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**EDUCATION ENTITY AMENDMENTS**  
2024 GENERAL SESSION  
STATE OF UTAH  
**Chief Sponsor: Lincoln Fillmore**  
House Sponsor: Stephanie Gricius

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**LONG TITLE**

**General Description:**

This bill provides a home-based microschool and micro-education entity with certain similar duties, requirements, waivers, and rights as private and charter schools.

**Highlighted Provisions:**

This bill:

- defines terms;
- requires a county and municipality to consider a home-based microschool and micro-education entity as a permitted use in all zoning districts within a county and municipality;
- identifies the occupancy requirements to which a micro-education entity is subject;
- requires a local school board to excuse a student who attends a home-based microschool or micro-education entity under certain circumstances;
- provides that an instructor of a school-age child who attends a home-based microschool or micro-education entity is solely responsible for instruction, materials, and evaluation;
- prohibits a local school board from requiring a home-based microschool or micro-education entity to provide teaching credentials, submit to inspection, and conduct testing;
- prevents government entities from regulating home-based microschool and micro-education entity food preparation and distribution under certain circumstances;
- requires a home-based microschool and micro-education entity to register as a business;
- exempts a student who attends a home-based microschool or micro-education entity from immunization requirements; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **10-9a-103**, as last amended by Laws of Utah 2023, Chapters 16, 327 and 478

34 **10-9a-305**, as last amended by Laws of Utah 2023, Chapter 16

35 **10-9a-529**, as last amended by Laws of Utah 2023, Chapter 16

36 **17-27a-103**, as last amended by Laws of Utah 2023, Chapters 15, 327 and 478

37 **17-27a-305**, as last amended by Laws of Utah 2023, Chapter 15

38 **32B-1-102**, as last amended by Laws of Utah 2023, Chapters 328, 371 and 400

39 **53G-6-201**, as last amended by Laws of Utah 2021, Chapters 113, 261 and 427

40 **53G-6-706**, as last amended by Laws of Utah 2019, Chapter 293

41 **53G-9-301**, as last amended by Laws of Utah 2023, Chapter 328

42 ENACTS:

43 **53G-6-212**, as Utah Code Annotated 1953



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

46 Section 1. Section **10-9a-103** is amended to read:

47 **10-9a-103 . Definitions.**

48 As used in this chapter:

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

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

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

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

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

61 (a) the entity's services or facilities are likely to require expansion or significant

- 62 modification because of an intended use of land;
- 63 (b) the entity has filed with the municipality a copy of the entity's general or long-range  
64 plan; or
- 65 (c) the entity has filed with the municipality a request for notice during the same  
66 calendar year and before the municipality provides notice to an affected entity in  
67 compliance with a requirement imposed under this chapter.
- 68 (4) "Affected owner" means the owner of real property that is:
- 69 (a) a single project;
- 70 (b) the subject of a land use approval that sponsors of a referendum timely challenged in  
71 accordance with Subsection 20A-7-601(6); and
- 72 (c) determined to be legally referable under Section 20A-7-602.8.
- 73 (5) "Appeal authority" means the person, board, commission, agency, or other body  
74 designated by ordinance to decide an appeal of a decision of a land use application or a  
75 variance.
- 76 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or  
77 residential property if the sign is designed or intended to direct attention to a business,  
78 product, or service that is not sold, offered, or existing on the property where the sign is  
79 located.
- 80 (7) (a) "Charter school" means:
- 81 (i) an operating charter school;
- 82 (ii) a charter school applicant that a charter school authorizer approves in accordance  
83 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or
- 84 (iii) an entity that is working on behalf of a charter school or approved charter  
85 applicant to develop or construct a charter school building.
- 86 (b) "Charter school" does not include a therapeutic school.
- 87 (8) "Conditional use" means a land use that, because of the unique characteristics or  
88 potential impact of the land use on the municipality, surrounding neighbors, or adjacent  
89 land uses, may not be compatible in some areas or may be compatible only if certain  
90 conditions are required that mitigate or eliminate the detrimental impacts.
- 91 (9) "Constitutional taking" means a governmental action that results in a taking of private  
92 property so that compensation to the owner of the property is required by the:
- 93 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
- 94 (b) Utah Constitution Article I, Section 22.
- 95 (10) "Culinary water authority" means the department, agency, or public entity with

96 responsibility to review and approve the feasibility of the culinary water system and  
97 sources for the subject property.

98 (11) "Development activity" means:

- 99 (a) any construction or expansion of a building, structure, or use that creates additional  
100 demand and need for public facilities;  
101 (b) any change in use of a building or structure that creates additional demand and need  
102 for public facilities; or  
103 (c) any change in the use of land that creates additional demand and need for public  
104 facilities.

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

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

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

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

115 (14) "Educational facility":

116 (a) means:

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

120 (ii) a structure or facility:

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

122 and

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

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

126 (b) does not include:

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

- 130 (A) not located on the same property as a building described in Subsection  
131 (14)(a)(i); and
- 132 (B) used in support of the purposes of a building described in Subsection  
133 (14)(a)(i); or  
134 (ii) a therapeutic school.
- 135 (15) "Fire authority" means the department, agency, or public entity with responsibility to  
136 review and approve the feasibility of fire protection and suppression services for the  
137 subject property.
- 138 (16) "Flood plain" means land that:
- 139 (a) is within the 100-year flood plain designated by the Federal Emergency Management  
140 Agency; or
- 141 (b) has not been studied or designated by the Federal Emergency Management Agency  
142 but presents a likelihood of experiencing chronic flooding or a catastrophic flood  
143 event because the land has characteristics that are similar to those of a 100-year flood  
144 plain designated by the Federal Emergency Management Agency.
- 145 (17) "General plan" means a document that a municipality adopts that sets forth general  
146 guidelines for proposed future development of the land within the municipality.
- 147 (18) "Geologic hazard" means:
- 148 (a) a surface fault rupture;  
149 (b) shallow groundwater;  
150 (c) liquefaction;  
151 (d) a landslide;  
152 (e) a debris flow;  
153 (f) unstable soil;  
154 (g) a rock fall; or  
155 (h) any other geologic condition that presents a risk:  
156 (i) to life;  
157 (ii) of substantial loss of real property; or  
158 (iii) of substantial damage to real property.
- 159 (19) "Historic preservation authority" means a person, board, commission, or other body  
160 designated by a legislative body to:
- 161 (a) recommend land use regulations to preserve local historic districts or areas; and  
162 (b) administer local historic preservation land use regulations within a local historic  
163 district or area.

- 164 (20) "Home-based microschoool" means the same as that term is defined in Section  
165 53G-6-201.
- 166 [~~(20)~~] (21) "Hookup fee" means a fee for the installation and inspection of any pipe, line,  
167 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or  
168 other utility system.
- 169 [~~(21)~~] (22) "Identical plans" means building plans submitted to a municipality that:  
170 (a) are clearly marked as "identical plans";  
171 (b) are substantially identical to building plans that were previously submitted to and  
172 reviewed and approved by the municipality; and  
173 (c) describe a building that:  
174 (i) is located on land zoned the same as the land on which the building described in  
175 the previously approved plans is located;  
176 (ii) is subject to the same geological and meteorological conditions and the same law  
177 as the building described in the previously approved plans;  
178 (iii) has a floor plan identical to the building plan previously submitted to and  
179 reviewed and approved by the municipality; and  
180 (iv) does not require any additional engineering or analysis.
- 181 [~~(22)~~] (23) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,  
182 Impact Fees Act.
- 183 [~~(23)~~] (24) "Improvement completion assurance" means a surety bond, letter of credit,  
184 financial institution bond, cash, assignment of rights, lien, or other equivalent security  
185 required by a municipality to guaranty the proper completion of landscaping or an  
186 infrastructure improvement required as a condition precedent to:  
187 (a) recording a subdivision plat; or  
188 (b) development of a commercial, industrial, mixed use, or multifamily project.
- 189 [~~(24)~~] (25) "Improvement warranty" means an applicant's unconditional warranty that the  
190 applicant's installed and accepted landscaping or infrastructure improvement:  
191 (a) complies with the municipality's written standards for design, materials, and  
192 workmanship; and  
193 (b) will not fail in any material respect, as a result of poor workmanship or materials,  
194 within the improvement warranty period.
- 195 [~~(25)~~] (26) "Improvement warranty period" means a period:  
196 (a) no later than one year after a municipality's acceptance of required landscaping; or  
197 (b) no later than one year after a municipality's acceptance of required infrastructure,

- 198 unless the municipality:
- 199 (i) determines for good cause that a one-year period would be inadequate to protect
- 200 the public health, safety, and welfare; and
- 201 (ii) has substantial evidence, on record:
- 202 (A) of prior poor performance by the applicant; or
- 203 (B) that the area upon which the infrastructure will be constructed contains
- 204 suspect soil and the municipality has not otherwise required the applicant to
- 205 mitigate the suspect soil.
- 206 [~~(26)~~] (27) "Infrastructure improvement" means permanent infrastructure that is essential for
- 207 the public health and safety or that:
- 208 (a) is required for human occupation; and
- 209 (b) an applicant must install:
- 210 (i) in accordance with published installation and inspection specifications for public
- 211 improvements; and
- 212 (ii) whether the improvement is public or private, as a condition of:
- 213 (A) recording a subdivision plat;
- 214 (B) obtaining a building permit; or
- 215 (C) development of a commercial, industrial, mixed use, condominium, or
- 216 multifamily project.
- 217 [~~(27)~~] (28) "Internal lot restriction" means a platted note, platted demarcation, or platted
- 218 designation that:
- 219 (a) runs with the land; and
- 220 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
- 221 the plat; or
- 222 (ii) designates a development condition that is enclosed within the perimeter of a lot
- 223 described on the plat.
- 224 [~~(28)~~] (29) "Land use applicant" means a property owner, or the property owner's designee,
- 225 who submits a land use application regarding the property owner's land.
- 226 [~~(29)~~] (30) "Land use application":
- 227 (a) means an application that is:
- 228 (i) required by a municipality; and
- 229 (ii) submitted by a land use applicant to obtain a land use decision; and
- 230 (b) does not mean an application to enact, amend, or repeal a land use regulation.
- 231 [~~(30)~~] (31) "Land use authority" means:

- 232 (a) a person, board, commission, agency, or body, including the local legislative body,  
233 designated by the local legislative body to act upon a land use application; or  
234 (b) if the local legislative body has not designated a person, board, commission, agency,  
235 or body, the local legislative body.
- 236 ~~[(31)]~~ (32) "Land use decision" means an administrative decision of a land use authority or  
237 appeal authority regarding:  
238 (a) a land use permit; or  
239 (b) a land use application.
- 240 ~~[(32)]~~ (33) "Land use permit" means a permit issued by a land use authority.
- 241 ~~[(33)]~~ (34) "Land use regulation":  
242 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,  
243 specification, fee, or rule that governs the use or development of land;  
244 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;  
245 and  
246 (c) does not include:  
247 (i) a land use decision of the legislative body acting as the land use authority, even if  
248 the decision is expressed in a resolution or ordinance; or  
249 (ii) a temporary revision to an engineering specification that does not materially:  
250 (A) increase a land use applicant's cost of development compared to the existing  
251 specification; or  
252 (B) impact a land use applicant's use of land.
- 253 ~~[(34)]~~ (35) "Legislative body" means the municipal council.
- 254 ~~[(35)]~~ (36) "Local historic district or area" means a geographically definable area that:  
255 (a) contains any combination of buildings, structures, sites, objects, landscape features,  
256 archeological sites, or works of art that contribute to the historic preservation goals of  
257 a legislative body; and  
258 (b) is subject to land use regulations to preserve the historic significance of the local  
259 historic district or area.
- 260 ~~[(36)]~~ (37) "Lot" means a tract of land, regardless of any label, that is created by and shown  
261 on a subdivision plat that has been recorded in the office of the county recorder.
- 262 ~~[(37)]~~ (38) (a) "Lot line adjustment" means a relocation of a lot line boundary between  
263 adjoining lots or between a lot and adjoining parcels in accordance with Section  
264 10-9a-608:  
265 (i) whether or not the lots are located in the same subdivision; and



- 266 (ii) with the consent of the owners of record.
- 267 (b) "Lot line adjustment" does not mean a new boundary line that:
- 268 (i) creates an additional lot; or
- 269 (ii) constitutes a subdivision or a subdivision amendment.
- 270 (c) "Lot line adjustment" does not include a boundary line adjustment made by the
- 271 Department of Transportation.
- 272 ~~[(38)]~~ (39) "Major transit investment corridor" means public transit service that uses or
- 273 occupies:
- 274 (a) public transit rail right-of-way;
- 275 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or
- 276 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
- 277 municipality or county and:
- 278 (i) a public transit district as defined in Section 17B-2a-802; or
- 279 (ii) an eligible political subdivision as defined in Section 59-12-2219.
- 280 (40) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.
- 281 ~~[(39)]~~ (41) "Moderate income housing" means housing occupied or reserved for occupancy
- 282 by households with a gross household income equal to or less than 80% of the median
- 283 gross income for households of the same size in the county in which the city is located.
- 284 ~~[(40)]~~ (42) "Municipal utility easement" means an easement that:
- 285 (a) is created or depicted on a plat recorded in a county recorder's office and is described
- 286 as a municipal utility easement granted for public use;
- 287 (b) is not a protected utility easement or a public utility easement as defined in Section
- 288 54-3-27;
- 289 (c) the municipality or the municipality's affiliated governmental entity uses and
- 290 occupies to provide a utility service, including sanitary sewer, culinary water,
- 291 electrical, storm water, or communications or data lines;
- 292 (d) is used or occupied with the consent of the municipality in accordance with an
- 293 authorized franchise or other agreement;
- 294 (e) (i) is used or occupied by a specified public utility in accordance with an
- 295 authorized franchise or other agreement; and
- 296 (ii) is located in a utility easement granted for public use; or
- 297 (f) is described in Section 10-9a-529 and is used by a specified public utility.
- 298 ~~[(41)]~~ (43) "Nominal fee" means a fee that reasonably reimburses a municipality only for
- 299 time spent and expenses incurred in:

- 300 (a) verifying that building plans are identical plans; and
- 301 (b) reviewing and approving those minor aspects of identical plans that differ from the
- 302 previously reviewed and approved building plans.
- 303 ~~[(42)]~~ (44) "Noncomplying structure" means a structure that:
- 304 (a) legally existed before the structure's current land use designation; and
- 305 (b) because of one or more subsequent land use ordinance changes, does not conform to
- 306 the setback, height restrictions, or other regulations, excluding those regulations,
- 307 which govern the use of land.
- 308 ~~[(43)]~~ (45) "Nonconforming use" means a use of land that:
- 309 (a) legally existed before its current land use designation;
- 310 (b) has been maintained continuously since the time the land use ordinance governing
- 311 the land changed; and
- 312 (c) because of one or more subsequent land use ordinance changes, does not conform to
- 313 the regulations that now govern the use of the land.
- 314 ~~[(44)]~~ (46) "Official map" means a map drawn by municipal authorities and recorded in a
- 315 county recorder's office that:
- 316 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
- 317 highways and other transportation facilities;
- 318 (b) provides a basis for restricting development in designated rights-of-way or between
- 319 designated setbacks to allow the government authorities time to purchase or
- 320 otherwise reserve the land; and
- 321 (c) has been adopted as an element of the municipality's general plan.
- 322 ~~[(45)]~~ (47) "Parcel" means any real property that is not a lot.
- 323 ~~[(46)]~~ (48) (a) "Parcel boundary adjustment" means a recorded agreement between
- 324 owners of adjoining parcels adjusting the mutual boundary, either by deed or by a
- 325 boundary line agreement in accordance with Section 10-9a-524, if no additional
- 326 parcel is created and:
- 327 (i) none of the property identified in the agreement is a lot; or
- 328 (ii) the adjustment is to the boundaries of a single person's parcels.
- 329 (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line
- 330 that:
- 331 (i) creates an additional parcel; or
- 332 (ii) constitutes a subdivision.
- 333 (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by

- 334 the Department of Transportation.
- 335 [(47)] (49) "Person" means an individual, corporation, partnership, organization,  
336 association, trust, governmental agency, or any other legal entity.
- 337 [(48)] (50) "Plan for moderate income housing" means a written document adopted by a  
338 municipality's legislative body that includes:
- 339 (a) an estimate of the existing supply of moderate income housing located within the  
340 municipality;
- 341 (b) an estimate of the need for moderate income housing in the municipality for the next  
342 five years;
- 343 (c) a survey of total residential land use;
- 344 (d) an evaluation of how existing land uses and zones affect opportunities for moderate  
345 income housing; and
- 346 (e) a description of the municipality's program to encourage an adequate supply of  
347 moderate income housing.
- 348 [(49)] (51) "Plat" means an instrument subdividing property into lots as depicted on a map  
349 or other graphical representation of lands that a licensed professional land surveyor  
350 makes and prepares in accordance with Section 10-9a-603 or 57-8-13.
- 351 [(50)] (52) "Potential geologic hazard area" means an area that:
- 352 (a) is designated by a Utah Geological Survey map, county geologist map, or other  
353 relevant map or report as needing further study to determine the area's potential for  
354 geologic hazard; or
- 355 (b) has not been studied by the Utah Geological Survey or a county geologist but  
356 presents the potential of geologic hazard because the area has characteristics similar  
357 to those of a designated geologic hazard area.
- 358 [(51)] (53) "Public agency" means:
- 359 (a) the federal government;
- 360 (b) the state;
- 361 (c) a county, municipality, school district, special district, special service district, or  
362 other political subdivision of the state; or
- 363 (d) a charter school.
- 364 [(52)] (54) "Public hearing" means a hearing at which members of the public are provided a  
365 reasonable opportunity to comment on the subject of the hearing.
- 366 [(53)] (55) "Public meeting" means a meeting that is required to be open to the public under  
367 Title 52, Chapter 4, Open and Public Meetings Act.

- 368 [~~54~~] (56) "Public street" means a public right-of-way, including a public highway, public  
369 avenue, public boulevard, public parkway, public road, public lane, public alley, public  
370 viaduct, public subway, public tunnel, public bridge, public byway, other public  
371 transportation easement, or other public way.
- 372 [~~55~~] (57) "Receiving zone" means an area of a municipality that the municipality  
373 designates, by ordinance, as an area in which an owner of land may receive a  
374 transferable development right.
- 375 [~~56~~] (58) "Record of survey map" means a map of a survey of land prepared in accordance  
376 with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.
- 377 [~~57~~] (59) "Residential facility for persons with a disability" means a residence:  
378 (a) in which more than one person with a disability resides; and  
379 (b) which is licensed or certified by the Department of Health and Human Services  
380 under:  
381 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or  
382 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.
- 383 [~~58~~] (60) "Residential roadway" means a public local residential road that:  
384 (a) will serve primarily to provide access to adjacent primarily residential areas and  
385 property;  
386 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;  
387 (c) is not identified as a supplementary to a collector or other higher system classified  
388 street in an approved municipal street or transportation master plan;  
389 (d) has a posted speed limit of 25 miles per hour or less;  
390 (e) does not have higher traffic volumes resulting from connecting previously separated  
391 areas of the municipal road network;  
392 (f) cannot have a primary access, but can have a secondary access, and does not abut lots  
393 intended for high volume traffic or community centers, including schools, recreation  
394 centers, sports complexes, or libraries; and  
395 (g) primarily serves traffic within a neighborhood or limited residential area and is not  
396 necessarily continuous through several residential areas.
- 397 [~~59~~] (61) "Rules of order and procedure" means a set of rules that govern and prescribe in  
398 a public meeting:  
399 (a) parliamentary order and procedure;  
400 (b) ethical behavior; and  
401 (c) civil discourse.

- 402 ~~[(60)]~~ (62) "Sanitary sewer authority" means the department, agency, or public entity with  
403 responsibility to review and approve the feasibility of sanitary sewer services or onsite  
404 wastewater systems.
- 405 ~~[(61)]~~ (63) "Sending zone" means an area of a municipality that the municipality designates,  
406 by ordinance, as an area from which an owner of land may transfer a transferable  
407 development right.
- 408 ~~[(62)]~~ (64) "Special district" means an entity under Title 17B, Limited Purpose Local  
409 Government Entities - Special Districts, and any other governmental or  
410 quasi-governmental entity that is not a county, municipality, school district, or the state.
- 411 ~~[(63)]~~ (65) "Specified public agency" means:
- 412 (a) the state;
- 413 (b) a school district; or
- 414 (c) a charter school.
- 415 ~~[(64)]~~ (66) "Specified public utility" means an electrical corporation, gas corporation, or  
416 telephone corporation, as those terms are defined in Section 54-2-1.
- 417 ~~[(65)]~~ (67) "State" includes any department, division, or agency of the state.
- 418 ~~[(66)]~~ (68) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to  
419 be divided into two or more lots or other division of land for the purpose, whether  
420 immediate or future, for offer, sale, lease, or development either on the installment  
421 plan or upon any and all other plans, terms, and conditions.
- 422 (b) "Subdivision" includes:
- 423 (i) the division or development of land, whether by deed, metes and bounds  
424 description, devise and testacy, map, plat, or other recorded instrument, regardless  
425 of whether the division includes all or a portion of a parcel or lot; and
- 426 (ii) except as provided in Subsection ~~[(65)(e)]~~ (68)(c), divisions of land for residential  
427 and nonresidential uses, including land used or to be used for commercial,  
428 agricultural, and industrial purposes.
- 429 (c) "Subdivision" does not include:
- 430 (i) a bona fide division or partition of agricultural land for the purpose of joining one  
431 of the resulting separate parcels to a contiguous parcel of unsubdivided  
432 agricultural land, if neither the resulting combined parcel nor the parcel remaining  
433 from the division or partition violates an applicable land use ordinance;
- 434 (ii) a boundary line agreement recorded with the county recorder's office between  
435 owners of adjoining parcels adjusting the mutual boundary in accordance with

- 436 Section 10-9a-524 if no new parcel is created;
- 437 (iii) a recorded document, executed by the owner of record:
- 438 (A) revising the legal descriptions of multiple parcels into one legal description
- 439 encompassing all such parcels; or
- 440 (B) joining a lot to a parcel;
- 441 (iv) a boundary line agreement between owners of adjoining subdivided properties
- 442 adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and
- 443 10-9a-608 if:
- 444 (A) no new dwelling lot or housing unit will result from the adjustment; and
- 445 (B) the adjustment will not violate any applicable land use ordinance;
- 446 (v) a bona fide division of land by deed or other instrument if the deed or other
- 447 instrument states in writing that the division:
- 448 (A) is in anticipation of future land use approvals on the parcel or parcels;
- 449 (B) does not confer any land use approvals; and
- 450 (C) has not been approved by the land use authority;
- 451 (vi) a parcel boundary adjustment;
- 452 (vii) a lot line adjustment;
- 453 (viii) a road, street, or highway dedication plat;
- 454 (ix) a deed or easement for a road, street, or highway purpose; or
- 455 (x) any other division of land authorized by law.

- 456 ~~[(67)]~~ (69) (a) "Subdivision amendment" means an amendment to a recorded subdivision
- 457 in accordance with Section 10-9a-608 that:
- 458 (i) vacates all or a portion of the subdivision;
- 459 (ii) alters the outside boundary of the subdivision;
- 460 (iii) changes the number of lots within the subdivision;
- 461 (iv) alters a public right-of-way, a public easement, or public infrastructure within the
- 462 subdivision; or
- 463 (v) alters a common area or other common amenity within the subdivision.
- 464 (b) "Subdivision amendment" does not include a lot line adjustment, between a single lot
- 465 and an adjoining lot or parcel, that alters the outside boundary of the subdivision.

466 ~~[(68)]~~ (70) "Substantial evidence" means evidence that:

- 467 (a) is beyond a scintilla; and
- 468 (b) a reasonable mind would accept as adequate to support a conclusion.

469 ~~[(69)]~~ (71) "Suspect soil" means soil that has:

470 (a) a high susceptibility for volumetric change, typically clay rich, having more than a  
471 3% swell potential;

472 (b) bedrock units with high shrink or swell susceptibility; or

473 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum  
474 commonly associated with dissolution and collapse features.

475 ~~[(70)]~~ (72) "Therapeutic school" means a residential group living facility:

476 (a) for four or more individuals who are not related to:

477 (i) the owner of the facility; or

478 (ii) the primary service provider of the facility;

479 (b) that serves students who have a history of failing to function:

480 (i) at home;

481 (ii) in a public school; or

482 (iii) in a nonresidential private school; and

483 (c) that offers:

484 (i) room and board; and

485 (ii) an academic education integrated with:

486 (A) specialized structure and supervision; or

487 (B) services or treatment related to a disability, an emotional development, a  
488 behavioral development, a familial development, or a social development.

489 ~~[(71)]~~ (73) "Transferable development right" means a right to develop and use land that  
490 originates by an ordinance that authorizes a land owner in a designated sending zone to  
491 transfer land use rights from a designated sending zone to a designated receiving zone.

492 ~~[(72)]~~ (74) "Unincorporated" means the area outside of the incorporated area of a city or  
493 town.

494 ~~[(73)]~~ (75) "Water interest" means any right to the beneficial use of water, including:

495 (a) each of the rights listed in Section 73-1-11; and

496 (b) an ownership interest in the right to the beneficial use of water represented by:

497 (i) a contract; or

498 (ii) a share in a water company, as defined in Section 73-3-3.5.

499 ~~[(74)]~~ (76) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts  
500 land use zones, overlays, or districts.

501 Section 2. Section **10-9a-305** is amended to read:

502 **10-9a-305 . Other entities required to conform to municipality's land use**  
503 **ordinances -- Exceptions -- School districts, charter schools, home-based**

504 **microschools, and micro-education entities -- Submission of development plan and**  
505 **schedule.**

506 (1) (a) Each county, municipality, school district, charter school, special district, special  
507 service district, and political subdivision of the state shall conform to any applicable  
508 land use ordinance of any municipality when installing, constructing, operating, or  
509 otherwise using any area, land, or building situated within that municipality.

510 (b) In addition to any other remedies provided by law, when a municipality's land use  
511 ordinance is violated or about to be violated by another political subdivision, that  
512 municipality may institute an injunction, mandamus, abatement, or other appropriate  
513 action or proceeding to prevent, enjoin, abate, or remove the improper installation,  
514 improvement, or use.

515 (2) (a) Except as provided in Subsection (3), a school district or charter school is subject  
516 to a municipality's land use ordinances.

517 (b) (i) Notwithstanding Subsection (3), a municipality may:

518 (A) subject a charter school to standards within each zone pertaining to setback,  
519 height, bulk and massing regulations, off-site parking, curb cut, traffic  
520 circulation, and construction staging; and

521 (B) impose regulations upon the location of a project that are necessary to avoid  
522 unreasonable risks to health or safety, as provided in Subsection (3)(f).

523 (ii) The standards to which a municipality may subject a charter school under  
524 Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

525 (iii) Except as provided in Subsection (7)(d), the only basis upon which a  
526 municipality may deny or withhold approval of a charter school's land use  
527 application is the charter school's failure to comply with a standard imposed under  
528 Subsection (2)(b)(i).

529 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of  
530 an obligation to comply with a requirement of an applicable building or safety  
531 code to which it is otherwise obligated to comply.

532 (3) A municipality may not:

533 (a) impose requirements for landscaping, fencing, aesthetic considerations, construction  
534 methods or materials, additional building inspections, municipal building codes,  
535 building use for educational purposes, or the placement or use of temporary  
536 classroom facilities on school property;

537 (b) except as otherwise provided in this section, require a school district or charter



- 538 school to participate in the cost of any roadway or sidewalk, or a study on the impact  
539 of a school on a roadway or sidewalk, that is not reasonably necessary for the safety  
540 of school children and not located on or contiguous to school property, unless the  
541 roadway or sidewalk is required to connect an otherwise isolated school site to an  
542 existing roadway;
- 543 (c) require a district or charter school to pay fees not authorized by this section;
- 544 (d) provide for inspection of school construction or assess a fee or other charges for  
545 inspection, unless the school district or charter school is unable to provide for  
546 inspection by an inspector, other than the project architect or contractor, who is  
547 qualified under criteria established by the state superintendent;
- 548 (e) require a school district or charter school to pay any impact fee for an improvement  
549 project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact  
550 Fees Act;
- 551 (f) impose regulations upon the location of an educational facility except as necessary to  
552 avoid unreasonable risks to health or safety; or
- 553 (g) for a land use or a structure owned or operated by a school district or charter school  
554 that is not an educational facility but is used in support of providing instruction to  
555 pupils, impose a regulation that:
- 556 (i) is not imposed on a similar land use or structure in the zone in which the land use  
557 or structure is approved; or
- 558 (ii) uses the tax exempt status of the school district or charter school as criteria for  
559 prohibiting or regulating the land use or location of the structure.
- 560 (4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the  
561 siting of a new school with the municipality in which the school is to be located, to:
- 562 (a) avoid or mitigate existing and potential traffic hazards, including consideration of the  
563 impacts between the new school and future highways; and
- 564 (b) maximize school, student, and site safety.
- 565 (5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:
- 566 (a) provide a walk-through of school construction at no cost and at a time convenient to  
567 the district or charter school; and
- 568 (b) provide recommendations based upon the walk-through.
- 569 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:
- 570 (i) a municipal building inspector;
- 571 (ii) (A) for a school district, a school district building inspector from that school

- 572 district; or
- 573 (B) for a charter school, a school district building inspector from the school
- 574 district in which the charter school is located; or
- 575 (iii) an independent, certified building inspector who is~~[(A)]~~ not an employee of
- 576 the contractor~~[(B)]~~ , licensed to perform the inspection that the inspector is
- 577 requested to perform, and approved by~~[(F)]~~ a municipal building inspector~~[(H)]~~; or
- 578 ~~[(H)]~~ (A) ~~[(Aa)]~~ for a school district, a school district building inspector from
- 579 that school district; or
- 580 ~~[(C)] licensed to perform the inspection that the inspector is requested to perform.~~
- 581 ~~[(Bb)]~~ (B) for a charter school, a school district building inspector from the school
- 582 district in which the charter school is located~~[(and)]~~ .
- 583 (b) The approval under Subsection ~~[(6)(a)(iii)(B)]~~ (6)(a)(iii) may not be unreasonably
- 584 withheld.
- 585 (c) If a school district or charter school uses a school district or independent building
- 586 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall
- 587 submit to the state superintendent of public instruction and municipal building
- 588 official, on a monthly basis during construction of the school building, a copy of each
- 589 inspection certificate regarding the school building.
- 590 (7) (a) A charter school, home-based microschool, or micro-education entity shall be
- 591 considered a permitted use in all zoning districts within a municipality.
- 592 (b) Each land use application for any approval required for a charter school, home-based
- 593 microschool, or micro-education entity, including an application for a building
- 594 permit, shall be processed on a first priority basis.
- 595 (c) Parking requirements for a charter school or a micro-education entity may not exceed
- 596 the minimum parking requirements for schools or other institutional public uses
- 597 throughout the municipality.
- 598 (d) If a municipality has designated zones for a sexually oriented business, or a business
- 599 which sells alcohol, a charter school or a micro-education entity may be prohibited
- 600 from a location which would otherwise defeat the purpose for the zone unless the
- 601 charter school or micro-education entity provides a waiver.
- 602 (e) (i) A school district~~[-or a]~~ , charter school, or micro-education entity may seek a
- 603 certificate authorizing permanent occupancy of a school building from:
- 604 (A) the state superintendent of public instruction, as provided in Subsection
- 605 53E-3-706(3), if the school district or charter school used an independent

- 606 building inspector for inspection of the school building; or
- 607 (B) a municipal official with authority to issue the certificate, if the school district[  
608 or] , charter school, or micro-education entity used a municipal building  
609 inspector for inspection of the school building.
- 610 (ii) A school district may issue its own certificate authorizing permanent occupancy  
611 of a school building if it used its own building inspector for inspection of the  
612 school building, subject to the notification requirement of Subsection 53E-3-706  
613 (3)(a)(ii).
- 614 (iii) A charter school or micro-education entity may seek a certificate authorizing  
615 permanent occupancy of a school building from a school district official with  
616 authority to issue the certificate, if the charter school or micro-education entity  
617 used a school district building inspector for inspection of the school building.
- 618 (iv) A certificate authorizing permanent occupancy issued by the state superintendent  
619 of public instruction under Subsection 53E-3-706(3) or a school district official  
620 with authority to issue the certificate shall be considered to satisfy any municipal  
621 requirement for an inspection or a certificate of occupancy.
- 622 (f) (i) A micro-education entity may operate in a facility that meets Group E  
623 Occupancy requirements as defined by the International Building Code, as  
624 incorporated by Subsection 15A-2-103(1)(a).
- 625 (ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i):  
626 (A) may have up to 100 students in the facility; and  
627 (B) shall have enough space for at least 20 net square feet per student.
- 628 (g) A micro-education entity may operate in a facility that is subject to and complies  
629 with the same occupancy requirements as a Class B Occupancy as defined by the  
630 International Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:
- 631 (i) the facility has a code compliant fire alarm system and carbon monoxide detection  
632 system;
- 633 (ii) (A) each classroom in the facility has an exit directly to the outside at the level  
634 of exit or discharge; or
- 635 (B) the structure has a code compliant fire sprinkler system;
- 636 (iii) the facility has an automatic fire sprinkler system in fire areas of the facility that  
637 are greater than 12,000 square feet; and
- 638 (iv) the facility has enough space for at least 20 net square feet per student.
- 639 (h) (i) A home-based microschool is not subject to additional occupancy

640 requirements beyond occupancy requirements that apply to a primary dwelling,  
641 except that the home-based microschool shall have enough space for at least 35  
642 net square feet per student.

643 (ii) If a floor that is below grade in a home-based microschool is used for home-based  
644 microschool purposes, the below grade floor of the home-based microschool shall  
645 have at least one emergency escape or rescue window that complies with the  
646 requirements for emergency escape and rescue windows as defined by the  
647 International Residential Code, as incorporated by Section 15A-1-210.

648 (8) (a) A specified public agency intending to develop its land shall submit to the land  
649 use authority a development plan and schedule:

650 (i) as early as practicable in the development process, but no later than the  
651 commencement of construction; and

652 (ii) with sufficient detail to enable the land use authority to assess:

653 (A) the specified public agency's compliance with applicable land use ordinances;

654 (B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b),

655 (c), (d), (e), and (g) caused by the development;

656 (C) the amount of any applicable fee described in Section 10-9a-510;

657 (D) any credit against an impact fee; and

658 (E) the potential for waiving an impact fee.

659 (b) The land use authority shall respond to a specified public agency's submission under  
660 Subsection (8)(a) with reasonable promptness in order to allow the specified public  
661 agency to consider information the municipality provides under Subsection (8)(a)(ii)  
662 in the process of preparing the budget for the development.

663 (9) Nothing in this section may be construed to:

664 (a) modify or supersede Section 10-9a-304; or

665 (b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance, that  
666 fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair  
667 Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with  
668 Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.

669 (10) Nothing in Subsection (7) prevents a political subdivision from:

670 (a) requiring a home-based microschool or micro-education entity to comply with  
671 municipal zoning and land use regulations that do not conflict with this section,  
672 including:

673 (i) parking;

- 674           (ii) traffic; and
- 675           (iii) hours of operation;
- 676       (b) requiring a home-based microschool or micro-education entity to obtain a business
- 677           license;
- 678       (c) enacting municipal ordinances and regulations consistent with this section;
- 679       (d) subjecting a micro-education entity to standards within each zone pertaining to
- 680           setback, height, bulk and massing regulations, off-site parking, curb cut, traffic
- 681           circulation, and construction staging; and
- 682       (e) imposing regulations on the location of a project that are necessary to avoid risks to
- 683           health or safety.

684       Section 3. Section **10-9a-529** is amended to read:

685       **10-9a-529 . Specified public utility located in a municipal utility easement.**

686       A specified public utility may exercise each power of a public utility under Section

687       54-3-27 if the specified public utility uses an easement:

- 688       (1) with the consent of a municipality; and
- 689       (2) that is located within a municipal utility easement described in Subsections [~~10-9a-103~~
- 690           ~~(40)(a) through (e)~~ 10-9a-103(42)(a) through (e).

691       Section 4. Section **17-27a-103** is amended to read:

692       **17-27a-103 . Definitions.**

693       As used in this chapter:

- 694       (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
- 695           detached from a primary single-family dwelling and contained on one lot.
- 696       (2) "Adversely affected party" means a person other than a land use applicant who:
  - 697           (a) owns real property adjoining the property that is the subject of a land use application
  - 698               or land use decision; or
  - 699           (b) will suffer a damage different in kind than, or an injury distinct from, that of the
  - 700               general community as a result of the land use decision.
- 701       (3) "Affected entity" means a county, municipality, special district, special service district
- 702           under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
- 703           cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,
- 704           specified property owner, property owner's association, public utility, or the Department
- 705           of Transportation, if:
  - 706           (a) the entity's services or facilities are likely to require expansion or significant
  - 707               modification because of an intended use of land;

- 708 (b) the entity has filed with the county a copy of the entity's general or long-range plan;  
709 or
- 710 (c) the entity has filed with the county a request for notice during the same calendar year  
711 and before the county provides notice to an affected entity in compliance with a  
712 requirement imposed under this chapter.
- 713 (4) "Affected owner" means the owner of real property that is:
- 714 (a) a single project;
- 715 (b) the subject of a land use approval that sponsors of a referendum timely challenged in  
716 accordance with Subsection 20A-7-601(6); and
- 717 (c) determined to be legally referable under Section 20A-7-602.8.
- 718 (5) "Appeal authority" means the person, board, commission, agency, or other body  
719 designated by ordinance to decide an appeal of a decision of a land use application or a  
720 variance.
- 721 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or  
722 residential property if the sign is designed or intended to direct attention to a business,  
723 product, or service that is not sold, offered, or existing on the property where the sign is  
724 located.
- 725 (7) (a) "Charter school" means:
- 726 (i) an operating charter school;
- 727 (ii) a charter school applicant that a charter school authorizer approves in accordance  
728 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or
- 729 (iii) an entity that is working on behalf of a charter school or approved charter  
730 applicant to develop or construct a charter school building.
- 731 (b) "Charter school" does not include a therapeutic school.
- 732 (8) "Chief executive officer" means the person or body that exercises the executive powers  
733 of the county.
- 734 (9) "Conditional use" means a land use that, because of the unique characteristics or  
735 potential impact of the land use on the county, surrounding neighbors, or adjacent land  
736 uses, may not be compatible in some areas or may be compatible only if certain  
737 conditions are required that mitigate or eliminate the detrimental impacts.
- 738 (10) "Constitutional taking" means a governmental action that results in a taking of private  
739 property so that compensation to the owner of the property is required by the:
- 740 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
- 741 (b) Utah Constitution, Article I, Section 22.

- 742 (11) "County utility easement" means an easement that:
- 743 (a) a plat recorded in a county recorder's office described as a county utility easement or
- 744 otherwise as a utility easement;
- 745 (b) is not a protected utility easement or a public utility easement as defined in Section
- 746 54-3-27;
- 747 (c) the county or the county's affiliated governmental entity owns or creates; and
- 748 (d) (i) either:
- 749 (A) no person uses or occupies; or
- 750 (B) the county or the county's affiliated governmental entity uses and occupies to
- 751 provide a utility service, including sanitary sewer, culinary water, electrical,
- 752 storm water, or communications or data lines; or
- 753 (ii) a person uses or occupies with or without an authorized franchise or other
- 754 agreement with the county.
- 755 (12) "Culinary water authority" means the department, agency, or public entity with
- 756 responsibility to review and approve the feasibility of the culinary water system and
- 757 sources for the subject property.
- 758 (13) "Development activity" means:
- 759 (a) any construction or expansion of a building, structure, or use that creates additional
- 760 demand and need for public facilities;
- 761 (b) any change in use of a building or structure that creates additional demand and need
- 762 for public facilities; or
- 763 (c) any change in the use of land that creates additional demand and need for public
- 764 facilities.
- 765 (14) (a) "Development agreement" means a written agreement or amendment to a
- 766 written agreement between a county and one or more parties that regulates or controls
- 767 the use or development of a specific area of land.
- 768 (b) "Development agreement" does not include an improvement completion assurance.
- 769 (15) (a) "Disability" means a physical or mental impairment that substantially limits one
- 770 or more of a person's major life activities, including a person having a record of such
- 771 an impairment or being regarded as having such an impairment.
- 772 (b) "Disability" does not include current illegal use of, or addiction to, any federally
- 773 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21
- 774 U.S.C. Sec. 802.
- 775 (16) "Educational facility":

- 776 (a) means:
- 777 (i) a school district's building at which pupils assemble to receive instruction in a
- 778 program for any combination of grades from preschool through grade 12,
- 779 including kindergarten and a program for children with disabilities;
- 780 (ii) a structure or facility:
- 781 (A) located on the same property as a building described in Subsection (16)(a)(i);
- 782 and
- 783 (B) used in support of the use of that building; and
- 784 (iii) a building to provide office and related space to a school district's administrative
- 785 personnel; and
- 786 (b) does not include:
- 787 (i) land or a structure, including land or a structure for inventory storage, equipment
- 788 storage, food processing or preparing, vehicle storage or maintenance, or similar
- 789 use that is:
- 790 (A) not located on the same property as a building described in Subsection
- 791 (16)(a)(i); and
- 792 (B) used in support of the purposes of a building described in Subsection
- 793 (16)(a)(i); or
- 794 (ii) a therapeutic school.
- 795 (17) "Fire authority" means the department, agency, or public entity with responsibility to
- 796 review and approve the feasibility of fire protection and suppression services for the
- 797 subject property.
- 798 (18) "Flood plain" means land that:
- 799 (a) is within the 100-year flood plain designated by the Federal Emergency Management
- 800 Agency; or
- 801 (b) has not been studied or designated by the Federal Emergency Management Agency
- 802 but presents a likelihood of experiencing chronic flooding or a catastrophic flood
- 803 event because the land has characteristics that are similar to those of a 100-year flood
- 804 plain designated by the Federal Emergency Management Agency.
- 805 (19) "Gas corporation" has the same meaning as defined in Section 54-2-1.
- 806 (20) "General plan" means a document that a county adopts that sets forth general
- 807 guidelines for proposed future development of:
- 808 (a) the unincorporated land within the county; or
- 809 (b) for a mountainous planning district, the land within the mountainous planning



810 district.

811 (21) "Geologic hazard" means:

812 (a) a surface fault rupture;

813 (b) shallow groundwater;

814 (c) liquefaction;

815 (d) a landslide;

816 (e) a debris flow;

817 (f) unstable soil;

818 (g) a rock fall; or

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

820 (i) to life;

821 (ii) of substantial loss of real property; or

822 (iii) of substantial damage to real property.

823 (22) "Home-based microschool" means the same as that term is defined in Section

824 53G-6-201.

825 [~~(22)~~] (23) "Hookup fee" means a fee for the installation and inspection of any pipe, line,

826 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other

827 utility system.

828 [~~(23)~~] (24) "Identical plans" means building plans submitted to a county that:

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

830 (b) are substantially identical building plans that were previously submitted to and

831 reviewed and approved by the county; and

832 (c) describe a building that:

833 (i) is located on land zoned the same as the land on which the building described in

834 the previously approved plans is located;

835 (ii) is subject to the same geological and meteorological conditions and the same law

836 as the building described in the previously approved plans;

837 (iii) has a floor plan identical to the building plan previously submitted to and

838 reviewed and approved by the county; and

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

840 [~~(24)~~] (25) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,

841 Impact Fees Act.

842 [~~(25)~~] (26) "Improvement completion assurance" means a surety bond, letter of credit,

843 financial institution bond, cash, assignment of rights, lien, or other equivalent security

844 required by a county to guaranty the proper completion of landscaping or an  
845 infrastructure improvement required as a condition precedent to:

846 (a) recording a subdivision plat; or

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

848 [~~(26)~~] (27) "Improvement warranty" means an applicant's unconditional warranty that the  
849 applicant's installed and accepted landscaping or infrastructure improvement:

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

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

854 [~~(27)~~] (28) "Improvement warranty period" means a period:

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

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

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

860 (ii) has substantial evidence, on record:

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

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

865 [~~(28)~~] (29) "Infrastructure improvement" means permanent infrastructure that is essential for  
866 the public health and safety or that:

867 (a) is required for human consumption; and

868 (b) an applicant must install:

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

871 (ii) as a condition of:

872 (A) recording a subdivision plat;

873 (B) obtaining a building permit; or

874 (C) developing a commercial, industrial, mixed use, condominium, or multifamily  
875 project.

876 [~~(29)~~] (30) "Internal lot restriction" means a platted note, platted demarcation, or platted  
877 designation that:

- 878 (a) runs with the land; and
- 879 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
- 880 the plat; or
- 881 (ii) designates a development condition that is enclosed within the perimeter of a lot
- 882 described on the plat.
- 883 ~~[(30)]~~ (31) "Interstate pipeline company" means a person or entity engaged in natural gas
- 884 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission
- 885 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 886 ~~[(31)]~~ (32) "Intrastate pipeline company" means a person or entity engaged in natural gas
- 887 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
- 888 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 889 ~~[(32)]~~ (33) "Land use applicant" means a property owner, or the property owner's designee,
- 890 who submits a land use application regarding the property owner's land.
- 891 ~~[(33)]~~ (34) "Land use application":
- 892 (a) means an application that is:
- 893 (i) required by a county; and
- 894 (ii) submitted by a land use applicant to obtain a land use decision; and
- 895 (b) does not mean an application to enact, amend, or repeal a land use regulation.
- 896 ~~[(34)]~~ (35) "Land use authority" means:
- 897 (a) a person, board, commission, agency, or body, including the local legislative body,
- 898 designated by the local legislative body to act upon a land use application; or
- 899 (b) if the local legislative body has not designated a person, board, commission, agency,
- 900 or body, the local legislative body.
- 901 ~~[(35)]~~ (36) "Land use decision" means an administrative decision of a land use authority or
- 902 appeal authority regarding:
- 903 (a) a land use permit;
- 904 (b) a land use application; or
- 905 (c) the enforcement of a land use regulation, land use permit, or development agreement.
- 906 ~~[(36)]~~ (37) "Land use permit" means a permit issued by a land use authority.
- 907 ~~[(37)]~~ (38) "Land use regulation":
- 908 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
- 909 specification, fee, or rule that governs the use or development of land;
- 910 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
- 911 and

- 912 (c) does not include:
- 913 (i) a land use decision of the legislative body acting as the land use authority, even if
- 914 the decision is expressed in a resolution or ordinance; or
- 915 (ii) a temporary revision to an engineering specification that does not materially:
- 916 (A) increase a land use applicant's cost of development compared to the existing
- 917 specification; or
- 918 (B) impact a land use applicant's use of land.
- 919 ~~[(38)]~~ (39) "Legislative body" means the county legislative body, or for a county that has
- 920 adopted an alternative form of government, the body exercising legislative powers.
- 921 ~~[(39)]~~ (40) "Lot" means a tract of land, regardless of any label, that is created by and shown
- 922 on a subdivision plat that has been recorded in the office of the county recorder.
- 923 ~~[(40)]~~ (41) (a) "Lot line adjustment" means a relocation of a lot line boundary between
- 924 adjoining lots or between a lot and adjoining parcels in accordance with Section
- 925 17-27a-608:
- 926 (i) whether or not the lots are located in the same subdivision; and
- 927 (ii) with the consent of the owners of record.
- 928 (b) "Lot line adjustment" does not mean a new boundary line that:
- 929 (i) creates an additional lot; or
- 930 (ii) constitutes a subdivision or a subdivision amendment.
- 931 (c) "Lot line adjustment" does not include a boundary line adjustment made by the
- 932 Department of Transportation.
- 933 ~~[(41)]~~ (42) "Major transit investment corridor" means public transit service that uses or
- 934 occupies:
- 935 (a) public transit rail right-of-way;
- 936 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or
- 937 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
- 938 municipality or county and:
- 939 (i) a public transit district as defined in Section 17B-2a-802; or
- 940 (ii) an eligible political subdivision as defined in Section 59-12-2219.
- 941 (43) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.
- 942 ~~[(42)]~~ (44) "Moderate income housing" means housing occupied or reserved for occupancy
- 943 by households with a gross household income equal to or less than 80% of the median
- 944 gross income for households of the same size in the county in which the housing is
- 945 located.

946 ~~[(43)]~~ (45) "Mountainous planning district" means an area designated by a county legislative  
947 body in accordance with Section 17-27a-901.

948 ~~[(44)]~~ (46) "Nominal fee" means a fee that reasonably reimburses a county only for time  
949 spent and expenses incurred in:

- 950 (a) verifying that building plans are identical plans; and
- 951 (b) reviewing and approving those minor aspects of identical plans that differ from the  
952 previously reviewed and approved building plans.

953 ~~[(45)]~~ (47) "Noncomplying structure" means a structure that:

- 954 (a) legally existed before the structure's current land use designation; and
- 955 (b) because of one or more subsequent land use ordinance changes, does not conform to  
956 the setback, height restrictions, or other regulations, excluding those regulations that  
957 govern the use of land.

958 ~~[(46)]~~ (48) "Nonconforming use" means a use of land that:

- 959 (a) legally existed before the current land use designation;
- 960 (b) has been maintained continuously since the time the land use ordinance regulation  
961 governing the land changed; and
- 962 (c) because of one or more subsequent land use ordinance changes, does not conform to  
963 the regulations that now govern the use of the land.

964 ~~[(47)]~~ (49) "Official map" means a map drawn by county authorities and recorded in the  
965 county recorder's office that:

- 966 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for  
967 highways and other transportation facilities;
- 968 (b) provides a basis for restricting development in designated rights-of-way or between  
969 designated setbacks to allow the government authorities time to purchase or  
970 otherwise reserve the land; and
- 971 (c) has been adopted as an element of the county's general plan.

972 ~~[(48)]~~ (50) "Parcel" means any real property that is not a lot.

973 ~~[(49)]~~ (51) (a) "Parcel boundary adjustment" means a recorded agreement between  
974 owners of adjoining parcels adjusting the mutual boundary, either by deed or by a  
975 boundary line agreement in accordance with Section 17-27a-523, if no additional  
976 parcel is created and:

- 977 (i) none of the property identified in the agreement is a lot; or
  - 978 (ii) the adjustment is to the boundaries of a single person's parcels.
- 979 (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line

980 that:

981 (i) creates an additional parcel; or

982 (ii) constitutes a subdivision.

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

985 ~~[(50)]~~ (52) "Person" means an individual, corporation, partnership, organization,  
986 association, trust, governmental agency, or any other legal entity.

987 ~~[(51)]~~ (53) "Plan for moderate income housing" means a written document adopted by a  
988 county legislative body that includes:

989 (a) an estimate of the existing supply of moderate income housing located within the  
990 county;

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

993 (c) a survey of total residential land use;

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

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

998 ~~[(52)]~~ (54) "Planning advisory area" means a contiguous, geographically defined portion of  
999 the unincorporated area of a county established under this part with planning and zoning  
1000 functions as exercised through the planning advisory area planning commission, as  
1001 provided in this chapter, but with no legal or political identity separate from the county  
1002 and no taxing authority.

1003 ~~[(53)]~~ (55) "Plat" means an instrument subdividing property into lots as depicted on a map  
1004 or other graphical representation of lands that a licensed professional land surveyor  
1005 makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

1006 ~~[(54)]~~ (56) "Potential geologic hazard area" means an area that:

1007 (a) is designated by a Utah Geological Survey map, county geologist map, or other  
1008 relevant map or report as needing further study to determine the area's potential for  
1009 geologic hazard; or

1010 (b) has not been studied by the Utah Geological Survey or a county geologist but  
1011 presents the potential of geologic hazard because the area has characteristics similar  
1012 to those of a designated geologic hazard area.

1013 ~~[(55)]~~ (57) "Public agency" means:

- 1014 (a) the federal government;
- 1015 (b) the state;
- 1016 (c) a county, municipality, school district, special district, special service district, or
- 1017 other political subdivision of the state; or
- 1018 (d) a charter school.
- 1019 ~~[(56)]~~ (58) "Public hearing" means a hearing at which members of the public are provided a
- 1020 reasonable opportunity to comment on the subject of the hearing.
- 1021 ~~[(57)]~~ (59) "Public meeting" means a meeting that is required to be open to the public under
- 1022 Title 52, Chapter 4, Open and Public Meetings Act.
- 1023 ~~[(58)]~~ (60) "Public street" means a public right-of-way, including a public highway, public
- 1024 avenue, public boulevard, public parkway, public road, public lane, public alley, public
- 1025 viaduct, public subway, public tunnel, public bridge, public byway, other public
- 1026 transportation easement, or other public way.
- 1027 ~~[(59)]~~ (61) "Receiving zone" means an unincorporated area of a county that the county
- 1028 designates, by ordinance, as an area in which an owner of land may receive a
- 1029 transferable development right.
- 1030 ~~[(60)]~~ (62) "Record of survey map" means a map of a survey of land prepared in accordance
- 1031 with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.
- 1032 ~~[(61)]~~ (63) "Residential facility for persons with a disability" means a residence:
- 1033 (a) in which more than one person with a disability resides; and
- 1034 (b) which is licensed or certified by the Department of Health and Human Services
- 1035 under:
- 1036 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or
- 1037 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.
- 1038 ~~[(62)]~~ (64) "Residential roadway" means a public local residential road that:
- 1039 (a) will serve primarily to provide access to adjacent primarily residential areas and
- 1040 property;
- 1041 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;
- 1042 (c) is not identified as a supplementary to a collector or other higher system classified
- 1043 street in an approved municipal street or transportation master plan;
- 1044 (d) has a posted speed limit of 25 miles per hour or less;
- 1045 (e) does not have higher traffic volumes resulting from connecting previously separated
- 1046 areas of the municipal road network;
- 1047 (f) cannot have a primary access, but can have a secondary access, and does not abut lots

1048 intended for high volume traffic or community centers, including schools, recreation  
1049 centers, sports complexes, or libraries; and

1050 (g) primarily serves traffic within a neighborhood or limited residential area and is not  
1051 necessarily continuous through several residential areas.

1052 [~~(63)~~] (65) "Rules of order and procedure" means a set of rules that govern and prescribe in  
1053 a public meeting:

1054 (a) parliamentary order and procedure;

1055 (b) ethical behavior; and

1056 (c) civil discourse.

1057 [~~(64)~~] (66) "Sanitary sewer authority" means the department, agency, or public entity with  
1058 responsibility to review and approve the feasibility of sanitary sewer services or onsite  
1059 wastewater systems.

1060 [~~(65)~~] (67) "Sending zone" means an unincorporated area of a county that the county  
1061 designates, by ordinance, as an area from which an owner of land may transfer a  
1062 transferable development right.

1063 [~~(66)~~] (68) "Site plan" means a document or map that may be required by a county during a  
1064 preliminary review preceding the issuance of a building permit to demonstrate that an  
1065 owner's or developer's proposed development activity meets a land use requirement.

1066 [~~(67)~~] (69) (a) "Special district" means an entity under Title 17B, Limited Purpose Local  
1067 Government Entities - Special Districts.

1068 (b) "Special district" includes a governmental or quasi-governmental entity that is not a  
1069 county, municipality, school district, or the state.

1070 [~~(68)~~] (70) "Specified public agency" means:

1071 (a) the state;

1072 (b) a school district; or

1073 (c) a charter school.

1074 [~~(69)~~] (71) "Specified public utility" means an electrical corporation, gas corporation, or  
1075 telephone corporation, as those terms are defined in Section 54-2-1.

1076 [~~(70)~~] (72) "State" includes any department, division, or agency of the state.

1077 [~~(71)~~] (73) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to  
1078 be divided into two or more lots or other division of land for the purpose, whether  
1079 immediate or future, for offer, sale, lease, or development either on the installment  
1080 plan or upon any and all other plans, terms, and conditions.

1081 (b) "Subdivision" includes:



- 1082 (i) the division or development of land, whether by deed, metes and bounds  
1083 description, devise and testacy, map, plat, or other recorded instrument, regardless  
1084 of whether the division includes all or a portion of a parcel or lot; and
- 1085 (ii) except as provided in Subsection [~~(70)(e)~~] (73)(c), divisions of land for residential  
1086 and nonresidential uses, including land used or to be used for commercial,  
1087 agricultural, and industrial purposes.
- 1088 (c) "Subdivision" does not include:
- 1089 (i) a bona fide division or partition of agricultural land for agricultural purposes;
- 1090 (ii) a boundary line agreement recorded with the county recorder's office between  
1091 owners of adjoining parcels adjusting the mutual boundary in accordance with  
1092 Section 17-27a-523 if no new lot is created;
- 1093 (iii) a recorded document, executed by the owner of record:
- 1094 (A) revising the legal descriptions of multiple parcels into one legal description  
1095 encompassing all such parcels; or
- 1096 (B) joining a lot to a parcel;
- 1097 (iv) a bona fide division or partition of land in a county other than a first class county  
1098 for the purpose of siting, on one or more of the resulting separate parcels:
- 1099 (A) an electrical transmission line or a substation;
- 1100 (B) a natural gas pipeline or a regulation station; or
- 1101 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other  
1102 utility service regeneration, transformation, retransmission, or amplification  
1103 facility;
- 1104 (v) a boundary line agreement between owners of adjoining subdivided properties  
1105 adjusting the mutual lot line boundary in accordance with Sections 17-27a-523  
1106 and 17-27a-608 if:
- 1107 (A) no new dwelling lot or housing unit will result from the adjustment; and  
1108 (B) the adjustment will not violate any applicable land use ordinance;
- 1109 (vi) a bona fide division of land by deed or other instrument if the deed or other  
1110 instrument states in writing that the division:
- 1111 (A) is in anticipation of future land use approvals on the parcel or parcels;  
1112 (B) does not confer any land use approvals; and  
1113 (C) has not been approved by the land use authority;
- 1114 (vii) a parcel boundary adjustment;
- 1115 (viii) a lot line adjustment;

- 1116 (ix) a road, street, or highway dedication plat;
- 1117 (x) a deed or easement for a road, street, or highway purpose; or
- 1118 (xi) any other division of land authorized by law.
- 1119 ~~[(72)]~~ (74) (a) "Subdivision amendment" means an amendment to a recorded subdivision
- 1120 in accordance with Section 17-27a-608 that:
- 1121 (i) vacates all or a portion of the subdivision;
- 1122 (ii) alters the outside boundary of the subdivision;
- 1123 (iii) changes the number of lots within the subdivision;
- 1124 (iv) alters a public right-of-way, a public easement, or public infrastructure within the
- 1125 subdivision; or
- 1126 (v) alters a common area or other common amenity within the subdivision.
- 1127 (b) "Subdivision amendment" does not include a lot line adjustment, between a single lot
- 1128 and an adjoining lot or parcel, that alters the outside boundary of the subdivision.
- 1129 ~~[(73)]~~ (75) "Substantial evidence" means evidence that:
- 1130 (a) is beyond a scintilla; and
- 1131 (b) a reasonable mind would accept as adequate to support a conclusion.
- 1132 ~~[(74)]~~ (76) "Suspect soil" means soil that has:
- 1133 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
- 1134 3% swell potential;
- 1135 (b) bedrock units with high shrink or swell susceptibility; or
- 1136 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
- 1137 commonly associated with dissolution and collapse features.
- 1138 ~~[(75)]~~ (77) "Therapeutic school" means a residential group living facility:
- 1139 (a) for four or more individuals who are not related to:
- 1140 (i) the owner of the facility; or
- 1141 (ii) the primary service provider of the facility;
- 1142 (b) that serves students who have a history of failing to function:
- 1143 (i) at home;
- 1144 (ii) in a public school; or
- 1145 (iii) in a nonresidential private school; and
- 1146 (c) that offers:
- 1147 (i) room and board; and
- 1148 (ii) an academic education integrated with:
- 1149 (A) specialized structure and supervision; or

1150 (B) services or treatment related to a disability, an emotional development, a  
 1151 behavioral development, a familial development, or a social development.

1152 [(76)] (78) "Transferable development right" means a right to develop and use land that  
 1153 originates by an ordinance that authorizes a land owner in a designated sending zone to  
 1154 transfer land use rights from a designated sending zone to a designated receiving zone.

1155 [(77)] (79) "Unincorporated" means the area outside of the incorporated area of a  
 1156 municipality.

1157 [(78)] (80) "Water interest" means any right to the beneficial use of water, including:

1158 (a) each of the rights listed in Section 73-1-11; and

1159 (b) an ownership interest in the right to the beneficial use of water represented by:

1160 (i) a contract; or

1161 (ii) a share in a water company, as defined in Section 73-3-3.5.

1162 [(79)] (81) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts  
 1163 land use zones, overlays, or districts.

1164 Section 5. Section **17-27a-305** is amended to read:

1165 **17-27a-305 . Other entities required to conform to county's land use ordinances**

1166 **-- Exceptions -- School districts, charter schools, home-based microschools, and**

1167 **micro-education entities -- Submission of development plan and schedule.**

1168 (1) (a) Each county, municipality, school district, charter school, special district, special  
 1169 service district, and political subdivision of the state shall conform to any applicable  
 1170 land use ordinance of any county when installing, constructing, operating, or  
 1171 otherwise using any area, land, or building situated within a mountainous planning  
 1172 district or the unincorporated portion of the county, as applicable.

1173 (b) In addition to any other remedies provided by law, when a county's land use  
 1174 ordinance is violated or about to be violated by another political subdivision, that  
 1175 county may institute an injunction, mandamus, abatement, or other appropriate action  
 1176 or proceeding to prevent, enjoin, abate, or remove the improper installation,  
 1177 improvement, or use.

1178 (2) (a) Except as provided in Subsection (3), a school district or charter school is subject  
 1179 to a county's land use ordinances.

1180 (b) (i) Notwithstanding Subsection (3), a county may:

1181 (A) subject a charter school to standards within each zone pertaining to setback,  
 1182 height, bulk and massing regulations, off-site parking, curb cut, traffic  
 1183 circulation, and construction staging; and

- 1184 (B) impose regulations upon the location of a project that are necessary to avoid  
1185 unreasonable risks to health or safety, as provided in Subsection (3)(f).
- 1186 (ii) The standards to which a county may subject a charter school under Subsection  
1187 (2)(b)(i) shall be objective standards only and may not be subjective.
- 1188 (iii) Except as provided in Subsection (7)(d), the only basis upon which a county may  
1189 deny or withhold approval of a charter school's land use application is the charter  
1190 school's failure to comply with a standard imposed under Subsection (2)(b)(i).
- 1191 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of  
1192 an obligation to comply with a requirement of an applicable building or safety  
1193 code to which it is otherwise obligated to comply.
- 1194 (3) A county may not:
- 1195 (a) impose requirements for landscaping, fencing, aesthetic considerations, construction  
1196 methods or materials, additional building inspections, county building codes,  
1197 building use for educational purposes, or the placement or use of temporary  
1198 classroom facilities on school property;
- 1199 (b) except as otherwise provided in this section, require a school district or charter  
1200 school to participate in the cost of any roadway or sidewalk, or a study on the impact  
1201 of a school on a roadway or sidewalk, that is not reasonably necessary for the safety  
1202 of school children and not located on or contiguous to school property, unless the  
1203 roadway or sidewalk is required to connect an otherwise isolated school site to an  
1204 existing roadway;
- 1205 (c) require a district or charter school to pay fees not authorized by this section;
- 1206 (d) provide for inspection of school construction or assess a fee or other charges for  
1207 inspection, unless the school district or charter school is unable to provide for  
1208 inspection by an inspector, other than the project architect or contractor, who is  
1209 qualified under criteria established by the state superintendent;
- 1210 (e) require a school district or charter school to pay any impact fee for an improvement  
1211 project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact  
1212 Fees Act;
- 1213 (f) impose regulations upon the location of an educational facility except as necessary to  
1214 avoid unreasonable risks to health or safety; or
- 1215 (g) for a land use or a structure owned or operated by a school district or charter school  
1216 that is not an educational facility but is used in support of providing instruction to  
1217 pupils, impose a regulation that:

- 1218 (i) is not imposed on a similar land use or structure in the zone in which the land use  
 1219 or structure is approved; or
- 1220 (ii) uses the tax exempt status of the school district or charter school as criteria for  
 1221 prohibiting or regulating the land use or location of the structure.
- 1222 (4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the  
 1223 siting of a new school with the county in which the school is to be located, to:
- 1224 (a) avoid or mitigate existing and potential traffic hazards, including consideration of the  
 1225 impacts between the new school and future highways; and
- 1226 (b) maximize school, student, and site safety.
- 1227 (5) Notwithstanding Subsection (3)(d), a county may, at its discretion:
- 1228 (a) provide a walk-through of school construction at no cost and at a time convenient to  
 1229 the district or charter school; and
- 1230 (b) provide recommendations based upon the walk-through.
- 1231 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:
- 1232 (i) a county building inspector;
- 1233 (ii) (A) for a school district, a school district building inspector from that school  
 1234 district; or
- 1235 (B) for a charter school, a school district building inspector from the school  
 1236 district in which the charter school is located; or
- 1237 (iii) an independent, certified building inspector who is ~~[(A)]~~ not an employee of  
 1238 the contractor ~~[(B)]~~ , licensed to perform the inspection that the inspector is  
 1239 requested to perform, and approved by ~~[(H)]~~ a county building inspector ~~[(I)]~~ or ~~[(H)]~~ (A) [(Aa)] for a school district, a school district building inspector from  
 1240 that school district; or  
 1241 ~~[(C)] licensed to perform the inspection that the inspector is requested to perform.]~~  
 1242 ~~[(Bb)]~~ (B) for a charter school, a school district building inspector from the school  
 1243 district in which the charter school is located ~~[(J)] and~~ .
- 1244
- 1245 (b) The approval under Subsection ~~[(6)(a)(iii)(B)]~~ (6)(a)(iii) may not be unreasonably  
 1246 withheld.
- 1247 (c) If a school district or charter school uses a school district or independent building  
 1248 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall  
 1249 submit to the state superintendent of public instruction and county building official,  
 1250 on a monthly basis during construction of the school building, a copy of each  
 1251 inspection certificate regarding the school building.

- 1252 (7) (a) A charter school, home-based microschool, or micro-education entity shall be  
1253 considered a permitted use in all zoning districts within a county.
- 1254 (b) Each land use application for any approval required for a charter school, home-based  
1255 microschool, or micro-education entity, including an application for a building  
1256 permit, shall be processed on a first priority basis.
- 1257 (c) Parking requirements for a charter school or micro-education entity may not exceed  
1258 the minimum parking requirements for schools or other institutional public uses  
1259 throughout the county.
- 1260 (d) If a county has designated zones for a sexually oriented business, or a business which  
1261 sells alcohol, a charter school or micro-education entity may be prohibited from a  
1262 location which would otherwise defeat the purpose for the zone unless the charter  
1263 school or micro-education entity provides a waiver.
- 1264 (e) (i) A school district [~~or a~~] , charter school, or micro-education entity may seek a  
1265 certificate authorizing permanent occupancy of a school building from:
- 1266 (A) the state superintendent of public instruction, as provided in Subsection  
1267 53E-3-706(3), if the school district[~~or~~] , charter school, or micro-education  
1268 entity used an independent building inspector for inspection of the school  
1269 building; or
- 1270 (B) a county official with authority to issue the certificate, if the school district[~~or~~] ,  
1271 charter school, or micro-education entity used a county building inspector for  
1272 inspection of the school building.
- 1273 (ii) A school district may issue its own certificate authorizing permanent occupancy  
1274 of a school building if it used its own building inspector for inspection of the  
1275 school building, subject to the notification requirement of Subsection 53E-3-706  
1276 (3)(a)(ii).
- 1277 (iii) A charter school or micro-education entity may seek a certificate authorizing  
1278 permanent occupancy of a school building from a school district official with  
1279 authority to issue the certificate, if the charter school or micro-education entity  
1280 used a school district building inspector for inspection of the school building.
- 1281 (iv) A certificate authorizing permanent occupancy issued by the state superintendent  
1282 of public instruction under Subsection 53E-3-706(3) or a school district official  
1283 with authority to issue the certificate shall be considered to satisfy any county  
1284 requirement for an inspection or a certificate of occupancy.
- 1285 (f) (i) A micro-education entity may operate a facility that meets Group E Occupancy

- 1286 requirements as defined by the International Building Code, as incorporated by  
1287 Subsection 15A-2-103(1)(a).
- 1288 (ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i):  
1289 (A) may have up to 100 students in the facility; and  
1290 (B) shall have enough space for at least 20 net square feet per student;
- 1291 (g) A micro-education entity may operate a facility that is subject to and complies with  
1292 the same occupancy requirements as a Class B Occupancy as defined by the  
1293 International Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:
- 1294 (i) the facility has a code compliant fire alarm system and carbon monoxide detection  
1295 system;
- 1296 (ii) (A) each classroom in the facility has an exit directly to the outside at the level  
1297 of exit discharge; or  
1298 (B) the structure has a code compliant fire sprinkler system;
- 1299 (iii) the facility has an automatic fire sprinkler system in fire areas of the facility that  
1300 are greater than 12,000 square feet; and
- 1301 (iv) the facility has enough space for at least 20 net square feet per student.
- 1302 (h) (i) A home-based microschool is not subject to additional occupancy  
1303 requirements beyond occupancy requirements that apply to a primary dwelling,  
1304 except that the home-based microschool shall have enough space for at least 35  
1305 square feet per student.
- 1306 (ii) If a floor that is below grade in a home-based microschool is used for home-based  
1307 microschool purposes, the below grade floor of the home-based microschool shall  
1308 have at least one emergency escape or rescue window that complies with the  
1309 requirements for emergency escape and rescue windows as defined by the  
1310 International Residential Code, as incorporated in Section 15A-1-210.
- 1311 (8) (a) A specified public agency intending to develop its land shall submit to the land  
1312 use authority a development plan and schedule:
- 1313 (i) as early as practicable in the development process, but no later than the  
1314 commencement of construction; and
- 1315 (ii) with sufficient detail to enable the land use authority to assess:
- 1316 (A) the specified public agency's compliance with applicable land use ordinances;  
1317 (B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b),  
1318 (c), (d), (e), and (g) caused by the development;  
1319 (C) the amount of any applicable fee described in Section 17-27a-509;

- 1320 (D) any credit against an impact fee; and
- 1321 (E) the potential for waiving an impact fee.
- 1322 (b) The land use authority shall respond to a specified public agency's submission under
- 1323 Subsection (8)(a) with reasonable promptness in order to allow the specified public
- 1324 agency to consider information the municipality provides under Subsection (8)(a)(ii)
- 1325 in the process of preparing the budget for the development.
- 1326 (9) Nothing in this section may be construed to:
- 1327 (a) modify or supersede Section 17-27a-304; or
- 1328 (b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that fails
- 1329 to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing
- 1330 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with
- 1331 Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.
- 1332 (10) Nothing in Subsection (7) prevents a political subdivision from:
- 1333 (a) requiring a home-based microschool or micro-education entity to comply with local
- 1334 zoning and land use regulations that do not conflict with this section, including:
- 1335 (i) parking;
- 1336 (ii) traffic; and
- 1337 (iii) hours of operation;
- 1338 (b) requiring a home-based microschool or micro-education entity to obtain a business
- 1339 license;
- 1340 (c) enacting county ordinances and regulations consistent with this section;
- 1341 (d) subjecting a micro-education entity to standards within each zone pertaining to
- 1342 setback, height, bulk and massing regulations, off-site parking, curb cut, traffic
- 1343 circulation, and construction staging; and
- 1344 (e) imposing regulations on the location of a project that are necessary to avoid risks to
- 1345 health or safety.
- 1346 (11) Notwithstanding any other provision of law, the proximity restrictions that apply to
- 1347 community locations do not apply to a micro-education entity.
- 1348 Section 6. Section **32B-1-102** is amended to read:
- 1349 **32B-1-102 . Definitions.**
- 1350 As used in this title:
- 1351 (1) "Airport lounge" means a business location:
- 1352 (a) at which an alcoholic product is sold at retail for consumption on the premises; and
- 1353 (b) that is located at an international airport or domestic airport.



- 1354 (2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail  
1355 License Act, and Chapter 6, Part 5, Airport Lounge License.
- 1356 (3) "Alcoholic beverage" means the following:
- 1357 (a) beer; or
- 1358 (b) liquor.
- 1359 (4) (a) "Alcoholic product" means a product that:
- 1360 (i) contains at least .5% of alcohol by volume; and
- 1361 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other  
1362 process that uses liquid or combinations of liquids, whether drinkable or not, to  
1363 create alcohol in an amount equal to or greater than .5% of alcohol by volume.
- 1364 (b) "Alcoholic product" includes an alcoholic beverage.
- 1365 (c) "Alcoholic product" does not include any of the following common items that  
1366 otherwise come within the definition of an alcoholic product:
- 1367 (i) except as provided in Subsection (4)(d), an extract;
- 1368 (ii) vinegar;
- 1369 (iii) preserved nonintoxicating cider;
- 1370 (iv) essence;
- 1371 (v) tincture;
- 1372 (vi) food preparation; or
- 1373 (vii) an over-the-counter medicine.
- 1374 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation  
1375 when it is used as a flavoring in the manufacturing of an alcoholic product.
- 1376 (5) "Alcohol training and education seminar" means a seminar that is:
- 1377 (a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and
- 1378 (b) described in Section 26B-5-205.
- 1379 (6) "Arena" means an enclosed building:
- 1380 (a) that is managed by:
- 1381 (i) the same person who owns the enclosed building;
- 1382 (ii) a person who has a majority interest in each person who owns or manages a space  
1383 in the enclosed building; or
- 1384 (iii) a person who has authority to direct or exercise control over the management or  
1385 policy of each person who owns or manages a space in the enclosed building;
- 1386 (b) that operates as a venue; and
- 1387 (c) that has an occupancy capacity of at least 12,500.

- 1388 (7) "Arena license" means a license issued in accordance with Chapter 5, Retail License  
1389 Act, and Chapter 8c, Arena License Act.
- 1390 (8) "Banquet" means an event:
- 1391 (a) that is a private event or a privately sponsored event;
- 1392 (b) that is held at one or more designated locations approved by the commission in or on  
1393 the premises of:
- 1394 (i) a hotel;
- 1395 (ii) a resort facility;
- 1396 (iii) a sports center;
- 1397 (iv) a convention center;
- 1398 (v) a performing arts facility;
- 1399 (vi) an arena; or
- 1400 (vii) a restaurant venue;
- 1401 (c) for which there is a contract:
- 1402 (i) between a person operating a facility listed in Subsection (8)(b) and another  
1403 person that has common ownership of less than 20% with the person operating the  
1404 facility; and
- 1405 (ii) under which the person operating a facility listed in Subsection (8)(b) is required  
1406 to provide an alcoholic product at the event; and
- 1407 (d) at which food and alcoholic products may be sold, offered for sale, or furnished.
- 1408 (9) (a) "Bar establishment license" means a license issued in accordance with Chapter 5,  
1409 Retail License Act, and Chapter 6, Part 4, Bar Establishment License.
- 1410 (b) "Bar establishment license" includes:
- 1411 (i) a dining club license;
- 1412 (ii) an equity license;
- 1413 (iii) a fraternal license; or
- 1414 (iv) a bar license.
- 1415 (10) "Bar license" means a license issued in accordance with Chapter 5, Retail License Act,  
1416 and Chapter 6, Part 4, Bar Establishment License.
- 1417 (11) (a) "Beer" means a product that:
- 1418 (i) contains:
- 1419 (A) at least .5% of alcohol by volume; and
- 1420 (B) no more than 5% of alcohol by volume or 4% by weight;
- 1421 (ii) is obtained by fermentation, infusion, or decoction of:

- 1422 (A) malt; or  
1423 (B) a malt substitute; and  
1424 (iii) is clearly marketed, labeled, and identified as:  
1425 (A) beer;  
1426 (B) ale;  
1427 (C) porter;  
1428 (D) stout;  
1429 (E) lager;  
1430 (F) a malt;  
1431 (G) a malted beverage; or  
1432 (H) seltzer.
- 1433 (b) "Beer" may contain:  
1434 (i) hops extract;  
1435 (ii) caffeine, if the caffeine is a natural constituent of an added ingredient; or  
1436 (iii) a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that:  
1437 (A) is used in the production of beer;  
1438 (B) is in a formula approved by the federal Alcohol and Tobacco Tax and Trade  
1439 Bureau after the formula is filed for approval under 27 C.F.R. Sec. 25.55; and  
1440 (C) does not contribute more than 10% of the overall alcohol content of the beer.
- 1441 (c) "Beer" does not include:  
1442 (i) a flavored malt beverage;  
1443 (ii) a product that contains alcohol derived from:  
1444 (A) except as provided in Subsection (11)(b)(iii), spirituous liquor; or  
1445 (B) wine; or  
1446 (iii) a product that contains an additive masking or altering a physiological effect of  
1447 alcohol, including kratom, kava, cannabidiol, or natural or synthetic  
1448 tetrahydrocannabinol.
- 1449 (12) "Beer-only restaurant license" means a license issued in accordance with Chapter 5,  
1450 Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- 1451 (13) "Beer retailer" means a business that:  
1452 (a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for  
1453 consumption on or off the business premises; and  
1454 (b) is licensed as:  
1455 (i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise

- 1456 Beer Retailer Local Authority; or  
1457 (ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and  
1458 Chapter 6, Part 7, On-Premise Beer Retailer License.
- 1459 (14) "Beer wholesaling license" means a license:  
1460 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and  
1461 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail  
1462 licensees or off-premise beer retailers.
- 1463 (15) "Billboard" means a public display used to advertise, including:  
1464 (a) a light device;  
1465 (b) a painting;  
1466 (c) a drawing;  
1467 (d) a poster;  
1468 (e) a sign;  
1469 (f) a signboard; or  
1470 (g) a scoreboard.
- 1471 (16) "Brewer" means a person engaged in manufacturing:  
1472 (a) beer;  
1473 (b) heavy beer; or  
1474 (c) a flavored malt beverage.
- 1475 (17) "Brewery manufacturing license" means a license issued in accordance with Chapter  
1476 11, Part 5, Brewery Manufacturing License.
- 1477 (18) "Certificate of approval" means a certificate of approval obtained from the department  
1478 under Section 32B-11-201.
- 1479 (19) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a  
1480 bus company to a group of persons pursuant to a common purpose:  
1481 (a) under a single contract;  
1482 (b) at a fixed charge in accordance with the bus company's tariff; and  
1483 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other  
1484 motor vehicle, and a driver to travel together to one or more specified destinations.
- 1485 (20) "Church" means a building:  
1486 (a) set apart for worship;  
1487 (b) in which religious services are held;  
1488 (c) with which clergy is associated; and  
1489 (d) that is tax exempt under the laws of this state.

- 1490 (21) "Commission" means the Alcoholic Beverage Services Commission created in Section  
1491 32B-2-201.
- 1492 (22) "Commissioner" means a member of the commission.
- 1493 (23) "Community location" means:
- 1494 (a) a public or private school as defined in Subsection 32B-1-102(115);
- 1495 (b) a church;
- 1496 (c) a public library;
- 1497 (d) a public playground; or
- 1498 (e) a public park.
- 1499 (24) "Community location governing authority" means:
- 1500 (a) the governing body of the community location; or
- 1501 (b) if the commission does not know who is the governing body of a community  
1502 location, a person who appears to the commission to have been given on behalf of the  
1503 community location the authority to prohibit an activity at the community location.
- 1504 (25) "Container" means a receptacle that contains an alcoholic product, including:
- 1505 (a) a bottle;
- 1506 (b) a vessel; or
- 1507 (c) a similar item.
- 1508 (26) "Controlled group of manufacturers" means as the commission defines by rule made in  
1509 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1510 (27) "Convention center" means a facility that is:
- 1511 (a) in total at least 30,000 square feet; and
- 1512 (b) otherwise defined as a "convention center" by the commission by rule.
- 1513 (28) (a) "Counter" means a surface or structure in a dining area of a licensed premises  
1514 where seating is provided to a patron for service of food.
- 1515 (b) "Counter" does not include a dispensing structure.
- 1516 (29) "Crime involving moral turpitude" is as defined by the commission by rule.
- 1517 (30) "Department" means the Department of Alcoholic Beverage Services created in  
1518 Section 32B-2-203.
- 1519 (31) "Department compliance officer" means an individual who is:
- 1520 (a) an auditor or inspector; and
- 1521 (b) employed by the department.
- 1522 (32) "Department sample" means liquor that is placed in the possession of the department  
1523 for testing, analysis, and sampling.

- 1524 (33) "Dining club license" means a license issued in accordance with Chapter 5, Retail  
1525 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the  
1526 commission as a dining club license.
- 1527 (34) "Director," unless the context requires otherwise, means the director of the department.
- 1528 (35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:  
1529 (a) against a person subject to administrative action; and  
1530 (b) that is brought on the basis of a violation of this title.
- 1531 (36) (a) Subject to Subsection (36)(b), "dispense" means:  
1532 (i) drawing an alcoholic product; and  
1533 (ii) using the alcoholic product at the location from which it was drawn to mix or  
1534 prepare an alcoholic product to be furnished to a patron of the retail licensee.
- 1535 (b) The definition of "dispense" in this Subsection (36) applies only to:  
1536 (i) a full-service restaurant license;  
1537 (ii) a limited-service restaurant license;  
1538 (iii) a reception center license;  
1539 (iv) a beer-only restaurant license;  
1540 (v) a bar license;  
1541 (vi) an on-premise beer retailer;  
1542 (vii) an airport lounge license;  
1543 (viii) an on-premise banquet license; and  
1544 (ix) a hospitality amenity license.
- 1545 (37) "Dispensing structure" means a surface or structure on a licensed premises:  
1546 (a) where an alcoholic product is dispensed; or  
1547 (b) from which an alcoholic product is served.
- 1548 (38) "Distillery manufacturing license" means a license issued in accordance with Chapter  
1549 11, Part 4, Distillery Manufacturing License.
- 1550 (39) "Distressed merchandise" means an alcoholic product in the possession of the  
1551 department that is saleable, but for some reason is unappealing to the public.
- 1552 (40) "Domestic airport" means an airport that:  
1553 (a) has at least 15,000 commercial airline passenger boardings in any five-year period;  
1554 (b) receives scheduled commercial passenger aircraft service; and  
1555 (c) is not an international airport.
- 1556 (41) "Equity license" means a license issued in accordance with Chapter 5, Retail License  
1557 Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the

- 1558 commission as an equity license.
- 1559 (42) "Event permit" means:
- 1560 (a) a single event permit; or
- 1561 (b) a temporary beer event permit.
- 1562 (43) "Exempt license" means a license exempt under Section 32B-1-201 from being
- 1563 considered in determining the total number of retail licenses that the commission may
- 1564 issue at any time.
- 1565 (44) (a) "Flavored malt beverage" means a beverage:
- 1566 (i) that contains at least .5% alcohol by volume;
- 1567 (ii) for which the producer is required to file a formula for approval with the federal
- 1568 Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because
- 1569 the beverage is treated by processing, filtration, or another method of manufacture
- 1570 that is not generally recognized as a traditional process in the production of a beer,
- 1571 ale, porter, stout, lager, or malt liquor; and
- 1572 (iii) for which the producer is required to file a formula for approval with the federal
- 1573 Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because
- 1574 the beverage includes an ingredient containing alcohol.
- 1575 (b) "Flavored malt beverage" may contain a propylene glycol-, ethyl alcohol-, or
- 1576 ethanol-based flavoring agent that contributes to the overall alcohol content of the
- 1577 beverage.
- 1578 (c) "Flavored malt beverage" does not include beer or heavy beer.
- 1579 (d) "Flavored malt beverage" is considered liquor for purposes of this title.
- 1580 (45) "Fraternal license" means a license issued in accordance with Chapter 5, Retail License
- 1581 Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
- 1582 commission as a fraternal license.
- 1583 (46) "Full-service restaurant license" means a license issued in accordance with Chapter 5,
- 1584 Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.
- 1585 (47) (a) "Furnish" means by any means to provide with, supply, or give an individual an
- 1586 alcoholic product, by sale or otherwise.
- 1587 (b) "Furnish" includes to:
- 1588 (i) serve;
- 1589 (ii) deliver; or
- 1590 (iii) otherwise make available.
- 1591 (48) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

- 1592 (49) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.
- 1593 (50) "Health care practitioner" means:
- 1594 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- 1595 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
- 1596 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 1597 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice
- 1598 Act;
- 1599 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,
- 1600 Nurse Practice Act;
- 1601 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy
- 1602 Practice Act;
- 1603 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
- 1604 Therapy Practice Act;
- 1605 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
- 1606 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health
- 1607 Professional Practice Act;
- 1608 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
- 1609 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice
- 1610 Act;
- 1611 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental
- 1612 Hygienist Practice Act; and
- 1613 (m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
- 1614 Act.
- 1615 (51) (a) "Heavy beer" means a product that:
- 1616 (i) (A) contains more than 5% alcohol by volume;
- 1617 (B) contains at least .5% of alcohol by volume and no more than 5% of alcohol by
- 1618 volume or 4% by weight, and a propylene glycol-, ethyl alcohol-, or
- 1619 ethanol-based flavoring agent that contributes more than 10% of the overall
- 1620 alcohol content of the product; or
- 1621 (C) contains at least .5% of alcohol by volume and no more than 5% of alcohol by
- 1622 volume or 4% by weight, and has a label or packaging that is rejected under
- 1623 Subsection 32B-1-606(3)(b); and
- 1624 (ii) is obtained by fermentation, infusion, or decoction of:
- 1625 (A) malt; or



- 1626 (B) a malt substitute.
- 1627 (b) "Heavy beer" may, if the heavy beer contains more than 5% alcohol by volume,  
1628 contain a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that  
1629 contributes to the overall alcohol content of the heavy beer.
- 1630 (c) "Heavy beer" does not include:
- 1631 (i) a flavored malt beverage;
- 1632 (ii) a product that contains alcohol derived from:
- 1633 (A) except as provided in Subsections (51)(a)(i)(B) and (51)(b), spirituous liquor;  
1634 or
- 1635 (B) wine; or
- 1636 (iii) a product that contains an additive masking or altering a physiological effect of  
1637 alcohol, including kratom, kava, cannabidiol, or natural or synthetic  
1638 tetrahydrocannabinol.
- 1639 (d) "Heavy beer" is considered liquor for the purposes of this title.
- 1640 (52) "Hospitality amenity license" means a license issued in accordance with Chapter 5,  
1641 Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.
- 1642 (53) (a) "Hotel" means a commercial lodging establishment that:
- 1643 (i) offers at least 40 rooms as temporary sleeping accommodations for compensation;
- 1644 (ii) is capable of hosting conventions, conferences, and food and beverage functions  
1645 under a banquet contract; and
- 1646 (iii) (A) has adequate kitchen or culinary facilities on the premises to provide  
1647 complete meals;
- 1648 (B) has at least 1,000 square feet of function space consisting of meeting or dining  
1649 rooms that can be reserved for a banquet and can accommodate at least 75  
1650 individuals; or
- 1651 (C) if the establishment is located in a small or unincorporated locality, has an  
1652 appropriate amount of function space consisting of meeting or dining rooms  
1653 that can be reserved for private use under a banquet contract, as determined by  
1654 the commission.
- 1655 (b) "Hotel" includes a commercial lodging establishment that:
- 1656 (i) meets the requirements under Subsection (53)(a); and
- 1657 (ii) has one or more privately owned dwelling units.
- 1658 (54) "Hotel license" means a license issued in accordance with Chapter 5, Retail License  
1659 Act, and Chapter 8b, Hotel License Act.

- 1660 (55) "Identification card" means an identification card issued under Title 53, Chapter 3, Part  
1661 8, Identification Card Act.
- 1662 (56) "Industry representative" means an individual who is compensated by salary,  
1663 commission, or other means for representing and selling an alcoholic product of a  
1664 manufacturer, supplier, or importer of liquor.
- 1665 (57) "Industry representative sample" means liquor that is placed in the possession of the  
1666 department for testing, analysis, and sampling by a local industry representative on the  
1667 premises of the department to educate the local industry representative of the quality and  
1668 characteristics of the product.
- 1669 (58) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of  
1670 an alcoholic product is prohibited by:
- 1671 (a) law; or  
1672 (b) court order.
- 1673 (59) "International airport" means an airport:
- 1674 (a) with a United States Customs and Border Protection office on the premises of the  
1675 airport; and  
1676 (b) at which international flights may enter and depart.
- 1677 (60) "Intoxicated" or "intoxication" means that  
1678 an individual exhibits plain and easily observable outward manifestations of behavior or  
1679 physical signs produced by or as a result of the use of:
- 1680 (a) an alcoholic product;  
1681 (b) a controlled substance;  
1682 (c) a substance having the property of releasing toxic vapors; or  
1683 (d) a combination of products or substances described in Subsections (60)(a) through (c).
- 1684 (61) "Investigator" means an individual who is:
- 1685 (a) a department compliance officer; or  
1686 (b) a nondepartment enforcement officer.
- 1687 (62) "License" means:
- 1688 (a) a retail license;  
1689 (b) a sublicense;  
1690 (c) a license issued in accordance with Chapter 7, Part 4, Off-premise Beer Retailer State  
1691 License;  
1692 (d) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses  
1693 Act;

- 1694 (e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;  
1695 (f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or  
1696 (g) a license issued in accordance with Chapter 17, Liquor Transport License Act.
- 1697 (63) "Licensee" means a person who holds a license.
- 1698 (64) "Limited-service restaurant license" means a license issued in accordance with Chapter  
1699 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.
- 1700 (65) "Limousine" means a motor vehicle licensed by the state or a local authority, other  
1701 than a bus or taxicab:  
1702 (a) in which the driver and a passenger are separated by a partition, glass, or other  
1703 barrier;  
1704 (b) that is provided by a business entity to one or more individuals at a fixed charge in  
1705 accordance with the business entity's tariff; and  
1706 (c) to give the one or more individuals the exclusive use of the limousine and a driver to  
1707 travel to one or more specified destinations.
- 1708 (66) (a) (i) "Liquor" means a liquid that:  
1709 (A) is:  
1710 (I) alcohol;  
1711 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;  
1712 (III) a combination of liquids a part of which is spirituous, vinous, or  
1713 fermented; or  
1714 (IV) other drink or drinkable liquid; and  
1715 (B) (I) contains at least .5% alcohol by volume; and  
1716 (II) is suitable to use for beverage purposes.
- 1717 (ii) "Liquor" includes:  
1718 (A) heavy beer;  
1719 (B) wine; and  
1720 (C) a flavored malt beverage.
- 1721 (b) "Liquor" does not include beer.
- 1722 (67) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.
- 1723 (68) "Liquor transport license" means a license issued in accordance with Chapter 17,  
1724 Liquor Transport License Act.
- 1725 (69) "Liquor warehousing license" means a license that is issued:  
1726 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and  
1727 (b) to a person, other than a licensed manufacturer, who engages in the importation for

- 1728 storage, sale, or distribution of liquor regardless of amount.
- 1729 (70) "Local authority" means:
- 1730 (a) for premises that are located in an unincorporated area of a county, the governing
- 1731 body of a county;
- 1732 (b) for premises that are located in an incorporated city, town, or metro township, the
- 1733 governing body of the city, town, or metro township; or
- 1734 (c) for premises that are located in a project area as defined in Section 63H-1-102 and in
- 1735 a project area plan adopted by the Military Installation Development Authority under
- 1736 Title 63H, Chapter 1, Military Installation Development Authority Act, the Military
- 1737 Installation Development Authority.
- 1738 (71) "Lounge or bar area" is as defined by rule made by the commission.
- 1739 (72) "Malt substitute" means:
- 1740 (a) rice;
- 1741 (b) grain;
- 1742 (c) bran;
- 1743 (d) glucose;
- 1744 (e) sugar; or
- 1745 (f) molasses.
- 1746 (73) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or
- 1747 otherwise make an alcoholic product for personal use or for sale or distribution to others.
- 1748 (74) "Member" means an individual who, after paying regular dues, has full privileges in an
- 1749 equity licensee or fraternal licensee.
- 1750 (75) (a) "Military installation" means a base, air field, camp, post, station, yard, center,
- 1751 or homeport facility for a ship:
- 1752 (i) (A) under the control of the United States Department of Defense; or
- 1753 (B) of the National Guard;
- 1754 (ii) that is located within the state; and
- 1755 (iii) including a leased facility.
- 1756 (b) "Military installation" does not include a facility used primarily for:
- 1757 (i) civil works;
- 1758 (ii) a rivers and harbors project; or
- 1759 (iii) a flood control project.
- 1760 (76) "Minibar" means an area of a hotel guest room where one or more alcoholic products
- 1761 are kept and offered for self-service sale or consumption.

- 1762 (77) "Minor" means an individual under 21 years old.
- 1763 (78) "Nondepartment enforcement agency" means an agency that:
- 1764 (a) (i) is a state agency other than the department; or
- 1765 (ii) is an agency of a county, city, town, or metro township; and
- 1766 (b) has a responsibility to enforce one or more provisions of this title.
- 1767 (79) "Nondepartment enforcement officer" means an individual who is:
- 1768 (a) a peace officer, examiner, or investigator; and
- 1769 (b) employed by a nondepartment enforcement agency.
- 1770 (80) (a) "Off-premise beer retailer" means a beer retailer who is:
- 1771 (i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and
- 1772 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
- 1773 premises.
- 1774 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 1775 (81) "Off-premise beer retailer state license" means a state license issued in accordance
- 1776 with Chapter 7, Part 4, Off-premise Beer Retailer State License.
- 1777 (82) "On-premise banquet license" means a license issued in accordance with Chapter 5,
- 1778 Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.
- 1779 (83) "On-premise beer retailer" means a beer retailer who is:
- 1780 (a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance
- 1781 with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer
- 1782 License; and
- 1783 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
- 1784 premises:
- 1785 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
- 1786 premises; and
- 1787 (ii) on and after March 1, 2012, operating:
- 1788 (A) as a tavern; or
- 1789 (B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).
- 1790 (84) "Opaque" means impenetrable to sight.
- 1791 (85) "Package agency" means a retail liquor location operated:
- 1792 (a) under an agreement with the department; and
- 1793 (b) by a person:
- 1794 (i) other than the state; and
- 1795 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6,

1796 Package Agency, to sell packaged liquor for consumption off the premises of the  
1797 package agency.

1798 (86) "Package agent" means a person who holds a package agency.

1799 (87) "Patron" means an individual to whom food, beverages, or services are sold, offered  
1800 for sale, or furnished, or who consumes an alcoholic product including:

1801 (a) a customer;

1802 (b) a member;

1803 (c) a guest;

1804 (d) an attendee of a banquet or event;

1805 (e) an individual who receives room service;

1806 (f) a resident of a resort; or

1807 (g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity  
1808 license.

1809 (88) (a) "Performing arts facility" means a multi-use performance space that:

1810 (i) is primarily used to present various types of performing arts, including dance,  
1811 music, and theater;

1812 (ii) contains over 2,500 seats;

1813 (iii) is owned and operated by a governmental entity; and

1814 (iv) is located in a city of the first class.

1815 (b) "Performing arts facility" does not include a space that is used to present sporting  
1816 events or sporting competitions.

1817 (89) "Permittee" means a person issued a permit under:

1818 (a) Chapter 9, Event Permit Act; or

1819 (b) Chapter 10, Special Use Permit Act.

1820 (90) "Person subject to administrative action" means:

1821 (a) a licensee;

1822 (b) a permittee;

1823 (c) a manufacturer;

1824 (d) a supplier;

1825 (e) an importer;

1826 (f) one of the following holding a certificate of approval:

1827 (i) an out-of-state brewer;

1828 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

1829 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

- 1830 (g) staff of:
- 1831 (i) a person listed in Subsections (90)(a) through (f); or
- 1832 (ii) a package agent.
- 1833 (91) "Premises" means a building, enclosure, or room used in connection with the storage,
- 1834 sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,
- 1835 unless otherwise defined in this title or rules made by the commission.
- 1836 (92) "Prescription" means an order issued by a health care practitioner when:
- 1837 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
- 1838 to prescribe a controlled substance, other drug, or device for medicinal purposes;
- 1839 (b) the order is made in the course of that health care practitioner's professional practice;
- 1840 and
- 1841 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- 1842 (93) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.
- 1843 (b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.
- 1844 (94) "Principal license" means:
- 1845 (a) a resort license;
- 1846 (b) a hotel license; or
- 1847 (c) an arena license.
- 1848 (95) (a) "Private event" means a specific social, business, or recreational event:
- 1849 (i) for which an entire room, area, or hall is leased or rented in advance by an
- 1850 identified group; and
- 1851 (ii) that is limited in attendance to people who are specifically designated and their
- 1852 guests.
- 1853 (b) "Private event" does not include an event to which the general public is invited,
- 1854 whether for an admission fee or not.
- 1855 (96) "Privately sponsored event" means a specific social, business, or recreational event:
- 1856 (a) that is held in or on the premises of an on-premise banquet licensee; and
- 1857 (b) to which entry is restricted by an admission fee.
- 1858 (97) (a) "Proof of age" means:
- 1859 (i) an identification card;
- 1860 (ii) an identification that:
- 1861 (A) is substantially similar to an identification card;
- 1862 (B) is issued in accordance with the laws of a state other than Utah in which the
- 1863 identification is issued;

- 1864 (C) includes date of birth; and  
 1865 (D) has a picture affixed;  
 1866 (iii) a valid driver license certificate that:  
 1867 (A) includes date of birth;  
 1868 (B) has a picture affixed; and  
 1869 (C) is issued[;]  
 1870 [~~(H)~~] under Title 53, Chapter 3, Uniform Driver License Act[;]  
 1871 [~~(H)~~] in accordance with the laws of the state in which it is issued[;], or  
 1872 [~~(H)~~] in accordance with federal law by the United States Department of State;  
 1873 (iv) a military identification card that:  
 1874 (A) includes date of birth; and  
 1875 (B) has a picture affixed; or  
 1876 (v) a valid passport.  
 1877 (b) "Proof of age" does not include a driving privilege card issued in accordance with  
 1878 Section 53-3-207.  
 1879 (98) "Provisions applicable to a sublicense" means:  
 1880 (a) for a full-service restaurant sublicense, the provisions applicable to a full-service  
 1881 restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;  
 1882 (b) for a limited-service restaurant sublicense, the provisions applicable to a  
 1883 limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant  
 1884 License;  
 1885 (c) for a bar establishment sublicense, the provisions applicable to a bar establishment  
 1886 license under Chapter 6, Part 4, Bar Establishment License;  
 1887 (d) for an on-premise banquet sublicense, the provisions applicable to an on-premise  
 1888 banquet license under Chapter 6, Part 6, On-Premise Banquet License;  
 1889 (e) for an on-premise beer retailer sublicense, the provisions applicable to an on-premise  
 1890 beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;  
 1891 (f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only  
 1892 restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;  
 1893 (g) for a hospitality amenity license, the provisions applicable to a hospitality amenity  
 1894 license under Chapter 6, Part 10, Hospitality Amenity License; and  
 1895 (h) for a spa sublicense, the provisions applicable to the sublicense under Chapter 8d,  
 1896 Part 2, Resort Spa Sublicense.  
 1897 (99) (a) "Public building" means a building or permanent structure that is:



- 1898 (i) owned or leased by:
- 1899 (A) the state; or
- 1900 (B) a local government entity; and
- 1901 (ii) used for:
- 1902 (A) public education;
- 1903 (B) transacting public business; or
- 1904 (C) regularly conducting government activities.
- 1905 (b) "Public building" does not include a building owned by the state or a local
- 1906 government entity when the building is used by a person, in whole or in part, for a
- 1907 proprietary function.
- 1908 (100) "Public conveyance" means a conveyance that the public or a portion of the public
- 1909 has access to and a right to use for transportation, including an airline, railroad, bus,
- 1910 boat, or other public conveyance.
- 1911 (101) "Reception center" means a business that:
- 1912 (a) operates facilities that are at least 5,000 square feet; and
- 1913 (b) has as its primary purpose the leasing of the facilities described in Subsection
- 1914 (101)(a) to a third party for the third party's event.
- 1915 (102) "Reception center license" means a license issued in accordance with Chapter 5,
- 1916 Retail License Act, and Chapter 6, Part 8, Reception Center License.
- 1917 (103) (a) "Record" means information that is:
- 1918 (i) inscribed on a tangible medium; or
- 1919 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.
- 1920 (b) "Record" includes:
- 1921 (i) a book;
- 1922 (ii) a book of account;
- 1923 (iii) a paper;
- 1924 (iv) a contract;
- 1925 (v) an agreement;
- 1926 (vi) a document; or
- 1927 (vii) a recording in any medium.
- 1928 (104) "Residence" means a person's principal place of abode within Utah.
- 1929 (105) "Resident," in relation to a resort, means the same as that term is defined in Section
- 1930 32B-8-102.
- 1931 (106) "Resort" means the same as that term is defined in Section 32B-8-102.

- 1932 (107) "Resort facility" is as defined by the commission by rule.
- 1933 (108) "Resort license" means a license issued in accordance with Chapter 5, Retail License  
1934 Act, and Chapter 8, Resort License Act.
- 1935 (109) "Responsible alcohol service plan" means a written set of policies and procedures that  
1936 outlines measures to prevent employees from:
- 1937 (a) over-serving alcoholic beverages to customers;
- 1938 (b) serving alcoholic beverages to customers who are actually, apparently, or obviously  
1939 intoxicated; and
- 1940 (c) serving alcoholic beverages to minors.
- 1941 (110) "Restaurant" means a business location:
- 1942 (a) at which a variety of foods are prepared;
- 1943 (b) at which complete meals are served; and
- 1944 (c) that is engaged primarily in serving meals.
- 1945 (111) "Restaurant license" means one of the following licenses issued under this title:
- 1946 (a) a full-service restaurant license;
- 1947 (b) a limited-service restaurant license; or
- 1948 (c) a beer-only restaurant license.
- 1949 (112) "Restaurant venue" means a room within a restaurant that:
- 1950 (a) is located on the licensed premises of a restaurant licensee;
- 1951 (b) is separated from the area within the restaurant for a patron's consumption of food by  
1952 a permanent, opaque, floor-to-ceiling wall such that the inside of the room is not  
1953 visible to a patron in the area within the restaurant for a patron's consumption of  
1954 food; and
- 1955 (c) (i) has at least 1,000 square feet that:
- 1956 (A) may be reserved for a banquet; and
- 1957 (B) accommodates at least 75 individuals; or
- 1958 (ii) if the restaurant is located in a small or unincorporated locality, has an  
1959 appropriate amount of space, as determined by the commission, that may be  
1960 reserved for a banquet.
- 1961 (113) "Retail license" means one of the following licenses issued under this title:
- 1962 (a) a full-service restaurant license;
- 1963 (b) a master full-service restaurant license;
- 1964 (c) a limited-service restaurant license;
- 1965 (d) a master limited-service restaurant license;

- 1966 (e) a bar establishment license;
- 1967 (f) an airport lounge license;
- 1968 (g) an on-premise banquet license;
- 1969 (h) an on-premise beer license;
- 1970 (i) a reception center license;
- 1971 (j) a beer-only restaurant license;
- 1972 (k) a hospitality amenity license;
- 1973 (l) a resort license;
- 1974 (m) a hotel license; or
- 1975 (n) an arena license.
- 1976 (114) "Room service" means furnishing an alcoholic product to a person in a guest room or
- 1977 privately owned dwelling unit of a:
- 1978 (a) hotel; or
- 1979 (b) resort facility.
- 1980 (115) (a) "School" means a building in which any part is used for more than three hours
- 1981 each weekday during a school year as a public or private:
- 1982 (i) elementary school;
- 1983 (ii) secondary school; or
- 1984 (iii) kindergarten.
- 1985 (b) "School" does not include:
- 1986 (i) a nursery school;
- 1987 (ii) a day care center;
- 1988 (iii) a trade and technical school;
- 1989 (iv) a preschool;[-or]
- 1990 (v) a home school[-] ;
- 1991 (vi) a home-based microschool as defined in Section 53G-6-201; or
- 1992 (vii) a micro-education entity as defined in Section 53G-6-201.
- 1993 (116) "Secondary flavoring ingredient" means any spirituous liquor added to a beverage for
- 1994 additional flavoring that is different in type, flavor, or brand from the primary spirituous
- 1995 liquor in the beverage.
- 1996 (117) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for
- 1997 consideration, an alcoholic product is either directly or indirectly transferred, solicited,
- 1998 ordered, delivered for value, or by a means or under a pretext is promised or obtained,
- 1999 whether done by a person as a principal, proprietor, or as staff, unless otherwise defined

- 2000 in this title or the rules made by the commission.
- 2001 (118) "Serve" means to place an alcoholic product before an individual.
- 2002 (119) "Sexually oriented entertainer" means a person who while in a state of seminudity
- 2003 appears at or performs:
- 2004 (a) for the entertainment of one or more patrons;
- 2005 (b) on the premises of:
- 2006 (i) a bar licensee; or
- 2007 (ii) a tavern;
- 2008 (c) on behalf of or at the request of the licensee described in Subsection (119)(b);
- 2009 (d) on a contractual or voluntary basis; and
- 2010 (e) whether or not the person is designated as:
- 2011 (i) an employee;
- 2012 (ii) an independent contractor;
- 2013 (iii) an agent of the licensee; or
- 2014 (iv) a different type of classification.
- 2015 (120) "Shared seating area" means the licensed premises of two or more restaurant
- 2016 licensees that the restaurant licensees share as an area for alcoholic beverage
- 2017 consumption in accordance with Subsection 32B-5-207(3).
- 2018 (121) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3,
- 2019 Single Event Permit.
- 2020 (122) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer,
- 2021 heavy beer, and flavored malt beverage per year, as the department calculates by:
- 2022 (a) if the brewer is part of a controlled group of manufacturers, including the combined
- 2023 volume totals of production for all breweries that constitute the controlled group of
- 2024 manufacturers; and
- 2025 (b) excluding beer, heavy beer, or flavored malt beverage the brewer:
- 2026 (i) manufactures that is unfit for consumption as, or in, a beverage, as the commission
- 2027 determines by rule made in accordance with Title 63G, Chapter 3, Utah
- 2028 Administrative Rulemaking Act; and
- 2029 (ii) does not sell for consumption as, or in, a beverage.
- 2030 (123) "Small or unincorporated locality" means:
- 2031 (a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;
- 2032 (b) a town, as classified under Section 10-2-301; or
- 2033 (c) an unincorporated area in a county of the third, fourth, or fifth class, as classified

- 2034 under Section 17-50-501.
- 2035 (124) "Spa sublicense" means a sublicense:
- 2036 (a) to a resort license or hotel license; and
- 2037 (b) that the commission issues in accordance with Chapter 8d, Part 2, Resort Spa
- 2038 Sublicense.
- 2039 (125) "Special use permit" means a permit issued in accordance with Chapter 10, Special
- 2040 Use Permit Act.
- 2041 (126) (a) "Spirituous liquor" means liquor that is distilled.
- 2042 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27
- 2043 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.
- 2044 (127) "Sports center" is as defined by the commission by rule.
- 2045 (128) (a) "Staff" means an individual who engages in activity governed by this title:
- 2046 (i) on behalf of a business, including a package agent, licensee, permittee, or
- 2047 certificate holder;
- 2048 (ii) at the request of the business, including a package agent, licensee, permittee, or
- 2049 certificate holder; or
- 2050 (iii) under the authority of the business, including a package agent, licensee,
- 2051 permittee, or certificate holder.
- 2052 (b) "Staff" includes:
- 2053 (i) an officer;
- 2054 (ii) a director;
- 2055 (iii) an employee;
- 2056 (iv) personnel management;
- 2057 (v) an agent of the licensee, including a managing agent;
- 2058 (vi) an operator; or
- 2059 (vii) a representative.
- 2060 (129) "State of nudity" means:
- 2061 (a) the appearance of:
- 2062 (i) the nipple or areola of a female human breast;
- 2063 (ii) a human genital;
- 2064 (iii) a human pubic area; or
- 2065 (iv) a human anus; or
- 2066 (b) a state of dress that fails to opaquely cover:
- 2067 (i) the nipple or areola of a female human breast;

- 2068 (ii) a human genital;  
2069 (iii) a human pubic area; or  
2070 (iv) a human anus.
- 2071 (130) "State of seminudity" means a state of dress in which opaque clothing covers no more  
2072 than:  
2073 (a) the nipple and areola of the female human breast in a shape and color other than the  
2074 natural shape and color of the nipple and areola; and  
2075 (b) the human genitals, pubic area, and anus:  
2076 (i) with no less than the following at its widest point:  
2077 (A) four inches coverage width in the front of the human body; and  
2078 (B) five inches coverage width in the back of the human body; and  
2079 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 2080 (131) (a) "State store" means a facility for the sale of packaged liquor:  
2081 (i) located on premises owned or leased by the state; and  
2082 (ii) operated by a state employee.  
2083 (b) "State store" does not include:  
2084 (i) a package agency;  
2085 (ii) a licensee; or  
2086 (iii) a permittee.
- 2087 (132) (a) "Storage area" means an area on licensed premises where the licensee stores an  
2088 alcoholic product.  
2089 (b) "Store" means to place or maintain in a location an alcoholic product.
- 2090 (133) "Sublicense" means:  
2091 (a) any of the following licenses issued as a subordinate license to, and contingent on the  
2092 issuance of, a principal license:  
2093 (i) a full-service restaurant license;  
2094 (ii) a limited-service restaurant license;  
2095 (iii) a bar establishment license;  
2096 (iv) an on-premise banquet license;  
2097 (v) an on-premise beer retailer license;  
2098 (vi) a beer-only restaurant license; or  
2099 (vii) a hospitality amenity license; or  
2100 (b) a spa sublicense.
- 2101 (134) "Supplier" means a person who sells an alcoholic product to the department.

- 2102 (135) "Tavern" means an on-premise beer retailer who is:
- 2103 (a) issued a license by the commission in accordance with Chapter 5, Retail License Act,
- 2104 and Chapter 6, Part 7, On-Premise Beer Retailer License; and
- 2105 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
- 2106 On-Premise Beer Retailer License.
- 2107 (136) "Temporary beer event permit" means a permit issued in accordance with Chapter 9,
- 2108 Part 4, Temporary Beer Event Permit.
- 2109 (137) "Temporary domicile" means the principal place of abode within Utah of a person
- 2110 who does not have a present intention to continue residency within Utah permanently or
- 2111 indefinitely.
- 2112 (138) "Translucent" means a substance that allows light to pass through, but does not allow
- 2113 an object or person to be seen through the substance.
- 2114 (139) "Unsaleable liquor merchandise" means a container that:
- 2115 (a) is unsaleable because the container is:
- 2116 (i) unlabeled;
- 2117 (ii) leaky;
- 2118 (iii) damaged;
- 2119 (iv) difficult to open; or
- 2120 (v) partly filled;
- 2121 (b) (i) has faded labels or defective caps or corks;
- 2122 (ii) has contents that are:
- 2123 (A) cloudy;
- 2124 (B) spoiled; or
- 2125 (C) chemically determined to be impure; or
- 2126 (iii) contains:
- 2127 (A) sediment; or
- 2128 (B) a foreign substance; or
- 2129 (c) is otherwise considered by the department as unfit for sale.
- 2130 (140) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural
- 2131 sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
- 2132 another ingredient is added.
- 2133 (b) "Wine" includes:
- 2134 (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R.
- 2135 Sec. 4.10; and

- 2136 (ii) hard cider.
- 2137 (c) "Wine" is considered liquor for purposes of this title, except as otherwise provided in  
2138 this title.
- 2139 (141) "Winery manufacturing license" means a license issued in accordance with Chapter  
2140 11, Part 3, Winery Manufacturing License.
- 2141 Section 7. Section **53G-6-201** is amended to read:
- 2142 **53G-6-201 . Definitions.**
- 2143 As used in this part:
- 2144 (1) (a) "Absence" or "absent" means the failure of a school-age child assigned to a class  
2145 or class period to attend a class or class period.
- 2146 (b) "Absence" or "absent" does not mean multiple tardies used to calculate an absence  
2147 for the sake of a truancy.
- 2148 (2) "Educational neglect" means the same as that term is defined in Section 80-1-102.
- 2149 (3) (a) "Home-based microschool" means an individual or association of individuals that:  
2150 (i) registers as a business entity in accordance with state and local laws; and  
2151 (ii) for compensation, provides kindergarten through grade 12 education services to  
2152 16 or fewer students from an individual's residential dwelling, accessory dwelling  
2153 unit, or residential property.
- 2154 (b) "Home-based microschool" does not include a daycare.
- 2155 (4) "Instructor" means an individual who teaches a student as part of a home-based  
2156 microschool or micro-education entity.
- 2157 (5) (a) "Micro-education entity" means a person or association of persons that:  
2158 (i) registers as a business entity in accordance with state and local laws; and  
2159 (ii) for compensation, provides kindergarten through grade 12 education services to  
2160 100 students or fewer.
- 2161 (b) "Micro-education entity" does not include:
- 2162 (i) a daycare;
- 2163 (ii) a home-based microschool;
- 2164 (iii) a private school; or
- 2165 (iv) a school within the public education system.
- 2166 [~~3~~] (6) "Minor" means an individual who is under 18 years old.
- 2167 [~~4~~] (7) "Parent" includes:
- 2168 (a) a custodial parent of the minor;
- 2169 (b) a legally appointed guardian of a minor; or



- 2170 (c) any other person purporting to exercise any authority over the minor which could be  
2171 exercised by a person described in Subsection [~~(4)~~] (7)(a) or (b).
- 2172 [~~(5)~~] (8) "School day" means the portion of a day that school is in session in which a  
2173 school-age child is required to be in school for purposes of receiving instruction.
- 2174 [~~(6)~~] (9) "School year" means the period of time designated by a local school board or  
2175 charter school governing board as the school year for the school where the school-age  
2176 child:
- 2177 (a) is enrolled; or  
2178 (b) should be enrolled, if the school-age child is not enrolled in school.
- 2179 [~~(7)~~] (10) "School-age child" means a minor who:
- 2180 (a) is at least six years old but younger than 18 years old; and  
2181 (b) is not emancipated.
- 2182 [~~(8)~~] (11) (a) "Truant" means a condition in which a school-age child, without a valid  
2183 excuse, and subject to Subsection [~~(8)~~] (11)(b), is absent for at least:
- 2184 (i) half of the school day; or  
2185 (ii) if the school-age child is enrolled in a learner verified program, as that term is  
2186 defined by the state board, the relevant amount of time under the LEA's policy  
2187 regarding the LEA's continuing enrollment measure as it relates to truancy.
- 2188 (b) A school-age child may not be considered truant under this part more than one time  
2189 during one day.
- 2190 [~~(9)~~] (12) "Truant minor" means a school-age child who:
- 2191 (a) is subject to the requirements of Section 53G-6-202 or 53G-6-203; and  
2192 (b) is truant.
- 2193 [~~(10)~~] (13) (a) "Valid excuse" means:
- 2194 (i) an illness, which may be either mental or physical, regardless of whether the  
2195 school-age child or parent provides documentation from a medical professional;  
2196 (ii) mental or behavioral health of the school-age child;  
2197 (iii) a family death;  
2198 (iv) an approved school activity;  
2199 (v) an absence permitted by a school-age child's:
- 2200 (A) individualized education program; or  
2201 (B) Section 504 accommodation plan;
- 2202 (vi) an absence permitted in accordance with Subsection 53G-6-803(5); or  
2203 (vii) any other excuse established as valid by a local school board, charter school

2204 governing board, or school district.

2205 (b) "Valid excuse" does not mean a parent acknowledgment of an absence for a reason  
 2206 other than a reason described in Subsections ~~[(10)(a)(i)] (13)(a)(i)~~ through (vi), unless  
 2207 specifically permitted by the local school board, charter school governing board, or  
 2208 school district under Subsection ~~[(10)(a)(vi)] (13)(a)(vi)~~.

2209 Section 8. Section **53G-6-212** is enacted to read:

2210 **53G-6-212 . Home-based microschool and micro-education entity waivers and**  
 2211 **exemptions.**

2212 (1) A home-based microschool or micro-education entity:

2213 (a) may form to provide education services to school-age children; and

2214 (b) is not an LEA, a public school, or otherwise a part of the public education system.

2215 (2) A local health department may not require a home-based microschool or

2216 micro-education entity to obtain a food establishment permit or undergo an inspection in

2217 order to prepare or provide food if staff of the home-based microschool or

2218 micro-education entity does not prepare and serve food.

2219 Section 9. Section **53G-6-706** is amended to read:

2220 **53G-6-706 . Placement of a student of a home school, micro-education entity, or**  
 2221 **home-based microschool, who transfers to a public school.**

2222 (1) For the purposes of this section[~~z~~]

2223 [~~(a) "Home-school-student" means a student who attends a home school pursuant to~~

2224 ~~Section 53G-6-204.(b) "Parent" , "parent" means the same as that term is defined in~~

2225 ~~Section 53G-6-201.~~

2226 (2) [~~When a home school student transfers from a home school~~] When a home school

2227 student, a home-based microschool student, or a micro-education entity student transfers

2228 from a home school, a home-based microschool, or a micro-education entity to a public

2229 school, the public school shall place the student in the grade levels, classes, or courses

2230 that the student's parent and[~~in consultation with~~] the school administrator determine are

2231 appropriate based on the parent's assessment of the student's academic performance.

2232 (3) (a) Within 30 days of [~~a home school~~] the student's placement in a public school

2233 grade level, class, or course, either the student's teacher or the student's parent may

2234 request a conference to consider changing the student's placement.

2235 (b) If the student's teacher and the student's parent agree on a placement change, the

2236 public school shall place the student in the agreed upon grade level, class, or course.

2237 (c) If the student's teacher and the student's parent do not agree on a placement change,

- 2238 the public school shall evaluate the student's subject matter mastery in accordance  
 2239 with Subsection (3)(d).
- 2240 (d) The student's parent has the option of:
- 2241 (i) allowing the public school to administer, to the student, assessments that are:
- 2242 (A) regularly administered to public school students; and
- 2243 (B) used to measure public school students' subject matter mastery and determine  
 2244 placement; or
- 2245 (ii) having a private entity or individual administer assessments of subject matter  
 2246 mastery to the student at the parent's expense.
- 2247 (e) After an evaluation of a student's subject matter mastery, a public school may change [  
 2248 a] the student's placement in a grade level, class, or course.
- 2249 (4) [This] In accordance with Section 53G-6-702, this section does not apply to a student  
 2250 who is dual enrolled in a public school and a ~~home school pursuant to Section~~  
 2251 ~~53G-6-702.]~~ :
- 2252 (a) home school;
- 2253 (b) home-based microschool; or
- 2254 (c) micro-education entity.
- 2255 Section 10. Section **53G-9-301** is amended to read:
- 2256 **53G-9-301 . Definitions.**
- 2257 As used in this part:
- 2258 (1) "Department" means the Department of Health and Human Services created in Section  
 2259 26B-1-201.
- 2260 (2) "Health official" means an individual designated by a local health department from  
 2261 within the local health department to consult and counsel parents and licensed health  
 2262 care providers, in accordance with Subsection 53G-9-304(2)(a).
- 2263 (3) "Health official designee" means a licensed health care provider designated by a local  
 2264 health department, in accordance with Subsection 53G-9-304(2)(b), to consult with  
 2265 parents, licensed health care professionals, and school officials.
- 2266 (4) "Immunization" or "immunize" means a process through which an individual develops  
 2267 an immunity to a disease, through vaccination or natural exposure to the disease.
- 2268 (5) "Immunization record" means a record relating to a student that includes:
- 2269 (a) information regarding each required vaccination that the student has received,  
 2270 including the date each vaccine was administered, verified by:
- 2271 (i) a licensed health care provider;

- 2272 (ii) an authorized representative of a local health department;
- 2273 (iii) an authorized representative of the department;
- 2274 (iv) a registered nurse; or
- 2275 (v) a pharmacist;
- 2276 (b) information regarding each disease against which the student has been immunized by
- 2277 previously contracting the disease; and
- 2278 (c) an exemption form identifying each required vaccination from which the student is
- 2279 exempt, including all required supporting documentation described in Section
- 2280 53G-9-303.
- 2281 (6) "Legally responsible individual" means:
- 2282 (a) a student's parent;
- 2283 (b) the student's legal guardian;
- 2284 (c) an adult brother or sister of a student who has no legal guardian; or
- 2285 (d) the student, if the student:
- 2286 (i) is an adult; or
- 2287 (ii) is a minor who may consent to treatment under Section 26B-4-321.
- 2288 (7) "Licensed health care provider" means a health care provider who is licensed under
- 2289 Title 58, Occupations and Professions, as:
- 2290 (a) a medical doctor;
- 2291 (b) an osteopathic doctor;
- 2292 (c) a physician assistant; or
- 2293 (d) an advanced practice registered nurse.
- 2294 (8) "Local health department" means the same as that term is defined in Section 26A-1-102.
- 2295 (9) "Required vaccines" means vaccines required by department rule described in Section
- 2296 53G-9-305.
- 2297 (10) (a) "School" means any public or private:
- 2298 ~~[(a)]~~ (i) elementary or secondary school through grade 12;
- 2299 ~~[(b)]~~ (ii) preschool;
- 2300 ~~[(c)]~~ (iii) child care program, as that term is defined in Section 26B-2-401;
- 2301 ~~[(d)]~~ (iv) nursery school; or
- 2302 ~~[(e)]~~ (v) kindergarten.
- 2303 (b) "School" does not include a:
- 2304 (i) home school;
- 2305 (ii) home-based microschool; or

- 2306            (iii) micro-education entity.
- 2307    (11) "Student" means an individual who attends a school.
- 2308    (12) "Vaccinating" or "vaccination" means the administration of a vaccine.
- 2309    (13) "Vaccination exemption form" means a form, described in Section 53G-9-304, that
- 2310            documents and verifies that a student is exempt from the requirement to receive one or
- 2311            more required vaccines.
- 2312    (14) "Vaccine" means the substance licensed for use by the United States Food and Drug
- 2313            Administration that is injected into or otherwise administered to an individual to
- 2314            immunize the individual against a communicable disease.
- 2315            Section 11. **Effective date.**
- 2316          This bill takes effect on May 1, 2024.