  
628 under Subsection (2)(b)(iv); and

629 (ii) in which the department:

630 (A) may permit a local mental health authority to integrate the delivery of behavioral  
631 health services and physical health services;

632 (B) may permit a county, local mental health authority, or Medicaid accountable care  
633 organization to integrate the delivery of behavioral health services and physical health services  
634 to select groups within the population that are newly eligible under the Medicaid waiver  
635 expansion; and

636 (C) may make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
637 Rulemaking Act, to integrate payments for behavioral health services and physical health  
638 services to plans or providers.

639 (5) (a) If federal financial participation for the Medicaid waiver expansion is reduced  
640 below 90%, the authority of the department to implement the Medicaid waiver expansion shall  
641 sunset no later than the next July 1 after the date on which the federal financial participation is  
642 reduced.

643 (b) The department shall close the program to new enrollment if the cost of the  
644 Medicaid waiver expansion is projected to exceed the appropriations for the fiscal year that are  
645 authorized by the Legislature through an appropriations act adopted in accordance with Title  
646 63J, Chapter 1, Budgetary Procedures Act.

647 (6) If the Medicaid waiver expansion is approved by CMS, the department shall report

648 to the Social Services Appropriations Subcommittee on or before November 1 of each year that  
649 the Medicaid waiver expansion is operational:

- 650 (a) the number of individuals who enrolled in the Medicaid waiver program;
- 651 (b) costs to the state for the Medicaid waiver program;
- 652 (c) estimated costs for the current and following state fiscal year; and
- 653 (d) recommendations to control costs of the Medicaid waiver expansion.

654 Section 6. Section **26B-3-211** is amended to read:

655 **26B-3-211. Primary Care Network enhancement waiver program.**

656 (1) As used in this section:

657 (a) "Enhancement waiver program" means the Primary Care Network enhancement  
658 waiver program described in this section.

659 (b) "Federal poverty level" means the poverty guidelines established by the secretary of  
660 the United States Department of Health and Human Services under 42 U.S.C. Sec. 9902(2).

661 (c) "Health coverage improvement program" means the same as that term is defined in  
662 Section [26B-3-207](#).

663 (d) "Income eligibility ceiling" means the percentage of federal poverty level:

664 (i) established by the Legislature in an appropriations act adopted pursuant to Title 63J,  
665 Chapter 1, Budgetary Procedures Act; and

666 (ii) under which an individual may qualify for coverage in the enhancement waiver  
667 program in accordance with this section.

668 (e) "Optional population" means the optional expansion population under PPACA if  
669 the expansion provides coverage for individuals at or above 95% of the federal poverty level.

670 (f) "Primary Care Network" means the state Primary Care Network program created by  
671 the Medicaid primary care network demonstration waiver obtained under Section [26B-3-108](#).

672 (2) The department shall continue to implement the Primary Care Network program for  
673 qualified individuals under the Primary Care Network program.

674 (3) (a) The division shall apply for a Medicaid waiver or a state plan amendment with  
675 CMS to implement, within the state Medicaid program, the enhancement waiver program  
676 described in this section within six months after the day on which:

677 (i) the division receives a notice from CMS that the waiver for the Medicaid waiver  
678 expansion submitted under Section [26B-3-210](#), Medicaid waiver expansion, will not be

679 approved; or

680 (ii) the division withdraws the waiver for the Medicaid waiver expansion submitted  
681 under Section 26B-3-210, Medicaid waiver expansion.

682 (b) The division may not apply for a waiver under Subsection (3)(a) while a waiver  
683 request under Section 26B-3-210, Medicaid waiver expansion, is pending with CMS.

684 (4) An individual who is eligible for the enhancement waiver program may receive the  
685 following benefits under the enhancement waiver program:

686 (a) the benefits offered under the Primary Care Network program;

687 (b) diagnostic testing and procedures;

688 (c) medical specialty care;

689 (d) inpatient hospital services;

690 (e) outpatient hospital services;

691 (f) outpatient behavioral health care, including outpatient substance use care; and

692 (g) for an individual who qualifies for the health coverage improvement program, as  
693 approved by CMS, temporary residential treatment for substance use in a short term,  
694 non-institutional, 24-hour facility, without a bed capacity limit, that provides rehabilitation  
695 services that are medically necessary and in accordance with an individualized treatment plan.

696 (5) An individual is eligible for the enhancement waiver program if, at the time of  
697 enrollment:

698 (a) the individual is qualified to enroll in the Primary Care Network or the health  
699 coverage improvement program;

700 (b) the individual's annual income is below the income eligibility ceiling established by  
701 the Legislature under Subsection (1)(d); and

702 (c) the individual meets the eligibility criteria established by the department under  
703 Subsection (6).

704 (6) (a) Based on available funding and approval from CMS, the department shall  
705 determine the criteria for an individual to qualify for the enhancement waiver program, based  
706 on the following priority:

707 (i) adults in the expansion population, as defined in Section 26B-3-207, who qualify  
708 for the health coverage improvement program;

709 (ii) adults with dependent children who qualify for the health coverage improvement

710 program under Subsection 26B-3-207(3);

711 (iii) adults with dependent children who do not qualify for the health coverage  
712 improvement program; and

713 (iv) if funding is available, adults without dependent children.

714 (b) The number of individuals enrolled in the enhancement waiver program may not  
715 exceed 105% of the number of individuals who were enrolled in the Primary Care Network on  
716 December 31, 2017.

717 (c) The department may only use appropriations from the Medicaid [Expansion] ACA  
718 Fund created in Section 26B-1-315 to fund the state portion of the enhancement waiver  
719 program.

720 (7) The department may request a modification of the income eligibility ceiling and the  
721 eligibility criteria under Subsection (6) from CMS each fiscal year based on enrollment in the  
722 enhancement waiver program, projected enrollment in the enhancement waiver program, costs  
723 to the state, and the state budget.

724 (8) The department may implement the enhancement waiver program by contracting  
725 with Medicaid accountable care organizations to administer the enhancement waiver program.

726 (9) In accordance with Subsections 26B-3-207(10) and (11), the department may use  
727 funds that have been appropriated for the health coverage improvement program to implement  
728 the enhancement waiver program.

729 (10) If the department expands the state Medicaid program to the optional population,  
730 the department:

731 (a) except as provided in Subsection (11), may not accept any new enrollees into the  
732 enhancement waiver program after the day on which the expansion to the optional population  
733 is effective;

734 (b) shall suspend the enhancement waiver program within one year after the day on  
735 which the expansion to the optional population is effective; and

736 (c) shall work with CMS to maintain the waiver for the enhancement waiver program  
737 submitted under Subsection (3) while the enhancement waiver program is suspended under  
738 Subsection (10)(b).

739 (11) If, after the expansion to the optional population described in Subsection (10)  
740 takes effect, the expansion to the optional population is repealed by either the state or the



741 federal government, the department shall reinstate the enhancement waiver program and  
742 continue to accept new enrollees into the enhancement waiver program in accordance with the  
743 provisions of this section.

744 Section 7. Section **26B-3-504** is amended to read:

745 **26B-3-504. Collection of assessment -- Deposit of revenue -- Rulemaking.**

746 (1) The collecting agent for the assessment imposed under Section **26B-3-503** is the  
747 department.

748 (2) The department is vested with the administration and enforcement of this part, and  
749 may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
750 Act, necessary to:

751 (a) collect the assessment, intergovernmental transfers, and penalties imposed under  
752 this part;

753 (b) audit records of a facility that:

754 (i) is subject to the assessment imposed by this part; and

755 (ii) does not file a Medicare cost report; and

756 (c) select a report similar to the Medicare cost report if Medicare no longer uses a  
757 Medicare cost report.

758 (3) The department shall:

759 (a) administer the assessment in this part separately from the assessment in Part 7,  
760 Hospital Provider Assessment; and

761 (b) deposit assessments collected under this part into the Medicaid [~~Expansion~~] ACA  
762 Fund created by Section **26B-1-315**.

763 Section 8. Section **26B-3-508** is amended to read:

764 **26B-3-508. State teaching hospital and non-state government hospital mandatory**  
765 **intergovernmental transfer.**

766 (1) The state teaching hospital and a non-state government hospital shall make an  
767 intergovernmental transfer to the Medicaid [~~Expansion~~] ACA Fund created in Section  
768 **26B-1-315**, in accordance with this section.

769 (2) The hospitals described in Subsection (1) shall pay the intergovernmental transfer  
770 beginning on the later of CMS approval of:

771 (a) the health improvement program waiver under Section **26B-3-207**; or

- 772 (b) the assessment for private hospitals in this part.
- 773 (3) The intergovernmental transfer is apportioned as follows:
- 774 (a) the state teaching hospital is responsible for:
- 775 (i) 30% of the portion of the hospital share specified in Subsections 26B-3-506(1)(a)
- 776 through (c); and
- 777 (ii) 0% of the hospital share specified in Subsection 26B-3-506(1)(d); and
- 778 (b) non-state government hospitals are responsible for:
- 779 (i) 1% of the portion of the hospital share specified in Subsections 26B-3-506(1)(a)
- 780 through (c); and
- 781 (ii) 0% of the hospital share specified in Subsection 26B-3-506(1)(d).
- 782 (4) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah
- 783 Administrative Rulemaking Act, designate:
- 784 (a) the method of calculating the amounts designated in Subsection (3); and
- 785 (b) the schedule for the intergovernmental transfers.
- 786 Section 9. Section 26B-3-512 is amended to read:
- 787 **26B-3-512. Repeal of assessment.**
- 788 (1) The assessment imposed by this part shall be repealed when:
- 789 (a) the executive director certifies that:
- 790 (i) action by Congress is in effect that disqualifies the assessment imposed by this part
- 791 from counting toward state Medicaid funds available to be used to determine the amount of
- 792 federal financial participation;
- 793 (ii) a decision, enactment, or other determination by the Legislature or by any court,
- 794 officer, department, or agency of the state, or of the federal government, is in effect that:
- 795 (A) disqualifies the assessment from counting toward state Medicaid funds available to
- 796 be used to determine federal financial participation for Medicaid matching funds; or
- 797 (B) creates for any reason a failure of the state to use the assessments for at least one of
- 798 the Medicaid programs described in this part; or
- 799 (iii) a change is in effect that reduces the aggregate hospital inpatient and outpatient
- 800 payment rate below the aggregate hospital inpatient and outpatient payment rate for July 1,
- 801 2015; or
- 802 (b) this part is repealed in accordance with Section 63I-1-226.

- 803 (2) If the assessment is repealed under Subsection (1):
- 804 (a) the division may not collect any assessment or intergovernmental transfer under this
- 805 part;
- 806 (b) the department shall disburse money in the special Medicaid [~~Expansion~~] ACA
- 807 Fund in accordance with the requirements in Subsection 26B-1-315(4), to the extent federal
- 808 matching is not reduced by CMS due to the repeal of the assessment;
- 809 (c) any money remaining in the Medicaid [~~Expansion~~] ACA Fund after the
- 810 disbursement described in Subsection (2)(b) that was derived from assessments imposed by
- 811 this part shall be refunded to the hospitals in proportion to the amount paid by each hospital for
- 812 the last three fiscal years; and
- 813 (d) any money remaining in the Medicaid [~~Expansion~~] ACA Fund after the
- 814 disbursements described in Subsections (2)(b) and (c) shall be deposited into the General Fund
- 815 by the end of the fiscal year that the assessment is suspended.
- 816 Section 10. Section **26B-3-601** is amended to read:
- 817 **26B-3-601. Definitions.**
- 818 As used in this part:
- 819 (1) "Assessment" means the Medicaid expansion hospital assessment established by
- 820 this part.
- 821 (2) "CMS" means the Centers for Medicare and Medicaid Services within the United
- 822 States Department of Health and Human Services.
- 823 (3) "Discharges" means the number of total hospital discharges reported on:
- 824 (a) Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare cost
- 825 report for the applicable assessment year; or
- 826 (b) a similar report adopted by the department by administrative rule, if the report
- 827 under Subsection (3)(a) is no longer available.
- 828 (4) "Division" means the Division of Integrated Healthcare within the department.
- 829 (5) "Hospital share" means the hospital share described in Section 26B-3-605.
- 830 (6) "Medicaid accountable care organization" means a managed care organization, as
- 831 defined in 42 C.F.R. Sec. 438, that contracts with the department under the provisions of
- 832 Section 26B-3-202.
- 833 (7) "Medicaid [~~Expansion~~] ACA Fund" means the Medicaid [~~Expansion~~] ACA Fund

834 created in Section 26B-1-315.

835 (8) "Medicaid waiver expansion" means the same as that term is defined in Section  
836 26B-3-210.

837 (9) "Medicare cost report" means CMS-2552-10, the cost report for electronic filing of  
838 hospitals.

839 (10) (a) "Non-state government hospital" means a hospital owned by a non-state  
840 government entity.

841 (b) "Non-state government hospital" does not include:

842 (i) the Utah State Hospital; or

843 (ii) a hospital owned by the federal government, including the Veterans Administration  
844 Hospital.

845 (11) (a) "Private hospital" means:

846 (i) a privately owned general acute hospital operating in the state as defined in Section  
847 26B-2-201; or

848 (ii) a privately owned specialty hospital operating in the state, including a privately  
849 owned hospital for which inpatient admissions are predominantly:

850 (A) rehabilitation;

851 (B) psychiatric;

852 (C) chemical dependency; or

853 (D) long-term acute care services.

854 (b) "Private hospital" does not include a facility for residential treatment as defined in  
855 Section 26B-2-101.

856 (12) "Qualified Medicaid expansion" means an expansion of the Medicaid program in  
857 accordance with Subsection 26B-3-113(5).

858 (13) "State teaching hospital" means a state owned teaching hospital that is part of an  
859 institution of higher education.

860 Section 11. Section 26B-3-604 is amended to read:

861 **26B-3-604. Collection of assessment -- Deposit of revenue -- Rulemaking.**

862 (1) The department shall act as the collecting agent for the assessment imposed under  
863 Section 26B-3-603.

864 (2) The department shall administer and enforce the provisions of this part, and may

865 make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
866 necessary to:

867 (a) collect the assessment, intergovernmental transfers, and penalties imposed under  
868 this part;

869 (b) audit records of a facility that:

870 (i) is subject to the assessment imposed under this part; and

871 (ii) does not file a Medicare cost report; and

872 (c) select a report similar to the Medicare cost report if Medicare no longer uses a  
873 Medicare cost report.

874 (3) The department shall:

875 (a) administer the assessment in this part separately from the assessments in Part 7,  
876 Hospital Provider Assessment, and Part 5, Inpatient Hospital Assessment; and

877 (b) deposit assessments collected under this part into the Medicaid [~~Expansion~~] ACA  
878 Fund.

879 (4) (a) Hospitals shall pay the quarterly assessments imposed by this part to the  
880 division within 15 business days after the original invoice date that appears on the invoice  
881 issued by the division.

882 (b) The department may make rules creating requirements to allow the time for paying  
883 the assessment to be extended.

884 Section 12. Section **26B-3-605** is amended to read:

885 **26B-3-605. Hospital share.**

886 (1) The hospital share is:

887 (a) for the period from April 1, 2019, through June 30, 2020, \$15,000,000; and

888 (b) beginning July 1, 2020, 100% of the state's net cost of the qualified Medicaid  
889 expansion, after deducting appropriate offsets and savings expected as a result of implementing  
890 the qualified Medicaid expansion, including:

891 (i) savings from:

892 (A) the Primary Care Network program;

893 (B) the health coverage improvement program, as defined in Section [26B-3-207](#);

894 (C) the state portion of inpatient prison medical coverage;

895 (D) behavioral health coverage; and

896 (E) county contributions to the non-federal share of Medicaid expenditures; and  
897 (ii) any funds appropriated to the Medicaid [~~Expansion~~] ACA Fund.

898 (2) (a) Beginning July 1, 2020, the hospital share is capped at no more than  
899 \$15,000,000 annually.

900 (b) Beginning July 1, 2020, the division shall prorate the cap specified in Subsection  
901 (2)(a) in any year in which the qualified Medicaid expansion is not in effect for the full fiscal  
902 year.

903 Section 13. Section **26B-3-608** is amended to read:

904 **26B-3-608. State teaching hospital and non-state government hospital mandatory**  
905 **intergovernmental transfer.**

906 (1) A state teaching hospital and a non-state government hospital shall make an  
907 intergovernmental transfer to the Medicaid [~~Expansion~~] ACA Fund, in accordance with this  
908 section.

909 (2) The hospitals described in Subsection (1) shall pay the intergovernmental transfer  
910 beginning on the later of:

911 (a) April 1, 2019; or

912 (b) CMS approval of the assessment for private hospitals in this part.

913 (3) The intergovernmental transfer is apportioned between the non-state government  
914 hospitals as follows:

915 (a) the state teaching hospital shall pay for the portion of the hospital share described in  
916 Section **26B-3-611**; and

917 (b) non-state government hospitals shall pay for the portion of the hospital share  
918 described in Section **26B-3-611**.

919 (4) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah  
920 Administrative Rulemaking Act, designate:

921 (a) the method of calculating the amounts designated in Subsection (3); and

922 (b) the schedule for the intergovernmental transfers.

923 Section 14. Section **26B-3-612** is amended to read:

924 **26B-3-612. Suspension of assessment.**

925 (1) The department shall suspend the assessment imposed by this part when the  
926 executive director certifies that:

927 (a) action by Congress is in effect that disqualifies the assessment imposed by this part  
928 from counting toward state Medicaid funds available to be used to determine the amount of  
929 federal financial participation;

930 (b) a decision, enactment, or other determination by the Legislature or by any court,  
931 officer, department, or agency of the state, or of the federal government, is in effect that:

932 (i) disqualifies the assessment from counting toward state Medicaid funds available to  
933 be used to determine federal financial participation for Medicaid matching funds; or

934 (ii) creates for any reason a failure of the state to use the assessments for at least one of  
935 the Medicaid programs described in this part; or

936 (c) a change is in effect that reduces the aggregate hospital inpatient and outpatient  
937 payment rate below the aggregate hospital inpatient and outpatient payment rate for July 1,  
938 2015.

939 (2) If the assessment is suspended under Subsection (1):

940 (a) the division may not collect any assessment or intergovernmental transfer under this  
941 part;

942 (b) the division shall disburse money in the Medicaid [~~Expansion~~] ACA Fund that was  
943 derived from assessments imposed by this part in accordance with the requirements in  
944 Subsection 26B-1-315(4), to the extent federal matching is not reduced by CMS due to the  
945 repeal of the assessment; and

946 (c) the division shall refund any money remaining in the Medicaid [~~Expansion~~] ACA  
947 Fund after the disbursement described in Subsection (2)(b) that was derived from assessments  
948 imposed by this part to the hospitals in proportion to the amount paid by each hospital for the  
949 last three fiscal years.

950 Section 15. Section **36-12-13** is amended to read:

951 **36-12-13. Office of the Legislative Fiscal Analyst established -- Powers, functions,**  
952 **and duties -- Qualifications.**

953 (1) There is established an Office of the Legislative Fiscal Analyst as a permanent staff  
954 office for the Legislature.

955 (2) The powers, functions, and duties of the Office of the Legislative Fiscal Analyst  
956 under the supervision of the fiscal analyst are:

957 (a) (i) to estimate general revenue collections, including comparisons of:

- 958 (A) current estimates for each major tax type to long-term trends for that tax type;
- 959 (B) current estimates for federal fund receipts to long-term federal fund trends; and
- 960 (C) current estimates for tax collections and federal fund receipts to long-term trends
- 961 deflated for the inflationary effects of debt monetization; and
- 962 (ii) to report the analysis required under Subsection (2)(a)(i) to the Legislature's
- 963 Executive Appropriations Committee before each annual general session of the Legislature;
- 964 (b) to analyze in detail the state budget before the convening of each legislative session
- 965 and make recommendations to the Legislature on each item or program appearing in the
- 966 budget, including:
  - 967 (i) funding for and performance of programs, acquisitions, and services currently
  - 968 undertaken by state government to determine whether each department, agency, institution, or
  - 969 program should:
    - 970 (A) continue at its current level of expenditure;
    - 971 (B) continue at a different level of expenditure; or
    - 972 (C) be terminated; and
  - 973 (ii) increases or decreases to spending authority and other resource allocations for the
  - 974 current and future fiscal years;
  - 975 (c) to prepare on all proposed bills fiscal estimates that reflect:
    - 976 (i) potential state government revenue impacts;
    - 977 (ii) anticipated state government expenditure changes;
    - 978 (iii) anticipated expenditure changes for county, municipal, special district, or special
    - 979 service district governments;
    - 980 (iv) anticipated direct expenditure by Utah residents and businesses, including the unit
    - 981 cost, number of units, and total cost to all impacted residents and businesses; and
    - 982 (v) if the proposed bill changes retirement benefits under a system or plan governed by
    - 983 Title 49, Utah State Retirement and Insurance Benefit Act, the anticipated effect on:
      - 984 (A) each affected system's or plan's unfunded actuarial accrued liability and actuarial
      - 985 funded ratio, based on current employer contributions;
      - 986 (B) employer contributions and member contributions;
      - 987 (C) a retiree's retirement allowance;
      - 988 (D) the total cost to active members and retirees; and



- 989 (E) the total cost to employers for all active members and retirees;
- 990 (d) to indicate whether each proposed bill will impact the regulatory burden for Utah  
991 residents or businesses, and if so:
- 992 (i) whether the impact increases or decreases the regulatory burden; and
- 993 (ii) whether the change in burden is high, medium, or low;
- 994 (e) beginning in 2017 and repeating every three years after 2017, to prepare the  
995 following cycle of analyses of long-term fiscal sustainability:
- 996 (i) in year one, the joint revenue volatility report required under Section [63J-1-205](#);
- 997 (ii) in year two, a long-term budget for programs appropriated from major funds and  
998 tax types; and
- 999 (iii) in year three, a budget stress test that:
- 1000 (A) [~~comparing~~] compares estimated future revenue to and expenditure from major  
1001 funds and tax types under various potential economic conditions;
- 1002 (B) analyzes the economic and policy risks associated with funding for the Medicaid  
1003 program and expansions of the Medicaid program;
- 1004 (C) measures value at risk; and
- 1005 (D) recommends budgetary actions to manage risk;
- 1006 (f) to report instances in which the administration may be failing to carry out the  
1007 expressed intent of the Legislature;
- 1008 (g) to propose and analyze statutory changes for more effective operational economies  
1009 or more effective administration;
- 1010 (h) to prepare, before each annual general session of the Legislature, a summary  
1011 showing the current status of the following as compared to the past nine fiscal years:
- 1012 (i) debt;
- 1013 (ii) long-term liabilities;
- 1014 (iii) contingent liabilities;
- 1015 (iv) General Fund borrowing;
- 1016 (v) reserves;
- 1017 (vi) fund and nonlapsing balances; and
- 1018 (vii) cash funded capital investments;
- 1019 (i) to make recommendations for addressing the items described in Subsection (2)(h) in

1020 the upcoming annual general session of the Legislature;

1021 (j) to prepare, after each session of the Legislature, a summary showing the effect of  
1022 the final legislative program on the financial condition of the state;

1023 (k) to conduct organizational and management improvement studies in accordance  
1024 with Title 63J, Chapter 1, Part 9, Government Performance Reporting and Efficiency Process,  
1025 and legislative rule;

1026 (l) to prepare and deliver upon request of any interim committee or the Legislative  
1027 Management Committee, reports on the finances of the state and on anticipated or proposed  
1028 requests for appropriations;

1029 (m) to recommend areas for research studies by the executive department or the interim  
1030 committees;

1031 (n) to appoint and develop a professional staff within budget limitations;

1032 (o) to prepare and submit the annual budget request for the office;

1033 (p) to develop a taxpayer receipt:

1034 (i) available to taxpayers through a website; and

1035 (ii) that allows a taxpayer to view on the website an estimate of how the taxpayer's tax  
1036 dollars are expended for government purposes; and

1037 (q) to publish or provide other information on taxation and government expenditures  
1038 that may be accessed by the public.

1039 (3) The legislative fiscal analyst shall have a master's degree in public administration,  
1040 political science, economics, accounting, or the equivalent in academic or practical experience.

1041 (4) In carrying out the duties provided for in this section, the legislative fiscal analyst  
1042 may obtain access to all records, documents, and reports necessary to the scope of the  
1043 legislative fiscal analyst's duties according to the procedures contained in Title 36, Chapter 14,  
1044 Legislative Subpoena Powers.

1045 (5) The Office of the Legislative Fiscal Analyst shall provide any information the State  
1046 Board of Education reports in accordance with Subsection [53E-3-507\(7\)](#) to:

1047 (a) the chief sponsor of the proposed bill; and

1048 (b) upon request, any legislator.

1049 Section 16. Section **59-12-103 (Contingently Superseded 01/01/25)** is amended to  
1050 read:

1051           **59-12-103 (Contingently Superseded 01/01/25). Sales and use tax base -- Rates --**  
1052 **Effective dates -- Use of sales and use tax revenues.**

1053           (1) A tax is imposed on the purchaser as provided in this part on the purchase price or  
1054 sales price for amounts paid or charged for the following transactions:

1055           (a) retail sales of tangible personal property made within the state;

1056           (b) amounts paid for:

1057           (i) telecommunications service, other than mobile telecommunications service, that  
1058 originates and terminates within the boundaries of this state;

1059           (ii) mobile telecommunications service that originates and terminates within the  
1060 boundaries of one state only to the extent permitted by the Mobile Telecommunications

1061 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1062           (iii) an ancillary service associated with a:

1063           (A) telecommunications service described in Subsection (1)(b)(i); or

1064           (B) mobile telecommunications service described in Subsection (1)(b)(ii);

1065           (c) sales of the following for commercial use:

1066           (i) gas;

1067           (ii) electricity;

1068           (iii) heat;

1069           (iv) coal;

1070           (v) fuel oil; or

1071           (vi) other fuels;

1072           (d) sales of the following for residential use:

1073           (i) gas;

1074           (ii) electricity;

1075           (iii) heat;

1076           (iv) coal;

1077           (v) fuel oil; or

1078           (vi) other fuels;

1079           (e) sales of prepared food;

1080           (f) except as provided in Section 59-12-104, amounts paid or charged as admission or  
1081 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,

1082 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,  
1083 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit  
1084 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf  
1085 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,  
1086 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,  
1087 horseback rides, sports activities, or any other amusement, entertainment, recreation,  
1088 exhibition, cultural, or athletic activity;

1089 (g) amounts paid or charged for services for repairs or renovations of tangible personal  
1090 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

1091 (i) the tangible personal property; and

1092 (ii) parts used in the repairs or renovations of the tangible personal property described  
1093 in Subsection (1)(g)(i), regardless of whether:

1094 (A) any parts are actually used in the repairs or renovations of that tangible personal  
1095 property; or

1096 (B) the particular parts used in the repairs or renovations of that tangible personal  
1097 property are exempt from a tax under this chapter;

1098 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for  
1099 assisted cleaning or washing of tangible personal property;

1100 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court  
1101 accommodations and services that are regularly rented for less than 30 consecutive days;

1102 (j) amounts paid or charged for laundry or dry cleaning services;

1103 (k) amounts paid or charged for leases or rentals of tangible personal property if within  
1104 this state the tangible personal property is:

1105 (i) stored;

1106 (ii) used; or

1107 (iii) otherwise consumed;

1108 (l) amounts paid or charged for tangible personal property if within this state the  
1109 tangible personal property is:

1110 (i) stored;

1111 (ii) used; or

1112 (iii) consumed;

- 1113 (m) amounts paid or charged for a sale:
- 1114 (i) (A) of a product transferred electronically; or
- 1115 (B) of a repair or renovation of a product transferred electronically; and
- 1116 (ii) regardless of whether the sale provides:
- 1117 (A) a right of permanent use of the product; or
- 1118 (B) a right to use the product that is less than a permanent use, including a right:
- 1119 (I) for a definite or specified length of time; and
- 1120 (II) that terminates upon the occurrence of a condition; and
- 1121 (n) sales of leased tangible personal property from the lessor to the lessee made in the
- 1122 state.
- 1123 (2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax
- 1124 are imposed on a transaction described in Subsection (1) equal to the sum of:
- 1125 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
- 1126 (A) 4.70% plus the rate specified in Subsection (11)(a); and
- 1127 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
- 1128 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
- 1129 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
- 1130 State Sales and Use Tax Act; and
- 1131 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
- 1132 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
- 1133 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
- 1134 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
- 1135 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 1136 transaction under this chapter other than this part.
- 1137 (b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a
- 1138 state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to
- 1139 the sum of:
- 1140 (i) a state tax imposed on the transaction at a tax rate of 2%; and
- 1141 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 1142 transaction under this chapter other than this part.
- 1143 (c) Except as provided in Subsection (2)(f) or (g), a state tax and a local tax are

1144 imposed on amounts paid or charged for food and food ingredients equal to the sum of:

1145 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
1146 a tax rate of 1.75%; and

1147 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1148 amounts paid or charged for food and food ingredients under this chapter other than this part.

1149 (d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts  
1150 paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at  
1151 a rate of 4.85%.

1152 (e) (i) (A) If a shared vehicle owner certifies to the commission, on a form prescribed  
1153 by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax  
1154 imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a  
1155 shared vehicle driver, or a shared vehicle owner.

1156 (B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is  
1157 required once during the time that the shared vehicle owner owns the shared vehicle.

1158 (C) The commission shall verify that a shared vehicle is an individual-owned shared  
1159 vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the  
1160 purchase of the shared vehicle.

1161 (D) The exception under Subsection (2)(e)(i)(A) applies to a certified  
1162 individual-owned shared vehicle shared through a car-sharing program even if non-certified  
1163 shared vehicles are also available to be shared through the same car-sharing program.

1164 (ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

1165 (iii) (A) A car-sharing program may rely in good faith on a shared vehicle owner's  
1166 representation that the shared vehicle is an individual-owned shared vehicle certified with the  
1167 commission as described in Subsection (2)(e)(i).

1168 (B) If a car-sharing program relies in good faith on a shared vehicle owner's  
1169 representation that the shared vehicle is an individual-owned shared vehicle certified with the  
1170 commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any  
1171 tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

1172 (iv) If all shared vehicles shared through a car-sharing program are certified as  
1173 described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation  
1174 to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

1175 (v) [~~(A)~~] A car-sharing program is not required to list or otherwise identify an  
1176 individual-owned shared vehicle on a return or an attachment to a return.

1177 (vi) A car-sharing program shall:

1178 (A) retain tax information for each car-sharing program transaction; and

1179 (B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at  
1180 the commission's request.

1181 (f) (i) For a bundled transaction that is attributable to food and food ingredients and  
1182 tangible personal property other than food and food ingredients, a state tax and a local tax is  
1183 imposed on the entire bundled transaction equal to the sum of:

1184 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

1185 (I) the tax rate described in Subsection (2)(a)(i)(A); and

1186 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
1187 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
1188 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
1189 Additional State Sales and Use Tax Act; and

1190 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
1191 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
1192 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
1193 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1194 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
1195 described in Subsection (2)(a)(ii).

1196 (ii) If an optional computer software maintenance contract is a bundled transaction that  
1197 consists of taxable and nontaxable products that are not separately itemized on an invoice or  
1198 similar billing document, the purchase of the optional computer software maintenance contract  
1199 is 40% taxable under this chapter and 60% nontaxable under this chapter.

1200 (iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled  
1201 transaction described in Subsection (2)(f)(i) or (ii):

1202 (A) if the sales price of the bundled transaction is attributable to tangible personal  
1203 property, a product, or a service that is subject to taxation under this chapter and tangible  
1204 personal property, a product, or service that is not subject to taxation under this chapter, the  
1205 entire bundled transaction is subject to taxation under this chapter unless:

1206 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
1207 personal property, product, or service that is not subject to taxation under this chapter from the  
1208 books and records the seller keeps in the seller's regular course of business; or

1209 (II) state or federal law provides otherwise; or

1210 (B) if the sales price of a bundled transaction is attributable to two or more items of  
1211 tangible personal property, products, or services that are subject to taxation under this chapter  
1212 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
1213 higher tax rate unless:

1214 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
1215 personal property, product, or service that is subject to taxation under this chapter at the lower  
1216 tax rate from the books and records the seller keeps in the seller's regular course of business; or

1217 (II) state or federal law provides otherwise.

1218 (iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the  
1219 seller's regular course of business includes books and records the seller keeps in the regular  
1220 course of business for nontax purposes.

1221 (g) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii)  
1222 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a  
1223 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental  
1224 of tangible personal property, other property, a product, or a service that is not subject to  
1225 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless  
1226 the seller, at the time of the transaction:

1227 (A) separately states the portion of the transaction that is not subject to taxation under  
1228 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

1229 (B) is able to identify by reasonable and verifiable standards, from the books and  
1230 records the seller keeps in the seller's regular course of business, the portion of the transaction  
1231 that is not subject to taxation under this chapter.

1232 (ii) A purchaser and a seller may correct the taxability of a transaction if:

1233 (A) after the transaction occurs, the purchaser and the seller discover that the portion of  
1234 the transaction that is not subject to taxation under this chapter was not separately stated on an  
1235 invoice, bill of sale, or similar document provided to the purchaser because of an error or  
1236 ignorance of the law; and



1237 (B) the seller is able to identify by reasonable and verifiable standards, from the books  
1238 and records the seller keeps in the seller's regular course of business, the portion of the  
1239 transaction that is not subject to taxation under this chapter.

1240 (iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps  
1241 in the seller's regular course of business includes books and records the seller keeps in the  
1242 regular course of business for nontax purposes.

1243 (h) (i) If the sales price of a transaction is attributable to two or more items of tangible  
1244 personal property, products, or services that are subject to taxation under this chapter at  
1245 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate  
1246 unless the seller, at the time of the transaction:

1247 (A) separately states the items subject to taxation under this chapter at each of the  
1248 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

1249 (B) is able to identify by reasonable and verifiable standards the tangible personal  
1250 property, product, or service that is subject to taxation under this chapter at the lower tax rate  
1251 from the books and records the seller keeps in the seller's regular course of business.

1252 (ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the  
1253 seller's regular course of business includes books and records the seller keeps in the regular  
1254 course of business for nontax purposes.

1255 (i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax  
1256 rate imposed under the following shall take effect on the first day of a calendar quarter:

1257 (i) Subsection (2)(a)(i)(A);

1258 (ii) Subsection (2)(b)(i);

1259 (iii) Subsection (2)(c)(i); or

1260 (iv) Subsection (2)(f)(i)(A)(I).

1261 (j) (i) A tax rate increase takes effect on the first day of the first billing period that  
1262 begins on or after the effective date of the tax rate increase if the billing period for the  
1263 transaction begins before the effective date of a tax rate increase imposed under:

1264 (A) Subsection (2)(a)(i)(A);

1265 (B) Subsection (2)(b)(i);

1266 (C) Subsection (2)(c)(i); or

1267 (D) Subsection (2)(f)(i)(A)(I).

1268 (ii) The repeal of a tax or a tax rate decrease applies to a billing  
1269 statement for the billing period is rendered on or after the effective date of the repeal of the tax  
1270 or the tax rate decrease imposed under:

- 1271 (A) Subsection (2)(a)(i)(A);
- 1272 (B) Subsection (2)(b)(i);
- 1273 (C) Subsection (2)(c)(i); or
- 1274 (D) Subsection (2)(f)(i)(A)(I).

1275 (k) (i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale  
1276 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal  
1277 or change in a tax rate takes effect:

- 1278 (A) on the first day of a calendar quarter; and
- 1279 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

1280 (ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

- 1281 (A) Subsection (2)(a)(i)(A);
- 1282 (B) Subsection (2)(b)(i);
- 1283 (C) Subsection (2)(c)(i); or
- 1284 (D) Subsection (2)(f)(i)(A)(I).

1285 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1286 the commission may by rule define the term "catalogue sale."

1287 (l) (i) For a location described in Subsection (2)(l)(ii), the commission shall determine  
1288 the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the  
1289 predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

1290 (ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil,  
1291 or other fuel is furnished through a single meter for two or more of the following uses:

- 1292 (A) a commercial use;
- 1293 (B) an industrial use; or
- 1294 (C) a residential use.

1295 (3) (a) The following state taxes shall be deposited into the General Fund:

- 1296 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 1297 (ii) the tax imposed by Subsection (2)(b)(i);
- 1298 (iii) the tax imposed by Subsection (2)(c)(i); and

- 1299 (iv) the tax imposed by Subsection (2)(f)(i)(A)(I).
- 1300 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 1301 in this chapter:
- 1302 (i) the tax imposed by Subsection (2)(a)(ii);
- 1303 (ii) the tax imposed by Subsection (2)(b)(ii);
- 1304 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 1305 (iv) the tax imposed by Subsection (2)(f)(i)(B).
- 1306 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General
- 1307 Fund.
- 1308 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 1309 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
- 1310 through (g):
- 1311 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 1312 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 1313 (B) for the fiscal year; or
- 1314 (ii) \$17,500,000.
- 1315 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
- 1316 described in Subsection (4)(a) shall be transferred each year as designated sales and use tax
- 1317 revenue to the Department of Natural Resources to:
- 1318 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
- 1319 protect sensitive plant and animal species; or
- 1320 (B) award grants, up to the amount authorized by the Legislature in an appropriations
- 1321 act, to political subdivisions of the state to implement the measures described in Subsections
- 1322 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
- 1323 (ii) Money transferred to the Department of Natural Resources under Subsection
- 1324 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
- 1325 person to list or attempt to have listed a species as threatened or endangered under the
- 1326 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
- 1327 (iii) At the end of each fiscal year:
- 1328 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the
- 1329 Water Resources Conservation and Development Fund created in Section 73-10-24;

1330 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the  
1331 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

1332 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the  
1333 Drinking Water Loan Program Subaccount created in Section 73-10c-5.

1334 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
1335 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund  
1336 created in Section 4-18-106.

1337 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
1338 in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to  
1339 the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for  
1340 the adjudication of water rights.

1341 (ii) At the end of each fiscal year:

1342 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the  
1343 Water Resources Conservation and Development Fund created in Section 73-10-24;

1344 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the  
1345 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

1346 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the  
1347 Drinking Water Loan Program Subaccount created in Section 73-10c-5.

1348 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
1349 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and  
1350 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

1351 (ii) In addition to the uses allowed of the Water Resources Conservation and  
1352 Development Fund under Section 73-10-24, the Water Resources Conservation and  
1353 Development Fund may also be used to:

1354 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
1355 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
1356 quantifying surface and ground water resources and describing the hydrologic systems of an  
1357 area in sufficient detail so as to enable local and state resource managers to plan for and  
1358 accommodate growth in water use without jeopardizing the resource;

1359 (B) fund state required dam safety improvements; and

1360 (C) protect the state's interest in interstate water compact allocations, including the

1361 hiring of technical and legal staff.

1362 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
1363 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount  
1364 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1365 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
1366 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount  
1367 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1368 (i) provide for the installation and repair of collection, treatment, storage, and  
1369 distribution facilities for any public water system, as defined in Section 19-4-102;

1370 (ii) develop underground sources of water, including springs and wells; and

1371 (iii) develop surface water sources.

1372 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1373 2006, the difference between the following amounts shall be expended as provided in this  
1374 Subsection (5), if that difference is greater than \$1:

1375 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
1376 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

1377 (ii) \$17,500,000.

1378 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

1379 (A) transferred each fiscal year to the Department of Natural Resources as designated  
1380 sales and use tax revenue; and

1381 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
1382 restoration.

1383 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use  
1384 tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation  
1385 and Development Fund created in Section 73-10-24.

1386 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
1387 remaining difference described in Subsection (5)(a) shall be:

1388 (A) transferred each fiscal year to the Division of Water Resources as designated sales  
1389 and use tax revenue; and

1390 (B) expended by the Division of Water Resources for cloud-seeding projects  
1391 authorized by Title 73, Chapter 15, Modification of Weather.

1392 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use  
1393 tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation  
1394 and Development Fund created in Section 73-10-24.

1395 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the  
1396 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
1397 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
1398 Division of Water Resources for:

1399 (i) preconstruction costs:

1400 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
1401 26, Bear River Development Act; and

1402 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
1403 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1404 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
1405 Chapter 26, Bear River Development Act;

1406 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
1407 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1408 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and  
1409 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1410 (e) After making the transfers required by Subsections (5)(b) and (c), 15% of the  
1411 remaining difference described in Subsection (5)(a) shall be deposited each year into the Water  
1412 Rights Restricted Account created by Section 73-2-1.6.

1413 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a),  
1414 each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account  
1415 created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the  
1416 transactions described in Subsection (1) for the fiscal year.

1417 (7) (a) Notwithstanding Subsection (3)(a) and subject to Subsection (7)(b), for a fiscal  
1418 year beginning on or after July 1, 2023, the commission shall deposit into the Transportation  
1419 Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under  
1420 Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

1421 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

1422 (ii) the tax imposed by Subsection (2)(b)(i);

1423 (iii) the tax imposed by Subsection (2)(c)(i); and

1424 (iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

1425 (b) (i) As used in this Subsection (7)(b):

1426 (A) "Additional growth revenue" means the amount of relevant revenue collected in  
1427 the current fiscal year that exceeds by more than 3% the relevant revenue collected in the  
1428 previous fiscal year.

1429 (B) "Combined amount" means the combined total amount of money deposited into the  
1430 Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

1431 (C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation  
1432 Investment Fund created in Subsection 72-2-124(10).

1433 (D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that  
1434 equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv).

1435 (ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually  
1436 reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by  
1437 an amount equal to the amount of the deposit under this Subsection (7)(b) to the Cottonwood  
1438 Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the  
1439 limit in Subsection (7)(b)(iii).

1440 (iii) The commission shall annually deposit the amount described in Subsection  
1441 (7)(b)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount  
1442 for any single fiscal year of \$20,000,000.

1443 (iv) If the amount of relevant revenue declines in a fiscal year compared to the previous  
1444 fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood  
1445 Canyons fund under this Subsection (7)(b) in the same proportion as the decline in relevant  
1446 revenue.

1447 (c) (i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1,  
1448 2023, the commission shall annually reduce the deposit into the Transportation Investment  
1449 Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

1450 (A) the amount of revenue generated in the current fiscal year by the portion of taxes  
1451 listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described  
1452 in Subsections (7)(a)(i) through (iv);

1453 (B) the amount of revenue generated in the current fiscal year by registration fees

1454 designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund  
1455 of 2005; and

1456 (C) revenues transferred by the Division of Finance to the Transportation Investment  
1457 Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

1458 (ii) The amount described in Subsection (7)(c)(i) may not exceed \$45,000,000 in a  
1459 given fiscal year.

1460 (iii) The commission shall annually deposit the amount described in Subsection  
1461 (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

1462 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under  
1463 Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year beginning on or  
1464 after July 1, 2018, the commission shall annually deposit into the Transportation Investment  
1465 Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a)  
1466 in an amount equal to 3.68% of the revenues collected from the following taxes:

1467 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

1468 (ii) the tax imposed by Subsection (2)(b)(i);

1469 (iii) the tax imposed by Subsection (2)(c)(i); and

1470 (iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

1471 (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually  
1472 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by  
1473 an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by  
1474 the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale  
1475 or use in this state that exceeds 29.4 cents per gallon.

1476 (c) The commission shall annually deposit the amount described in Subsection (8)(b)  
1477 into the Transit Transportation Investment Fund created in Section 72-2-124.

1478 (d) (i) As used in this Subsection (8)(d):

1479 (A) "Additional growth revenue" means the amount of relevant revenue collected in  
1480 the current fiscal year that exceeds by more than 3% the relevant revenue collected in the  
1481 previous fiscal year.

1482 (B) "Combined amount" means the combined total amount of money deposited into the  
1483 Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

1484 (C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation



1485 Investment Fund created in Subsection 72-2-124(10).

1486 (D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that  
1487 equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through  
1488 (iv).

1489 (ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually  
1490 reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by  
1491 an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood  
1492 Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the  
1493 limit in Subsection (8)(d)(iii).

1494 (iii) The commission shall annually deposit the amount described in Subsection  
1495 (8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount  
1496 for any single fiscal year of \$20,000,000.

1497 (iv) If the amount of relevant revenue declines in a fiscal year compared to the previous  
1498 fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood  
1499 Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant  
1500 revenue.

1501 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
1502 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
1503 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

1504 (10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the  
1505 fiscal year during which the commission receives notice under Section 63N-2-510 that  
1506 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission  
1507 shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by  
1508 the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in  
1509 Section 63N-2-512.

1510 (11) (a) The rate specified in this subsection is 0.15%.

1511 (b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year  
1512 beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the  
1513 rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax  
1514 under Subsection (2)(a)(i)(A) into the Medicaid [Expansion] ACA Fund created in Section  
1515 26B-1-315.

1516 (12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
1517 2020-21, the commission shall deposit \$200,000 into the General Fund as a dedicated credit  
1518 solely for use of the Search and Rescue Financial Assistance Program created in, and expended  
1519 in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

1520 (13) (a) For each fiscal year beginning with fiscal year 2020-21, the commission shall  
1521 annually transfer \$1,813,400 of the revenue deposited into the Transportation Investment Fund  
1522 of 2005 under Subsections (7) and (8) to the General Fund.

1523 (b) If the total revenue deposited into the Transportation Investment Fund of 2005  
1524 under Subsections (7) and (8) is less than \$1,813,400 for a fiscal year, the commission shall  
1525 transfer the total revenue deposited into the Transportation Investment Fund of 2005 under  
1526 Subsections (7) and (8) during the fiscal year to the General Fund.

1527 (14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610,  
1528 beginning the first day of the calendar quarter one year after the sales and use tax boundary for  
1529 a housing and transit reinvestment zone is established, the commission, at least annually, shall  
1530 transfer an amount equal to 15% of the sales and use tax increment within an established sales  
1531 and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation  
1532 Investment Fund created in Section 72-2-124.

1533 (15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year  
1534 beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure  
1535 Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection  
1536 (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

1537 (a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

1538 (b) the tax imposed by Subsection (2)(b)(i);

1539 (c) the tax imposed by Subsection (2)(c)(i); and

1540 (d) the tax imposed by Subsection (2)(f)(i)(A)(I).

1541 Section 17. Section 59-12-103 (Contingently Effective 01/01/25) is amended to read:

1542 **59-12-103 (Contingently Effective 01/01/25). Sales and use tax base -- Rates --**  
1543 **Effective dates -- Use of sales and use tax revenues.**

1544 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or  
1545 sales price for amounts paid or charged for the following transactions:

1546 (a) retail sales of tangible personal property made within the state;

- 1547 (b) amounts paid for:
- 1548 (i) telecommunications service, other than mobile telecommunications service, that  
1549 originates and terminates within the boundaries of this state;
- 1550 (ii) mobile telecommunications service that originates and terminates within the  
1551 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
1552 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 1553 (iii) an ancillary service associated with a:
- 1554 (A) telecommunications service described in Subsection (1)(b)(i); or  
1555 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 1556 (c) sales of the following for commercial use:
- 1557 (i) gas;  
1558 (ii) electricity;  
1559 (iii) heat;  
1560 (iv) coal;  
1561 (v) fuel oil; or  
1562 (vi) other fuels;
- 1563 (d) sales of the following for residential use:
- 1564 (i) gas;  
1565 (ii) electricity;  
1566 (iii) heat;  
1567 (iv) coal;  
1568 (v) fuel oil; or  
1569 (vi) other fuels;
- 1570 (e) sales of prepared food;
- 1571 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or  
1572 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,  
1573 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,  
1574 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit  
1575 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf  
1576 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,  
1577 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,

1578 horseback rides, sports activities, or any other amusement, entertainment, recreation,  
1579 exhibition, cultural, or athletic activity;

1580 (g) amounts paid or charged for services for repairs or renovations of tangible personal  
1581 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

1582 (i) the tangible personal property; and  
1583 (ii) parts used in the repairs or renovations of the tangible personal property described  
1584 in Subsection (1)(g)(i), regardless of whether:

1585 (A) any parts are actually used in the repairs or renovations of that tangible personal  
1586 property; or  
1587 (B) the particular parts used in the repairs or renovations of that tangible personal  
1588 property are exempt from a tax under this chapter;

1589 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for  
1590 assisted cleaning or washing of tangible personal property;

1591 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court  
1592 accommodations and services that are regularly rented for less than 30 consecutive days;

1593 (j) amounts paid or charged for laundry or dry cleaning services;

1594 (k) amounts paid or charged for leases or rentals of tangible personal property if within  
1595 this state the tangible personal property is:

1596 (i) stored;  
1597 (ii) used; or  
1598 (iii) otherwise consumed;

1599 (l) amounts paid or charged for tangible personal property if within this state the  
1600 tangible personal property is:

1601 (i) stored;  
1602 (ii) used; or  
1603 (iii) consumed;

1604 (m) amounts paid or charged for a sale:

1605 (i) (A) of a product transferred electronically; or  
1606 (B) of a repair or renovation of a product transferred electronically; and  
1607 (ii) regardless of whether the sale provides:  
1608 (A) a right of permanent use of the product; or

- 1609 (B) a right to use the product that is less than a permanent use, including a right:  
1610 (I) for a definite or specified length of time; and  
1611 (II) that terminates upon the occurrence of a condition; and  
1612 (n) sales of leased tangible personal property from the lessor to the lessee made in the  
1613 state.
- 1614 (2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax  
1615 are imposed on a transaction described in Subsection (1) equal to the sum of:  
1616 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:  
1617 (A) 4.70% plus the rate specified in Subsection (11)(a); and  
1618 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales  
1619 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
1620 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional  
1621 State Sales and Use Tax Act; and  
1622 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
1623 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
1624 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state  
1625 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and  
1626 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1627 transaction under this chapter other than this part.
- 1628 (b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a  
1629 state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to  
1630 the sum of:  
1631 (i) a state tax imposed on the transaction at a tax rate of 2%; and  
1632 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1633 transaction under this chapter other than this part.
- 1634 (c) (i) Except as provided in Subsection (2)(f) or (g), a local tax is imposed on amounts  
1635 paid or charged for food and food ingredients equal to the sum of the tax rates a county, city, or  
1636 town imposes under this chapter on the amounts paid or charged for food or food ingredients.  
1637 (ii) There is no state tax imposed on amounts paid or charged for food and food  
1638 ingredients.
- 1639 (d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts

1640 paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at  
1641 a rate of 4.85%.

1642 (e) (i) (A) If a shared vehicle owner certifies to the commission, on a form prescribed  
1643 by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax  
1644 imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a  
1645 shared vehicle driver, or a shared vehicle owner.

1646 (B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is  
1647 required once during the time that the shared vehicle owner owns the shared vehicle.

1648 (C) The commission shall verify that a shared vehicle is an individual-owned shared  
1649 vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the  
1650 purchase of the shared vehicle.

1651 (D) The exception under Subsection (2)(e)(i)(A) applies to a certified  
1652 individual-owned shared vehicle shared through a car-sharing program even if non-certified  
1653 shared vehicles are also available to be shared through the same car-sharing program.

1654 (ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

1655 (iii) (A) A car-sharing program may rely in good faith on a shared vehicle owner's  
1656 representation that the shared vehicle is an individual-owned shared vehicle certified with the  
1657 commission as described in Subsection (2)(e)(i).

1658 (B) If a car-sharing program relies in good faith on a shared vehicle owner's  
1659 representation that the shared vehicle is an individual-owned shared vehicle certified with the  
1660 commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any  
1661 tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

1662 (iv) If all shared vehicles shared through a car-sharing program are certified as  
1663 described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation  
1664 to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

1665 (v) [~~(A)~~] A car-sharing program is not required to list or otherwise identify an  
1666 individual-owned shared vehicle on a return or an attachment to a return.

1667 (vi) A car-sharing program shall:

1668 (A) retain tax information for each car-sharing program transaction; and

1669 (B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at  
1670 the commission's request.

1671 (f) (i) For a bundled transaction that is attributable to food and food ingredients and  
1672 tangible personal property other than food and food ingredients, a state tax and a local tax is  
1673 imposed on the entire bundled transaction equal to the sum of:

1674 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

1675 (I) the tax rate described in Subsection (2)(a)(i)(A); and

1676 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
1677 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
1678 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
1679 Additional State Sales and Use Tax Act; and

1680 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
1681 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
1682 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
1683 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1684 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
1685 described in Subsection (2)(a)(ii).

1686 (ii) If an optional computer software maintenance contract is a bundled transaction that  
1687 consists of taxable and nontaxable products that are not separately itemized on an invoice or  
1688 similar billing document, the purchase of the optional computer software maintenance contract  
1689 is 40% taxable under this chapter and 60% nontaxable under this chapter.

1690 (iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled  
1691 transaction described in Subsection (2)(f)(i) or (ii):

1692 (A) if the sales price of the bundled transaction is attributable to tangible personal  
1693 property, a product, or a service that is subject to taxation under this chapter and tangible  
1694 personal property, a product, or service that is not subject to taxation under this chapter, the  
1695 entire bundled transaction is subject to taxation under this chapter unless:

1696 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
1697 personal property, product, or service that is not subject to taxation under this chapter from the  
1698 books and records the seller keeps in the seller's regular course of business; or

1699 (II) state or federal law provides otherwise; or

1700 (B) if the sales price of a bundled transaction is attributable to two or more items of  
1701 tangible personal property, products, or services that are subject to taxation under this chapter

1702 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
1703 higher tax rate unless:

1704 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
1705 personal property, product, or service that is subject to taxation under this chapter at the lower  
1706 tax rate from the books and records the seller keeps in the seller's regular course of business; or

1707 (II) state or federal law provides otherwise.

1708 (iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the  
1709 seller's regular course of business includes books and records the seller keeps in the regular  
1710 course of business for nontax purposes.

1711 (g) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii)  
1712 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a  
1713 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental  
1714 of tangible personal property, other property, a product, or a service that is not subject to  
1715 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless  
1716 the seller, at the time of the transaction:

1717 (A) separately states the portion of the transaction that is not subject to taxation under  
1718 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

1719 (B) is able to identify by reasonable and verifiable standards, from the books and  
1720 records the seller keeps in the seller's regular course of business, the portion of the transaction  
1721 that is not subject to taxation under this chapter.

1722 (ii) A purchaser and a seller may correct the taxability of a transaction if:

1723 (A) after the transaction occurs, the purchaser and the seller discover that the portion of  
1724 the transaction that is not subject to taxation under this chapter was not separately stated on an  
1725 invoice, bill of sale, or similar document provided to the purchaser because of an error or  
1726 ignorance of the law; and

1727 (B) the seller is able to identify by reasonable and verifiable standards, from the books  
1728 and records the seller keeps in the seller's regular course of business, the portion of the  
1729 transaction that is not subject to taxation under this chapter.

1730 (iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps  
1731 in the seller's regular course of business includes books and records the seller keeps in the  
1732 regular course of business for nontax purposes.



1733 (h) (i) If the sales price of a transaction is attributable to two or more items of tangible  
1734 personal property, products, or services that are subject to taxation under this chapter at  
1735 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate  
1736 unless the seller, at the time of the transaction:

1737 (A) separately states the items subject to taxation under this chapter at each of the  
1738 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

1739 (B) is able to identify by reasonable and verifiable standards the tangible personal  
1740 property, product, or service that is subject to taxation under this chapter at the lower tax rate  
1741 from the books and records the seller keeps in the seller's regular course of business.

1742 (ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the  
1743 seller's regular course of business includes books and records the seller keeps in the regular  
1744 course of business for nontax purposes.

1745 (i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax  
1746 rate imposed under the following shall take effect on the first day of a calendar quarter:

1747 (i) Subsection (2)(a)(i)(A);

1748 (ii) Subsection (2)(b)(i); or

1749 (iii) Subsection (2)(f)(i)(A)(I).

1750 (j) (i) A tax rate increase takes effect on the first day of the first billing period that  
1751 begins on or after the effective date of the tax rate increase if the billing period for the  
1752 transaction begins before the effective date of a tax rate increase imposed under:

1753 (A) Subsection (2)(a)(i)(A);

1754 (B) Subsection (2)(b)(i); or

1755 (C) Subsection (2)(f)(i)(A)(I).

1756 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing  
1757 statement for the billing period is rendered on or after the effective date of the repeal of the tax  
1758 or the tax rate decrease imposed under:

1759 (A) Subsection (2)(a)(i)(A);

1760 (B) Subsection (2)(b)(i); or

1761 (C) Subsection (2)(f)(i)(A)(I).

1762 (k) (i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale  
1763 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal

1764 or change in a tax rate takes effect:

1765 (A) on the first day of a calendar quarter; and

1766 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

1767 (ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

1768 (A) Subsection (2)(a)(i)(A);

1769 (B) Subsection (2)(b)(i); or

1770 (C) Subsection (2)(f)(i)(A)(I).

1771 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

1772 the commission may by rule define the term "catalogue sale."

1773 (l) (i) For a location described in Subsection (2)(l)(ii), the commission shall determine

1774 the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the

1775 predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

1776 (ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil,

1777 or other fuel is furnished through a single meter for two or more of the following uses:

1778 (A) a commercial use;

1779 (B) an industrial use; or

1780 (C) a residential use.

1781 (3) (a) The following state taxes shall be deposited into the General Fund:

1782 (i) the tax imposed by Subsection (2)(a)(i)(A);

1783 (ii) the tax imposed by Subsection (2)(b)(i); and

1784 (iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

1785 (b) The following local taxes shall be distributed to a county, city, or town as provided

1786 in this chapter:

1787 (i) the tax imposed by Subsection (2)(a)(ii);

1788 (ii) the tax imposed by Subsection (2)(b)(ii);

1789 (iii) the tax imposed by Subsection (2)(c); and

1790 (iv) the tax imposed by Subsection (2)(f)(i)(B).

1791 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General

1792 Fund.

1793 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

1794 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)

1795 through (g):

1796 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1797 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1798 (B) for the fiscal year; or

1799 (ii) \$17,500,000.

1800 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
1801 described in Subsection (4)(a) shall be transferred each year as designated sales and use tax  
1802 revenue to the Department of Natural Resources to:

1803 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to  
1804 protect sensitive plant and animal species; or

1805 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
1806 act, to political subdivisions of the state to implement the measures described in Subsections  
1807 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

1808 (ii) Money transferred to the Department of Natural Resources under Subsection  
1809 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
1810 person to list or attempt to have listed a species as threatened or endangered under the  
1811 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1812 (iii) At the end of each fiscal year:

1813 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the  
1814 Water Resources Conservation and Development Fund created in Section 73-10-24;

1815 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the  
1816 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

1817 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the  
1818 Drinking Water Loan Program Subaccount created in Section 73-10c-5.

1819 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
1820 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund  
1821 created in Section 4-18-106.

1822 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
1823 in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to  
1824 the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for  
1825 the adjudication of water rights.

- 1826 (ii) At the end of each fiscal year:
- 1827 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to the
- 1828 Water Resources Conservation and Development Fund created in Section 73-10-24;
- 1829 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the
- 1830 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and
- 1831 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the
- 1832 Drinking Water Loan Program Subaccount created in Section 73-10c-5.
- 1833 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
- 1834 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
- 1835 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.
- 1836 (ii) In addition to the uses allowed of the Water Resources Conservation and
- 1837 Development Fund under Section 73-10-24, the Water Resources Conservation and
- 1838 Development Fund may also be used to:
- 1839 (A) conduct hydrologic and geotechnical investigations by the Division of Water
- 1840 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
- 1841 quantifying surface and ground water resources and describing the hydrologic systems of an
- 1842 area in sufficient detail so as to enable local and state resource managers to plan for and
- 1843 accommodate growth in water use without jeopardizing the resource;
- 1844 (B) fund state required dam safety improvements; and
- 1845 (C) protect the state's interest in interstate water compact allocations, including the
- 1846 hiring of technical and legal staff.
- 1847 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
- 1848 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
- 1849 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.
- 1850 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
- 1851 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
- 1852 created in Section 73-10c-5 for use by the Division of Drinking Water to:
- 1853 (i) provide for the installation and repair of collection, treatment, storage, and
- 1854 distribution facilities for any public water system, as defined in Section 19-4-102;
- 1855 (ii) develop underground sources of water, including springs and wells; and
- 1856 (iii) develop surface water sources.

1857 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1858 2006, the difference between the following amounts shall be expended as provided in this  
1859 Subsection (5), if that difference is greater than \$1:

1860 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
1861 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

1862 (ii) \$17,500,000.

1863 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

1864 (A) transferred each fiscal year to the Department of Natural Resources as designated  
1865 sales and use tax revenue; and

1866 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
1867 restoration.

1868 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use  
1869 tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation  
1870 and Development Fund created in Section 73-10-24.

1871 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
1872 remaining difference described in Subsection (5)(a) shall be:

1873 (A) transferred each fiscal year to the Division of Water Resources as designated sales  
1874 and use tax revenue; and

1875 (B) expended by the Division of Water Resources for cloud-seeding projects  
1876 authorized by Title 73, Chapter 15, Modification of Weather.

1877 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use  
1878 tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation  
1879 and Development Fund created in Section 73-10-24.

1880 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the  
1881 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
1882 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
1883 Division of Water Resources for:

1884 (i) preconstruction costs:

1885 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
1886 26, Bear River Development Act; and

1887 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project

1888 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1889 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
1890 Chapter 26, Bear River Development Act;

1891 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
1892 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1893 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and  
1894 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1895 (e) After making the transfers required by Subsections (5)(b) and (c), 15% of the  
1896 remaining difference described in Subsection (5)(a) shall be deposited each year into the Water  
1897 Rights Restricted Account created by Section 73-2-1.6.

1898 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a),  
1899 each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account  
1900 created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the  
1901 transactions described in Subsection (1) for the fiscal year.

1902 (7) (a) Notwithstanding Subsection (3)(a) and subject to Subsection (7)(b), for a fiscal  
1903 year beginning on or after July 1, 2023, the commission shall deposit into the Transportation  
1904 Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under  
1905 Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

1906 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

1907 (ii) the tax imposed by Subsection (2)(b)(i); and

1908 (iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

1909 (b) (i) As used in this Subsection (7)(b):

1910 (A) "Additional growth revenue" means the amount of relevant revenue collected in  
1911 the current fiscal year that exceeds by more than 3% the relevant revenue collected in the  
1912 previous fiscal year.

1913 (B) "Combined amount" means the combined total amount of money deposited into the  
1914 Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

1915 (C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation  
1916 Investment Fund created in Subsection 72-2-124(10).

1917 (D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that  
1918 equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iii).

1919 (ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually  
1920 reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by  
1921 an amount equal to the amount of the deposit under this Subsection (7)(b) to the Cottonwood  
1922 Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the  
1923 limit in Subsection (7)(b)(iii).

1924 (iii) The commission shall annually deposit the amount described in Subsection  
1925 (7)(b)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount  
1926 for any single fiscal year of \$20,000,000.

1927 (iv) If the amount of relevant revenue declines in a fiscal year compared to the previous  
1928 fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood  
1929 Canyons fund under this Subsection (7)(b) in the same proportion as the decline in relevant  
1930 revenue.

1931 (c) (i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1,  
1932 2023, the commission shall annually reduce the deposit into the Transportation Investment  
1933 Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

1934 (A) the amount of revenue generated in the current fiscal year by the portion of taxes  
1935 listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described  
1936 in Subsections (7)(a)(i) through (iv);

1937 (B) the amount of revenue generated in the current fiscal year by registration fees  
1938 designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund  
1939 of 2005; and

1940 (C) revenues transferred by the Division of Finance to the Transportation Investment  
1941 Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

1942 (ii) The amount described in Subsection (7)(c)(i) may not exceed \$45,000,000 in a  
1943 given fiscal year.

1944 (iii) The commission shall annually deposit the amount described in Subsection  
1945 (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

1946 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under  
1947 Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year beginning on or  
1948 after July 1, 2018, the commission shall annually deposit into the Transportation Investment  
1949 Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a)

1950 in an amount equal to 3.68% of the revenues collected from the following taxes:

1951 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

1952 (ii) the tax imposed by Subsection (2)(b)(i); and

1953 (iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

1954 (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually  
1955 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by  
1956 an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by  
1957 the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale  
1958 or use in this state that exceeds 29.4 cents per gallon.

1959 (c) The commission shall annually deposit the amount described in Subsection (8)(b)  
1960 into the Transit Transportation Investment Fund created in Section [72-2-124](#).

1961 (d) (i) As used in this Subsection (8)(d):

1962 (A) "Additional growth revenue" means the amount of relevant revenue collected in  
1963 the current fiscal year that exceeds by more than 3% the relevant revenue collected in the  
1964 previous fiscal year.

1965 (B) "Combined amount" means the combined total amount of money deposited into the  
1966 Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

1967 (C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation  
1968 Investment Fund created in Subsection [72-2-124](#)(10).

1969 (D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that  
1970 equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through  
1971 (iii).

1972 (ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually  
1973 reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by  
1974 an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood  
1975 Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the  
1976 limit in Subsection (8)(d)(iii).

1977 (iii) The commission shall annually deposit the amount described in Subsection  
1978 (8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount  
1979 for any single fiscal year of \$20,000,000.

1980 (iv) If the amount of relevant revenue declines in a fiscal year compared to the previous



1981 fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood  
1982 Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant  
1983 revenue.

1984 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
1985 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
1986 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

1987 (10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the  
1988 fiscal year during which the commission receives notice under Section 63N-2-510 that  
1989 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission  
1990 shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by  
1991 the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in  
1992 Section 63N-2-512.

1993 (11) (a) The rate specified in this subsection is 0.15%.

1994 (b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year  
1995 beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the  
1996 rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax  
1997 under Subsection (2)(a)(i)(A) into the Medicaid [Expansion] ACA Fund created in Section  
1998 26B-1-315.

1999 (12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
2000 2020-21, the commission shall deposit \$200,000 into the General Fund as a dedicated credit  
2001 solely for use of the Search and Rescue Financial Assistance Program created in, and expended  
2002 in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

2003 (13) (a) For each fiscal year beginning with fiscal year 2020-21, the commission shall  
2004 annually transfer \$1,813,400 of the revenue deposited into the Transportation Investment Fund  
2005 of 2005 under Subsections (7) and (8) to the General Fund.

2006 (b) If the total revenue deposited into the Transportation Investment Fund of 2005  
2007 under Subsections (7) and (8) is less than \$1,813,400 for a fiscal year, the commission shall  
2008 transfer the total revenue deposited into the Transportation Investment Fund of 2005 under  
2009 Subsections (7) and (8) during the fiscal year to the General Fund.

2010 (14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610,  
2011 beginning the first day of the calendar quarter one year after the sales and use tax boundary for

2012 a housing and transit reinvestment zone is established, the commission, at least annually, shall  
2013 transfer an amount equal to 15% of the sales and use tax increment within an established sales  
2014 and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation  
2015 Investment Fund created in Section 72-2-124.

2016 (15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year  
2017 beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure  
2018 Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection  
2019 (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

- 2020 (a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
- 2021 (b) the tax imposed by Subsection (2)(b)(i); and
- 2022 (c) the tax imposed by Subsection (2)(f)(i)(A)(I).

2023 Section 18. Section 63A-5b-607 is amended to read:

2024 **63A-5b-607. Health insurance requirements -- Penalties.**

2025 (1) As used in this section:

2026 (a) "Aggregate amount" means the dollar sum of all contracts, change orders, and  
2027 modifications for a single project.

2028 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.

2029 (c) "Eligible employee" means an employee, as defined in Section 34A-2-104, who:

2030 (i) works at least 30 hours per calendar week; and

2031 (ii) meets the employer eligibility waiting period for qualified health insurance  
2032 coverage provided by the employer.

2033 (d) "Health benefit plan" means:

2034 (i) the same as that term is defined in Section 31A-1-301; or

2035 (ii) an employee welfare benefit plan:

2036 (A) established under the Employee Retirement Income Security Act of 1974, 29  
2037 U.S.C. Sec. 1001 et seq.;

2038 (B) for an employer with 100 or more employees; and

2039 (C) in which the employer establishes a self-funded or partially self-funded group  
2040 health plan to provide medical care for the employer's employees and dependents of the  
2041 employees.

2042 (e) "Qualified health insurance coverage" means the same as that term is defined in

2043 Section 26B-3-909.

2044 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

2045 (g) "Third party administrator" or "administrator" means the same as that term is  
2046 defined in Section 31A-1-301.

2047 (2) Except as provided in Subsection (3), the requirements of this section apply to:

2048 (a) a contractor of a design or construction contract with the division if the prime  
2049 contract is in an aggregate amount of \$2,000,000 or more; and

2050 (b) a subcontractor of a contractor of a design or construction contract with the division  
2051 if the subcontract is in an aggregate amount of \$1,000,000 or more.

2052 (3) The requirements of this section do not apply to a contractor or subcontractor if:

2053 (a) the application of this section jeopardizes the division's receipt of federal funds;

2054 (b) the contract is a sole source contract, as defined in Section 63G-6a-103; or

2055 (c) the contract is the result of an emergency procurement.

2056 (4) A person who intentionally uses a change order, contract modification, or multiple  
2057 contracts to circumvent the requirements of this section is guilty of an infraction.

2058 (5) (a) A contractor that is subject to the requirements of this section shall:

2059 (i) make and maintain an offer of qualified health coverage for the contractor's eligible  
2060 employees and the eligible employees' dependents; and

2061 (ii) submit to the director a written statement demonstrating that the contractor is in  
2062 compliance with Subsection (5)(a)(i).

2063 (b) A statement under Subsection (5)(a)(ii):

2064 (i) shall be from:

2065 (A) an actuary selected by the contractor or the contractor's insurer;

2066 (B) an underwriter who is responsible for developing the employer group's premium  
2067 rates; or

2068 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),  
2069 an actuary or underwriter selected by a third party administrator; and

2070 (ii) may not be created more than one year before the day on which the contractor  
2071 submits the statement to the director.

2072 (c) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)  
2073 shall provide the actuary or underwriter selected by an administrator, as described in

2074 Subsection (5)(b)(i)(C), sufficient information to determine whether the contractor's  
2075 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the  
2076 requirements of qualified health coverage.

2077 (ii) A contractor may not make a change to the contractor's contribution to the health  
2078 benefit plan, unless the contractor provides notice to:

2079 (A) the actuary or underwriter selected by an administrator, as described in Subsection  
2080 (5)(b)(i)(C), for the actuary or underwriter to update the written statement described in  
2081 Subsection (5)(a) in compliance with this section; and

2082 (B) the division.

2083 (6) (a) A contractor that is subject to the requirements of this section shall:

2084 (i) ensure that each contract the contractor enters with a subcontractor that is subject to  
2085 the requirements of this section requires the subcontractor to obtain and maintain an offer of  
2086 qualified health coverage for the subcontractor's eligible employees and the eligible employees'  
2087 dependents during the duration of the subcontract; and

2088 (ii) obtain from a subcontractor referred to in Subsection (6)(a)(i) a written statement  
2089 demonstrating that the subcontractor offers qualified health coverage to eligible employees and  
2090 eligible employees' dependents.

2091 (b) A statement under Subsection (6)(a)(ii):

2092 (i) shall be from:

2093 (A) an actuary selected by the subcontractor or the subcontractor's insurer;

2094 (B) an underwriter who is responsible for developing the employer group's premium  
2095 rates; or

2096 (C) if the subcontractor provides a health benefit plan described in Subsection  
2097 (1)(d)(ii), an actuary or underwriter selected by an administrator; and

2098 (ii) may not be created more than one year before the day on which the contractor  
2099 obtains the statement from the subcontractor.

2100 (7) (a) (i) A contractor that fails to maintain an offer of qualified health coverage  
2101 during the duration of the contract as required in this section is subject to penalties in  
2102 accordance with administrative rules made by the division under this section, in accordance  
2103 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2104 (ii) A contractor is not subject to penalties for the failure of a subcontractor to obtain

2105 and maintain an offer of qualified health coverage as required in this section.

2106 (b) (i) A subcontractor that fails to obtain and maintain an offer of qualified health  
2107 coverage during the duration of the subcontract as required in this section is subject to penalties  
2108 in accordance with administrative rules made by the division under this section, in accordance  
2109 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2110 (ii) A subcontractor is not subject to penalties for the failure of a contractor to maintain  
2111 an offer of qualified health coverage as required in this section.

2112 (8) The division shall make rules:

2113 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2114 (b) in coordination with:

2115 (i) the Department of Environmental Quality in accordance with Section 19-1-206;

2116 (ii) the Department of Natural Resources in accordance with Section 79-2-404;

2117 (iii) a public transit district in accordance with Section 17B-2a-818.5;

2118 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

2119 (v) the Department of Transportation in accordance with Section 72-6-107.5; and

2120 (vi) the Legislature's Administrative Rules Review and General Oversight Committee;

2121 and

2122 (c) that establish:

2123 (i) the requirements and procedures for a contractor and a subcontractor to demonstrate  
2124 compliance with this section, including:

2125 (A) a provision that a contractor or subcontractor's compliance with this section is  
2126 subject to an audit by the division or the Office of the Legislative Auditor General;

2127 (B) a provision that a contractor that is subject to the requirements of this section  
2128 obtain a written statement as provided in Subsection (5); and

2129 (C) a provision that a subcontractor that is subject to the requirements of this section  
2130 obtain a written statement as provided in Subsection (6);

2131 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally  
2132 violates the provisions of this section, which may include:

2133 (A) a three-month suspension of the contractor or subcontractor from entering into a  
2134 future contract with the state upon the first violation;

2135 (B) a six-month suspension of the contractor or subcontractor from entering into a

2136 future contract with the state upon the second violation;

2137 (C) an action for debarment of the contractor or subcontractor in accordance with  
2138 Section [63G-6a-904](#) upon the third or subsequent violation; and

2139 (D) monetary penalties which may not exceed 50% of the amount necessary to  
2140 purchase qualified health coverage for eligible employees and dependents of eligible  
2141 employees of the contractor or subcontractor who were not offered qualified health coverage  
2142 during the duration of the contract; and

2143 (iii) a website for the department to post the commercially equivalent benchmark for  
2144 the qualified health coverage that is provided by the Department of Health and Human Services  
2145 in accordance with Subsection [26B-3-909](#)(2).

2146 (9) During the duration of a contract, the division may perform an audit to verify a  
2147 contractor or subcontractor's compliance with this section.

2148 (10) (a) Upon the division's request, a contractor or subcontractor shall provide the  
2149 division:

2150 (i) a signed actuarial certification that the coverage the contractor or subcontractor  
2151 offers is qualified health coverage; or

2152 (ii) all relevant documents and information necessary for the division to determine  
2153 compliance with this section.

2154 (b) If a contractor or subcontractor provides the documents and information described  
2155 in Subsection (10)(a)(i), the Insurance Department shall assist the division in determining if the  
2156 coverage the contractor or subcontractor offers is qualified health coverage.

2157 (11) (a) (i) In addition to the penalties imposed under Subsection (7), a contractor or  
2158 subcontractor that intentionally violates the provisions of this section is liable to an eligible  
2159 employee for health care costs that would have been covered by qualified health coverage.

2160 (ii) An employer has an affirmative defense to a cause of action under Subsection  
2161 (11)(a)(i) if:

2162 (A) the employer relied in good faith on a written statement described in Subsection (5)  
2163 or (6); or

2164 (B) the department determines that compliance with this section is not required under  
2165 the provisions of Subsection (3).

2166 (b) An eligible employee has a private right of action against the employee's employer

2167 only as provided in this Subsection (11).

2168 (12) The director shall cause money collected from the imposition and collection of a  
2169 penalty under this section to be deposited into the Medicaid [~~Restricted~~] Growth Reduction and  
2170 Budget Stabilization Account created by Section [~~26B-1-309~~] 63J-1-315.

2171 (13) The failure of a contractor or subcontractor to provide qualified health coverage as  
2172 required by this section:

2173 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,  
2174 or contractor under:

2175 (i) Section 63G-6a-1602; or

2176 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

2177 (b) may not be used by the procurement entity or a prospective bidder, offeror, or  
2178 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design  
2179 or construction.

2180 (14) An employer's waiting period for an employee to become eligible for qualified  
2181 health coverage may not extend beyond the first day of the calendar month following 60 days  
2182 after the day on which the employee is hired.

2183 (15) An administrator, including an administrator's actuary or underwriter, who  
2184 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health  
2185 coverage of a contractor or subcontractor who provides a health benefit plan described in  
2186 Subsection (1)(d)(ii):

2187 (a) subject to Subsection (11)(b), is not liable for an error in the written statement,  
2188 unless the administrator commits gross negligence in preparing the written statement;

2189 (b) is not liable for any error in the written statement if the administrator relied in good  
2190 faith on information from the contractor or subcontractor; and

2191 (c) may require as a condition of providing the written statement that a contractor or  
2192 subcontractor hold the administrator harmless for an action arising under this section.

2193 Section 19. Section **63C-9-403** is amended to read:

2194 **63C-9-403. Contracting power of executive director -- Health insurance coverage.**

2195 (1) As used in this section:

2196 (a) "Aggregate" means the sum of all contracts, change orders, and modifications  
2197 related to a single project.

- 2198 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).
- 2199 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or  
2200 "operative" who:
- 2201 (i) works at least 30 hours per calendar week; and
- 2202 (ii) meets employer eligibility waiting requirements for health care insurance, which  
2203 may not exceed the first of the calendar month following 60 days after the day on which the  
2204 individual is hired.
- 2205 (d) "Health benefit plan" means:
- 2206 (i) the same as that term is defined in Section [31A-1-301](#); or
- 2207 (ii) an employee welfare benefit plan:
- 2208 (A) established under the Employee Retirement Income Security Act of 1974, 29  
2209 U.S.C. Sec. 1001 et seq.;
- 2210 (B) for an employer with 100 or more employees; and
- 2211 (C) in which the employer establishes a self-funded or partially self-funded group  
2212 health plan to provide medical care for the employer's employees and dependents of the  
2213 employees.
- 2214 (e) "Qualified health coverage" means the same as that term is defined in Section  
2215 [26B-3-909](#).
- 2216 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).
- 2217 (g) "Third party administrator" or "administrator" means the same as that term is  
2218 defined in Section [31A-1-301](#).
- 2219 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 2220 (a) a contractor of a design or construction contract entered into by the board, or on  
2221 behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate amount  
2222 equal to or greater than \$2,000,000; and
- 2223 (b) a subcontractor of a contractor of a design or construction contract entered into by  
2224 the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in an  
2225 aggregate amount equal to or greater than \$1,000,000.
- 2226 (3) The requirements of this section do not apply to a contractor or subcontractor  
2227 described in Subsection (2) if:
- 2228 (a) the application of this section jeopardizes the receipt of federal funds;



- 2229 (b) the contract is a sole source contract; or
- 2230 (c) the contract is an emergency procurement.
- 2231 (4) A person that intentionally uses change orders, contract modifications, or multiple
- 2232 contracts to circumvent the requirements of this section is guilty of an infraction.
- 2233 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
- 2234 executive director that the contractor has and will maintain an offer of qualified health
- 2235 coverage for the contractor's employees and the employees' dependents during the duration of
- 2236 the contract by submitting to the executive director a written statement that:
- 2237 (i) the contractor offers qualified health coverage that complies with Section
- 2238 [26B-3-909](#);
- 2239 (ii) is from:
- 2240 (A) an actuary selected by the contractor or the contractor's insurer;
- 2241 (B) an underwriter who is responsible for developing the employer group's premium
- 2242 rates; or
- 2243 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),
- 2244 an actuary or underwriter selected by a third party administrator; and
- 2245 (iii) was created within one year before the day on which the statement is submitted.
- 2246 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)
- 2247 shall provide the actuary or underwriter selected by the administrator, as described in
- 2248 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's
- 2249 contribution to the health benefit plan and the health benefit plan's actuarial value meets the
- 2250 requirements of qualified health coverage.
- 2251 (ii) A contractor may not make a change to the contractor's contribution to the health
- 2252 benefit plan, unless the contractor provides notice to:
- 2253 (A) the actuary or underwriter selected by the administrator, as described in Subsection
- 2254 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in
- 2255 Subsection (5)(a) in compliance with this section; and
- 2256 (B) the executive director.
- 2257 (c) A contractor that is subject to the requirements of this section shall:
- 2258 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
- 2259 is subject to the requirements of this section shall obtain and maintain an offer of qualified

2260 health coverage for the subcontractor's employees and the employees' dependents during the  
2261 duration of the subcontract; and

2262 (ii) obtain from a subcontractor that is subject to the requirements of this section a  
2263 written statement that:

2264 (A) the subcontractor offers qualified health coverage that complies with Section  
2265 [26B-3-909](#);

2266 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an  
2267 underwriter who is responsible for developing the employer group's premium rates, or if the  
2268 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or  
2269 underwriter selected by an administrator; and

2270 (C) was created within one year before the day on which the contractor obtains the  
2271 statement.

2272 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage as  
2273 described in Subsection (5)(a) during the duration of the contract is subject to penalties in  
2274 accordance with administrative rules adopted by the division under Subsection (6).

2275 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain  
2276 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

2277 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health  
2278 coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to  
2279 penalties in accordance with administrative rules adopted by the department under Subsection  
2280 (6).

2281 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain  
2282 an offer of qualified health coverage described in Subsection (5)(a).

2283 (6) The department shall adopt administrative rules:

2284 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2285 (b) in coordination with:

2286 (i) the Department of Environmental Quality in accordance with Section [19-1-206](#);

2287 (ii) the Department of Natural Resources in accordance with Section [79-2-404](#);

2288 (iii) the Division of Facilities Construction and Management in accordance with  
2289 Section [63A-5b-607](#);

2290 (iv) a public transit district in accordance with Section [17B-2a-818.5](#);

- 2291 (v) the Department of Transportation in accordance with Section [72-6-107.5](#); and  
2292 (vi) the Legislature's Administrative Rules Review and General Oversight Committee;  
2293 and
- 2294 (c) that establish:
- 2295 (i) the requirements and procedures a contractor and a subcontractor shall follow to  
2296 demonstrate compliance with this section, including:
- 2297 (A) that a contractor or subcontractor's compliance with this section is subject to an  
2298 audit by the department or the Office of the Legislative Auditor General;
- 2299 (B) that a contractor that is subject to the requirements of this section shall obtain a  
2300 written statement described in Subsection (5)(a); and
- 2301 (C) that a subcontractor that is subject to the requirements of this section shall obtain a  
2302 written statement described in Subsection (5)(c)(ii);
- 2303 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally  
2304 violates the provisions of this section, which may include:
- 2305 (A) a three-month suspension of the contractor or subcontractor from entering into  
2306 future contracts with the state upon the first violation;
- 2307 (B) a six-month suspension of the contractor or subcontractor from entering into future  
2308 contracts with the state upon the second violation;
- 2309 (C) an action for debarment of the contractor or subcontractor in accordance with  
2310 Section [63G-6a-904](#) upon the third or subsequent violation; and
- 2311 (D) monetary penalties which may not exceed 50% of the amount necessary to  
2312 purchase qualified health coverage for employees and dependents of employees of the  
2313 contractor or subcontractor who were not offered qualified health coverage during the duration  
2314 of the contract; and
- 2315 (iii) a website on which the department shall post the commercially equivalent  
2316 benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by  
2317 the Department of Health and Human Services, in accordance with Subsection [26B-3-909\(2\)](#).
- 2318 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor  
2319 or subcontractor who intentionally violates the provisions of this section is liable to the  
2320 employee for health care costs that would have been covered by qualified health coverage.
- 2321 (ii) An employer has an affirmative defense to a cause of action under Subsection

2322 (7)(a)(i) if:

2323 (A) the employer relied in good faith on a written statement described in Subsection  
2324 (5)(a) or (5)(c)(ii); or

2325 (B) the department determines that compliance with this section is not required under  
2326 the provisions of Subsection (3).

2327 (b) An employee has a private right of action only against the employee's employer to  
2328 enforce the provisions of this Subsection (7).

2329 (8) Any penalties imposed and collected under this section shall be deposited into the  
2330 Medicaid [~~Restricted~~] Growth Reduction and Budget Stabilization Account created in Section  
2331 [~~26B-1-309~~] 63J-1-315.

2332 (9) The failure of a contractor or subcontractor to provide qualified health coverage as  
2333 required by this section:

2334 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,  
2335 or contractor under:

2336 (i) Section 63G-6a-1602; or

2337 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

2338 (b) may not be used by the procurement entity or a prospective bidder, offeror, or  
2339 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design  
2340 or construction.

2341 (10) An administrator, including the administrator's actuary or underwriter, who  
2342 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health  
2343 coverage of a contractor or subcontractor who provides a health benefit plan described in  
2344 Subsection (1)(d)(ii):

2345 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,  
2346 unless the administrator commits gross negligence in preparing the written statement;

2347 (b) is not liable for any error in the written statement if the administrator relied in good  
2348 faith on information from the contractor or subcontractor; and

2349 (c) may require as a condition of providing the written statement that a contractor or  
2350 subcontractor hold the administrator harmless for an action arising under this section.

2351 Section 20. Section **63I-1-226 (Superseded 07/01/24)** is amended to read:

2352 **63I-1-226 (Superseded 07/01/24). Repeal dates: Titles 26A through 26B.**

- 2353 (1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is  
2354 repealed July 1, 2025.
- 2355 (2) Section 26B-1-315, which creates the Medicaid [Expansion] ACA Fund, is  
2356 repealed July 1, [2024] 2034.
- 2357 (3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed  
2358 January 1, 2025.
- 2359 (4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is  
2360 repealed January 1, 2025.
- 2361 (5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis  
2362 Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.
- 2363 (6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response  
2364 Commission, is repealed December 31, 2026.
- 2365 (7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is  
2366 repealed July 1, 2026.
- 2367 (8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is  
2368 repealed July 1, 2025.
- 2369 (9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed  
2370 July 1, 2025.
- 2371 (10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program  
2372 Advisory Council, is repealed July 1, 2025.
- 2373 (11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is  
2374 repealed July 1, 2025.
- 2375 (12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric  
2376 Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.
- 2377 (13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is  
2378 repealed July 1, 2029.
- 2379 (14) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and  
2380 Other Drug Prevention Program, is repealed July 1, 2025.
- 2381 (15) Section 26B-1-430, which creates the Coordinating Council for Persons with  
2382 Disabilities, is repealed July 1, 2027.
- 2383 (16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating

2384 Council, is repealed July 1, 2023.

2385 (17) Section [26B-1-432](#), which creates the Newborn Hearing Screening Committee, is  
2386 repealed July 1, 2026.

2387 (18) Section [26B-1-434](#), regarding the Correctional Postnatal and Early Childhood  
2388 Advisory Board, is repealed July 1, 2026.

2389 (19) Section [26B-2-407](#), related to drinking water quality in child care centers, is  
2390 repealed July 1, 2027.

2391 (20) Subsection [26B-3-107\(9\)](#), which addresses reimbursement for dental hygienists, is  
2392 repealed July 1, 2028.

2393 (21) Section [26B-3-136](#), which creates the Children's Health Care Coverage Program,  
2394 is repealed July 1, 2025.

2395 (22) Section [26B-3-137](#), related to reimbursement for the National Diabetes Prevention  
2396 Program, is repealed June 30, 2027.

2397 (23) Subsection [26B-3-213\(2\)](#), the language that states "and the Behavioral Health  
2398 Crisis Response Commission created in Section [63C-18-202](#)" is repealed December 31, 2026.

2399 (24) Sections [26B-3-302](#) through [26B-3-309](#), regarding the Drug Utilization Review  
2400 Board, are repealed July 1, 2027.

2401 (25) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1,  
2402 2024.

2403 (26) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is  
2404 repealed July 1, 2024.

2405 (27) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1,  
2406 2028.

2407 (28) Section [26B-3-910](#), regarding alternative eligibility, is repealed July 1, 2028.

2408 (29) Section [26B-4-136](#), related to the Volunteer Emergency Medical Service  
2409 Personnel Health Insurance Program, is repealed July 1, 2027.

2410 (30) Section [26B-4-710](#), related to rural residency training programs, is repealed July 1,  
2411 2025.

2412 (31) Subsections [26B-5-112\(1\)](#) and (5), the language that states "In consultation with  
2413 the Behavioral Health Crisis Response Commission, established in Section [63C-18-202](#)," is  
2414 repealed December 31, 2026.

- 2415 (32) Section 26B-5-112.5 is repealed December 31, 2026.
- 2416 (33) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant  
2417 Program, is repealed December 31, 2026.
- 2418 (34) Section 26B-5-118, related to collaborative care grant programs, is repealed  
2419 December 31, 2024.
- 2420 (35) Section 26B-5-120 is repealed December 31, 2026.
- 2421 (36) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:
- 2422 (a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and
- 2423 (b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are  
2424 repealed.
- 2425 (37) In relation to the Behavioral Health Crisis Response Commission, on December  
2426 31, 2026:
- 2427 (a) Subsection 26B-5-609(1)(a) is repealed;
- 2428 (b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from  
2429 the commission," is repealed;
- 2430 (c) Subsection 26B-5-610(1)(b) is repealed;
- 2431 (d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the  
2432 commission," is repealed; and
- 2433 (e) Subsection 26B-5-610(4), the language that states "In consultation with the  
2434 commission," is repealed.
- 2435 (38) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and  
2436 Mental Health Advisory Council, are repealed January 1, 2033.
- 2437 (39) Section 26B-5-612, related to integrated behavioral health care grant programs, is  
2438 repealed December 31, 2025.
- 2439 (40) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of  
2440 the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.
- 2441 (41) Section 26B-7-224, related to reports to the Legislature on violent incidents and  
2442 fatalities involving substance abuse, is repealed December 31, 2027.
- 2443 (42) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.
- 2444 (43) Section 26B-8-513, related to identifying overuse of non-evidence-based health  
2445 care, is repealed December 31, 2023.



- 2446 Section 21. Section **63I-1-226 (Effective 07/01/24)** is amended to read:  
2447 **63I-1-226 (Effective 07/01/24). Repeal dates: Titles 26A through 26B.**
- 2448 (1) Subsection **26B-1-204(2)(i)**, related to the Primary Care Grant Committee, is  
2449 repealed July 1, 2025.
- 2450 (2) Section **26B-1-315**, which creates the Medicaid [~~Expansion~~] ACA Fund, is  
2451 repealed July 1, [~~2024~~] 2034.
- 2452 (3) Section **26B-1-319**, which creates the Neuro-Rehabilitation Fund, is repealed  
2453 January 1, 2025.
- 2454 (4) Section **26B-1-320**, which creates the Pediatric Neuro-Rehabilitation Fund, is  
2455 repealed January 1, 2025.
- 2456 (5) Subsection **26B-1-324(4)**, the language that states "the Behavioral Health Crisis  
2457 Response Commission, as defined in Section **63C-18-202**," is repealed December 31, 2026.
- 2458 (6) Subsection **26B-1-329(6)**, related to the Behavioral Health Crisis Response  
2459 Commission, is repealed December 31, 2026.
- 2460 (7) Section **26B-1-402**, related to the Rare Disease Advisory Council Grant Program, is  
2461 repealed July 1, 2026.
- 2462 (8) Section **26B-1-409**, which creates the Utah Digital Health Service Commission, is  
2463 repealed July 1, 2025.
- 2464 (9) Section **26B-1-410**, which creates the Primary Care Grant Committee, is repealed  
2465 July 1, 2025.
- 2466 (10) Section **26B-1-416**, which creates the Utah Children's Health Insurance Program  
2467 Advisory Council, is repealed July 1, 2025.
- 2468 (11) Section **26B-1-417**, which creates the Brain Injury Advisory Committee, is  
2469 repealed July 1, 2025.
- 2470 (12) Section **26B-1-418**, which creates the Neuro-Rehabilitation Fund and Pediatric  
2471 Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.
- 2472 (13) Section **26B-1-422**, which creates the Early Childhood Utah Advisory Council, is  
2473 repealed July 1, 2029.
- 2474 (14) Section **26B-1-428**, which creates the Youth Electronic Cigarette, Marijuana, and  
2475 Other Drug Prevention Program, is repealed July 1, 2025.
- 2476 (15) Section **26B-1-430**, which creates the Coordinating Council for Persons with



2477 Disabilities, is repealed July 1, 2027.

2478 (16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating  
2479 Council, is repealed July 1, 2023.

2480 (17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is  
2481 repealed July 1, 2026.

2482 (18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood  
2483 Advisory Board, is repealed July 1, 2026.

2484 (19) Section 26B-2-407, related to drinking water quality in child care centers, is  
2485 repealed July 1, 2027.

2486 (20) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is  
2487 repealed July 1, 2028.

2488 (21) Section 26B-3-136, which creates the Children's Health Care Coverage Program,  
2489 is repealed July 1, 2025.

2490 (22) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention  
2491 Program, is repealed June 30, 2027.

2492 (23) Subsection 26B-3-213(2), the language that states "and the Behavioral Health  
2493 Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

2494 (24) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review  
2495 Board, are repealed July 1, 2027.

2496 (25) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1,  
2497 2024.

2498 (26) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is  
2499 repealed July 1, 2024.

2500 (27) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1,  
2501 2028.

2502 (28) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

2503 (29) Section 26B-4-710, related to rural residency training programs, is repealed July 1,  
2504 2025.

2505 (30) Subsections 26B-5-112(1) and (5), the language that states "In consultation with  
2506 the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is  
2507 repealed December 31, 2026.

- 2508 (31) Section [26B-5-112.5](#) is repealed December 31, 2026.
- 2509 (32) Section [26B-5-114](#), related to the Behavioral Health Receiving Center Grant  
2510 Program, is repealed December 31, 2026.
- 2511 (33) Section [26B-5-118](#), related to collaborative care grant programs, is repealed  
2512 December 31, 2024.
- 2513 (34) Section [26B-5-120](#) is repealed December 31, 2026.
- 2514 (35) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:
- 2515 (a) Subsection [26B-5-606\(2\)\(a\)\(i\)](#), the language that states "and" is repealed; and
- 2516 (b) Subsections [26B-5-606\(2\)\(a\)\(ii\)](#), [26B-5-606\(2\)\(b\)](#), and [26B-5-606\(2\)\(c\)](#) are  
2517 repealed.
- 2518 (36) In relation to the Behavioral Health Crisis Response Commission, on December  
2519 31, 2026:
- 2520 (a) Subsection [26B-5-609\(1\)\(a\)](#) is repealed;
- 2521 (b) Subsection [26B-5-609\(3\)\(a\)](#), the language that states "With recommendations from  
2522 the commission," is repealed;
- 2523 (c) Subsection [26B-5-610\(1\)\(b\)](#) is repealed;
- 2524 (d) Subsection [26B-5-610\(2\)\(b\)](#), the language that states "and in consultation with the  
2525 commission," is repealed; and
- 2526 (e) Subsection [26B-5-610\(4\)](#), the language that states "In consultation with the  
2527 commission," is repealed.
- 2528 (37) Subsections [26B-5-611\(1\)\(a\)](#) and (10), in relation to the Utah Substance Use and  
2529 Mental Health Advisory Council, are repealed January 1, 2033.
- 2530 (38) Section [26B-5-612](#), related to integrated behavioral health care grant programs, is  
2531 repealed December 31, 2025.
- 2532 (39) Subsection [26B-7-119\(5\)](#), related to reports to the Legislature on the outcomes of  
2533 the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.
- 2534 (40) Section [26B-7-224](#), related to reports to the Legislature on violent incidents and  
2535 fatalities involving substance abuse, is repealed December 31, 2027.
- 2536 (41) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.
- 2537 (42) Section [26B-8-513](#), related to identifying overuse of non-evidence-based health  
2538 care, is repealed December 31, 2023.

- 2539 Section 22. Section **63I-2-226 (Superseded 07/01/24)** is amended to read:
- 2540 **63I-2-226 (Superseded 07/01/24). Repeal dates: Titles 26A through 26B.**
- 2541 (1) Subsection **26B-1-204(2)(e)**, related to the Air Ambulance Committee, is repealed
- 2542 July 1, 2024.
- 2543 (2) Section **26B-1-241** is repealed July 1, 2024.
- 2544 (3) Section **26B-1-302** is repealed on July 1, 2024.
- 2545 (4) Section 26B-1-309 is repealed on July 1, 2024.
- 2546 [~~4~~] (5) Section **26B-1-313** is repealed on July 1, 2024.
- 2547 [~~5~~] (6) Section **26B-1-314** is repealed on July 1, 2024.
- 2548 [~~6~~] (7) Section **26B-1-321** is repealed on July 1, 2024.
- 2549 [~~7~~] (8) Section **26B-1-405**, related to the Air Ambulance Committee, is repealed on
- 2550 July 1, 2024.
- 2551 [~~8~~] (9) Section **26B-1-419**, which creates the Utah Health Care Workforce Financial
- 2552 Assistance Program Advisory Committee, is repealed July 1, 2027.
- 2553 [~~9~~] (10) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection
- 2554 **26B-2-231(1)(a)** is amended to read:
- 2555 "(a) provide the patient or the patient's representative with the following information
- 2556 before contacting an air medical transport provider:
- 2557 (i) which health insurers in the state the air medical transport provider contracts with;
- 2558 (ii) if sufficient data is available, the average charge for air medical transport services
- 2559 for a patient who is uninsured or out of network; and
- 2560 (iii) whether the air medical transport provider balance bills a patient for any charge not
- 2561 paid by the patient's health insurer; and".
- 2562 [~~10~~] (11) Section **26B-3-142** is repealed July 1, 2024.
- 2563 [~~11~~] (12) Subsection **26B-3-215(5)**, related to reporting on coverage for in vitro
- 2564 fertilization and genetic testing, is repealed July 1, 2030.
- 2565 [~~12~~] (13) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection
- 2566 **26B-4-135(1)(a)** is amended to read:
- 2567 "(a) provide the patient or the patient's representative with the following information
- 2568 before contacting an air medical transport provider:
- 2569 (i) which health insurers in the state the air medical transport provider contracts with;

2570 (ii) if sufficient data is available, the average charge for air medical transport services  
2571 for a patient who is uninsured or out of network; and

2572 (iii) whether the air medical transport provider balance bills a patient for any charge not  
2573 paid by the patient's health insurer; and".

2574 [~~(13)~~] (14) Section 26B-4-702, related to the Utah Health Care Workforce Financial  
2575 Assistance Program, is repealed July 1, 2027.

2576 [~~(14)~~] (15) Section 26B-5-117, related to early childhood mental health support grant  
2577 programs, is repealed January 2, 2025.

2578 [~~(15)~~] (16) Subsection 26B-7-117(3), related to reports to the Legislature on syringe  
2579 exchange and education, is repealed January 1, 2027.

2580 [~~(16)~~] (17) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1,  
2581 2025.

2582 Section 23. Section 63I-2-226 (Effective 07/01/24) is amended to read:

2583 **63I-2-226 (Effective 07/01/24). Repeal dates: Titles 26A through 26B.**

2584 (1) Section 26B-1-241 is repealed July 1, 2024.

2585 (2) Section 26B-1-302 is repealed on July 1, 2024.

2586 (3) Section 26B-1-309 is repealed on July 1, 2024.

2587 [~~(3)~~] (4) Section 26B-1-313 is repealed on July 1, 2024.

2588 [~~(4)~~] (5) Section 26B-1-314 is repealed on July 1, 2024.

2589 [~~(5)~~] (6) Section 26B-1-321 is repealed on July 1, 2024.

2590 [~~(6)~~] (7) Section 26B-1-419, which creates the Utah Health Care Workforce Financial  
2591 Assistance Program Advisory Committee, is repealed July 1, 2027.

2592 [~~(7)~~] (8) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection  
2593 26B-2-231(1)(a) is amended to read:

2594 "(a) provide the patient or the patient's representative with the following information  
2595 before contacting an air medical transport provider:

2596 (i) which health insurers in the state the air medical transport provider contracts with;

2597 (ii) if sufficient data is available, the average charge for air medical transport services  
2598 for a patient who is uninsured or out of network; and

2599 (iii) whether the air medical transport provider balance bills a patient for any charge not  
2600 paid by the patient's health insurer; and".

- 2601            [~~(8)~~] (9) Section 26B-3-142 is repealed July 1, 2024.
- 2602            [~~(9)~~] (10) Subsection 26B-3-215(5), related to reporting on coverage for in vitro  
2603 fertilization and genetic testing, is repealed July 1, 2030.
- 2604            [~~(10)~~] (11) Section 26B-4-702, related to the Utah Health Care Workforce Financial  
2605 Assistance Program, is repealed July 1, 2027.
- 2606            [~~(11)~~] (12) Section 26B-5-117, related to early childhood mental health support grant  
2607 programs, is repealed January 2, 2025.
- 2608            [~~(12)~~] (13) Subsection 26B-7-117(3), related to reports to the Legislature on syringe  
2609 exchange and education, is repealed January 1, 2027.
- 2610            [~~(13)~~] (14) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1,  
2611 2025.
- 2612            Section 24. Section 63J-1-315 is amended to read:
- 2613            **63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account --**  
2614 **Deposits -- Transfers of Medicaid growth savings -- Base budget adjustments --**  
2615 **Appropriations.**
- 2616            (1) As used in this section:
- 2617            (a) "Department" means the Department of Health and Human Services created in  
2618 Section 26B-1-201.
- 2619            (b) "Division" means the Division of Integrated Healthcare created in Section  
2620 26B-3-102.
- 2621            (c) "General Fund revenue surplus" means a situation where actual General Fund  
2622 revenues collected in a completed fiscal year exceed the estimated revenues for the General  
2623 Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the  
2624 Legislature.
- 2625            (d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid  
2626 program expenditures, if Medicaid program expenditures are less than the Medicaid growth  
2627 target.
- 2628            (e) "Medicaid growth target" means Medicaid program expenditures for the previous  
2629 year multiplied by 1.08.
- 2630            (f) "Medicaid program" is as defined in Section 26B-3-101.
- 2631            (g) "Medicaid program expenditures" means total state revenue expended for the

2632 Medicaid program from the General Fund, including restricted accounts within the General  
2633 Fund, during a fiscal year.

2634 (h) "Medicaid program expenditures for the previous year" means total state revenue  
2635 expended for the Medicaid program from the General Fund, including restricted accounts  
2636 within the General Fund, during the fiscal year immediately preceding a fiscal year for which  
2637 Medicaid program expenditures are calculated.

2638 (i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund  
2639 balance in the General Fund is less than zero.

2640 (j) "State revenue" means revenue other than federal revenue.

2641 (k) "State revenue expended for the Medicaid program" includes money transferred or  
2642 appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the  
2643 extent the money is appropriated for the Medicaid program by the Legislature.

2644 (2) There is created within the General Fund a restricted account to be known as the  
2645 Medicaid Growth Reduction and Budget Stabilization Account.

2646 (3) (a) The following shall be deposited into the Medicaid Growth Reduction and  
2647 Budget Stabilization Account:

2648 (i) deposits described in Subsection (4);

2649 (ii) beginning July 1, 2024, any general funds appropriated to the department for the  
2650 state plan for medical assistance or for the Division of Health Care Financing that are not  
2651 expended by the department in the fiscal year for which the general funds were appropriated  
2652 and which are not otherwise designated as nonlapsing shall lapse into the Medicaid Growth  
2653 Reduction and Budget Stabilization Account;

2654 (iii) beginning July 1, 2024, any unused state funds that are associated with the  
2655 Medicaid program from the Department of Workforce Services;

2656 (iv) beginning July 1, 2024, any penalties imposed and collected under:

2657 (A) Section [17B-2a-818.5](#);

2658 (B) Section [19-1-206](#);

2659 (C) Section [63A-5b-607](#);

2660 (D) Section [63C-9-403](#);

2661 (E) Section [72-6-107.5](#); or

2662 (F) Section [79-2-404](#); and

2663 (v) at the close of fiscal year 2024, the Division of Finance shall transfer any existing  
 2664 balance in the Medicaid Restricted Account created in Section [26B-1-309](#) into the Medicaid  
 2665 Growth Reduction and Budget Stabilization Account.

2666 (b) In addition to the deposits described in Subsection (3)(a), the Legislature may  
 2667 appropriate money into the Medicaid Growth Reduction and Budget Stabilization Account.

2668 ~~[(3)]~~ (4) (a) (i) Except as provided in Subsection ~~[(6)]~~ (7), if, at the end of a fiscal year,  
 2669 there is a General Fund revenue surplus, the Division of Finance shall transfer an amount equal  
 2670 to Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and  
 2671 Budget Stabilization Account.

2672 (ii) If the amount transferred is reduced to prevent an operating deficit, as provided in  
 2673 Subsection ~~[(6)]~~ (7), the Legislature shall include, to the extent revenue is available, an amount  
 2674 equal to the reduction as an appropriation from the General Fund to the account in the base  
 2675 budget for the second fiscal year following the fiscal year for which the reduction was made.

2676 (b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the  
 2677 Legislature shall include, to the extent revenue is available, an amount equal to Medicaid  
 2678 growth savings as an appropriation from the General Fund to the account in the base budget for  
 2679 the second fiscal year following the fiscal year for which the reduction was made.

2680 (c) Subsections ~~[(3)(a)]~~ (4)(a) and ~~[(3)(b)]~~ (4)(b) apply only to the fiscal year in which  
 2681 the department implements the proposal developed under Section [26B-3-202](#) to reduce the  
 2682 long-term growth in state expenditures for the Medicaid program, and to each fiscal year after  
 2683 that year.

2684 ~~[(4)]~~ (5) The Division of Finance shall calculate the amount to be transferred under  
 2685 Subsection ~~[(3)]~~ (4):

2686 (a) before transferring revenue from the General Fund revenue surplus to:

2687 (i) the General Fund Budget Reserve Account under Section [63J-1-312](#);

2688 (ii) the Wildland Fire Suppression Fund created in Section [65A-8-204](#), as described in  
 2689 Section [63J-1-314](#); and

2690 (iii) the State Disaster Recovery Restricted Account under Section [63J-1-314](#);

2691 (b) before earmarking revenue from the General Fund revenue surplus to the Industrial  
 2692 Assistance Account under Section [63N-3-106](#); and

2693 (c) before making any other year-end contingency appropriations, year-end set-asides,



2694 or other year-end transfers required by law.

2695 ~~[(5)]~~ (6) (a) If, at the close of any fiscal year, there appears to be insufficient money to  
2696 pay additional debt service for any bonded debt authorized by the Legislature, the Division of  
2697 Finance may hold back from any General Fund revenue surplus money sufficient to pay the  
2698 additional debt service requirements resulting from issuance of bonded debt that was  
2699 authorized by the Legislature.

2700 (b) The Division of Finance may not spend the hold back amount for debt service  
2701 under Subsection ~~[(5)(a)]~~ (6)(a) unless and until it is appropriated by the Legislature.

2702 (c) If, after calculating the amount for transfer under Subsection ~~[(3)]~~ (4), the  
2703 remaining General Fund revenue surplus is insufficient to cover the hold back for debt service  
2704 required by Subsection ~~[(5)(a)]~~ (6)(a), the Division of Finance shall reduce the transfer to the  
2705 Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to  
2706 cover the debt service hold back.

2707 (d) Notwithstanding Subsections ~~[(3)]~~ (4) and ~~[(4)]~~ (5), the Division of Finance shall  
2708 hold back the General Fund balance for debt service authorized by this Subsection ~~[(5)]~~ (6)  
2709 before making any transfers to the Medicaid Growth Reduction and Budget Stabilization  
2710 Account or any other designation or allocation of General Fund revenue surplus.

2711 ~~[(6)]~~ (7) Notwithstanding Subsections ~~[(3)]~~ (4) and ~~[(4)]~~ (5), if, at the end of a fiscal  
2712 year, the Division of Finance determines that an operating deficit exists and that holding back  
2713 earmarks to the Industrial Assistance Account under Section [63N-3-106](#), transfers to the  
2714 Wildland Fire Suppression Fund and State Disaster Recovery Restricted Account under Section  
2715 [63J-1-314](#), transfers to the General Fund Budget Reserve Account under Section [63J-1-312](#), or  
2716 earmarks and transfers to more than one of those accounts, in that order, does not eliminate the  
2717 operating deficit, the Division of Finance may reduce the transfer to the Medicaid Growth  
2718 Reduction and Budget Stabilization Account by the amount necessary to eliminate the  
2719 operating deficit.

2720 ~~[(7)]~~ (8) The Legislature may appropriate money from the Medicaid Growth Reduction  
2721 and Budget Stabilization Account only:

2722 (a) for the Medicaid program; and

2723 ~~[(a)]~~ (b) (i) if Medicaid program expenditures for the fiscal year for which the  
2724 appropriation is made are estimated to be 108% or more of Medicaid program expenditures for



2725 the previous year; [~~and~~] or

2726 (ii) if the amount of the appropriation is equal to or less than the balance in the  
 2727 Medicaid Growth Reduction and Budget Stabilization Account that comprises deposits  
 2728 described in Subsections (3)(a)(ii) through (v) and appropriations described in Subsection  
 2729 (3)(b).

2730 [~~(b) for the Medicaid program.~~]

2731 [(8)] (9) The Division of Finance shall deposit interest or other earnings derived from  
 2732 investment of Medicaid Growth Reduction and Budget Stabilization Account money into the  
 2733 General Fund.

2734 Section 25. Section **72-6-107.5** is amended to read:

2735 **72-6-107.5. Construction of improvements of highway -- Contracts -- Health**  
 2736 **insurance coverage.**

2737 (1) As used in this section:

2738 (a) "Aggregate" means the sum of all contracts, change orders, and modifications  
 2739 related to a single project.

2740 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

2741 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or  
 2742 "operative" who:

2743 (i) works at least 30 hours per calendar week; and

2744 (ii) meets employer eligibility waiting requirements for health care insurance, which  
 2745 may not exceed the first day of the calendar month following 60 days after the day on which  
 2746 the individual is hired.

2747 (d) "Health benefit plan" means:

2748 (i) the same as that term is defined in Section [31A-1-301](#); or

2749 (ii) an employee welfare benefit plan:

2750 (A) established under the Employee Retirement Income Security Act of 1974, 29  
 2751 U.S.C. Sec. 1001 et seq.;

2752 (B) for an employer with 100 or more employees; and

2753 (C) in which the employer establishes a self-funded or partially self-funded group  
 2754 health plan to provide medical care for the employer's employees and dependents of the  
 2755 employees.

2756 (e) "Qualified health coverage" means the same as that term is defined in Section  
2757 [26B-3-909](#).

2758 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).

2759 (g) "Third party administrator" or "administrator" means the same as that term is  
2760 defined in Section [31A-1-301](#).

2761 (2) Except as provided in Subsection (3), the requirements of this section apply to:

2762 (a) a contractor of a design or construction contract entered into by the department on  
2763 or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than  
2764 \$2,000,000; and

2765 (b) a subcontractor of a contractor of a design or construction contract entered into by  
2766 the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or  
2767 greater than \$1,000,000.

2768 (3) The requirements of this section do not apply to a contractor or subcontractor  
2769 described in Subsection (2) if:

2770 (a) the application of this section jeopardizes the receipt of federal funds;

2771 (b) the contract is a sole source contract; or

2772 (c) the contract is an emergency procurement.

2773 (4) A person that intentionally uses change orders, contract modifications, or multiple  
2774 contracts to circumvent the requirements of this section is guilty of an infraction.

2775 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the  
2776 department that the contractor has and will maintain an offer of qualified health coverage for  
2777 the contractor's employees and the employees' dependents during the duration of the contract  
2778 by submitting to the department a written statement that:

2779 (i) the contractor offers qualified health coverage that complies with Section  
2780 [26B-3-909](#);

2781 (ii) is from:

2782 (A) an actuary selected by the contractor or the contractor's insurer;

2783 (B) an underwriter who is responsible for developing the employer group's premium  
2784 rates; or

2785 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),  
2786 an actuary or underwriter selected by a third party administrator; and

- 2787 (iii) was created within one year before the day on which the statement is submitted.
- 2788 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)
- 2789 shall provide the actuary or underwriter selected by an administrator, as described in
- 2790 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's
- 2791 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the
- 2792 requirements of qualified health coverage.
- 2793 (ii) A contractor may not make a change to the contractor's contribution to the health
- 2794 benefit plan, unless the contractor provides notice to:
- 2795 (A) the actuary or underwriter selected by an administrator, as described in Subsection
- 2796 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in
- 2797 Subsection (5)(a) in compliance with this section; and
- 2798 (B) the department.
- 2799 (c) A contractor that is subject to the requirements of this section shall:
- 2800 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
- 2801 is subject to the requirements of this section shall obtain and maintain an offer of qualified
- 2802 health coverage for the subcontractor's employees and the employees' dependents during the
- 2803 duration of the subcontract; and
- 2804 (ii) obtain from a subcontractor that is subject to the requirements of this section a
- 2805 written statement that:
- 2806 (A) the subcontractor offers qualified health coverage that complies with Section
- 2807 [26B-3-909](#);
- 2808 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an
- 2809 underwriter who is responsible for developing the employer group's premium rates, or if the
- 2810 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or
- 2811 underwriter selected by an administrator; and
- 2812 (C) was created within one year before the day on which the contractor obtains the
- 2813 statement.
- 2814 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage
- 2815 described in Subsection (5)(a) during the duration of the contract is subject to penalties in
- 2816 accordance with administrative rules adopted by the department under Subsection (6).
- 2817 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain

2818 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

2819 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health  
2820 coverage described in Subsection (5)(c) during the duration of the subcontract is subject to  
2821 penalties in accordance with administrative rules adopted by the department under Subsection  
2822 (6).

2823 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain  
2824 an offer of qualified health coverage described in Subsection (5)(a).

2825 (6) The department shall adopt administrative rules:

2826 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2827 (b) in coordination with:

2828 (i) the Department of Environmental Quality in accordance with Section 19-1-206;

2829 (ii) the Department of Natural Resources in accordance with Section 79-2-404;

2830 (iii) the Division of Facilities Construction and Management in accordance with  
2831 Section 63A-5b-607;

2832 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

2833 (v) a public transit district in accordance with Section 17B-2a-818.5; and

2834 (vi) the Legislature's Administrative Rules Review and General Oversight Committee;

2835 and

2836 (c) that establish:

2837 (i) the requirements and procedures a contractor and a subcontractor shall follow to  
2838 demonstrate compliance with this section, including:

2839 (A) that a contractor or subcontractor's compliance with this section is subject to an  
2840 audit by the department or the Office of the Legislative Auditor General;

2841 (B) that a contractor that is subject to the requirements of this section shall obtain a  
2842 written statement described in Subsection (5)(a); and

2843 (C) that a subcontractor that is subject to the requirements of this section shall obtain a  
2844 written statement described in Subsection (5)(c)(ii);

2845 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally  
2846 violates the provisions of this section, which may include:

2847 (A) a three-month suspension of the contractor or subcontractor from entering into  
2848 future contracts with the state upon the first violation;

2849 (B) a six-month suspension of the contractor or subcontractor from entering into future  
2850 contracts with the state upon the second violation;

2851 (C) an action for debarment of the contractor or subcontractor in accordance with  
2852 Section [63G-6a-904](#) upon the third or subsequent violation; and

2853 (D) monetary penalties which may not exceed 50% of the amount necessary to  
2854 purchase qualified health coverage for an employee and a dependent of the employee of the  
2855 contractor or subcontractor who was not offered qualified health coverage during the duration  
2856 of the contract; and

2857 (iii) a website on which the department shall post the commercially equivalent  
2858 benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by  
2859 the Department of Health and Human Services, in accordance with Subsection [26B-3-909](#)(2).

2860 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor  
2861 or subcontractor who intentionally violates the provisions of this section is liable to the  
2862 employee for health care costs that would have been covered by qualified health coverage.

2863 (ii) An employer has an affirmative defense to a cause of action under Subsection  
2864 (7)(a)(i) if:

2865 (A) the employer relied in good faith on a written statement described in Subsection  
2866 (5)(a) or (5)(c)(ii); or

2867 (B) the department determines that compliance with this section is not required under  
2868 the provisions of Subsection (3).

2869 (b) An employee has a private right of action only against the employee's employer to  
2870 enforce the provisions of this Subsection (7).

2871 (8) Any penalties imposed and collected under this section shall be deposited into the  
2872 Medicaid [~~Restricted~~] Growth Reduction and Budget Stabilization Account created in Section  
2873 [~~26B-1-309~~] [63J-1-315](#).

2874 (9) The failure of a contractor or subcontractor to provide qualified health coverage as  
2875 required by this section:

2876 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,  
2877 or contractor under:

2878 (i) Section [63G-6a-1602](#); or

2879 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

2880 (b) may not be used by the procurement entity or a prospective bidder, offeror, or  
2881 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design  
2882 or construction.

2883 (10) An administrator, including an administrator's actuary or underwriter, who  
2884 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health  
2885 coverage of a contractor or subcontractor who provides a health benefit plan described in  
2886 Subsection (1)(d)(ii):

2887 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,  
2888 unless the administrator commits gross negligence in preparing the written statement;

2889 (b) is not liable for any error in the written statement if the administrator relied in good  
2890 faith on information from the contractor or subcontractor; and

2891 (c) may require as a condition of providing the written statement that a contractor or  
2892 subcontractor hold the administrator harmless for an action arising under this section.

2893 Section 26. Section **79-2-404** is amended to read:

2894 **79-2-404. Contracting powers of department -- Health insurance coverage.**

2895 (1) As used in this section:

2896 (a) "Aggregate" means the sum of all contracts, change orders, and modifications  
2897 related to a single project.

2898 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

2899 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or  
2900 "operative" who:

2901 (i) works at least 30 hours per calendar week; and

2902 (ii) meets employer eligibility waiting requirements for health care insurance, which  
2903 may not exceed the first day of the calendar month following 60 days after the day on which  
2904 the individual is hired.

2905 (d) "Health benefit plan" means:

2906 (i) the same as that term is defined in Section [31A-1-301](#); or

2907 (ii) an employee welfare benefit plan:

2908 (A) established under the Employee Retirement Income Security Act of 1974, 29  
2909 U.S.C. Sec. 1001 et seq.;

2910 (B) for an employer with 100 or more employees; and

2911 (C) in which the employer establishes a self-funded or partially self-funded group  
2912 health plan to provide medical care for the employer's employees and dependents of the  
2913 employees.

2914 (e) "Qualified health coverage" means the same as that term is defined in Section  
2915 [26B-3-909](#).

2916 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).

2917 (g) "Third party administrator" or "administrator" means the same as that term is  
2918 defined in Section [31A-1-301](#).

2919 (2) Except as provided in Subsection (3), the requirements of this section apply to:

2920 (a) a contractor of a design or construction contract entered into by, or delegated to, the  
2921 department or a division, board, or council of the department on or after July 1, 2009, if the  
2922 prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

2923 (b) a subcontractor of a contractor of a design or construction contract entered into by,  
2924 or delegated to, the department or a division, board, or council of the department on or after  
2925 July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

2926 (3) This section does not apply to contracts entered into by the department or a  
2927 division, board, or council of the department if:

2928 (a) the application of this section jeopardizes the receipt of federal funds;

2929 (b) the contract or agreement is between:

2930 (i) the department or a division, board, or council of the department; and

2931 (ii) (A) another agency of the state;

2932 (B) the federal government;

2933 (C) another state;

2934 (D) an interstate agency;

2935 (E) a political subdivision of this state; or

2936 (F) a political subdivision of another state; or

2937 (c) the contract or agreement is:

2938 (i) for the purpose of disbursing grants or loans authorized by statute;

2939 (ii) a sole source contract; or

2940 (iii) an emergency procurement.

2941 (4) A person that intentionally uses change orders, contract modifications, or multiple

2942 contracts to circumvent the requirements of this section is guilty of an infraction.

2943 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the  
2944 department that the contractor has and will maintain an offer of qualified health coverage for  
2945 the contractor's employees and the employees' dependents during the duration of the contract  
2946 by submitting to the department a written statement that:

2947 (i) the contractor offers qualified health coverage that complies with Section  
2948 [26B-3-909](#);

2949 (ii) is from:

2950 (A) an actuary selected by the contractor or the contractor's insurer;

2951 (B) an underwriter who is responsible for developing the employer group's premium  
2952 rates; or

2953 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),  
2954 an actuary or underwriter selected by a third party administrator; and

2955 (iii) was created within one year before the day on which the statement is submitted.

2956 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)  
2957 shall provide the actuary or underwriter selected by an administrator, as described in  
2958 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's  
2959 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the  
2960 requirements of qualified health coverage.

2961 (ii) A contractor may not make a change to the contractor's contribution to the health  
2962 benefit plan, unless the contractor provides notice to:

2963 (A) the actuary or underwriter selected by an administrator, as described in Subsection  
2964 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in  
2965 Subsection (5)(a) in compliance with this section; and

2966 (B) the department.

2967 (c) A contractor that is subject to the requirements of this section shall:

2968 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that  
2969 is subject to the requirements of this section shall obtain and maintain an offer of qualified  
2970 health coverage for the subcontractor's employees and the employees' dependents during the  
2971 duration of the subcontract; and

2972 (ii) obtain from a subcontractor that is subject to the requirements of this section a



2973 written statement that:

2974 (A) the subcontractor offers qualified health coverage that complies with Section  
2975 [26B-3-909](#);

2976 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an  
2977 underwriter who is responsible for developing the employer group's premium rates, or if the  
2978 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or  
2979 underwriter selected by an administrator; and

2980 (C) was created within one year before the day on which the contractor obtains the  
2981 statement.

2982 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage  
2983 described in Subsection (5)(a) during the duration of the contract is subject to penalties in  
2984 accordance with administrative rules adopted by the department under Subsection (6).

2985 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain  
2986 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

2987 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health  
2988 coverage described in Subsection (5)(c) during the duration of the subcontract is subject to  
2989 penalties in accordance with administrative rules adopted by the department under Subsection  
2990 (6).

2991 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain  
2992 an offer of qualified health coverage described in Subsection (5)(a).

2993 (6) The department shall adopt administrative rules:

2994 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2995 (b) in coordination with:

2996 (i) the Department of Environmental Quality in accordance with Section [19-1-206](#);

2997 (ii) a public transit district in accordance with Section [17B-2a-818.5](#);

2998 (iii) the Division of Facilities Construction and Management in accordance with  
2999 Section [63A-5b-607](#);

3000 (iv) the State Capitol Preservation Board in accordance with Section [63C-9-403](#);

3001 (v) the Department of Transportation in accordance with Section [72-6-107.5](#); and

3002 (vi) the Legislature's Administrative Rules Review and General Oversight Committee;

3003 and

3004 (c) that establish:

3005 (i) the requirements and procedures a contractor and a subcontractor shall follow to

3006 demonstrate compliance with this section, including:

3007 (A) that a contractor or subcontractor's compliance with this section is subject to an

3008 audit by the department or the Office of the Legislative Auditor General;

3009 (B) that a contractor that is subject to the requirements of this section shall obtain a

3010 written statement described in Subsection (5)(a); and

3011 (C) that a subcontractor that is subject to the requirements of this section shall obtain a

3012 written statement described in Subsection (5)(c)(ii);

3013 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally

3014 violates the provisions of this section, which may include:

3015 (A) a three-month suspension of the contractor or subcontractor from entering into

3016 future contracts with the state upon the first violation;

3017 (B) a six-month suspension of the contractor or subcontractor from entering into future

3018 contracts with the state upon the second violation;

3019 (C) an action for debarment of the contractor or subcontractor in accordance with

3020 Section [63G-6a-904](#) upon the third or subsequent violation; and

3021 (D) monetary penalties which may not exceed 50% of the amount necessary to

3022 purchase qualified health coverage for an employee and a dependent of an employee of the

3023 contractor or subcontractor who was not offered qualified health coverage during the duration

3024 of the contract; and

3025 (iii) a website on which the department shall post the commercially equivalent

3026 benchmark, for the qualified health coverage identified in Subsection (1)(e), provided by the

3027 Department of Health and Human Services, in accordance with Subsection [26B-3-909\(2\)](#).

3028 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor

3029 or subcontractor who intentionally violates the provisions of this section is liable to the

3030 employee for health care costs that would have been covered by qualified health coverage.

3031 (ii) An employer has an affirmative defense to a cause of action under Subsection

3032 (7)(a)(i) if:

3033 (A) the employer relied in good faith on a written statement described in Subsection

3034 (5)(a) or (5)(c)(ii); or

3035 (B) the department determines that compliance with this section is not required under  
3036 the provisions of Subsection (3).

3037 (b) An employee has a private right of action only against the employee's employer to  
3038 enforce the provisions of this Subsection (7).

3039 (8) Any penalties imposed and collected under this section shall be deposited into the  
3040 Medicaid [~~Restricted~~] Growth Reduction and Budget Stabilization Account created in Section  
3041 [~~26B-1-309~~] 63J-1-315.

3042 (9) The failure of a contractor or subcontractor to provide qualified health coverage as  
3043 required by this section:

3044 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,  
3045 or contractor under:

3046 (i) Section 63G-6a-1602; or

3047 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

3048 (b) may not be used by the procurement entity or a prospective bidder, offeror, or  
3049 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design  
3050 or construction.

3051 (10) An administrator, including an administrator's actuary or underwriter, who  
3052 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health  
3053 coverage of a contractor or subcontractor who provides a health benefit plan described in  
3054 Subsection (1)(d)(ii):

3055 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,  
3056 unless the administrator commits gross negligence in preparing the written statement;

3057 (b) is not liable for any error in the written statement if the administrator relied in good  
3058 faith on information from the contractor or subcontractor; and

3059 (c) may require as a condition of providing the written statement that a contractor or  
3060 subcontractor hold the administrator harmless for an action arising under this section.

3061 **Section 27. Appropriation.**

3062 The following sums of money are appropriated for the fiscal year beginning July 1,  
3063 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for  
3064 fiscal year 2024. The Legislature authorizes the State Division of Finance to transfer the  
3065 following amounts between the following funds or accounts as indicated. Expenditures and

3066 outlays from the funds or accounts to which the money is transferred must be authorized by an  
3067 appropriation.

3068 ITEM 1

3069 To General Fund Restricted -- Medicaid Growth Reduction and Budget Stabilization Account

3070 From General Fund Restricted -- Medicaid Restricted Account, One-time 23,700,000

3071 Schedule of Programs:

3072 General Fund Restricted -- Medicaid Growth Reduction and Budget

3073 Stabilization Account 23,700,000

3074 Section 28. **Effective date.**

3075 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

3076 (2) (a) The actions affecting the following sections take effect on July 1, 2024:

3077 (i) Section [17B-2a-818.5](#);

3078 (ii) Section [19-1-206](#);

3079 (iii) Section [63A-5b-607](#);

3080 (iv) Section [63C-9-403](#);

3081 (v) Section [63I-1-226](#) (Effective 07/01/2024);

3082 (vi) Section [63I-2-226](#) (Effective 07/01/2024);

3083 (vii) Section [72-6-107.5](#); and

3084 (viii) Section [79-2-404](#).

3085 (b) The actions affecting Section [59-12-103](#) (Contingently Effective 01/01/25)

3086 contingently take effect on January 1, 2025.