

EDUCATION ENTITY AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Stephanie Gricius

LONG TITLE

Committee Note:

The Education Interim Committee recommended this bill.

Legislative Vote: 8 voting for 4 voting against 8 absent

General Description:

This bill provides a home-based education entity 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 education entity 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 education entity or micro-education entity under certain circumstances;
- ▶ provides that an instructor of a school-age child who attends a home-based education entity or micro-education entity is solely responsible for instruction, materials, and evaluation;
- ▶ prohibits a local school board from requiring a home-based education entity or micro-education entity to provide teaching credentials, submit to inspection, and



28 conduct testing;

29 ▶ prevents government entities from regulating home-based education entity and
30 micro-education entity food preparation and distribution under certain

31 circumstances;

32 ▶ allows a student who attends a home-based education entity or micro-education
33 entity to participate in extracurricular activities in a public school;

34 ▶ exempts a student who attends a home-based education entity or micro-education
35 entity from immunization requirements; and

36 ▶ makes technical and conforming changes.

37 **Money Appropriated in this Bill:**

38 None

39 **Other Special Clauses:**

40 None

41 **Utah Code Sections Affected:**

42 AMENDS:

43 10-9a-103, as last amended by Laws of Utah 2023, Chapters 16, 327 and 478

44 10-9a-305, as last amended by Laws of Utah 2023, Chapter 16

45 10-9a-529, as last amended by Laws of Utah 2023, Chapter 16

46 17-27a-103, as last amended by Laws of Utah 2023, Chapters 15, 327 and 478

47 17-27a-305, as last amended by Laws of Utah 2023, Chapter 15

48 32B-1-102, as last amended by Laws of Utah 2023, Chapters 328, 371 and 400

49 53G-6-201, as last amended by Laws of Utah 2021, Chapters 113, 261 and 427

50 53G-6-204, as last amended by Laws of Utah 2023, Chapter 162

51 53G-6-702, as last amended by Laws of Utah 2020, Chapter 408

52 53G-6-703, as last amended by Laws of Utah 2023, Chapter 340

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

54 53G-9-301, as last amended by Laws of Utah 2023, Chapter 328

55 ENACTS:

56 53G-6-212, Utah Code Annotated 1953



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

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

60 **10-9a-103. Definitions.**

61 As used in this chapter:

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

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

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

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

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

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

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

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

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

82 (a) a single project;

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

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

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

89 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or

90 residential property if the sign is designed or intended to direct attention to a business, product,
91 or service that is not sold, offered, or existing on the property where the sign is located.

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

93 (i) an operating charter school;

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

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

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

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

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

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

106 (b) Utah Constitution Article I, Section 22.

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

110 (11) "Development activity" means:

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

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

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

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

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

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

124 (b) "Disability" does not include current illegal use of, or addiction to, any federally
125 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
126 802.

127 (14) "Educational facility":

128 (a) means:

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

132 (ii) a structure or facility:

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

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

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

137 (b) does not include:

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

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

141 and

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

143 (ii) a therapeutic school.

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

147 (16) "Flood plain" means land that:

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

150 (b) has not been studied or designated by the Federal Emergency Management Agency
151 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because

152 the land has characteristics that are similar to those of a 100-year flood plain designated by the
153 Federal Emergency Management Agency.

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

156 (18) "Geologic hazard" means:

157 (a) a surface fault rupture;

158 (b) shallow groundwater;

159 (c) liquefaction;

160 (d) a landslide;

161 (e) a debris flow;

162 (f) unstable soil;

163 (g) a rock fall; or

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

165 (i) to life;

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

167 (iii) of substantial damage to real property.

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

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

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

173 (20) "Home-based education entity" means the same as that term is defined in Section
174 [53G-6-201](#).

175 [~~(20)~~] (21) "Hookup fee" means a fee for the installation and inspection of any pipe,
176 line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or
177 other utility system.

178 [~~(21)~~] (22) "Identical plans" means building plans submitted to a municipality that:

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

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

182 (c) describe a building that:

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

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

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

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

190 [~~(22)~~] (23) "Impact fee" means a payment of money imposed under Title 11, Chapter
191 36a, Impact Fees Act.

192 [~~(23)~~] (24) "Improvement completion assurance" means a surety bond, letter of credit,
193 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
194 by a municipality to guaranty the proper completion of landscaping or an infrastructure
195 improvement required as a condition precedent to:

196 (a) recording a subdivision plat; or

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

198 [~~(24)~~] (25) "Improvement warranty" means an applicant's unconditional warranty that
199 the applicant's installed and accepted landscaping or infrastructure improvement:

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

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

204 [~~(25)~~] (26) "Improvement warranty period" means a period:

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

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

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

210 (ii) has substantial evidence, on record:

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

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

214 [~~(26)~~] (27) "Infrastructure improvement" means permanent infrastructure that is
215 essential for the public health and safety or that:
216 (a) is required for human occupation; and
217 (b) an applicant must install:
218 (i) in accordance with published installation and inspection specifications for public
219 improvements; and
220 (ii) whether the improvement is public or private, as a condition of:
221 (A) recording a subdivision plat;
222 (B) obtaining a building permit; or
223 (C) development of a commercial, industrial, mixed use, condominium, or multifamily
224 project.
225 [~~(27)~~] (28) "Internal lot restriction" means a platted note, platted demarcation, or
226 platted designation that:
227 (a) runs with the land; and
228 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
229 the plat; or
230 (ii) designates a development condition that is enclosed within the perimeter of a lot
231 described on the plat.
232 [~~(28)~~] (29) "Land use applicant" means a property owner, or the property owner's
233 designee, who submits a land use application regarding the property owner's land.
234 [~~(29)~~] (30) "Land use application":
235 (a) means an application that is:
236 (i) required by a municipality; and
237 (ii) submitted by a land use applicant to obtain a land use decision; and
238 (b) does not mean an application to enact, amend, or repeal a land use regulation.
239 [~~(30)~~] (31) "Land use authority" means:
240 (a) a person, board, commission, agency, or body, including the local legislative body,
241 designated by the local legislative body to act upon a land use application; or
242 (b) if the local legislative body has not designated a person, board, commission,
243 agency, or body, the local legislative body.
244 [~~(31)~~] (32) "Land use decision" means an administrative decision of a land use

245 authority or appeal authority regarding:

246 (a) a land use permit; or

247 (b) a land use application.

248 [~~(32)~~] (33) "Land use permit" means a permit issued by a land use authority.

249 [~~(33)~~] (34) "Land use regulation":

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

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

253 and

254 (c) does not include:

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

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

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

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

261 [~~(34)~~] (35) "Legislative body" means the municipal council.

262 [~~(35)~~] (36) "Local historic district or area" means a geographically definable area that:

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

266 (b) is subject to land use regulations to preserve the historic significance of the local
267 historic district or area.

268 [~~(36)~~] (37) "Lot" means a tract of land, regardless of any label, that is created by and
269 shown on a subdivision plat that has been recorded in the office of the county recorder.

270 [~~(37)~~] (38) (a) "Lot line adjustment" means a relocation of a lot line boundary between
271 adjoining lots or between a lot and adjoining parcels in accordance with Section 10-9a-608:

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

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

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

275 (i) creates an additional lot; or

276 (ii) constitutes a subdivision or a subdivision amendment.

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

279 ~~[(38)]~~ (39) "Major transit investment corridor" means public transit service that uses or
280 occupies:

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

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

283 or

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

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

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

288 (40) "Micro-education entity" means the same as that term is defined in Section
289 [53G-6-201](#).

290 ~~[(39)]~~ (41) "Moderate income housing" means housing occupied or reserved for
291 occupancy by households with a gross household income equal to or less than 80% of the
292 median gross income for households of the same size in the county in which the city is located.

293 ~~[(40)]~~ (42) "Municipal utility easement" means an easement that:

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

296 (b) is not a protected utility easement or a public utility easement as defined in Section
297 [54-3-27](#);

298 (c) the municipality or the municipality's affiliated governmental entity uses and
299 occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm
300 water, or communications or data lines;

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

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

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

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

307 [~~(41)~~] (43) "Nominal fee" means a fee that reasonably reimburses a municipality only
308 for time spent and expenses incurred in:

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

312 [~~(42)~~] (44) "Noncomplying structure" means a structure that:

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

317 [~~(43)~~] (45) "Nonconforming use" means a use of land that:

- 318 (a) legally existed before its current land use designation;
319 (b) has been maintained continuously since the time the land use ordinance governing
320 the land changed; and
321 (c) because of one or more subsequent land use ordinance changes, does not conform
322 to the regulations that now govern the use of the land.

323 [~~(44)~~] (46) "Official map" means a map drawn by municipal authorities and recorded in
324 a county recorder's office that:

- 325 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
326 highways and other transportation facilities;
327 (b) provides a basis for restricting development in designated rights-of-way or between
328 designated setbacks to allow the government authorities time to purchase or otherwise reserve
329 the land; and
330 (c) has been adopted as an element of the municipality's general plan.

331 [~~(45)~~] (47) "Parcel" means any real property that is not a lot.

332 [~~(46)~~] (48) (a) "Parcel boundary adjustment" means a recorded agreement between
333 owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary
334 line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:

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

338 line that:

339 (i) creates an additional parcel; or

340 (ii) constitutes a subdivision.

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

343 ~~[(47)]~~ (49) "Person" means an individual, corporation, partnership, organization,
344 association, trust, governmental agency, or any other legal entity.

345 ~~[(48)]~~ (50) "Plan for moderate income housing" means a written document adopted by
346 a municipality's legislative body that includes:

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

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

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

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

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

356 ~~[(49)]~~ (51) "Plat" means an instrument subdividing property into lots as depicted on a
357 map or other graphical representation of lands that a licensed professional land surveyor makes
358 and prepares in accordance with Section [10-9a-603](#) or [57-8-13](#).

359 ~~[(50)]~~ (52) "Potential geologic hazard area" means an area that:

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

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

366 ~~[(51)]~~ (53) "Public agency" means:

367 (a) the federal government;

368 (b) the state;

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

371 (d) a charter school.

372 [~~52~~] (54) "Public hearing" means a hearing at which members of the public are
373 provided a reasonable opportunity to comment on the subject of the hearing.

374 [~~53~~] (55) "Public meeting" means a meeting that is required to be open to the public
375 under Title 52, Chapter 4, Open and Public Meetings Act.

376 [~~54~~] (56) "Public street" means a public right-of-way, including a public highway,
377 public avenue, public boulevard, public parkway, public road, public lane, public alley, public
378 viaduct, public subway, public tunnel, public bridge, public byway, other public transportation
379 easement, or other public way.

380 [~~55~~] (57) "Receiving zone" means an area of a municipality that the municipality
381 designates, by ordinance, as an area in which an owner of land may receive a transferable
382 development right.

383 [~~56~~] (58) "Record of survey map" means a map of a survey of land prepared in
384 accordance with Section [10-9a-603](#), [17-23-17](#), [17-27a-603](#), or [57-8-13](#).

385 [~~57~~] (59) "Residential facility for persons with a disability" means a residence:

386 (a) in which more than one person with a disability resides; and

387 (b) which is licensed or certified by the Department of Health and Human Services
388 under:

389 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

390 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

391 [~~58~~] (60) "Residential roadway" means a public local residential road that:

392 (a) will serve primarily to provide access to adjacent primarily residential areas and
393 property;

394 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;

395 (c) is not identified as a supplementary to a collector or other higher system classified
396 street in an approved municipal street or transportation master plan;

397 (d) has a posted speed limit of 25 miles per hour or less;

398 (e) does not have higher traffic volumes resulting from connecting previously separated
399 areas of the municipal road network;

400 (f) cannot have a primary access, but can have a secondary access, and does not abut
401 lots intended for high volume traffic or community centers, including schools, recreation
402 centers, sports complexes, or libraries; and

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

405 [~~59~~] (61) "Rules of order and procedure" means a set of rules that govern and
406 prescribe in a public meeting:

407 (a) parliamentary order and procedure;

408 (b) ethical behavior; and

409 (c) civil discourse.

410 [~~60~~] (62) "Sanitary sewer authority" means the department, agency, or public entity
411 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
412 wastewater systems.

413 [~~61~~] (63) "Sending zone" means an area of a municipality that the municipality
414 designates, by ordinance, as an area from which an owner of land may transfer a transferable
415 development right.

416 [~~62~~] (64) "Special district" means an entity under Title 17B, Limited Purpose Local
417 Government Entities - Special Districts, and any other governmental or quasi-governmental
418 entity that is not a county, municipality, school district, or the state.

419 [~~63~~] (65) "Specified public agency" means:

420 (a) the state;

421 (b) a school district; or

422 (c) a charter school.

423 [~~64~~] (66) "Specified public utility" means an electrical corporation, gas corporation,
424 or telephone corporation, as those terms are defined in Section 54-2-1.

425 [~~65~~] (67) "State" includes any department, division, or agency of the state.

426 [~~66~~] (68) (a) "Subdivision" means any land that is divided, resubdivided, or proposed
427 to be divided into two or more lots or other division of land for the purpose, whether
428 immediate or future, for offer, sale, lease, or development either on the installment plan or
429 upon any and all other plans, terms, and conditions.

430 (b) "Subdivision" includes:

431 (i) the division or development of land, whether by deed, metes and bounds
432 description, devise and testacy, map, plat, or other recorded instrument, regardless of whether
433 the division includes all or a portion of a parcel or lot; and

434 (ii) except as provided in Subsection [~~(65)(c)~~] (68)(c), divisions of land for residential
435 and nonresidential uses, including land used or to be used for commercial, agricultural, and
436 industrial purposes.

437 (c) "Subdivision" does not include:

438 (i) a bona fide division or partition of agricultural land for the purpose of joining one of
439 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
440 neither the resulting combined parcel nor the parcel remaining from the division or partition
441 violates an applicable land use ordinance;

442 (ii) a boundary line agreement recorded with the county recorder's office between
443 owners of adjoining parcels adjusting the mutual boundary in accordance with Section
444 [10-9a-524](#) if no new parcel is created;

445 (iii) a recorded document, executed by the owner of record:

446 (A) revising the legal descriptions of multiple parcels into one legal description
447 encompassing all such parcels; or

448 (B) joining a lot to a parcel;

449 (iv) a boundary line agreement between owners of adjoining subdivided properties
450 adjusting the mutual lot line boundary in accordance with Sections [10-9a-524](#) and [10-9a-608](#) if:

451 (A) no new dwelling lot or housing unit will result from the adjustment; and

452 (B) the adjustment will not violate any applicable land use ordinance;

453 (v) a bona fide division of land by deed or other instrument if the deed or other
454 instrument states in writing that the division:

455 (A) is in anticipation of future land use approvals on the parcel or parcels;

456 (B) does not confer any land use approvals; and

457 (C) has not been approved by the land use authority;

458 (vi) a parcel boundary adjustment;

459 (vii) a lot line adjustment;

460 (viii) a road, street, or highway dedication plat;

461 (ix) a deed or easement for a road, street, or highway purpose; or

462 (x) any other division of land authorized by law.

463 [~~(67)~~] (69) (a) "Subdivision amendment" means an amendment to a recorded

464 subdivision in accordance with Section 10-9a-608 that:

465 (i) vacates all or a portion of the subdivision;

466 (ii) alters the outside boundary of the subdivision;

467 (iii) changes the number of lots within the subdivision;

468 (iv) alters a public right-of-way, a public easement, or public infrastructure within the
469 subdivision; or

470 (v) alters a common area or other common amenity within the subdivision.

471 (b) "Subdivision amendment" does not include a lot line adjustment, between a single
472 lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.

473 [~~(68)~~] (70) "Substantial evidence" means evidence that:

474 (a) is beyond a scintilla; and

475 (b) a reasonable mind would accept as adequate to support a conclusion.

476 [~~(69)~~] (71) "Suspect soil" means soil that has:

477 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
478 3% swell potential;

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

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

482 [~~(70)~~] (72) "Therapeutic school" means a residential group living facility:

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

484 (i) the owner of the facility; or

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

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

487 (i) at home;

488 (ii) in a public school; or

489 (iii) in a nonresidential private school; and

490 (c) that offers:

491 (i) room and board; and

492 (ii) an academic education integrated with:

493 (A) specialized structure and supervision; or

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

496 [~~(71)~~] (73) "Transferable development right" means a right to develop and use land that
497 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
498 land use rights from a designated sending zone to a designated receiving zone.

499 [~~(72)~~] (74) "Unincorporated" means the area outside of the incorporated area of a city
500 or town.

501 [~~(73)~~] (75) "Water interest" means any right to the beneficial use of water, including:

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

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

504 (i) a contract; or

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

506 [~~(74)~~] (76) "Zoning map" means a map, adopted as part of a land use ordinance, that
507 depicts land use zones, overlays, or districts.

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

509 **10-9a-305. Other entities required to conform to municipality's land use**
510 **ordinances -- Exceptions -- School districts, charter schools, home-based education**
511 **entities, and micro-education entities -- Submission of development plan and schedule.**

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

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

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

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

523 (A) subject a charter school to standards within each zone pertaining to setback, height,

524 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction
525 staging; and

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

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

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

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

536 (3) A municipality may not:

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

541 (b) except as otherwise provided in this section, require a school district or charter
542 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a
543 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
544 children and not located on or contiguous to school property, unless the roadway or sidewalk is
545 required to connect an otherwise isolated school site to an existing roadway;

546 (c) require a district or charter school to pay fees not authorized by this section;

547 (d) provide for inspection of school construction or assess a fee or other charges for
548 inspection, unless the school district or charter school is unable to provide for inspection by an
549 inspector, other than the project architect or contractor, who is qualified under criteria
550 established by the state superintendent;

551 (e) require a school district or charter school to pay any impact fee for an improvement
552 project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

553 (f) impose regulations upon the location of an educational facility except as necessary
554 to avoid unreasonable risks to health or safety; or

555 (g) for a land use or a structure owned or operated by a school district or charter school
 556 that is not an educational facility but is used in support of providing instruction to pupils,
 557 impose a regulation that:

558 (i) is not imposed on a similar land use or structure in the zone in which the land use or
 559 structure is approved; or

560 (ii) uses the tax exempt status of the school district or charter school as criteria for
 561 prohibiting or regulating the land use or location of the structure.

562 (4) Subject to Section 53E-3-710, a school district or charter school shall coordinate
 563 the siting of a new school with the municipality in which the school is to be located, to:

564 (a) avoid or mitigate existing and potential traffic hazards, including consideration of
 565 the impacts between the new school and future highways; and

566 (b) maximize school, student, and site safety.

567 (5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:

568 (a) provide a walk-through of school construction at no cost and at a time convenient to
 569 the district or charter school; and

570 (b) provide recommendations based upon the walk-through.

571 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

572 (i) a municipal building inspector;

573 (ii) (A) for a school district, a school district building inspector from that school
 574 district; or

575 (B) for a charter school, a school district building inspector from the school district in
 576 which the charter school is located; or

577 (iii) an independent, certified building inspector who is[;]

578 [~~(A)~~] not an employee of the contractor[;], licensed to perform the inspection that the
 579 inspector is requested to perform, and[~~(B)~~] approved by[;(~~F)~~] a municipal building inspector[;]
 580 or;

581 [~~(H)~~(~~Aa~~)] (A) for a school district, a school district building inspector from that school
 582 district; or

583 [~~(Bb)~~] (B) for a charter school, a school district building inspector from the school
 584 district in which the charter school is located[;and].

585 [~~(C)~~] licensed to perform the inspection that the inspector is requested to perform.]

586 (b) The approval under Subsection [~~(6)(a)(iii)(B)~~] (6)(a)(iii) may not be unreasonably
587 withheld.

588 (c) If a school district or charter school uses a school district or independent building
589 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to
590 the state superintendent of public instruction and municipal building official, on a monthly
591 basis during construction of the school building, a copy of each inspection certificate regarding
592 the school building.

593 (7) (a) A charter school, home-based education entity, or micro-education entity shall
594 be considered a permitted use in all zoning districts within a municipality.

595 (b) Each land use application for any approval required for a charter school,
596 home-based education entity, or micro-education entity, including an application for a building
597 permit, shall be processed on a first priority basis.

598 (c) Parking requirements for a charter school or a micro-education entity may not
599 exceed the minimum parking requirements for schools or other institutional public uses
600 throughout the municipality.

601 (d) If a municipality has designated zones for a sexually oriented business, or a
602 business which sells alcohol, a charter school or a micro-education entity may be prohibited
603 from a location which would otherwise defeat the purpose for the zone unless the charter
604 school or micro-education entity provides a waiver.

605 (e) (i) A school district [~~or a~~], charter school, or micro-education entity may seek a
606 certificate authorizing permanent occupancy of a school building from:

607 (A) the state superintendent of public instruction, as provided in Subsection
608 53E-3-706(3), if the school district or charter school used an independent building inspector for
609 inspection of the school building; or

610 (B) a municipal official with authority to issue the certificate, if the school district [~~or~~],
611 charter school, or micro-education entity used a municipal building inspector for inspection of
612 the school building.

613 (ii) A school district may issue its own certificate authorizing permanent occupancy of
614 a school building if it used its own building inspector for inspection of the school building,
615 subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

616 (iii) A charter school or micro-education entity may seek a certificate authorizing

617 permanent occupancy of a school building from a school district official with authority to issue
618 the certificate, if the charter school or micro-education entity used a school district building
619 inspector for inspection of the school building.

620 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
621 of public instruction under Subsection [53E-3-706\(3\)](#) or a school district official with authority
622 to issue the certificate shall be considered to satisfy any municipal requirement for an
623 inspection or a certificate of occupancy.

624 (f) (i) A micro-education entity may operate in a facility that meets Group E
625 Occupancy requirements as defined by the International Building Code, as incorporated by
626 Subsection [15A-2-103\(1\)\(a\)](#).

627 (ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i):

628 (A) may have up to 100 students in the facility; and

629 (B) shall have enough space for at least 20 net square feet per student.

630 (g) A micro-education entity may operate in a facility that is subject to and complies
631 with the same occupancy requirements as a Class B Occupancy as defined by the International
632 Building Code, as incorporated by Subsection [15A-2-103\(1\)\(a\)](#), if:

633 (i) the facility has a code compliant fire alarm system and carbon monoxide detection
634 system;

635 (ii) (A) each classroom in the facility has an exit directly to the outside at the level of
636 exit or discharge; or

637 (B) the structure has a code compliant fire sprinkler system;

638 (iii) the facility has an automatic fire sprinkler system in fire areas of the facility that
639 are greater than 12,000 square feet; and

640 (iv) the facility has enough space for at least 20 net square feet per student.

641 (h) (i) A home-based education entity is not subject to additional occupancy
642 requirements beyond occupancy requirements that apply to a primary dwelling, except that the
643 home-based education entity shall have enough space for at least 35 net square feet per student.

644 (ii) If a floor that is below grade in a home-based education entity is used for
645 home-based education entity purposes, the below grade floor of the home-based education
646 entity shall have at least one emergency escape or rescue window that complies with the
647 requirements for emergency escape and rescue windows as defined by the International

648 Residential Code, as incorporated by Section 15A-1-210.

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

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

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

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

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

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

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

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

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

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

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

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

666 (b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance,
667 that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing
668 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of
669 1990, 42 U.S.C. 12102, or any other provision of federal law.

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

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

673 (i) parking;

674 (ii) traffic; and

675 (iii) hours of operation;

676 (b) requiring a home-based education entity or micro-education entity to obtain a
677 business 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 circulation, and
681 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

690 [~~10-9a-103(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
698 application 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
702 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
703 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
704 property owner, property owner's association, public utility, or the Department of
705 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
711 year 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
716 in 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, product,
723 or service that is not sold, offered, or existing on the property where the sign is located.

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

725 (i) an operating charter school;

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

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

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

731 (8) "Chief executive officer" means the person or body that exercises the executive
732 powers of the county.

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

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

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

740 (b) Utah Constitution, Article I, Section 22.

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

772 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
773 Sec. 802.

774 (16) "Educational facility":

775 (a) means:

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

779 (ii) a structure or facility:

780 (A) located on the same property as a building described in Subsection (16)(a)(i); and

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

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

784 (b) does not include:

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

787 (A) not located on the same property as a building described in Subsection (16)(a)(i);

788 and

789 (B) used in support of the purposes of a building described in Subsection (16)(a)(i); or

790 (ii) a therapeutic school.

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

794 (18) "Flood plain" means land that:

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

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

801 (19) "Gas corporation" has the same meaning as defined in Section [54-2-1](#).

802 (20) "General plan" means a document that a county adopts that sets forth general

803 guidelines for proposed future development of:

804 (a) the unincorporated land within the county; or

805 (b) for a mountainous planning district, the land within the mountainous planning
806 district.

807 (21) "Geologic hazard" means:

808 (a) a surface fault rupture;

809 (b) shallow groundwater;

810 (c) liquefaction;

811 (d) a landslide;

812 (e) a debris flow;

813 (f) unstable soil;

814 (g) a rock fall; or

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

816 (i) to life;

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

818 (iii) of substantial damage to real property.

819 (22) "Home-based education entity" means the same as that term is defined in Section
820 53G-6-201.

821 [~~22~~] (23) "Hookup fee" means a fee for the installation and inspection of any pipe,
822 line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other
823 utility system.

824 [~~23~~] (24) "Identical plans" means building plans submitted to a county that:

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

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

828 (c) describe a building that:

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

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

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

834 and approved by the county; and

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

836 [~~(24)~~] (25) "Impact fee" means a payment of money imposed under Title 11, Chapter
837 36a, Impact Fees Act.

838 [~~(25)~~] (26) "Improvement completion assurance" means a surety bond, letter of credit,
839 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
840 by a county to guaranty the proper completion of landscaping or an infrastructure improvement
841 required as a condition precedent to:

842 (a) recording a subdivision plat; or

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

844 [~~(26)~~] (27) "Improvement warranty" means an applicant's unconditional warranty that
845 the applicant's installed and accepted landscaping or infrastructure improvement:

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

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

850 [~~(27)~~] (28) "Improvement warranty period" means a period:

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

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

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

856 (ii) has substantial evidence, on record:

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

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

860 [~~(28)~~] (29) "Infrastructure improvement" means permanent infrastructure that is
861 essential for the public health and safety or that:

862 (a) is required for human consumption; and

863 (b) an applicant must install:

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

865 improvements; and

866 (ii) as a condition of:

867 (A) recording a subdivision plat;

868 (B) obtaining a building permit; or

869 (C) developing a commercial, industrial, mixed use, condominium, or multifamily
870 project.

871 ~~[(29)]~~ (30) "Internal lot restriction" means a platted note, platted demarcation, or
872 platted designation that:

873 (a) runs with the land; and

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

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

878 ~~[(30)]~~ (31) "Interstate pipeline company" means a person or entity engaged in natural
879 gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission
880 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

881 ~~[(31)]~~ (32) "Intrastate pipeline company" means a person or entity engaged in natural
882 gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
883 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

884 ~~[(32)]~~ (33) "Land use applicant" means a property owner, or the property owner's
885 designee, who submits a land use application regarding the property owner's land.

886 ~~[(33)]~~ (34) "Land use application":

887 (a) means an application that is:

888 (i) required by a county; and

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

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

891 ~~[(34)]~~ (35) "Land use authority" means:

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

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

896 [~~(35)~~] (36) "Land use decision" means an administrative decision of a land use
897 authority or appeal authority regarding:

- 898 (a) a land use permit;
- 899 (b) a land use application; or
- 900 (c) the enforcement of a land use regulation, land use permit, or development
901 agreement.

902 [~~(36)~~] (37) "Land use permit" means a permit issued by a land use authority.

903 [~~(37)~~] (38) "Land use regulation":

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

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

908 (c) does not include:

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

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

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

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

915 [~~(38)~~] (39) "Legislative body" means the county legislative body, or for a county that
916 has adopted an alternative form of government, the body exercising legislative powers.

917 [~~(39)~~] (40) "Lot" means a tract of land, regardless of any label, that is created by and
918 shown on a subdivision plat that has been recorded in the office of the county recorder.

919 [~~(40)~~] (41) (a) "Lot line adjustment" means a relocation of a lot line boundary between
920 adjoining lots or between a lot and adjoining parcels in accordance with Section [17-27a-608](#):

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

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

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

924 (i) creates an additional lot; or

925 (ii) constitutes a subdivision or a subdivision amendment.

926 (c) "Lot line adjustment" does not include a boundary line adjustment made by the

927 Department of Transportation.

928 ~~[(41)]~~ (42) "Major transit investment corridor" means public transit service that uses or
929 occupies:

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

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

932 or

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

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

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

937 (43) "Micro-education entity" means that same as that term is defined in Section
938 [53G-6-201](#).

939 ~~[(42)]~~ (44) "Moderate income housing" means housing occupied or reserved for
940 occupancy by households with a gross household income equal to or less than 80% of the
941 median gross income for households of the same size in the county in which the housing is
942 located.

943 ~~[(43)]~~ (45) "Mountainous planning district" means an area designated by a county
944 legislative body in accordance with Section [17-27a-901](#).

945 ~~[(44)]~~ (46) "Nominal fee" means a fee that reasonably reimburses a county only for
946 time spent and expenses incurred in:

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

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

950 ~~[(45)]~~ (47) "Noncomplying structure" means a structure that:

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

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

955 ~~[(46)]~~ (48) "Nonconforming use" means a use of land that:

956 (a) legally existed before the current land use designation;

957 (b) has been maintained continuously since the time the land use ordinance regulation

958 governing the land changed; and

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

961 [~~(47)~~] (49) "Official map" means a map drawn by county authorities and recorded in
962 the county recorder's office that:

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

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

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

969 [~~(48)~~] (50) "Parcel" means any real property that is not a lot.

970 [~~(49)~~] (51) (a) "Parcel boundary adjustment" means a recorded agreement between
971 owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary
972 line agreement in accordance with Section 17-27a-523, if no additional parcel is created and:

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

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

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

977 (i) creates an additional parcel; or

978 (ii) constitutes a subdivision.

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

981 [~~(50)~~] (52) "Person" means an individual, corporation, partnership, organization,
982 association, trust, governmental agency, or any other legal entity.

983 [~~(51)~~] (53) "Plan for moderate income housing" means a written document adopted by
984 a county legislative body that includes:

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

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

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

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

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

994 ~~[(52)]~~ (54) "Planning advisory area" means a contiguous, geographically defined
995 portion of the unincorporated area of a county established under this part with planning and
996 zoning functions as exercised through the planning advisory area planning commission, as
997 provided in this chapter, but with no legal or political identity separate from the county and no
998 taxing authority.

999 ~~[(53)]~~ (55) "Plat" means an instrument subdividing property into lots as depicted on a
1000 map or other graphical representation of lands that a licensed professional land surveyor makes
1001 and prepares in accordance with Section [17-27a-603](#) or [57-8-13](#).

1002 ~~[(54)]~~ (56) "Potential geologic hazard area" means an area that:

1003 (a) is designated by a Utah Geological Survey map, county geologist map, or other
1004 relevant map or report as needing further study to determine the area's potential for geologic
1005 hazard; or

1006 (b) has not been studied by the Utah Geological Survey or a county geologist but
1007 presents the potential of geologic hazard because the area has characteristics similar to those of
1008 a designated geologic hazard area.

1009 ~~[(55)]~~ (57) "Public agency" means:

1010 (a) the federal government;

1011 (b) the state;

1012 (c) a county, municipality, school district, special district, special service district, or
1013 other political subdivision of the state; or

1014 (d) a charter school.

1015 ~~[(56)]~~ (58) "Public hearing" means a hearing at which members of the public are
1016 provided a reasonable opportunity to comment on the subject of the hearing.

1017 ~~[(57)]~~ (59) "Public meeting" means a meeting that is required to be open to the public
1018 under Title 52, Chapter 4, Open and Public Meetings Act.

1019 ~~[(58)]~~ (60) "Public street" means a public right-of-way, including a public highway,

1020 public avenue, public boulevard, public parkway, public road, public lane, public alley, public
1021 viaduct, public subway, public tunnel, public bridge, public byway, other public transportation
1022 easement, or other public way.

1023 ~~[(59)]~~ (61) "Receiving zone" means an unincorporated area of a county that the county
1024 designates, by ordinance, as an area in which an owner of land may receive a transferable
1025 development right.

1026 ~~[(60)]~~ (62) "Record of survey map" means a map of a survey of land prepared in
1027 accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

1028 ~~[(61)]~~ (63) "Residential facility for persons with a disability" means a residence:

1029 (a) in which more than one person with a disability resides; and

1030 (b) which is licensed or certified by the Department of Health and Human Services
1031 under:

1032 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

1033 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

1034 ~~[(62)]~~ (64) "Residential roadway" means a public local residential road that:

1035 (a) will serve primarily to provide access to adjacent primarily residential areas and
1036 property;

1037 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;

1038 (c) is not identified as a supplementary to a collector or other higher system classified
1039 street in an approved municipal street or transportation master plan;

1040 (d) has a posted speed limit of 25 miles per hour or less;

1041 (e) does not have higher traffic volumes resulting from connecting previously separated
1042 areas of the municipal road network;

1043 (f) cannot have a primary access, but can have a secondary access, and does not abut
1044 lots intended for high volume traffic or community centers, including schools, recreation
1045 centers, sports complexes, or libraries; and

1046 (g) primarily serves traffic within a neighborhood or limited residential area and is not
1047 necessarily continuous through several residential areas.

1048 ~~[(63)]~~ (65) "Rules of order and procedure" means a set of rules that govern and
1049 prescribe in a public meeting:

1050 (a) parliamentary order and procedure;

1051 (b) ethical behavior; and

1052 (c) civil discourse.

1053 ~~[(64)]~~ (66) "Sanitary sewer authority" means the department, agency, or public entity
1054 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
1055 wastewater systems.

1056 ~~[(65)]~~ (67) "Sending zone" means an unincorporated area of a county that the county
1057 designates, by ordinance, as an area from which an owner of land may transfer a transferable
1058 development right.

1059 ~~[(66)]~~ (68) "Site plan" means a document or map that may be required by a county
1060 during a preliminary review preceding the issuance of a building permit to demonstrate that an
1061 owner's or developer's proposed development activity meets a land use requirement.

1062 ~~[(67)]~~ (69) (a) "Special district" means an entity under Title 17B, Limited Purpose
1063 Local Government Entities - Special Districts.

1064 (b) "Special district" includes a governmental or quasi-governmental entity that is not a
1065 county, municipality, school district, or the state.

1066 ~~[(68)]~~ (70) "Specified public agency" means:

1067 (a) the state;

1068 (b) a school district; or

1069 (c) a charter school.

1070 ~~[(69)]~~ (71) "Specified public utility" means an electrical corporation, gas corporation,
1071 or telephone corporation, as those terms are defined in Section 54-2-1.

1072 ~~[(70)]~~ (72) "State" includes any department, division, or agency of the state.

1073 ~~[(71)]~~ (73) (a) "Subdivision" means any land that is divided, resubdivided, or proposed
1074 to be divided into two or more lots or other division of land for the purpose, whether
1075 immediate or future, for offer, sale, lease, or development either on the installment plan or
1076 upon any and all other plans, terms, and conditions.

1077 (b) "Subdivision" includes:

1078 (i) the division or development of land, whether by deed, metes and bounds
1079 description, devise and testacy, map, plat, or other recorded instrument, regardless of whether
1080 the division includes all or a portion of a parcel or lot; and

1081 (ii) except as provided in Subsection ~~[(70)(c)]~~ (73)(c), divisions of land for residential

1082 and nonresidential uses, including land used or to be used for commercial, agricultural, and
1083 industrial purposes.

1084 (c) "Subdivision" does not include:

1085 (i) a bona fide division or partition of agricultural land for agricultural purposes;

1086 (ii) a boundary line agreement recorded with the county recorder's office between
1087 owners of adjoining parcels adjusting the mutual boundary in accordance with Section
1088 [17-27a-523](#) if no new lot is created;

1089 (iii) a recorded document, executed by the owner of record:

1090 (A) revising the legal descriptions of multiple parcels into one legal description
1091 encompassing all such parcels; or

1092 (B) joining a lot to a parcel;

1093 (iv) a bona fide division or partition of land in a county other than a first class county
1094 for the purpose of siting, on one or more of the resulting separate parcels:

1095 (A) an electrical transmission line or a substation;

1096 (B) a natural gas pipeline or a regulation station; or

1097 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
1098 utility service regeneration, transformation, retransmission, or amplification facility;

1099 (v) a boundary line agreement between owners of adjoining subdivided properties
1100 adjusting the mutual lot line boundary in accordance with Sections [17-27a-523](#) and [17-27a-608](#)
1101 if:

1102 (A) no new dwelling lot or housing unit will result from the adjustment; and

1103 (B) the adjustment will not violate any applicable land use ordinance;

1104 (vi) a bona fide division of land by deed or other instrument if the deed or other
1105 instrument states in writing that the division:

1106 (A) is in anticipation of future land use approvals on the parcel or parcels;

1107 (B) does not confer any land use approvals; and

1108 (C) has not been approved by the land use authority;

1109 (vii) a parcel boundary adjustment;

1110 (viii) a lot line adjustment;

1111 (ix) a road, street, or highway dedication plat;

1112 (x) a deed or easement for a road, street, or highway purpose; or

- 1113 (xi) any other division of land authorized by law.
- 1114 [~~(72)~~] (74) (a) "Subdivision amendment" means an amendment to a recorded
- 1115 subdivision in accordance with Section 17-27a-608 that:
- 1116 (i) vacates all or a portion of the subdivision;
- 1117 (ii) alters the outside boundary of the subdivision;
- 1118 (iii) changes the number of lots within the subdivision;
- 1119 (iv) alters a public right-of-way, a public easement, or public infrastructure within the
- 1120 subdivision; or
- 1121 (v) alters a common area or other common amenity within the subdivision.
- 1122 (b) "Subdivision amendment" does not include a lot line adjustment, between a single
- 1123 lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.
- 1124 [~~(73)~~] (75) "Substantial evidence" means evidence that:
- 1125 (a) is beyond a scintilla; and
- 1126 (b) a reasonable mind would accept as adequate to support a conclusion.
- 1127 [~~(74)~~] (76) "Suspect soil" means soil that has:
- 1128 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
- 1129 3% swell potential;
- 1130 (b) bedrock units with high shrink or swell susceptibility; or
- 1131 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
- 1132 commonly associated with dissolution and collapse features.
- 1133 [~~(75)~~] (77) "Therapeutic school" means a residential group living facility:
- 1134 (a) for four or more individuals who are not related to:
- 1135 (i) the owner of the facility; or
- 1136 (ii) the primary service provider of the facility;
- 1137 (b) that serves students who have a history of failing to function:
- 1138 (i) at home;
- 1139 (ii) in a public school; or
- 1140 (iii) in a nonresidential private school; and
- 1141 (c) that offers:
- 1142 (i) room and board; and
- 1143 (ii) an academic education integrated with:

1144 (A) specialized structure and supervision; or

1145 (B) services or treatment related to a disability, an emotional development, a
1146 behavioral development, a familial development, or a social development.

1147 [~~76~~] (78) "Transferable development right" means a right to develop and use land that
1148 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
1149 land use rights from a designated sending zone to a designated receiving zone.

1150 [~~77~~] (79) "Unincorporated" means the area outside of the incorporated area of a
1151 municipality.

1152 [~~78~~] (80) "Water interest" means any right to the beneficial use of water, including:

1153 (a) each of the rights listed in Section 73-1-11; and

1154 (b) an ownership interest in the right to the beneficial use of water represented by:

1155 (i) a contract; or

1156 (ii) a share in a water company, as defined in Section 73-3-3.5.

1157 [~~79~~] (81) "Zoning map" means a map, adopted as part of a land use ordinance, that
1158 depicts land use zones, overlays, or districts.

1159 Section 5. Section 17-27a-305 is amended to read:

1160 **17-27a-305. Other entities required to conform to county's land use ordinances --**
1161 **Exceptions -- School districts, charter schools, home-based education entities, and**
1162 **micro-education entities -- Submission of development plan and schedule.**

1163 (1) (a) Each county, municipality, school district, charter school, special district,
1164 special service district, and political subdivision of the state shall conform to any applicable
1165 land use ordinance of any county when installing, constructing, operating, or otherwise using
1166 any area, land, or building situated within a mountainous planning district or the
1167 unincorporated portion of the county, as applicable.

1168 (b) In addition to any other remedies provided by law, when a county's land use
1169 ordinance is violated or about to be violated by another political subdivision, that county may
1170 institute an injunction, mandamus, abatement, or other appropriate action or proceeding to
1171 prevent, enjoin, abate, or remove the improper installation, improvement, or use.

1172 (2) (a) Except as provided in Subsection (3), a school district or charter school is
1173 subject to a county's land use ordinances.

1174 (b) (i) Notwithstanding Subsection (3), a county may:

1175 (A) subject a charter school to standards within each zone pertaining to setback, height,
1176 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction
1177 staging; and

1178 (B) impose regulations upon the location of a project that are necessary to avoid
1179 unreasonable risks to health or safety, as provided in Subsection (3)(f).

1180 (ii) The standards to which a county may subject a charter school under Subsection
1181 (2)(b)(i) shall be objective standards only and may not be subjective.

1182 (iii) Except as provided in Subsection (7)(d), the only basis upon which a county may
1183 deny or withhold approval of a charter school's land use application is the charter school's
1184 failure to comply with a standard imposed under Subsection (2)(b)(i).

1185 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an
1186 obligation to comply with a requirement of an applicable building or safety code to which it is
1187 otherwise obligated to comply.

1188 (3) A county may not:

1189 (a) impose requirements for landscaping, fencing, aesthetic considerations,
1190 construction methods or materials, additional building inspections, county building codes,
1191 building use for educational purposes, or the placement or use of temporary classroom facilities
1192 on school property;

1193 (b) except as otherwise provided in this section, require a school district or charter
1194 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a
1195 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
1196 children and not located on or contiguous to school property, unless the roadway or sidewalk is
1197 required to connect an otherwise isolated school site to an existing roadway;

1198 (c) require a district or charter school to pay fees not authorized by this section;

1199 (d) provide for inspection of school construction or assess a fee or other charges for
1200 inspection, unless the school district or charter school is unable to provide for inspection by an
1201 inspector, other than the project architect or contractor, who is qualified under criteria
1202 established by the state superintendent;

1203 (e) require a school district or charter school to pay any impact fee for an improvement
1204 project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

1205 (f) impose regulations upon the location of an educational facility except as necessary

1206 to avoid unreasonable risks to health or safety; or

1207 (g) for a land use or a structure owned or operated by a school district or charter school
1208 that is not an educational facility but is used in support of providing instruction to pupils,
1209 impose a regulation that:

1210 (i) is not imposed on a similar land use or structure in the zone in which the land use or
1211 structure is approved; or

1212 (ii) uses the tax exempt status of the school district or charter school as criteria for
1213 prohibiting or regulating the land use or location of the structure.

1214 (4) Subject to Section 53E-3-710, a school district or charter school shall coordinate
1215 the siting of a new school with the county in which the school is to be located, to:

1216 (a) avoid or mitigate existing and potential traffic hazards, including consideration of
1217 the impacts between the new school and future highways; and

1218 (b) maximize school, student, and site safety.

1219 (5) Notwithstanding Subsection (3)(d), a county may, at its discretion:

1220 (a) provide a walk-through of school construction at no cost and at a time convenient to
1221 the district or charter school; and

1222 (b) provide recommendations based upon the walk-through.

1223 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

1224 (i) a county building inspector;

1225 (ii) (A) for a school district, a school district building inspector from that school
1226 district; or

1227 (B) for a charter school, a school district building inspector from the school district in
1228 which the charter school is located; or

1229 (iii) an independent, certified building inspector who is~~[(A)]~~ not an employee of the
1230 contractor~~[(B)]~~, licensed to perform the inspection that the inspector is requested to perform,
1231 and approved by~~[(H)]~~ a county building inspector~~[(I)]~~ or;

1232 ~~[(H)-(Aa)]~~ (A) for a school district, a school district building inspector from that school
1233 district; or

1234 ~~[(Bb)]~~ (B) for a charter school, a school district building inspector from the school
1235 district in which the charter school is located~~[(J)]~~ and.

1236 ~~[(C)]~~ licensed to perform the inspection that the inspector is requested to perform.]

1237 (b) The approval under Subsection [~~(6)(a)(iii)(B)~~] (6)(a)(iii) may not be unreasonably
1238 withheld.

1239 (c) If a school district or charter school uses a school district or independent building
1240 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to
1241 the state superintendent of public instruction and county building official, on a monthly basis
1242 during construction of the school building, a copy of each inspection certificate regarding the
1243 school building.

1244 (7) (a) A charter school, home-based education entity, or micro-education entity shall
1245 be considered a permitted use in all zoning districts within a county.

1246 (b) Each land use application for any approval required for a charter school,
1247 home-based education entity, or micro-education entity, including an application for a building
1248 permit, shall be processed on a first priority basis.

1249 (c) Parking requirements for a charter school or micro-education entity may not exceed
1250 the minimum parking requirements for schools or other institutional public uses throughout the
1251 county.

1252 (d) If a county has designated zones for a sexually oriented business, or a business
1253 which sells alcohol, a charter school or micro-education entity may be prohibited from a
1254 location which would otherwise defeat the purpose for the zone unless the charter school or
1255 micro-education entity provides a waiver.

1256 (e) (i) A school district [~~or a~~], charter school, or micro-education entity may seek a
1257 certificate authorizing permanent occupancy of a school building from:

1258 (A) the state superintendent of public instruction, as provided in Subsection
1259 53E-3-706(3), if the school district [~~or~~], charter school, or micro-education entity used an
1260 independent building inspector for inspection of the school building; or

1261 (B) a county official with authority to issue the certificate, if the school district [~~or~~],
1262 charter school, or micro-education entity used a county building inspector for inspection of the
1263 school building.

1264 (ii) A school district may issue its own certificate authorizing permanent occupancy of
1265 a school building if it used its own building inspector for inspection of the school building,
1266 subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

1267 (iii) A charter school or micro-education entity may seek a certificate authorizing

1268 permanent occupancy of a school building from a school district official with authority to issue
1269 the certificate, if the charter school or micro-education entity used a school district building
1270 inspector for inspection of the school building.

1271 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
1272 of public instruction under Subsection [53E-3-706\(3\)](#) or a school district official with authority
1273 to issue the certificate shall be considered to satisfy any county requirement for an inspection or
1274 a certificate of occupancy.

1275 (f) (i) A micro-education entity may operate a facility that meets Group E Occupancy
1276 requirements as defined by the International Building Code, as incorporated by Subsection
1277 [15A-2-103\(1\)\(a\)](#).

1278 (ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i):

1279 (A) may have up to 100 students in the facility; and

1280 (B) shall have enough space for at least 20 net square feet per student;

1281 (g) A micro-education entity may operate a facility that is subject to and complies with

1282 the same occupancy requirements as a Class B Occupancy as defined by the International

1283 Building Code, as incorporated by Subsection [15A-2-103\(1\)\(a\)](#), if:

1284 (i) the facility has a code compliant fire alarm system and carbon monoxide detection
1285 system;

1286 (ii) (A) each classroom in the facility has an exit directly to the outside at the level of
1287 exit discharge; or

1288 (B) the structure has a code compliant fire sprinkler system;

1289 (iii) the facility has an automatic fire sprinkler system in fire areas of the facility that
1290 are greater than 12,000 square feet; and

1291 (iv) the facility has enough space for at least 20 net square feet per student.

1292 (h) (i) A home-based education entity is not subject to additional occupancy
1293 requirements beyond occupancy requirements that apply to a primary dwelling, except that the
1294 home-based education entity shall have enough space for at least 35 square feet per student.

1295 (ii) If a floor that is below grade in a home-based education entity is used for
1296 home-based education entity purposes, the below grade floor of the home-based education
1297 entity shall have at least one emergency escape or rescue window that complies with the
1298 requirements for emergency escape and rescue windows as defined by the International

1299 Residential Code, as incorporated in Section 15A-1-210.

1300 (8) (a) A specified public agency intending to develop its land shall submit to the land
1301 use authority a development plan and schedule:

1302 (i) as early as practicable in the development process, but no later than the
1303 commencement of construction; and

1304 (ii) with sufficient detail to enable the land use authority to assess:

1305 (A) the specified public agency's compliance with applicable land use ordinances;

1306 (B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c),

1307 (d), (e), and (g) caused by the development;

1308 (C) the amount of any applicable fee described in Section 17-27a-509;

1309 (D) any credit against an impact fee; and

1310 (E) the potential for waiving an impact fee.

1311 (b) The land use authority shall respond to a specified public agency's submission
1312 under Subsection (8)(a) with reasonable promptness in order to allow the specified public
1313 agency to consider information the municipality provides under Subsection (8)(a)(ii) in the
1314 process of preparing the budget for the development.

1315 (9) Nothing in this section may be construed to:

1316 (a) modify or supersede Section 17-27a-304; or

1317 (b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that
1318 fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing
1319 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of
1320 1990, 42 U.S.C. 12102, or any other provision of federal law.

1321 (10) Nothing in Subsection (7) prevents a political subdivision from:

1322 (a) requiring a home-based education entity or micro-education entity to comply with
1323 local zoning and land use regulations that do not conflict with this section, including:

1324 (i) parking;

1325 (ii) traffic; and

1326 (iii) hours of operation;

1327 (b) requiring a home-based education entity or micro-education entity to obtain a
1328 business license;

1329 (c) enacting county ordinances and regulations consistent with this section;

1330 (d) subjecting a micro-education entity to standards within each zone pertaining to
1331 setback, height, bulk and massing regulations, off-site parking, cub cut, traffic circulation, and
1332 construction staging; and

1333 (e) imposing regulations on the location of a project that are necessary to avoid risks to
1334 health or safety.

1335 Section 6. Section **32B-1-102** is amended to read:

1336 **32B-1-102. Definitions.**

1337 As used in this title:

1338 (1) "Airport lounge" means a business location:

1339 (a) at which an alcoholic product is sold at retail for consumption on the premises; and

1340 (b) that is located at an international airport or domestic airport.

1341 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,

1342 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

1343 (3) "Alcoholic beverage" means the following:

1344 (a) beer; or

1345 (b) liquor.

1346 (4) (a) "Alcoholic product" means a product that:

1347 (i) contains at least .5% of alcohol by volume; and

1348 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other

1349 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol

1350 in an amount equal to or greater than .5% of alcohol by volume.

1351 (b) "Alcoholic product" includes an alcoholic beverage.

1352 (c) "Alcoholic product" does not include any of the following common items that

1353 otherwise come within the definition of an alcoholic product:

1354 (i) except as provided in Subsection (4)(d), an extract;

1355 (ii) vinegar;

1356 (iii) preserved nonintoxicating cider;

1357 (iv) essence;

1358 (v) tincture;

1359 (vi) food preparation; or

1360 (vii) an over-the-counter medicine.

- 1361 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation
1362 when it is used as a flavoring in the manufacturing of an alcoholic product.
- 1363 (5) "Alcohol training and education seminar" means a seminar that is:
1364 (a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and
1365 (b) described in Section [26B-5-205](#).
- 1366 (6) "Arena" means an enclosed building:
1367 (a) that is managed by:
1368 (i) the same person who owns the enclosed building;
1369 (ii) a person who has a majority interest in each person who owns or manages a space
1370 in the enclosed building; or
1371 (iii) a person who has authority to direct or exercise control over the management or
1372 policy of each person who owns or manages a space in the enclosed building;
- 1373 (b) that operates as a venue; and
1374 (c) that has an occupancy capacity of at least 12,500.
- 1375 (7) "Arena license" means a license issued in accordance with Chapter 5, Retail
1376 License Act, and Chapter 8c, Arena License Act.
- 1377 (8) "Banquet" means an event:
1378 (a) that is a private event or a privately sponsored event;
1379 (b) that is held at one or more designated locations approved by the commission in or
1380 on the premises of:
1381 (i) a hotel;
1382 (ii) a resort facility;
1383 (iii) a sports center;
1384 (iv) a convention center;
1385 (v) a performing arts facility;
1386 (vi) an arena; or
1387 (vii) a restaurant venue;
1388 (c) for which there is a contract:
1389 (i) between a person operating a facility listed in Subsection (8)(b) and another person
1390 that has common ownership of less than 20% with the person operating the facility; and
1391 (ii) under which the person operating a facility listed in Subsection (8)(b) is required to

- 1392 provide an alcoholic product at the event; and
- 1393 (d) at which food and alcoholic products may be sold, offered for sale, or furnished.
- 1394 (9) (a) "Bar establishment license" means a license issued in accordance with Chapter
- 1395 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.
- 1396 (b) "Bar establishment license" includes:
- 1397 (i) a dining club license;
- 1398 (ii) an equity license;
- 1399 (iii) a fraternal license; or
- 1400 (iv) a bar license.
- 1401 (10) "Bar license" means a license issued in accordance with Chapter 5, Retail License
- 1402 Act, and Chapter 6, Part 4, Bar Establishment License.
- 1403 (11) (a) "Beer" means a product that:
- 1404 (i) contains:
- 1405 (A) at least .5% of alcohol by volume; and
- 1406 (B) no more than 5% of alcohol by volume or 4% by weight;
- 1407 (ii) is obtained by fermentation, infusion, or decoction of:
- 1408 (A) malt; or
- 1409 (B) a malt substitute; and
- 1410 (iii) is clearly marketed, labeled, and identified as:
- 1411 (A) beer;
- 1412 (B) ale;
- 1413 (C) porter;
- 1414 (D) stout;
- 1415 (E) lager;
- 1416 (F) a malt;
- 1417 (G) a malted beverage; or
- 1418 (H) seltzer.
- 1419 (b) "Beer" may contain:
- 1420 (i) hops extract;
- 1421 (ii) caffeine, if the caffeine is a natural constituent of an added ingredient; or
- 1422 (iii) a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that:

- 1423 (A) is used in the production of beer;
- 1424 (B) is in a formula approved by the federal Alcohol and Tobacco Tax and Trade
1425 Bureau after the formula is filed for approval under 27 C.F.R. Sec. 25.55; and
- 1426 (C) does not contribute more than 10% of the overall alcohol content of the beer.
- 1427 (c) "Beer" does not include:
- 1428 (i) a flavored malt beverage;
- 1429 (ii) a product that contains alcohol derived from:
- 1430 (A) except as provided in Subsection (11)(b)(iii), spirituous liquor; or
- 1431 (B) wine; or
- 1432 (iii) a product that contains an additive masking or altering a physiological effect of
1433 alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.
- 1434 (12) "Beer-only restaurant license" means a license issued in accordance with Chapter
1435 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- 1436 (13) "Beer retailer" means a business that:
- 1437 (a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether
1438 for consumption on or off the business premises; and
- 1439 (b) is licensed as:
- 1440 (i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer
1441 Retailer Local Authority; or
- 1442 (ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and
1443 Chapter 6, Part 7, On-Premise Beer Retailer License.
- 1444 (14) "Beer wholesaling license" means a license:
- 1445 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
- 1446 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
1447 retail licensees or off-premise beer retailers.
- 1448 (15) "Billboard" means a public display used to advertise, including:
- 1449 (a) a light device;
- 1450 (b) a painting;
- 1451 (c) a drawing;
- 1452 (d) a poster;
- 1453 (e) a sign;

- 1454 (f) a signboard; or
- 1455 (g) a scoreboard.
- 1456 (16) "Brewer" means a person engaged in manufacturing:
- 1457 (a) beer;
- 1458 (b) heavy beer; or
- 1459 (c) a flavored malt beverage.
- 1460 (17) "Brewery manufacturing license" means a license issued in accordance with
- 1461 Chapter 11, Part 5, Brewery Manufacturing License.
- 1462 (18) "Certificate of approval" means a certificate of approval obtained from the
- 1463 department under Section [32B-11-201](#).
- 1464 (19) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
- 1465 a bus company to a group of persons pursuant to a common purpose:
- 1466 (a) under a single contract;
- 1467 (b) at a fixed charge in accordance with the bus company's tariff; and
- 1468 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
- 1469 motor vehicle, and a driver to travel together to one or more specified destinations.
- 1470 (20) "Church" means a building:
- 1471 (a) set apart for worship;
- 1472 (b) in which religious services are held;
- 1473 (c) with which clergy is associated; and
- 1474 (d) that is tax exempt under the laws of this state.
- 1475 (21) "Commission" means the Alcoholic Beverage Services Commission created in
- 1476 Section [32B-2-201](#).
- 1477 (22) "Commissioner" means a member of the commission.
- 1478 (23) "Community location" means:
- 1479 (a) a public or private school;
- 1480 (b) a church;
- 1481 (c) a public library;
- 1482 (d) a public playground; or
- 1483 (e) a public park.
- 1484 (24) "Community location governing authority" means:

- 1485 (a) the governing body of the community location; or
1486 (b) if the commission does not know who is the governing body of a community
1487 location, a person who appears to the commission to have been given on behalf of the
1488 community location the authority to prohibit an activity at the community location.
- 1489 (25) "Container" means a receptacle that contains an alcoholic product, including:
1490 (a) a bottle;
1491 (b) a vessel; or
1492 (c) a similar item.
- 1493 (26) "Controlled group of manufacturers" means as the commission defines by rule
1494 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1495 (27) "Convention center" means a facility that is:
1496 (a) in total at least 30,000 square feet; and
1497 (b) otherwise defined as a "convention center" by the commission by rule.
- 1498 (28) (a) "Counter" means a surface or structure in a dining area of a licensed premises
1499 where seating is provided to a patron for service of food.
1500 (b) "Counter" does not include a dispensing structure.
- 1501 (29) "Crime involving moral turpitude" is as defined by the commission by rule.
- 1502 (30) "Department" means the Department of Alcoholic Beverage Services created in
1503 Section [32B-2-203](#).
- 1504 (31) "Department compliance officer" means an individual who is:
1505 (a) an auditor or inspector; and
1506 (b) employed by the department.
- 1507 (32) "Department sample" means liquor that is placed in the possession of the
1508 department for testing, analysis, and sampling.
- 1509 (33) "Dining club license" means a license issued in accordance with Chapter 5, Retail
1510 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
1511 commission as a dining club license.
- 1512 (34) "Director," unless the context requires otherwise, means the director of the
1513 department.
- 1514 (35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
1515 title:

- 1516 (a) against a person subject to administrative action; and
- 1517 (b) that is brought on the basis of a violation of this title.
- 1518 (36) (a) Subject to Subsection (36)(b), "dispense" means:
- 1519 (i) drawing an alcoholic product; and
- 1520 (ii) using the alcoholic product at the location from which it was drawn to mix or
- 1521 prepare an alcoholic product to be furnished to a patron of the retail licensee.
- 1522 (b) The definition of "dispense" in this Subsection (36) applies only to:
- 1523 (i) a full-service restaurant license;
- 1524 (ii) a limited-service restaurant license;
- 1525 (iii) a reception center license;
- 1526 (iv) a beer-only restaurant license;
- 1527 (v) a bar license;
- 1528 (vi) an on-premise beer retailer;
- 1529 (vii) an airport lounge license;
- 1530 (viii) an on-premise banquet license; and
- 1531 (ix) a hospitality amenity license.
- 1532 (37) "Dispensing structure" means a surface or structure on a licensed premises:
- 1533 (a) where an alcoholic product is dispensed; or
- 1534 (b) from which an alcoholic product is served.
- 1535 (38) "Distillery manufacturing license" means a license issued in accordance with
- 1536 Chapter 11, Part 4, Distillery Manufacturing License.
- 1537 (39) "Distressed merchandise" means an alcoholic product in the possession of the
- 1538 department that is saleable, but for some reason is unappealing to the public.
- 1539 (40) "Domestic airport" means an airport that:
- 1540 (a) has at least 15,000 commercial airline passenger boardings in any five-year period;
- 1541 (b) receives scheduled commercial passenger aircraft service; and
- 1542 (c) is not an international airport.
- 1543 (41) "Equity license" means a license issued in accordance with Chapter 5, Retail
- 1544 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
- 1545 commission as an equity license.
- 1546 (42) "Event permit" means:

- 1547 (a) a single event permit; or
1548 (b) a temporary beer event permit.
- 1549 (43) "Exempt license" means a license exempt under Section 32B-1-201 from being
1550 considered in determining the total number of retail licenses that the commission may issue at
1551 any time.
- 1552 (44) (a) "Flavored malt beverage" means a beverage:
1553 (i) that contains at least .5% alcohol by volume;
1554 (ii) for which the producer is required to file a formula for approval with the federal
1555 Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage
1556 is treated by processing, filtration, or another method of manufacture that is not generally
1557 recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt
1558 liquor; and
1559 (iii) for which the producer is required to file a formula for approval with the federal
1560 Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage
1561 includes an ingredient containing alcohol.
- 1562 (b) "Flavored malt beverage" may contain a propylene glycol-, ethyl alcohol-, or
1563 ethanol-based flavoring agent that contributes to the overall alcohol content of the beverage.
- 1564 (c) "Flavored malt beverage" does not include beer or heavy beer.
- 1565 (d) "Flavored malt beverage" is considered liquor for purposes of this title.
- 1566 (45) "Fraternal license" means a license issued in accordance with Chapter 5, Retail
1567 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
1568 commission as a fraternal license.
- 1569 (46) "Full-service restaurant license" means a license issued in accordance with
1570 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.
- 1571 (47) (a) "Furnish" means by any means to provide with, supply, or give an individual
1572 an alcoholic product, by sale or otherwise.
- 1573 (b) "Furnish" includes to:
1574 (i) serve;
1575 (ii) deliver; or
1576 (iii) otherwise make available.
- 1577 (48) "Guest" means an individual who meets the requirements of Subsection

1578 32B-6-407(9).

1579 (49) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

1580 (50) "Health care practitioner" means:

1581 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

1582 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

1583 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

1584 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice

1585 Act;

1586 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,

1587 Nurse Practice Act;

1588 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy

1589 Practice Act;

1590 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational

1591 Therapy Practice Act;

1592 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

1593 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health

1594 Professional Practice Act;

1595 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

1596 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical

1597 Practice Act;

1598 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental

1599 Hygienist Practice Act; and

1600 (m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician

1601 Assistant Act.

1602 (51) (a) "Heavy beer" means a product that:

1603 (i) (A) contains more than 5% alcohol by volume;

1604 (B) contains at least .5% of alcohol by volume and no more than 5% of alcohol by
1605 volume or 4% by weight, and a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring

1606 agent that contributes more than 10% of the overall alcohol content of the product; or

1607 (C) contains at least .5% of alcohol by volume and no more than 5% of alcohol by

1608 volume or 4% by weight, and has a label or packaging that is rejected under Subsection

- 1609 32B-1-606(3)(b); and
- 1610 (ii) is obtained by fermentation, infusion, or decoction of:
- 1611 (A) malt; or
- 1612 (B) a malt substitute.
- 1613 (b) "Heavy beer" may, if the heavy beer contains more than 5% alcohol by volume,
- 1614 contain a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to
- 1615 the overall alcohol content of the heavy beer.
- 1616 (c) "Heavy beer" does not include:
- 1617 (i) a flavored malt beverage;
- 1618 (ii) a product that contains alcohol derived from:
- 1619 (A) except as provided in Subsections (51)(a)(i)(B) and (51)(b), spirituous liquor; or
- 1620 (B) wine; or
- 1621 (iii) a product that contains an additive masking or altering a physiological effect of
- 1622 alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.
- 1623 (d) "Heavy beer" is considered liquor for the purposes of this title.
- 1624 (52) "Hospitality amenity license" means a license issued in accordance with Chapter
- 1625 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.
- 1626 (53) (a) "Hotel" means a commercial lodging establishment that:
- 1627 (i) offers at least 40 rooms as temporary sleeping accommodations for compensation;
- 1628 (ii) is capable of hosting conventions, conferences, and food and beverage functions
- 1629 under a banquet contract; and
- 1630 (iii) (A) has adequate kitchen or culinary facilities on the premises to provide complete
- 1631 meals;
- 1632 (B) has at least 1,000 square feet of function space consisting of meeting or dining
- 1633 rooms that can be reserved for a banquet and can accommodate at least 75 individuals; or
- 1634 (C) if the establishment is located in a small or unincorporated locality, has an
- 1635 appropriate amount of function space consisting of meeting or dining rooms that can be
- 1636 reserved for private use under a banquet contract, as determined by the commission.
- 1637 (b) "Hotel" includes a commercial lodging establishment that:
- 1638 (i) meets the requirements under Subsection (53)(a); and
- 1639 (ii) has one or more privately owned dwelling units.

1640 (54) "Hotel license" means a license issued in accordance with Chapter 5, Retail
1641 License Act, and Chapter 8b, Hotel License Act.

1642 (55) "Identification card" means an identification card issued under Title 53, Chapter 3,
1643 Part 8, Identification Card Act.

1644 (56) "Industry representative" means an individual who is compensated by salary,
1645 commission, or other means for representing and selling an alcoholic product of a
1646 manufacturer, supplier, or importer of liquor.

1647 (57) "Industry representative sample" means liquor that is placed in the possession of
1648 the department for testing, analysis, and sampling by a local industry representative on the
1649 premises of the department to educate the local industry representative of the quality and
1650 characteristics of the product.

1651 (58) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing
1652 of an alcoholic product is prohibited by:

- 1653 (a) law; or
- 1654 (b) court order.

1655 (59) "International airport" means an airport:

- 1656 (a) with a United States Customs and Border Protection office on the premises of the
1657 airport; and
- 1658 (b) at which international flights may enter and depart.

1659 (60) "Intoxicated" or "intoxication" means that
1660 an individual exhibits plain and easily observable outward manifestations of behavior
1661 or physical signs produced by or as a result of the use of:

- 1662 (a) an alcoholic product;
- 1663 (b) a controlled substance;
- 1664 (c) a substance having the property of releasing toxic vapors; or
- 1665 (d) a combination of products or substances described in Subsections (60)(a) through
1666 (c).

1667 (61) "Investigator" means an individual who is:

- 1668 (a) a department compliance officer; or
- 1669 (b) a nondepartment enforcement officer.

1670 (62) "License" means:

- 1671 (a) a retail license;
- 1672 (b) a sublicense;
- 1673 (c) a license issued in accordance with Chapter 7, Part 4, Off-premise Beer Retailer
- 1674 State License;
- 1675 (d) a license issued in accordance with Chapter 11, Manufacturing and Related
- 1676 Licenses Act;
- 1677 (e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;
- 1678 (f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or
- 1679 (g) a license issued in accordance with Chapter 17, Liquor Transport License Act.
- 1680 (63) "Licensee" means a person who holds a license.
- 1681 (64) "Limited-service restaurant license" means a license issued in accordance with
- 1682 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.
- 1683 (65) "Limousine" means a motor vehicle licensed by the state or a local authority, other
- 1684 than a bus or taxicab:
- 1685 (a) in which the driver and a passenger are separated by a partition, glass, or other
- 1686 barrier;
- 1687 (b) that is provided by a business entity to one or more individuals at a fixed charge in
- 1688 accordance with the business entity's tariff; and
- 1689 (c) to give the one or more individuals the exclusive use of the limousine and a driver
- 1690 to travel to one or more specified destinations.
- 1691 (66) (a) (i) "Liquor" means a liquid that:
- 1692 (A) is:
- 1693 (I) alcohol;
- 1694 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- 1695 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- 1696 (IV) other drink or drinkable liquid; and
- 1697 (B) (I) contains at least .5% alcohol by volume; and
- 1698 (II) is suitable to use for beverage purposes.
- 1699 (ii) "Liquor" includes:
- 1700 (A) heavy beer;
- 1701 (B) wine; and

- 1702 (C) a flavored malt beverage.
- 1703 (b) "Liquor" does not include beer.
- 1704 (67) "Liquor Control Fund" means the enterprise fund created by Section [32B-2-301](#).
- 1705 (68) "Liquor transport license" means a license issued in accordance with Chapter 17,
- 1706 Liquor Transport License Act.
- 1707 (69) "Liquor warehousing license" means a license that is issued:
 - 1708 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
 - 1709 (b) to a person, other than a licensed manufacturer, who engages in the importation for
 - 1710 storage, sale, or distribution of liquor regardless of amount.
- 1711 (70) "Local authority" means:
 - 1712 (a) for premises that are located in an unincorporated area of a county, the governing
 - 1713 body of a county;
 - 1714 (b) for premises that are located in an incorporated city, town, or metro township, the
 - 1715 governing body of the city, town, or metro township; or
 - 1716 (c) for premises that are located in a project area as defined in Section [63H-1-102](#) and
 - 1717 in a project area plan adopted by the Military Installation Development Authority under Title
 - 1718 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation
 - 1719 Development Authority.
- 1720 (71) "Lounge or bar area" is as defined by rule made by the commission.
- 1721 (72) "Malt substitute" means:
 - 1722 (a) rice;
 - 1723 (b) grain;
 - 1724 (c) bran;
 - 1725 (d) glucose;
 - 1726 (e) sugar; or
 - 1727 (f) molasses.
- 1728 (73) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or
- 1729 otherwise make an alcoholic product for personal use or for sale or distribution to others.
- 1730 (74) "Member" means an individual who, after paying regular dues, has full privileges
- 1731 in an equity licensee or fraternal licensee.
- 1732 (75) (a) "Military installation" means a base, air field, camp, post, station, yard, center,

- 1733 or homeport facility for a ship:
- 1734 (i) (A) under the control of the United States Department of Defense; or
- 1735 (B) of the National Guard;
- 1736 (ii) that is located within the state; and
- 1737 (iii) including a leased facility.
- 1738 (b) "Military installation" does not include a facility used primarily for:
- 1739 (i) civil works;
- 1740 (ii) a rivers and harbors project; or
- 1741 (iii) a flood control project.
- 1742 (76) "Minibar" means an area of a hotel guest room where one or more alcoholic
- 1743 products are kept and offered for self-service sale or consumption.
- 1744 (77) "Minor" means an individual under 21 years old.
- 1745 (78) "Nondepartment enforcement agency" means an agency that:
- 1746 (a) (i) is a state agency other than the department; or
- 1747 (ii) is an agency of a county, city, town, or metro township; and
- 1748 (b) has a responsibility to enforce one or more provisions of this title.
- 1749 (79) "Nondepartment enforcement officer" means an individual who is:
- 1750 (a) a peace officer, examiner, or investigator; and
- 1751 (b) employed by a nondepartment enforcement agency.
- 1752 (80) (a) "Off-premise beer retailer" means a beer retailer who is:
- 1753 (i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and
- 1754 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
- 1755 premises.
- 1756 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 1757 (81) "Off-premise beer retailer state license" means a state license issued in accordance
- 1758 with Chapter 7, Part 4, Off-premise Beer Retailer State License.
- 1759 (82) "On-premise banquet license" means a license issued in accordance with Chapter
- 1760 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.
- 1761 (83) "On-premise beer retailer" means a beer retailer who is:
- 1762 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
- 1763 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer

1764 Retailer License; and
1765 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
1766 premises:
1767 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
1768 premises; and
1769 (ii) on and after March 1, 2012, operating:
1770 (A) as a tavern; or
1771 (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).
1772 (84) "Opaque" means impenetrable to sight.
1773 (85) "Package agency" means a retail liquor location operated:
1774 (a) under an agreement with the department; and
1775 (b) by a person:
1776 (i) other than the state; and
1777 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
1778 Agency, to sell packaged liquor for consumption off the premises of the package agency.
1779 (86) "Package agent" means a person who holds a package agency.
1780 (87) "Patron" means an individual to whom food, beverages, or services are sold,
1781 offered for sale, or furnished, or who consumes an alcoholic product including:
1782 (a) a customer;
1783 (b) a member;
1784 (c) a guest;
1785 (d) an attendee of a banquet or event;
1786 (e) an individual who receives room service;
1787 (f) a resident of a resort; or
1788 (g) a hospitality guest, as defined in Section [32B-6-1002](#), under a hospitality amenity
1789 license.
1790 (88) (a) "Performing arts facility" means a multi-use performance space that:
1791 (i) is primarily used to present various types of performing arts, including dance,
1792 music, and theater;
1793 (ii) contains over 2,500 seats;
1794 (iii) is owned and operated by a governmental entity; and

- 1795 (iv) is located in a city of the first class.
- 1796 (b) "Performing arts facility" does not include a space that is used to present sporting
1797 events or sporting competitions.
- 1798 (89) "Permittee" means a person issued a permit under:
- 1799 (a) Chapter 9, Event Permit Act; or
- 1800 (b) Chapter 10, Special Use Permit Act.
- 1801 (90) "Person subject to administrative action" means:
- 1802 (a) a licensee;
- 1803 (b) a permittee;
- 1804 (c) a manufacturer;
- 1805 (d) a supplier;
- 1806 (e) an importer;
- 1807 (f) one of the following holding a certificate of approval:
- 1808 (i) an out-of-state brewer;
- 1809 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
- 1810 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- 1811 (g) staff of:
- 1812 (i) a person listed in Subsections (90)(a) through (f); or
- 1813 (ii) a package agent.
- 1814 (91) "Premises" means a building, enclosure, or room used in connection with the
1815 storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,
1816 unless otherwise defined in this title or rules made by the commission.
- 1817 (92) "Prescription" means an order issued by a health care practitioner when:
- 1818 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
1819 to prescribe a controlled substance, other drug, or device for medicinal purposes;
- 1820 (b) the order is made in the course of that health care practitioner's professional
1821 practice; and
- 1822 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- 1823 (93) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.
- 1824 (b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.
- 1825 (94) "Principal license" means:

- 1826 (a) a resort license;
- 1827 (b) a hotel license; or
- 1828 (c) an arena license.
- 1829 (95) (a) "Private event" means a specific social, business, or recreational event:
- 1830 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
- 1831 group; and
- 1832 (ii) that is limited in attendance to people who are specifically designated and their
- 1833 guests.
- 1834 (b) "Private event" does not include an event to which the general public is invited,
- 1835 whether for an admission fee or not.
- 1836 (96) "Privately sponsored event" means a specific social, business, or recreational
- 1837 event:
- 1838 (a) that is held in or on the premises of an on-premise banquet licensee; and
- 1839 (b) to which entry is restricted by an admission fee.
- 1840 (97) (a) "Proof of age" means:
- 1841 (i) an identification card;
- 1842 (ii) an identification that:
- 1843 (A) is substantially similar to an identification card;
- 1844 (B) is issued in accordance with the laws of a state other than Utah in which the
- 1845 identification is issued;
- 1846 (C) includes date of birth; and
- 1847 (D) has a picture affixed;
- 1848 (iii) a valid driver license certificate that:
- 1849 (A) includes date of birth;
- 1850 (B) has a picture affixed; and
- 1851 (C) is issued[;]
- 1852 [~~(H)~~] under Title 53, Chapter 3, Uniform Driver License Act[;]₂
- 1853 [~~(H)~~] in accordance with the laws of the state in which it is issued[;]₂ or
- 1854 [~~(H)~~] in accordance with federal law by the United States Department of State;
- 1855 (iv) a military identification card that:
- 1856 (A) includes date of birth; and

- 1857 (B) has a picture affixed; or
1858 (v) a valid passport.
1859 (b) "Proof of age" does not include a driving privilege card issued in accordance with
1860 Section [53-3-207](#).
- 1861 (98) "Provisions applicable to a sublicense" means:
1862 (a) for a full-service restaurant sublicense, the provisions applicable to a full-service
1863 restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;
1864 (b) for a limited-service restaurant sublicense, the provisions applicable to a
1865 limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;
1866 (c) for a bar establishment sublicense, the provisions applicable to a bar establishment
1867 license under Chapter 6, Part 4, Bar Establishment License;
1868 (d) for an on-premise banquet sublicense, the provisions applicable to an on-premise
1869 banquet license under Chapter 6, Part 6, On-Premise Banquet License;
1870 (e) for an on-premise beer retailer sublicense, the provisions applicable to an
1871 on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;
1872 (f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only
1873 restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;
1874 (g) for a hospitality amenity license, the provisions applicable to a hospitality amenity
1875 license under Chapter 6, Part 10, Hospitality Amenity License; and
1876 (h) for a spa sublicense, the provisions applicable to the sublicense under Chapter 8d,
1877 Part 2, Resort Spa Sublicense.
- 1878 (99) (a) "Public building" means a building or permanent structure that is:
1879 (i) owned or leased by:
1880 (A) the state; or
1881 (B) a local government entity; and
1882 (ii) used for:
1883 (A) public education;
1884 (B) transacting public business; or
1885 (C) regularly conducting government activities.
1886 (b) "Public building" does not include a building owned by the state or a local
1887 government entity when the building is used by a person, in whole or in part, for a proprietary

1888 function.

1889 (100) "Public conveyance" means a conveyance that the public or a portion of the
1890 public has access to and a right to use for transportation, including an airline, railroad, bus,
1891 boat, or other public conveyance.

1892 (101) "Reception center" means a business that:

1893 (a) operates facilities that are at least 5,000 square feet; and

1894 (b) has as its primary purpose the leasing of the facilities described in Subsection
1895 (101)(a) to a third party for the third party's event.

1896 (102) "Reception center license" means a license issued in accordance with Chapter 5,
1897 Retail License Act, and Chapter 6, Part 8, Reception Center License.

1898 (103) (a) "Record" means information that is:

1899 (i) inscribed on a tangible medium; or

1900 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.

1901 (b) "Record" includes:

1902 (i) a book;

1903 (ii) a book of account;

1904 (iii) a paper;

1905 (iv) a contract;

1906 (v) an agreement;

1907 (vi) a document; or

1908 (vii) a recording in any medium.

1909 (104) "Residence" means a person's principal place of abode within Utah.

1910 (105) "Resident," in relation to a resort, means the same as that term is defined in
1911 Section [32B-8-102](#).

1912 (106) "Resort" means the same as that term is defined in Section [32B-8-102](#).

1913 (107) "Resort facility" is as defined by the commission by rule.

1914 (108) "Resort license" means a license issued in accordance with Chapter 5, Retail
1915 License Act, and Chapter 8, Resort License Act.

1916 (109) "Responsible alcohol service plan" means a written set of policies and
1917 procedures that outlines measures to prevent employees from:

1918 (a) over-serving alcoholic beverages to customers;

- 1919 (b) serving alcoholic beverages to customers who are actually, apparently, or obviously
1920 intoxicated; and
- 1921 (c) serving alcoholic beverages to minors.
- 1922 (110) "Restaurant" means a business location:
- 1923 (a) at which a variety of foods are prepared;
- 1924 (b) at which complete meals are served; and
- 1925 (c) that is engaged primarily in serving meals.
- 1926 (111) "Restaurant license" means one of the following licenses issued under this title:
- 1927 (a) a full-service restaurant license;
- 1928 (b) a limited-service restaurant license; or
- 1929 (c) a beer-only restaurant license.
- 1930 (112) "Restaurant venue" means a room within a restaurant that:
- 1931 (a) is located on the licensed premises of a restaurant licensee;
- 1932 (b) is separated from the area within the restaurant for a patron's consumption of food
1933 by a permanent, opaque, floor-to-ceiling wall such that the inside of the room is not visible to a
1934 patron in the area within the restaurant for a patron's consumption of food; and
- 1935 (c) (i) has at least 1,000 square feet that:
- 1936 (A) may be reserved for a banquet; and
- 1937 (B) accommodates at least 75 individuals; or
- 1938 (ii) if the restaurant is located in a small or unincorporated locality, has an appropriate
1939 amount of space, as determined by the commission, that may be reserved for a banquet.
- 1940 (113) "Retail license" means one of the following licenses issued under this title:
- 1941 (a) a full-service restaurant license;
- 1942 (b) a master full-service restaurant license;
- 1943 (c) a limited-service restaurant license;
- 1944 (d) a master limited-service restaurant license;
- 1945 (e) a bar establishment license;
- 1946 (f) an airport lounge license;
- 1947 (g) an on-premise banquet license;
- 1948 (h) an on-premise beer license;
- 1949 (i) a reception center license;

1950 (j) a beer-only restaurant license;

1951 (k) a hospitality amenity license;

1952 (l) a resort license;

1953 (m) a hotel license; or

1954 (n) an arena license.

1955 (114) "Room service" means furnishing an alcoholic product to a person in a guest
1956 room or privately owned dwelling unit of a:

1957 (a) hotel; or

1958 (b) resort facility.

1959 (115) (a) "School" means a building in which any part is used for more than three
1960 hours each weekday during a school year as a public or private:

1961 (i) elementary school;

1962 (ii) secondary school; or

1963 (iii) kindergarten.

1964 (b) "School" does not include:

1965 (i) a nursery school;

1966 (ii) a day care center;

1967 (iii) a trade and technical school;

1968 (iv) a preschool; [or]

1969 (v) a home school[-];

1970 (vi) a home-based education entity as defined in Section [53G-6-201](#); or

1971 (vii) a micro-education entity as defined in Section [53G-6-201](#).

1972 (116) "Secondary flavoring ingredient" means any spirituous liquor added to a
1973 beverage for additional flavoring that is different in type, flavor, or brand from the primary
1974 spirituous liquor in the beverage.

1975 (117) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for
1976 consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered,
1977 delivered for value, or by a means or under a pretext is promised or obtained, whether done by
1978 a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules
1979 made by the commission.

1980 (118) "Serve" means to place an alcoholic product before an individual.

- 1981 (119) "Sexually oriented entertainer" means a person who while in a state of
1982 seminudity appears at or performs:
- 1983 (a) for the entertainment of one or more patrons;
 - 1984 (b) on the premises of:
 - 1985 (i) a bar licensee; or
 - 1986 (ii) a tavern;
 - 1987 (c) on behalf of or at the request of the licensee described in Subsection (119)(b);
 - 1988 (d) on a contractual or voluntary basis; and
 - 1989 (e) whether or not the person is designated as:
 - 1990 (i) an employee;
 - 1991 (ii) an independent contractor;
 - 1992 (iii) an agent of the licensee; or
 - 1993 (iv) a different type of classification.
- 1994 (120) "Shared seating area" means the licensed premises of two or more restaurant
1995 licensees that the restaurant licensees share as an area for alcoholic beverage consumption in
1996 accordance with Subsection [32B-5-207\(3\)](#).
- 1997 (121) "Single event permit" means a permit issued in accordance with Chapter 9, Part
1998 3, Single Event Permit.
- 1999 (122) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
2000 beer, heavy beer, and flavored malt beverage per year, as the department calculates by:
- 2001 (a) if the brewer is part of a controlled group of manufacturers, including the combined
2002 volume totals of production for all breweries that constitute the controlled group of
2003 manufacturers; and
 - 2004 (b) excluding beer, heavy beer, or flavored malt beverage the brewer:
 - 2005 (i) manufactures that is unfit for consumption as, or in, a beverage, as the commission
2006 determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2007 Rulemaking Act; and
 - 2008 (ii) does not sell for consumption as, or in, a beverage.
- 2009 (123) "Small or unincorporated locality" means:
- 2010 (a) a city of the third, fourth, or fifth class, as classified under Section [10-2-301](#);
 - 2011 (b) a town, as classified under Section [10-2-301](#); or

2012 (c) an unincorporated area in a county of the third, fourth, or fifth class, as classified
2013 under Section 17-50-501.

2014 (124) "Spa sublicense" means a sublicense:

2015 (a) to a resort license or hotel license; and

2016 (b) that the commission issues in accordance with Chapter 8d, Part 2, Resort Spa
2017 Sublicense.

2018 (125) "Special use permit" means a permit issued in accordance with Chapter 10,
2019 Special Use Permit Act.

2020 (126) (a) "Spirituous liquor" means liquor that is distilled.

2021 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
2022 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

2023 (127) "Sports center" is as defined by the commission by rule.

2024 (128) (a) "Staff" means an individual who engages in activity governed by this title:

2025 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
2026 holder;

2027 (ii) at the request of the business, including a package agent, licensee, permittee, or
2028 certificate holder; or

2029 (iii) under the authority of the business, including a package agent, licensee, permittee,
2030 or certificate holder.

2031 (b) "Staff" includes:

2032 (i) an officer;

2033 (ii) a director;

2034 (iii) an employee;

2035 (iv) personnel management;

2036 (v) an agent of the licensee, including a managing agent;

2037 (vi) an operator; or

2038 (vii) a representative.

2039 (129) "State of nudity" means:

2040 (a) the appearance of:

2041 (i) the nipple or areola of a female human breast;

2042 (ii) a human genital;

- 2043 (iii) a human pubic area; or
- 2044 (iv) a human anus; or
- 2045 (b) a state of dress that fails to opaquely cover:
- 2046 (i) the nipple or areola of a female human breast;
- 2047 (ii) a human genital;
- 2048 (iii) a human pubic area; or
- 2049 (iv) a human anus.
- 2050 (130) "State of seminudity" means a state of dress in which opaque clothing covers no
- 2051 more than:
- 2052 (a) the nipple and areola of the female human breast in a shape and color other than the
- 2053 natural shape and color of the nipple and areola; and
- 2054 (b) the human genitals, pubic area, and anus:
- 2055 (i) with no less than the following at its widest point:
- 2056 (A) four inches coverage width in the front of the human body; and
- 2057 (B) five inches coverage width in the back of the human body; and
- 2058 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 2059 (131) (a) "State store" means a facility for the sale of packaged liquor:
- 2060 (i) located on premises owned or leased by the state; and
- 2061 (ii) operated by a state employee.
- 2062 (b) "State store" does not include:
- 2063 (i) a package agency;
- 2064 (ii) a licensee; or
- 2065 (iii) a permittee.
- 2066 (132) (a) "Storage area" means an area on licensed premises where the licensee stores
- 2067 an alcoholic product.
- 2068 (b) "Store" means to place or maintain in a location an alcoholic product.
- 2069 (133) "Sublicense" means:
- 2070 (a) any of the following licenses issued as a subordinate license to, and contingent on
- 2071 the issuance of, a principal license:
- 2072 (i) a full-service restaurant license;
- 2073 (ii) a limited-service restaurant license;

- 2074 (iii) a bar establishment license;
- 2075 (iv) an on-premise banquet license;
- 2076 (v) an on-premise beer retailer license;
- 2077 (vi) a beer-only restaurant license; or
- 2078 (vii) a hospitality amenity license; or
- 2079 (b) a spa sublicense.
- 2080 (134) "Supplier" means a person who sells an alcoholic product to the department.
- 2081 (135) "Tavern" means an on-premise beer retailer who is:
- 2082 (a) issued a license by the commission in accordance with Chapter 5, Retail License
- 2083 Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and
- 2084 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
- 2085 On-Premise Beer Retailer License.
- 2086 (136) "Temporary beer event permit" means a permit issued in accordance with
- 2087 Chapter 9, Part 4, Temporary Beer Event Permit.
- 2088 (137) "Temporary domicile" means the principal place of abode within Utah of a
- 2089 person who does not have a present intention to continue residency within Utah permanently or
- 2090 indefinitely.
- 2091 (138) "Translucent" means a substance that allows light to pass through, but does not
- 2092 allow an object or person to be seen through the substance.
- 2093 (139) "Unsaleable liquor merchandise" means a container that:
- 2094 (a) is unsaleable because the container is:
- 2095 (i) unlabeled;
- 2096 (ii) leaky;
- 2097 (iii) damaged;
- 2098 (iv) difficult to open; or
- 2099 (v) partly filled;
- 2100 (b) (i) has faded labels or defective caps or corks;
- 2101 (ii) has contents that are:
- 2102 (A) cloudy;
- 2103 (B) spoiled; or
- 2104 (C) chemically determined to be impure; or

2105 (iii) contains:
2106 (A) sediment; or
2107 (B) a foreign substance; or
2108 (c) is otherwise considered by the department as unfit for sale.
2109 (140) (a) "Wine" means an alcoholic product obtained by the fermentation of the
2110 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
2111 another ingredient is added.
2112 (b) "Wine" includes:
2113 (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec.
2114 4.10; and
2115 (ii) hard cider.
2116 (c) "Wine" is considered liquor for purposes of this title, except as otherwise provided
2117 in this title.
2118 (141) "Winery manufacturing license" means a license issued in accordance with
2119 Chapter 11, Part 3, Winery Manufacturing License.
2120 Section 7. Section **53G-6-201** is amended to read:
2121 **53G-6-201. Definitions.**
2122 As used in this part:
2123 (1) (a) "Absence" or "absent" means the failure of a school-age child assigned to a class
2124 or class period to attend a class or class period.
2125 (b) "Absence" or "absent" does not mean multiple tardies used to calculate an absence
2126 for the sake of a truancy.
2127 (2) "Education cooperative" means two or more families jointly providing education
2128 services to school-age children.
2129 [~~2~~] (3) "Educational neglect" means the same as that term is defined in Section
2130 80-1-102.
2131 (4) "Extracurricular lessons" means the provision of educational services or
2132 experiences beyond traditional academic instruction.
2133 (5) (a) "Home-based education entity" means an individual or association of
2134 individuals that, for compensation, provides kindergarten through grade 12 education services
2135 to 16 or fewer students from an individual's residential dwelling, accessory dwelling unit, or

2136 residential property.

2137 (b) "Home-based education entity" includes:

2138 (i) a tutoring service;

2139 (ii) an education cooperative; and

2140 (iii) an entity that provides extracurricular lessons.

2141 (c) "Home-based education entity" does not include:

2142 (i) a daycare; or

2143 (ii) a family that has filed an affidavit for a child under Section [53G-6-204](#).

2144 (6) "Instructor" means an individual who teaches a student as part of a home-based
2145 education entity or micro-education entity.

2146 (7) (a) "Micro-education entity" means a person or association of persons that, for
2147 compensation, provides kindergarten through grade 12 education services to 100 students or
2148 fewer.

2149 (b) "Micro-education entity" does not include:

2150 (i) a daycare;

2151 (ii) a family that has filed an affidavit for a child pursuant to Section [53G-6-204](#);

2152 (iii) a home-based education entity;

2153 (iv) a private school; or

2154 (v) a school within the public education system.

2155 ~~[(3)]~~ (8) "Minor" means an individual who is under 18 years old.

2156 ~~[(4)]~~ (9) "Parent" includes:

2157 (a) a custodial parent of the minor;

2158 (b) a legally appointed guardian of a minor; or

2159 (c) any other person purporting to exercise any authority over the minor which could be
2160 exercised by a person described in Subsection ~~[(4)]~~ (9)(a) or (b).

2161 ~~[(5)]~~ (10) "School day" means the portion of a day that school is in session in which a
2162 school-age child is required to be in school for purposes of receiving instruction.

2163 ~~[(6)]~~ (11) "School year" means the period of time designated by a local school board or
2164 charter school governing board as the school year for the school where the school-age child:

2165 (a) is enrolled; or

2166 (b) should be enrolled, if the school-age child is not enrolled in school.

2167 ~~[(7)]~~ (12) "School-age child" means a minor who:

2168 (a) is at least six years old but younger than 18 years old; and

2169 (b) is not emancipated.

2170 ~~[(8)]~~ (13) (a) "Truant" means a condition in which a school-age child, without a valid

2171 excuse, and subject to Subsection ~~[(8)]~~ (13)(b), is absent for at least:

2172 (i) half of the school day; or

2173 (ii) if the school-age child is enrolled in a learner verified program, as that term is

2174 defined by the state board, the relevant amount of time under the LEA's policy regarding the

2175 LEA's continuing enrollment measure as it relates to truancy.

2176 (b) A school-age child may not be considered truant under this part more than one time

2177 during one day.

2178 ~~[(9)]~~ (14) "Truant minor" means a school-age child who:

2179 (a) is subject to the requirements of Section [53G-6-202](#) or [53G-6-203](#); and

2180 (b) is truant.

2181 ~~[(10)]~~ (15) (a) "Valid excuse" means:

2182 (i) an illness, which may be either mental or physical, regardless of whether the

2183 school-age child or parent provides documentation from a medical professional;

2184 (ii) mental or behavioral health of the school-age child;

2185 (iii) a family death;

2186 (iv) an approved school activity;

2187 (v) an absence permitted by a school-age child's:

2188 (A) individualized education program; or

2189 (B) Section 504 accommodation plan;

2190 (vi) an absence permitted in accordance with Subsection [53G-6-803\(5\)](#); or

2191 (vii) any other excuse established as valid by a local school board, charter school

2192 governing board, or school district.

2193 (b) "Valid excuse" does not mean a parent acknowledgment of an absence for a reason

2194 other than a reason described in Subsections ~~[(10)(a)(i)]~~ (15)(a)(i) through (vi), unless

2195 specifically permitted by the local school board, charter school governing board, or school

2196 district under Subsection ~~[(10)(a)(vi)]~~ (15)(a)(vi).

2197 Section 8. Section [53G-6-204](#) is amended to read:

2198 **53G-6-204. School-age children exempt from school attendance.**

2199 (1) (a) A local school board or charter school governing board may excuse a school-age
2200 child from attendance for any of the following reasons:

2201 (i) a school-age child over [~~age 16~~] 16 years old may receive a partial release from
2202 school to enter employment, or attend a trade school, if the school-age child has completed
2203 grade 8; or

2204 (ii) on an annual basis, a school-age child may receive a full release from attending a
2205 public, regularly established private, or part-time school or class if:

2206 (A) the school-age child has already completed the work required for graduation from
2207 high school;

2208 (B) the school-age child is in a physical or mental condition, certified by a competent
2209 physician if required by the local school board or charter school governing board, which
2210 renders attendance inexpedient and impracticable;

2211 (C) proper influences and adequate opportunities for education are provided in
2212 connection with the school-age child's employment; or

2213 (D) the district superintendent or charter school governing board has determined that a
2214 school-age child over [~~the age of 16~~] 16 years old is unable to profit from attendance at school
2215 because of inability or a continuing negative attitude toward school regulations and discipline.

2216 (b) A school-age child receiving a partial release from school under Subsection
2217 (1)(a)(i) is required to attend:

2218 (i) school part time as prescribed by the local school board or charter school governing
2219 board; or

2220 (ii) a home school part time.

2221 (c) In each case, evidence of reasons for granting an exemption under Subsection (1)
2222 must be sufficient to satisfy the local school board or charter school governing board.

2223 (d) A local school board or charter school governing board that excuses a school-age
2224 child from attendance as provided by this Subsection (1) shall issue a certificate that the child
2225 is excused from attendance during the time specified on the certificate.

2226 (2) (a) (i) As used in this Subsection (2)(a), "child abuse" means a criminal felony or
2227 attempted felony offense of which an individual is convicted, or to which an individual pleads
2228 guilty or no contest, for conduct that constitutes any of the following:

- 2229 (A) child abuse under Section 76-5-109;
- 2230 (B) aggravated child abuse under Section 76-5-109.2;
- 2231 (C) child abandonment under Section 76-5-109.3;
- 2232 (D) commission of domestic violence in the presence of a child under Section
- 2233 76-5-114;
- 2234 (E) child abuse homicide under Section 76-5-208;
- 2235 (F) child kidnapping under Section 76-5-301.1;
- 2236 (G) human trafficking of a child under Section 76-5-308.5;
- 2237 (H) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or in Title 76,
- 2238 Chapter 5b, Part 2, Sexual Exploitation, if the victim is under 18 years old;
- 2239 (I) sexual exploitation of a minor under Section 76-5b-201;
- 2240 (J) aggravated sexual exploitation of a minor under Section 76-5b-201.1; or
- 2241 (K) an offense in another state that, if committed in this state, would constitute an
- 2242 offense described in this Subsection (2)(a)(i).
- 2243 (ii) Except as provided in Subsection (2)(a)(iii), a local school board shall excuse a
- 2244 school-age child from attendance, if the school-age child's parent or legal guardian files a
- 2245 signed and notarized affidavit with the school-age child's school district of residence, as
- 2246 defined in Section 53G-6-302, that:
- 2247 (A) the school-age child will attend a home school, home-based education entity, or
- 2248 micro-education entity; and
- 2249 (B) the parent or legal guardian assumes sole responsibility for the education of the
- 2250 school-age child, except to the extent the school-age child is dual enrolled in a public school as
- 2251 provided in Section 53G-6-702.
- 2252 (iii) If a parent or legal guardian has been convicted of child abuse or if a court of
- 2253 competent jurisdiction has made a substantiated finding of child abuse against the parent or
- 2254 legal guardian:
- 2255 (A) the parent or legal guardian may not assume responsibility for the education of a
- 2256 school-age child under Subsection (2)(a)(ii); and
- 2257 (B) the local school board may not accept the affidavit described in Subsection
- 2258 (2)(a)(ii) from the parent or legal guardian or otherwise exempt the school-age child from
- 2259 attendance under Subsection (2)(a)(ii) in relation to the parent's or legal guardian's intent to

2260 home school the child.

2261 (iv) Nothing in this Subsection (2)(a) affects the ability of another of a child's parents
2262 or legal guardians who is not prohibited under Subsection (2)(a)(iii) to file the affidavit
2263 described in Subsection (2)(a)(ii).

2264 (b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall
2265 remain in effect as long as:

2266 (i) the school-age child attends a home school, home-based education entity, or
2267 micro-education entity;

2268 (ii) the school district where the affidavit was filed remains the school-age child's
2269 district of residence; and

2270 (iii) the parent or legal guardian who filed the signed and notarized affidavit has not
2271 been convicted of child abuse or been the subject of a substantiated finding of child abuse by a
2272 court of competent jurisdiction.

2273 (c) A parent [or], legal guardian, or instructor of a school-age child who attends a home
2274 school, home-based education entity, or micro-education entity is solely responsible for:

2275 (i) the selection of instructional materials and textbooks;

2276 (ii) the time, place, and method of instruction; and

2277 (iii) the evaluation of the home school instruction.

2278 (d) A local school board may not:

2279 (i) require a parent or legal guardian of a school-age child who attends a home school,
2280 home-based education entity, or micro-education entity to maintain records of instruction or
2281 attendance;

2282 (ii) require credentials for individuals providing home school, home-based education
2283 entity, or micro-education entity instruction;

2284 (iii) inspect home school, home-based education entity, or micro-education entity
2285 facilities except as provided in Section 53G-6-212; or

2286 (iv) require standardized or other testing of home school, home-based education entity,
2287 or micro-education entity students.

2288 (e) Upon the request of a parent or legal guardian, a local school board shall identify
2289 the knowledge, skills, and competencies a student is recommended to attain by grade level and
2290 subject area to assist the parent [or], legal guardian, or instructor in achieving college and

2291 career readiness through [~~home schooling~~] schooling at a home school, home-based education
2292 entity, or micro-education entity.

2293 (f) A local school board that excuses a school-age child from attendance under this
2294 Subsection (2) shall annually issue a certificate stating that the school-age child is excused
2295 from attendance for the specified school year.

2296 (g) A local school board shall issue a certificate excusing a school-age child from
2297 attendance:

2298 (i) within 30 days after receipt of a signed and notarized affidavit filed by the
2299 school-age child's parent or legal guardian under this Subsection (2); and

2300 (ii) on or before August 1 each year thereafter unless:

2301 (A) the school-age child enrolls in a school within the school district;

2302 (B) the school-age child's parent or legal guardian notifies the school district that the
2303 school-age child no longer attends a home school; or

2304 (C) the school-age child's parent or legal guardian notifies the school district that the
2305 school-age child's school district of residence has changed.

2306 (3) A parent or legal guardian who is eligible to file and files a signed and notarized
2307 affidavit under Subsection (2)(a) is exempt from the application of Subsections [53G-6-202](#)(2),
2308 (5), and (6).

2309 (4) (a) Nothing in this section may be construed to prohibit or discourage voluntary
2310 cooperation, resource sharing, or testing opportunities between a school or school district and a
2311 parent or legal guardian of a child attending a home school, home-based education entity, or
2312 micro-education entity.

2313 (b) The exemptions in this section apply regardless of whether:

2314 (i) a parent or legal guardian provides education instruction to the parent's or legal
2315 guardian's child alone or in cooperation with other parents or legal guardians similarly
2316 exempted under this section; or

2317 (ii) the parent or legal guardian makes payment for educational services the parent's or
2318 legal guardian's child receives.

2319 Section 9. Section [53G-6-212](#) is enacted to read:

2320 **[53G-6-212](#). Home-based education entity and micro-education entity waivers and**
2321 **exemptions.**

- 2322 (1) A home-based education entity or micro-education entity:
- 2323 (a) may form to provide education services to school-age children; and
- 2324 (b) is not an LEA, a public school, or otherwise a part of the public education system.
- 2325 (2) A local health department may not require a home-based education entity or
- 2326 micro-education entity to obtain a food establishment permit or undergo an inspection in order
- 2327 to prepare or provide food if staff of the home-based education entity or micro-education entity
- 2328 does not prepare and serve food.

Section 10. Section **53G-6-702** is amended to read:

53G-6-702. Dual enrollment.

2331 (1) As used in this section, "minor" means the same as that term is defined in Section
2332 **53G-6-201**.

2333 (2) A person having control of a minor who is enrolled in a regularly established
2334 private school, home-based education entity, micro-education entity, or [a] home school may
2335 also enroll the minor in a public school for dual enrollment purposes.

2336 (3) The minor may participate in any academic activity in the public school available to
2337 students in the minor's grade or age group, subject to compliance with the same rules and
2338 requirements that apply to a full-time student's participation in the activity.

2339 (4) (a) A student enrolled in a dual enrollment program in a district school is
2340 considered a student of the district in which the district school of attendance is located for
2341 purposes of state funding to the extent of the student's participation in the district school
2342 programs.

2343 (b) A student enrolled in a dual enrollment program in a charter school is considered a
2344 student of the charter school for purposes of state funding to the extent of the student's
2345 participation in the charter school programs.

2346 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2347 state board shall make rules for purposes of dual enrollment to govern and regulate the
2348 transferability of credits toward graduation that are earned in a private school, home-based
2349 education entity, micro-education entity, or home school.

Section 11. Section **53G-6-703** is amended to read:

**53G-6-703. Private school, home school, home-based education entity, and
micro-education entity students' participation in extracurricular activities in a public**

2353 **school.**

2354 (1) As used in this section:

2355 (a) "Academic eligibility requirements" means the academic eligibility requirements
2356 that a home school student is required to meet to participate in an extracurricular activity in a
2357 public school.

2358 (b) "Association" means the same as that term is defined in Section [53G-7-1101](#).

2359 (c) "Extracurricular activity" means the same as that term is defined in Section
2360 [53G-7-501](#).

2361 (d) "Initial establishment of eligibility requirements" means an association's eligibility
2362 requirements, policies, procedures, and transfer rules that a school student in grade 9 or 10
2363 must meet, and to which the student is bound, to participate on a high school sports team when
2364 the student:

2365 (i) attends the high school in which the student is selected for membership on a high
2366 school sports team; or

2367 (ii) does not attend the high school in which the student tries out for and is selected for
2368 membership on a high school sports team.

2369 (e) "Minor" means the same as that term is defined in Section [53G-6-201](#).

2370 (f) "Parent" means the same as that term is defined in Section [53G-6-201](#).

2371 (g) "Principal" means the principal of the school in which a home school student
2372 participates or intends to participate in an extracurricular activity.

2373 (2) (a) A minor who is enrolled in a private school ~~[or]~~, a home school, a home-based
2374 education entity, or a micro-education entity is eligible to participate in an extracurricular
2375 activity at a public school as provided in this section.

2376 (b) A private school student may only participate in an extracurricular activity at a
2377 public school that is not offered by the student's private school.

2378 (c) (i) Except as provided in Subsection (2)(d), a private school student ~~[or]~~, a home
2379 school student, a home-based education entity student, or a micro-education entity student may
2380 only participate in an extracurricular activity at:

2381 (A) the school with attendance boundaries within which the student's custodial parent
2382 resides; or

2383 (B) the school from which the student withdrew for the purpose of attending a private

2384 [~~or~~], home school, home-based education entity, or micro-education entity.

2385 (ii) A private school student [~~or~~], a home school student, a home-based education
2386 entity student, or a micro-education entity student retains the ability to participate in an
2387 extracurricular activity at a school described in Subsection (2)(c)(i) if the student did not
2388 initially establish the student's eligibility at another school in grade 9 or 10.

2389 (d) A school other than a school described in Subsection (2)(c)(i) may allow a private
2390 school student [~~or~~], a home school student, a home-based education entity student, or a
2391 micro-education entity student to participate in an extracurricular activity that the public school
2392 sponsors and supports if:

2393 (i) for an interscholastic competition of athletic teams, the private school student [~~or~~],
2394 the home school student, the home-based education entity student, or the micro-education
2395 entity student meets the initial establishment of eligibility requirements;

2396 (ii) for an interscholastic contest or competition for music, drama, or forensic groups or
2397 teams, the private school student, subject to Subsection (2)(b), [~~or~~] the home school student,
2398 the home-based education entity student, or the micro-education entity student meets the entry
2399 requirements for participation;

2400 (iii) the private school student [~~or~~], the home school student, the home-based education
2401 entity student, or the micro-education entity student meets the eligibility requirements under
2402 this section; and

2403 (iv) the private school student [~~or~~], the home school student, the home-based education
2404 entity student, or the micro-education entity meets the enrollment requirements for public
2405 school in accordance with Part 4, School District Enrollment.

2406 (3) (a) Except as provided in Subsections (4) through (13), a private school student or a
2407 home school student is eligible to participate in an extracurricular activity at a public school
2408 consistent with eligibility standards:

2409 (i) applied to a fully enrolled public school student;

2410 (ii) of the public school where the private school student or the home school student
2411 participates in an extracurricular activity; and

2412 (iii) for the extracurricular activity in which the private school or the home school
2413 student participates.

2414 (b) A school district or public school may not impose additional requirements on a

2415 private school student or a home school student to participate in an extracurricular activity that
2416 are not imposed on a fully enrolled public school student.

2417 (c) (i) A private school student or a home school student who participates in an
2418 extracurricular activity at a public school shall pay the same fees as required of a fully enrolled
2419 public school student to participate in an extracurricular activity.

2420 (ii) If a local school board or a charter school governing board imposes a mandatory
2421 student activity fee for a student enrolled in a public school, the fee may be imposed on a
2422 private school student or a home school student who participates in an extracurricular activity
2423 at the public school if the same benefits of paying the mandatory student activity fee that are
2424 available to a fully enrolled public school student are available to a private school student or a
2425 home school student who participates in an extracurricular activity at the public school.

2426 (4) Eligibility requirements based on school attendance are not applicable to a home
2427 school student.

2428 (5) A home school student meets academic eligibility requirements to participate in an
2429 extracurricular activity if:

2430 (a) the student is mastering the material in each course or subject being taught; and

2431 (b) the student is maintaining satisfactory progress towards achievement or promotion.

2432 (6) (a) To establish a home school student's academic eligibility, a parent, teacher, or
2433 organization providing instruction to the student shall submit an affidavit to the principal
2434 indicating the student meets academic eligibility requirements.

2435 (b) Upon submission of an affidavit pursuant to Subsection (6)(a), a home school
2436 student shall:

2437 (i) be considered to meet academic eligibility requirements; and

2438 (ii) retain academic eligibility for all extracurricular activities during the activity season
2439 for which the affidavit is submitted, until:

2440 (A) a panel established under Subsection (10) determines the home school student does
2441 not meet academic eligibility requirements; or

2442 (B) the person who submitted the affidavit under Subsection (6)(a) provides written
2443 notice to the school principal that the student no longer meets academic eligibility
2444 requirements.

2445 (7) (a) A home school student who loses academic eligibility pursuant to Subsection

2446 (6)(b)(ii)(B) may not participate in an extracurricular activity until the person who submitted
2447 the affidavit under Subsection (6)(a) provides written notice to the school principal that the
2448 home school student has reestablished academic eligibility.

2449 (b) If a home school student reestablishes academic eligibility pursuant to Subsection
2450 (7)(a), the home school student may participate in extracurricular activities for the remainder of
2451 the activity season for which an affidavit was submitted under Subsection (6)(a).

2452 (8) A person who has probable cause to believe a home school student does not meet
2453 academic eligibility requirements may submit an affidavit to the principal:

2454 (a) asserting the home school student does not meet academic eligibility requirements;
2455 and

2456 (b) providing information indicating that the home school student does not meet the
2457 academic eligibility requirements.

2458 (9) A principal shall review the affidavit submitted under Subsection (8), and if the
2459 principal determines it contains information which constitutes probable cause to believe a
2460 home school student may not meet academic eligibility requirements, the principal shall
2461 request a panel established pursuant to Subsection (10) to verify the student's compliance with
2462 academic eligibility requirements.

2463 (10) (a) A school district superintendent shall:

2464 (i) appoint a panel of three individuals to verify a home school student's compliance
2465 with academic eligibility requirements when requested by a principal pursuant to Subsection
2466 (9); and

2467 (ii) select the panel members from nominees submitted by national, state, or regional
2468 organizations whose members are home school students and parents.

2469 (b) Of the members appointed to a panel under Subsection (10)(a):

2470 (i) one member shall have experience teaching in a public school as a licensed teacher
2471 and in home schooling high school-age students;

2472 (ii) one member shall have experience teaching in a higher education institution and in
2473 home schooling; and

2474 (iii) one member shall have experience in home schooling high school-age students.

2475 (11) A panel appointed under Subsection (10):

2476 (a) shall review the affidavit submitted under Subsection (8);

2477 (b) may confer with the person who submitted the affidavit under Subsection (8);

2478 (c) shall request the home school student to submit test scores or a portfolio of work

2479 documenting the student's academic achievement to the panel;

2480 (d) shall review the test scores or portfolio of work; and

2481 (e) shall determine whether the home school student meets academic eligibility

2482 requirements.

2483 (12) A home school student who meets academic eligibility requirements pursuant to

2484 Subsection (11), retains academic eligibility for all extracurricular activities during the activity

2485 season for which an affidavit is submitted pursuant to Subsection (6).

2486 (13) (a) A panel's determination that a home school student does not comply with

2487 academic eligibility requirements is effective for an activity season and all extracurricular

2488 activities that have academic eligibility requirements.

2489 (b) A home school student who is not in compliance with academic eligibility

2490 requirements as determined by a panel appointed under Subsection (11) may seek to establish

2491 academic eligibility under this section for the next activity season.

2492 (14) (a) A public school student who has been declared to be academically ineligible to

2493 participate in an extracurricular activity and who subsequently enrolls in a home school shall

2494 lose eligibility for participation in the extracurricular activity until the student:

2495 (i) demonstrates academic eligibility by providing test results or a portfolio of the

2496 student's work to the school principal, provided that a student may not reestablish academic

2497 eligibility under this Subsection (14)(a) during the same activity season in which the student

2498 was declared to be academically ineligible;

2499 (ii) returns to public school and reestablishes academic eligibility; or

2500 (iii) enrolls in a private school and establishes academic eligibility.

2501 (b) A public school student who has been declared to be behaviorally ineligible to

2502 participate in an extracurricular activity and who subsequently enrolls in a home school shall

2503 lose eligibility for participation in the extracurricular activity until the student meets eligibility

2504 standards as provided in Subsection (3).

2505 (15) When selection to participate in an extracurricular activity at a public school is

2506 made on a competitive basis, a private school student or a home school student is eligible to try

2507 out for and participate in the activity as provided in this section.

2508 (16) (a) If a student exits a public school to enroll in a private school or a home school
2509 mid-semester or during an activity season, and the student desires to participate in an
2510 extracurricular activity at the public school, the public school shall issue an interim academic
2511 assessment based on the student's work in each class.

2512 (b) A student's academic eligibility to participate in an extracurricular activity under
2513 the circumstances described in Subsection (16)(a) is dependent on the student meeting public
2514 school academic eligibility standards at the time of exiting public school.

2515 (c) A student may appeal an academic eligibility determination made under Subsection
2516 (16)(b) in accordance with procedures for appealing a public school student's academic
2517 eligibility.

2518 Section 12. Section **53G-6-706** is amended to read:

2519 **53G-6-706. Placement of a student of a home school, micro-education entity, or**
2520 **home-based education entity, who transfers to a public school.**

2521 (1) For the purposes of this section[~~;~~],

2522 [~~(a) "Home school student" means a student who attends a home school pursuant to~~
2523 ~~Section 53G-6-204.~~]

2524 [~~(b) "Parent"~~] "parent" means the same as that term is defined in Section [53G-6-201](#).

2525 (2) [~~When a home school student transfers from a home school~~] When a home school
2526 student, a home-based education entity student, or a micro-education entity student transfers
2527 from a home school, a home-based education entity, or a micro-education entity to a public
2528 school, the public school shall place the student in the grade levels, classes, or courses that the
2529 student's parent and [~~in consultation with~~] the school administrator determine are appropriate
2530 based on the parent's assessment of the student's academic performance.

2531 (3) (a) Within 30 days of [~~a home school~~] the student's placement in a public school
2532 grade level, class, or course, either the student's teacher or the student's parent may request a
2533 conference to consider changing the student's placement.

2534 (b) If the student's teacher and the student's parent agree on a placement change, the
2535 public school shall place the student in the agreed upon grade level, class, or course.

2536 (c) If the student's teacher and the student's parent do not agree on a placement change,
2537 the public school shall evaluate the student's subject matter mastery in accordance with
2538 Subsection (3)(d).

- 2539 (d) The student's parent has the option of:
- 2540 (i) allowing the public school to administer, to the student, assessments that are:
- 2541 (A) regularly administered to public school students; and
- 2542 (B) used to measure public school students' subject matter mastery and determine
- 2543 placement; or
- 2544 (ii) having a private entity or individual administer assessments of subject matter
- 2545 mastery to the student at the parent's expense.

2546 (e) After an evaluation of a student's subject matter mastery, a public school may

2547 change [a] the student's placement in a grade level, class, or course.

2548 (4) [~~This~~] In accordance with Section 53G-6-702, this section does not apply to a

2549 student who is dual enrolled in a public school and a [~~home school pursuant to Section~~

2550 53G-6-702];

2551 (a) home school;

2552 (b) home-based education entity; or

2553 (c) micro-education entity.

2554 Section 13. Section **53G-9-301** is amended to read:

2555 **53G-9-301. Definitions.**

2556 As used in this part:

2557 (1) "Department" means the Department of Health and Human Services created in

2558 Section 26B-1-201.

2559 (2) "Health official" means an individual designated by a local health department from

2560 within the local health department to consult and counsel parents and licensed health care

2561 providers, in accordance with Subsection 53G-9-304(2)(a).

2562 (3) "Health official designee" means a licensed health care provider designated by a

2563 local health department, in accordance with Subsection 53G-9-304(2)(b), to consult with

2564 parents, licensed health care professionals, and school officials.

2565 (4) "Immunization" or "immunize" means a process through which an individual

2566 develops an immunity to a disease, through vaccination or natural exposure to the disease.

2567 (5) "Immunization record" means a record relating to a student that includes:

2568 (a) information regarding each required vaccination that the student has received,

2569 including the date each vaccine was administered, verified by:

- 2570 (i) a licensed health care provider;
- 2571 (ii) an authorized representative of a local health department;
- 2572 (iii) an authorized representative of the department;
- 2573 (iv) a registered nurse; or
- 2574 (v) a pharmacist;
- 2575 (b) information regarding each disease against which the student has been immunized
- 2576 by previously contracting the disease; and
- 2577 (c) an exemption form identifying each required vaccination from which the student is
- 2578 exempt, including all required supporting documentation described in Section [53G-9-303](#).
- 2579 (6) "Legally responsible individual" means:
- 2580 (a) a student's parent;
- 2581 (b) the student's legal guardian;
- 2582 (c) an adult brother or sister of a student who has no legal guardian; or
- 2583 (d) the student, if the student:
- 2584 (i) is an adult; or
- 2585 (ii) is a minor who may consent to treatment under Section [26B-4-321](#).
- 2586 (7) "Licensed health care provider" means a health care provider who is licensed under
- 2587 Title 58, Occupations and Professions, as:
- 2588 (a) a medical doctor;
- 2589 (b) an osteopathic doctor;
- 2590 (c) a physician assistant; or
- 2591 (d) an advanced practice registered nurse.
- 2592 (8) "Local health department" means the same as that term is defined in Section
- 2593 [26A-1-102](#).
- 2594 (9) "Required vaccines" means vaccines required by department rule described in
- 2595 Section [53G-9-305](#).
- 2596 (10) (a) "School" means any public or private:
- 2597 [~~(a)~~] (i) elementary or secondary school through grade 12;
- 2598 [~~(b)~~] (ii) preschool;
- 2599 [~~(c)~~] (iii) child care program, as that term is defined in Section [26B-2-401](#);
- 2600 [~~(d)~~] (iv) nursery school; or

2601 ~~(e)~~ (v) kindergarten.

2602 (b) "School" does not include a:

2603 (i) home school;

2604 (ii) home-based education entity; or

2605 (iii) micro-education entity.

2606 (11) "Student" means an individual who attends a school.

2607 (12) "Vaccinating" or "vaccination" means the administration of a vaccine.

2608 (13) "Vaccination exemption form" means a form, described in Section [53G-9-304](#),

2609 that documents and verifies that a student is exempt from the requirement to receive one or

2610 more required vaccines.

2611 (14) "Vaccine" means the substance licensed for use by the United States Food and

2612 Drug Administration that is injected into or otherwise administered to an individual to

2613 immunize the individual against a communicable disease.

2614 Section 14. **Effective date.**

2615 This bill takes effect on May 1, 2024.