

PUBLIC EDUCATION RECODIFICATION - CROSS

REFERENCES AND REPEALS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ann Millner

House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill repeals and makes technical cross reference changes to provisions related to the public education code.

Highlighted Provisions:

This bill:

- ▶ repeals outdated provisions related to the public education code;
- ▶ makes technical cross reference changes to provisions related to the public education code; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

9-9-104.6, as last amended by Laws of Utah 2015, Chapter 53

10-9a-103, as last amended by Laws of Utah 2017, Chapters 17 and 84

10-9a-305, as last amended by Laws of Utah 2013, Chapter 200

11-13-302, as last amended by Laws of Utah 2015, Chapter 287

11-13-310, as last amended by Laws of Utah 2003, Chapter 21

30 **11-14-202**, as last amended by Laws of Utah 2017, Chapters 157, 251, 267 and last
31 amended by Coordination Clause, Laws of Utah 2017, Chapter 267
32 **11-17-20**, as last amended by Laws of Utah 2012, Chapters 201 and 347
33 **11-36a-102**, as last amended by Laws of Utah 2014, Chapter 363
34 **11-36a-202**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 2
35 **11-44-201**, as last amended by Laws of Utah 2015, Chapter 181
36 **11-49-102**, as last amended by Laws of Utah 2016, Chapter 350
37 **13-22-8**, as last amended by Laws of Utah 2017, Chapter 98
38 **17-27a-103**, as last amended by Laws of Utah 2017, Chapter 84
39 **17-27a-305**, as last amended by Laws of Utah 2015, Chapter 465
40 **20A-1-203**, as last amended by Laws of Utah 2015, Chapters 111 and 352
41 **20A-14-206**, as enacted by Laws of Utah 1995, Chapter 1
42 **26-1-17.5 (Superseded 07/01/18)**, as last amended by Laws of Utah 2008, Chapter 382
43 **26-1-17.5 (Effective 07/01/18)**, as last amended by Laws of Utah 2017, Chapter 344
44 **26-7-9 (Effective 07/01/18)**, as enacted by Laws of Utah 2017, Chapter 344
45 **26-10-6**, as last amended by Laws of Utah 2017, Chapter 351
46 **26-10-9 (Superseded 07/01/18)**, as enacted by Laws of Utah 2011, Chapter 147
47 **26-10-9 (Effective 07/01/18)**, as last amended by Laws of Utah 2017, Chapter 344
48 **26-10-10**, as enacted by Laws of Utah 2013, Chapter 45
49 **26-10-11**, as last amended by Laws of Utah 2015, Chapter 16
50 **26-39-402 (Effective 07/01/18)**, as last amended by Laws of Utah 2017, Chapter 344
51 **26-41-106**, as last amended by Laws of Utah 2015, Chapter 332
52 **30-1-9**, as last amended by Laws of Utah 2000, Chapter 1
53 **32B-2-304**, as last amended by Laws of Utah 2017, Chapter 455
54 **34A-2-104.5**, as enacted by Laws of Utah 2016, Chapter 390
55 **35A-1-102**, as last amended by Laws of Utah 2016, Chapter 226
56 **35A-3-304**, as last amended by Laws of Utah 2016, Chapter 105
57 **35A-9-401**, as enacted by Laws of Utah 2016, Chapter 336

- 58 **35A-13-403**, as renumbered and amended by Laws of Utah 2016, Chapter 271
- 59 **36-22-2**, as last amended by Laws of Utah 2016, Chapter 63
- 60 **41-1a-422**, as last amended by Laws of Utah 2017, Chapters 107, 194, and 383
- 61 **41-6a-303**, as last amended by Laws of Utah 2010, Chapter 299
- 62 **41-6a-1307**, as last amended by Laws of Utah 2015, Chapter 412
- 63 **41-6a-1309**, as enacted by Laws of Utah 2011, Chapter 296
- 64 **49-12-102**, as last amended by Laws of Utah 2017, Chapter 325
- 65 **49-12-202**, as last amended by Laws of Utah 2014, Chapters 15, 201, and 363
- 66 **49-12-701**, as last amended by Laws of Utah 2016, Chapters 144 and 310
- 67 **49-13-102**, as last amended by Laws of Utah 2017, Chapter 325
- 68 **49-13-202**, as last amended by Laws of Utah 2014, Chapters 15, 201, and 363
- 69 **49-13-701**, as last amended by Laws of Utah 2016, Chapters 144 and 310
- 70 **49-22-102**, as last amended by Laws of Utah 2017, Chapter 325
- 71 **49-22-202**, as last amended by Laws of Utah 2014, Chapter 363
- 72 **51-2a-201.5**, as last amended by Laws of Utah 2017, Chapter 11
- 73 **51-7-13**, as last amended by Laws of Utah 2005, Chapter 178
- 74 **52-4-103**, as last amended by Laws of Utah 2017, Chapters 196, 277, and 441
- 75 **52-4-209**, as last amended by Laws of Utah 2014, Chapter 363
- 76 **53-3-104**, as last amended by Laws of Utah 2014, Chapter 85
- 77 **53-3-505.5**, as enacted by Laws of Utah 2003, Chapter 121
- 78 **53-7-103**, as last amended by Laws of Utah 2011, Chapter 340
- 79 **53-10-202**, as last amended by Laws of Utah 2017, Chapter 296
- 80 **53-10-203**, as renumbered and amended by Laws of Utah 1998, Chapter 263
- 81 **53B-1-109**, as last amended by Laws of Utah 2016, Chapter 200
- 82 **53B-1-114**, as enacted by Laws of Utah 2017, Chapter 382
- 83 **53B-2a-106**, as last amended by Laws of Utah 2017, Chapter 382
- 84 **53B-10-101**, as last amended by Laws of Utah 2006, Chapter 88
- 85 **53B-16-108**, as enacted by Laws of Utah 2015, Chapter 404

- 86 **53B-16-404**, as last amended by Laws of Utah 2015, Chapter 389
- 87 **53C-1-203**, as last amended by Laws of Utah 2014, Chapter 426
- 88 **53D-1-102**, as last amended by Laws of Utah 2016, Chapter 144
- 89 **53D-1-403**, as last amended by Laws of Utah 2017, Chapter 179
- 90 **58-11a-302**, as last amended by Laws of Utah 2017, Chapter 342
- 91 **58-41-4**, as last amended by Laws of Utah 2016, Chapter 144
- 92 **58-61-307**, as last amended by Laws of Utah 2013, Chapter 16
- 93 **59-2-102**, as last amended by Laws of Utah 2016, Chapters 98, 308, 367, and 368
- 94 **59-2-918.6**, as last amended by Laws of Utah 2016, Chapter 98
- 95 **59-2-919**, as last amended by Laws of Utah 2016, Chapters 341 and 367
- 96 **59-2-924**, as last amended by Laws of Utah 2017, Chapter 390
- 97 **59-2-926**, as last amended by Laws of Utah 2016, Chapter 367
- 98 **59-2-1101**, as last amended by Laws of Utah 2015, Chapters 129 and 261
- 99 **59-10-1018**, as last amended by Laws of Utah 2012, Chapter 295
- 100 **59-10-1307**, as last amended by Laws of Utah 2016, Chapter 144
- 101 **59-10-1318**, as last amended by Laws of Utah 2016, Chapter 172
- 102 **59-12-102**, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422
- 103 **59-28-103**, as enacted by Laws of Utah 2017, Chapter 166
- 104 **62A-2-108.1**, as last amended by Laws of Utah 2007, Chapter 81
- 105 **62A-4a-202.6**, as last amended by Laws of Utah 2012, Chapter 293
- 106 **62A-4a-409**, as last amended by Laws of Utah 2017, Chapter 459
- 107 **62A-4a-606**, as last amended by Laws of Utah 2017, Chapter 148
- 108 **62A-4a-1002**, as last amended by Laws of Utah 2017, Chapter 55
- 109 **62A-5a-102**, as last amended by Laws of Utah 2016, Chapters 144 and 271
- 110 **62A-5a-105**, as last amended by Laws of Utah 2016, Chapter 271
- 111 **62A-15-1101**, as last amended by Laws of Utah 2017, Chapters 296 and 346
- 112 **63A-3-106**, as last amended by Laws of Utah 2017, Chapter 196
- 113 **63A-3-402**, as last amended by Laws of Utah 2015, Chapters 215, 226, and 283

- 114 [63A-4-204](#), as last amended by Laws of Utah 2016, Chapter 189
- 115 [63A-4-204.5](#), as last amended by Laws of Utah 2016, Chapter 189
- 116 [63G-2-103](#), as last amended by Laws of Utah 2017, Chapters 196 and 441
- 117 [63G-2-301](#), as last amended by Laws of Utah 2014, Chapter 373
- 118 [63G-2-302](#), as last amended by Laws of Utah 2017, Chapters 168 and 282
- 119 [63G-7-102](#), as last amended by Laws of Utah 2017, Chapter 300
- 120 [63I-1-253](#), as last amended by Laws of Utah 2017, Chapters 166 and 181
- 121 [63I-2-253](#), as last amended by Laws of Utah 2017, Chapters 217, 223, 350, 365, 381,
- 122 386, and 468
- 123 [63I-4a-102](#), as last amended by Laws of Utah 2017, Chapters 345 and 363
- 124 [63J-1-206](#), as last amended by Laws of Utah 2017, First Special Session, Chapter 1
- 125 [63J-1-220](#), as last amended by Laws of Utah 2017, Chapter 173
- 126 [63J-1-602.3](#), as last amended by Laws of Utah 2017, Chapters 396 and 423
- 127 [63J-3-102](#), as last amended by Laws of Utah 2013, Chapter 310
- 128 [63J-3-401](#), as renumbered and amended by Laws of Utah 2008, Chapter 382
- 129 [63J-7-102](#), as last amended by Laws of Utah 2017, Chapters 181, 345, and 363
- 130 [63N-3-110](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 131 [63N-12-202](#), as last amended by Laws of Utah 2017, Chapters 219 and 353
- 132 [63N-12-213](#), as last amended by Laws of Utah 2017, Chapter 382
- 133 [64-13-42](#), as last amended by Laws of Utah 2012, Chapter 369
- 134 [67-1a-11](#), as enacted by Laws of Utah 2006, Chapter 142
- 135 [67-8-3](#), as last amended by Laws of Utah 2006, Chapter 139
- 136 [67-16-3](#), as last amended by Laws of Utah 2017, Chapter 196
- 137 [67-16-4](#), as last amended by Laws of Utah 2014, Chapter 196
- 138 [67-19-15](#), as last amended by Laws of Utah 2017, Chapter 463
- 139 [75-5-201](#), as last amended by Laws of Utah 1998, Chapter 124
- 140 [76-5-415](#), as enacted by Laws of Utah 2014, Chapter 135
- 141 [76-10-105](#), as last amended by Laws of Utah 2017, Chapter 330

- 142 [77-37-4](#), as last amended by Laws of Utah 2015, Chapter 311
- 143 [78A-6-103 \(Effective 07/01/18\)](#), as last amended by Laws of Utah 2017, Chapter 330
- 144 [78A-6-105](#), as last amended by Laws of Utah 2017, Chapters 181, 330, and 401
- 145 [78A-6-112 \(Superseded 07/01/18\)](#), as renumbered and amended by Laws of Utah
- 146 2008, Chapter 3
- 147 [78A-6-112 \(Effective 07/01/18\)](#), as last amended by Laws of Utah 2017, Chapter 330
- 148 [78A-6-319](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 149 [78A-6-602](#), as last amended by Laws of Utah 2017, Chapter 330
- 150 [78A-6-603](#), as last amended by Laws of Utah 2017, Chapter 330
- 151 [78A-6-1001](#), as last amended by Laws of Utah 2010, Chapter 276
- 152 [78A-6-1203](#), as last amended by Laws of Utah 2017, Chapter 330
- 153 REPEALS:
- 154 [53A-1-414](#), as enacted by Laws of Utah 2016, Chapter 217
- 155 [53A-1-901](#), as last amended by Laws of Utah 2015, Chapter 415
- 156 [53A-1-904](#), as enacted by Laws of Utah 2005, First Special Session, Chapter 2
- 157 [53A-1-1101](#), as repealed and reenacted by Laws of Utah 2017, Chapter 378
- 158 [53A-1-1201](#), as enacted by Laws of Utah 2015, Chapter 449
- 159 [53A-1-1301](#), as enacted by Laws of Utah 2015, Chapter 443
- 160 [53A-1-1401](#), as enacted by Laws of Utah 2016, Chapter 221
- 161 [53A-1-1501](#), as enacted by Laws of Utah 2016, Chapter 318
- 162 [53A-1a-101](#), as enacted by Laws of Utah 1992, Chapter 47
- 163 [53A-1a-501](#), as enacted by Laws of Utah 1998, Chapter 231
- 164 [53A-1a-701](#), as enacted by Laws of Utah 2005, Chapter 35
- 165 [53A-1b-101](#), as enacted by Laws of Utah 2014, Chapter 304
- 166 [53A-1b-201](#), as enacted by Laws of Utah 2016, Chapter 336
- 167 [53A-2-401](#), as enacted by Laws of Utah 2006, Chapter 339
- 168 [53A-4-301](#), as enacted by Laws of Utah 2016, Chapter 331
- 169 [53A-6-101](#), as repealed and reenacted by Laws of Utah 1999, Chapter 108

- 170 **53A-8a-101**, as enacted by Laws of Utah 2012, Chapter 425
- 171 **53A-11-1201**, as enacted by Laws of Utah 2007, Chapter 114
- 172 **53A-11-1501**, as last amended by Laws of Utah 2015, Chapter 442
- 173 **53A-11-1601**, as enacted by Laws of Utah 2016, Chapter 165
- 174 **53A-11a-101**, as enacted by Laws of Utah 2008, Chapter 197
- 175 **53A-15-1001**, as enacted by Laws of Utah 2006, Chapter 227
- 176 **53A-15-1201**, as enacted by Laws of Utah 2011, Chapter 419
- 177 **53A-15-1501**, as enacted by Laws of Utah 2015, Chapter 389
- 178 **53A-15-1701**, as enacted by Laws of Utah 2016, Chapter 200
- 179 **53A-15-1801**, as enacted by Laws of Utah 2016, Chapter 347
- 180 **53A-15-1901**, as enacted by Laws of Utah 2016, Chapter 320
- 181 **53A-15-2001**, as enacted by Laws of Utah 2017, Chapter 72
- 182 **53A-17a-101**, as last amended by Laws of Utah 1999, Chapter 21
- 183 **53A-20b-101**, as last amended by Laws of Utah 2012, Chapter 201
- 184 **53A-21-101**, as repealed and reenacted by Laws of Utah 1996, Chapter 326
- 185 **53A-25a-101**, as enacted by Laws of Utah 1994, Chapter 280
- 186 **53A-25b-101**, as enacted by Laws of Utah 2009, Chapter 294
- 187 **53A-28-101**, as enacted by Laws of Utah 1996, Chapter 62
- 188 **53A-30-101**, as enacted by Laws of Utah 2014, Chapter 433
- 189 **53A-31-101**, as enacted by Laws of Utah 2015, Chapter 53
- 190 **53A-31-401**, as enacted by Laws of Utah 2016, Chapter 63

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

193 Section 1. Section **9-9-104.6** is amended to read:

194 **9-9-104.6. Participation of state agencies in meetings with tribal leaders --**

195 **Contact information.**

196 (1) For at least three of the joint meetings described in Subsection **9-9-104.5(2)(a)**, the
 197 division shall coordinate with representatives of tribal governments and the entities listed in

198 Subsection (2) to provide for the broadest participation possible in the joint meetings.
199 (2) The following may participate in all meetings described in Subsection (1):
200 (a) the chairs of the Native American Legislative Liaison Committee created in Section
201 [36-22-1](#);
202 (b) the governor or the governor's designee;
203 (c) (i) the American Indian-Alaskan Native Health Liaison appointed in accordance
204 with Section [26-7-2.5](#); or
205 (ii) if the American Indian-Alaskan Native Health Liaison is not appointed, a
206 representative of the Department of Health appointed by the executive director of the
207 Department of Health;
208 (d) the American Indian-Alaskan Native Public Education Liaison appointed in
209 accordance with Section ~~[\[53A-31-201\]](#)~~ [53E-10-402](#); and
210 (e) a representative appointed by the chief administrative officer of the following:
211 (i) the Department of Human Services;
212 (ii) the Department of Natural Resources;
213 (iii) the Department of Workforce Services;
214 (iv) the Governor's Office of Economic Development;
215 (v) the State Board of Education; and
216 (vi) the State Board of Regents.
217 (3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:
218 (i) designate the name of a contact person for that agency that can assist in coordinating
219 the efforts of state and tribal governments in meeting the needs of the Native Americans
220 residing in the state; and
221 (ii) notify the division:
222 (A) who is the designated contact person described in Subsection (3)(a)(i); and
223 (B) of any change in who is the designated contact person described in Subsection
224 (3)(a)(i).
225 (b) This Subsection (3) applies to:

- 226 (i) the Department of Agriculture and Food;
- 227 (ii) the Department of Heritage and Arts;
- 228 (iii) the Department of Corrections;
- 229 (iv) the Department of Environmental Quality;
- 230 (v) the Department of Public Safety;
- 231 (vi) the Department of Transportation;
- 232 (vii) the Office of the Attorney General;
- 233 (viii) the State Tax Commission; and
- 234 (ix) any agency described in Subsections (2)(c) through (e).

235 (c) At the request of the division, a contact person listed in Subsection (3)(b) may
236 participate in a meeting described in Subsection (1).

237 (4) (a) A participant under this section who is not a legislator may not receive
238 compensation or benefits for the participant's service, but may receive per diem and travel
239 expenses as allowed in:

- 240 (i) Section 63A-3-106;
- 241 (ii) Section 63A-3-107; and
- 242 (iii) rules made by the Division of Finance according to Sections 63A-3-106 and
243 63A-3-107.

244 (b) Compensation and expenses of a participant who is a legislator are governed by
245 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

246 Section 2. Section 10-9a-103 is amended to read:

247 **10-9a-103. Definitions.**

248 As used in this chapter:

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

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

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

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

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

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

267 (4) (a) "Charter school" means:

268 (i) an operating charter school;

269 (ii) a charter school applicant that has its application approved by a charter school
270 authorizer in accordance with [~~Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~]
271 Title 53G, Chapter 5, Part 3, Charter School Authorization; or

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

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

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

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

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

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

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

286 (8) "Development activity" means:

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

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

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

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

296 (b) "Disability" does not include current illegal use of, or addiction to, any federally
297 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
298 802.

299 (10) "Educational facility":

300 (a) means:

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

304 (ii) a structure or facility:

305 (A) located on the same property as a building described in Subsection (10)(a)(i); and

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

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

309 (b) does not include:

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

312 (A) not located on the same property as a building described in Subsection (10)(a)(i);
313 and

314 (B) used in support of the purposes of a building described in Subsection (10)(a)(i); or
315 (ii) a therapeutic school.

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

319 (12) "Flood plain" means land that:

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

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

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

328 (14) "Geologic hazard" means:

329 (a) a surface fault rupture;

330 (b) shallow groundwater;

331 (c) liquefaction;

332 (d) a landslide;

333 (e) a debris flow;

334 (f) unstable soil;

335 (g) a rock fall; or

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

337 (i) to life;

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

339 (iii) of substantial damage to real property.

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

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

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

345 (16) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
346 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other
347 utility system.

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

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

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

352 (c) describe a building that:

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

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

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

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

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

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

- 366 (a) recording a subdivision plat; or
367 (b) development of a commercial, industrial, mixed use, or multifamily project.
- 368 (20) "Improvement warranty" means an applicant's unconditional warranty that the
369 applicant's installed and accepted landscaping or infrastructure improvement:
- 370 (a) complies with the municipality's written standards for design, materials, and
371 workmanship; and
- 372 (b) will not fail in any material respect, as a result of poor workmanship or materials,
373 within the improvement warranty period.
- 374 (21) "Improvement warranty period" means a period:
- 375 (a) no later than one year after a municipality's acceptance of required landscaping; or
376 (b) no later than one year after a municipality's acceptance of required infrastructure,
377 unless the municipality:
- 378 (i) determines for good cause that a one-year period would be inadequate to protect the
379 public health, safety, and welfare; and
- 380 (ii) has substantial evidence, on record:
- 381 (A) of prior poor performance by the applicant; or
382 (B) that the area upon which the infrastructure will be constructed contains suspect soil
383 and the municipality has not otherwise required the applicant to mitigate the suspect soil.
- 384 (22) "Infrastructure improvement" means permanent infrastructure that an applicant
385 must install:
- 386 (a) pursuant to published installation and inspection specifications for public
387 improvements; and
- 388 (b) as a condition of:
- 389 (i) recording a subdivision plat; or
390 (ii) development of a commercial, industrial, mixed use, condominium, or multifamily
391 project.
- 392 (23) "Internal lot restriction" means a platted note, platted demarcation, or platted
393 designation that:

- 394 (a) runs with the land; and
- 395 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
- 396 the plat; or
- 397 (ii) designates a development condition that is enclosed within the perimeter of a lot
- 398 described on the plat.

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

401 (25) "Land use application":

402 (a) means an application that is:

403 (i) required by a municipality; and

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

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

406 (26) "Land use authority" means:

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

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

411 (27) "Land use decision" means a final action of a land use authority or appeal
412 authority regarding:

413 (a) a land use permit;

414 (b) a land use application; or

415 (c) the enforcement of a land use regulation, land use permit, or development
416 agreement.

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

418 (29) "Land use regulation":

419 (a) means an ordinance, law, code, map, resolution, specification, fee, or rule that
420 governs the use or development of land; and

421 (b) does not include:

- 422 (i) a general plan;
- 423 (ii) a land use decision of the legislative body acting as the land use authority, even if
- 424 the decision is expressed in a resolution or ordinance; or
- 425 (iii) a temporary revision to an engineering specification that does not materially:
- 426 (A) increase a land use applicant's cost of development compared to the existing
- 427 specification; or
- 428 (B) impact a land use applicant's use of land.
- 429 (30) "Legislative body" means the municipal council.
- 430 (31) "Local district" means an entity under Title 17B, Limited Purpose Local
- 431 Government Entities - Local Districts, and any other governmental or quasi-governmental
- 432 entity that is not a county, municipality, school district, or the state.
- 433 (32) "Local historic district or area" means a geographically definable area that:
- 434 (a) contains any combination of buildings, structures, sites, objects, landscape features,
- 435 archeological sites, or works of art that contribute to the historic preservation goals of a
- 436 legislative body; and
- 437 (b) is subject to land use regulations to preserve the historic significance of the local
- 438 historic district or area.
- 439 (33) "Lot line adjustment" means the relocation of the property boundary line in a
- 440 subdivision between two adjoining lots with the consent of the owners of record.
- 441 (34) "Moderate income housing" means housing occupied or reserved for occupancy
- 442 by households with a gross household income equal to or less than 80% of the median gross
- 443 income for households of the same size in the county in which the city is located.
- 444 (35) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
- 445 spent and expenses incurred in:
- 446 (a) verifying that building plans are identical plans; and
- 447 (b) reviewing and approving those minor aspects of identical plans that differ from the
- 448 previously reviewed and approved building plans.
- 449 (36) "Noncomplying structure" means a structure that:

450 (a) legally existed before its current land use designation; and
451 (b) because of one or more subsequent land use ordinance changes, does not conform
452 to the setback, height restrictions, or other regulations, excluding those regulations, which
453 govern the use of land.

454 (37) "Nonconforming use" means a use of land that:

455 (a) legally existed before its current land use designation;
456 (b) has been maintained continuously since the time the land use ordinance governing
457 the land changed; and
458 (c) because of one or more subsequent land use ordinance changes, does not conform
459 to the regulations that now govern the use of the land.

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

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

468 (39) "Parcel boundary adjustment" means a recorded agreement between owners of
469 adjoining properties adjusting their mutual boundary if:

470 (a) no additional parcel is created; and
471 (b) each property identified in the agreement is unsubdivided land, including a
472 remainder of subdivided land.

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

475 (41) "Plan for moderate income housing" means a written document adopted by a city
476 legislative body that includes:

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

478 city;

479 (b) an estimate of the need for moderate income housing in the city for the next five
480 years as revised biennially;

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

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

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

486 (42) "Plat" means a map or other graphical representation of lands being laid out and
487 prepared in accordance with Section [10-9a-603](#), [17-23-17](#), or [57-8-13](#).

488 (43) "Potential geologic hazard area" means an area that:

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

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

495 (44) "Public agency" means:

496 (a) the federal government;

497 (b) the state;

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

500 (d) a charter school.

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

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

505 (47) "Receiving zone" means an area of a municipality that the municipality

506 designates, by ordinance, as an area in which an owner of land may receive a transferable
507 development right.

508 (48) "Record of survey map" means a map of a survey of land prepared in accordance
509 with Section [17-23-17](#).

510 (49) "Residential facility for persons with a disability" means a residence:

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

512 (b) (i) which is licensed or certified by the Department of Human Services under Title
513 62A, Chapter 2, Licensure of Programs and Facilities; or

514 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
515 21, Health Care Facility Licensing and Inspection Act.

516 (50) "Rules of order and procedure" means a set of rules that govern and prescribe in a
517 public meeting:

518 (a) parliamentary order and procedure;

519 (b) ethical behavior; and

520 (c) civil discourse.

521 (51) "Sanitary sewer authority" means the department, agency, or public entity with
522 responsibility to review and approve the feasibility of sanitary sewer services or onsite
523 wastewater systems.

524 (52) "Sending zone" means an area of a municipality that the municipality designates,
525 by ordinance, as an area from which an owner of land may transfer a transferable development
526 right.

527 (53) "Specified public agency" means:

528 (a) the state;

529 (b) a school district; or

530 (c) a charter school.

531 (54) "Specified public utility" means an electrical corporation, gas corporation, or
532 telephone corporation, as those terms are defined in Section [54-2-1](#).

533 (55) "State" includes any department, division, or agency of the state.

534 (56) "Street" means a public right-of-way, including a highway, avenue, boulevard,
535 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
536 way.

537 (57) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be
538 divided into two or more lots, parcels, sites, units, plots, or other division of land for the
539 purpose, whether immediate or future, for offer, sale, lease, or development either on the
540 installment plan or upon any and all other plans, terms, and conditions.

541 (b) "Subdivision" includes:

542 (i) the division or development of land whether by deed, metes and bounds description,
543 devise and testacy, map, plat, or other recorded instrument; and

544 (ii) except as provided in Subsection (57)(c), divisions of land for residential and
545 nonresidential uses, including land used or to be used for commercial, agricultural, and
546 industrial purposes.

547 (c) "Subdivision" does not include:

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

552 (ii) a recorded agreement between owners of adjoining unsubdivided properties
553 adjusting their mutual boundary if:

554 (A) no new lot is created; and

555 (B) the adjustment does not violate applicable land use ordinances;

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

557 (A) revising the legal description of more than one contiguous unsubdivided parcel of
558 property into one legal description encompassing all such parcels of property; or

559 (B) joining a subdivided parcel of property to another parcel of property that has not
560 been subdivided, if the joinder does not violate applicable land use ordinances;

561 (iv) a recorded agreement between owners of adjoining subdivided properties adjusting

562 their mutual boundary if:

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

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

565 (v) a bona fide division or partition of land by deed or other instrument where the land

566 use authority expressly approves in writing the division in anticipation of further land use

567 approvals on the parcel or parcels; or

568 (vi) a parcel boundary adjustment.

569 (d) The joining of a subdivided parcel of property to another parcel of property that has

570 not been subdivided does not constitute a subdivision under this Subsection (57) as to the

571 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's

572 subdivision ordinance.

573 (58) "Suspect soil" means soil that has:

574 (a) a high susceptibility for volumetric change, typically clay rich, having more than a

575 3% swell potential;

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

577 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum

578 commonly associated with dissolution and collapse features.

579 (59) "Therapeutic school" means a residential group living facility:

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

581 (i) the owner of the facility; or

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

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

584 (i) at home;

585 (ii) in a public school; or

586 (iii) in a nonresidential private school; and

587 (c) that offers:

588 (i) room and board; and

589 (ii) an academic education integrated with:

590 (A) specialized structure and supervision; or

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

593 (60) "Transferable development right" means a right to develop and use land that
594 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
595 land use rights from a designated sending zone to a designated receiving zone.

596 (61) "Unincorporated" means the area outside of the incorporated area of a city or
597 town.

598 (62) "Water interest" means any right to the beneficial use of water, including:

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

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

601 (i) a contract; or

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

603 (63) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
604 land use zones, overlays, or districts.

605 Section 3. Section 10-9a-305 is amended to read:

606 **10-9a-305. Other entities required to conform to municipality's land use**
607 **ordinances -- Exceptions -- School districts and charter schools -- Submission of**
608 **development plan and schedule.**

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

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

617 (2) (a) Except as provided in Subsection (3), a school district or charter school is

618 subject to a municipality's land use ordinances.

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

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

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

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

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

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

633 (3) A municipality may not:

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

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

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

644 (d) provide for inspection of school construction or assess a fee or other charges for
645 inspection, unless the school district or charter school is unable to provide for inspection by an

646 inspector, other than the project architect or contractor, who is qualified under criteria
647 established by the state superintendent;

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

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

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

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

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

659 (4) Subject to Section [~~53A-20-108~~] [53E-3-710](#), a school district or charter school shall
660 coordinate the siting of a new school with the municipality in which the school is to be located,
661 to:

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

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

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

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

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

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

670 (i) a municipal building inspector;

671 (ii) (A) for a school district, a school district building inspector from that school
672 district; or

673 (B) for a charter school, a school district building inspector from the school district in

674 which the charter school is located; or
675 (iii) an independent, certified building inspector who is:
676 (A) not an employee of the contractor;
677 (B) approved by:
678 (I) a municipal building inspector; or
679 (II) (Aa) for a school district, a school district building inspector from that school
680 district; or
681 (Bb) for a charter school, a school district building inspector from the school district in
682 which the charter school is located; and
683 (C) licensed to perform the inspection that the inspector is requested to perform.
684 (b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.
685 (c) If a school district or charter school uses a school district or independent building
686 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to
687 the state superintendent of public instruction and municipal building official, on a monthly
688 basis during construction of the school building, a copy of each inspection certificate regarding
689 the school building.
690 (7) (a) A charter school shall be considered a permitted use in all zoning districts
691 within a municipality.
692 (b) Each land use application for any approval required for a charter school, including
693 an application for a building permit, shall be processed on a first priority basis.
694 (c) Parking requirements for a charter school may not exceed the minimum parking
695 requirements for schools or other institutional public uses throughout the municipality.
696 (d) If a municipality has designated zones for a sexually oriented business, or a
697 business which sells alcohol, a charter school may be prohibited from a location which would
698 otherwise defeat the purpose for the zone unless the charter school provides a waiver.
699 (e) (i) A school district or a charter school may seek a certificate authorizing permanent
700 occupancy of a school building from:
701 (A) the state superintendent of public instruction, as provided in Subsection

702 [~~53A-20-104~~] [53E-3-706](#)(3), if the school district or charter school used an independent
703 building inspector for inspection of the school building; or

704 (B) a municipal official with authority to issue the certificate, if the school district or
705 charter school used a municipal building inspector for inspection of the school building.

706 (ii) A school district may issue its own certificate authorizing permanent occupancy of
707 a school building if it used its own building inspector for inspection of the school building,
708 subject to the notification requirement of Subsection [~~53A-20-104~~] [53E-3-706](#)(3)(a)(ii).

709 (iii) A charter school may seek a certificate authorizing permanent occupancy of a
710 school building from a school district official with authority to issue the certificate, if the
711 charter school used a school district building inspector for inspection of the school building.

712 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
713 of public instruction under Subsection [~~53A-20-104~~] [53E-3-706](#)(3) or a school district official
714 with authority to issue the certificate shall be considered to satisfy any municipal requirement
715 for an inspection or a certificate of occupancy.

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

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

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

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

722 (B) the demand for public facilities listed in Subsections [11-36a-102](#)(16)(a), (b), (c),
723 (d), (e), and (g) caused by the development;

724 (C) the amount of any applicable fee described in Section [10-9a-510](#);

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

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

727 (b) The land use authority shall respond to a specified public agency's submission
728 under Subsection (8)(a) with reasonable promptness in order to allow the specified public
729 agency to consider information the municipality provides under Subsection (8)(a)(ii) in the

730 process of preparing the budget for the development.

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

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

733 (b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance,

734 that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing

735 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of

736 1990, 42 U.S.C. 12102, or any other provision of federal law.

737 Section 4. Section 11-13-302 is amended to read:

738 **11-13-302. Payment of fee in lieu of ad valorem property tax by certain energy**
739 **suppliers -- Method of calculating -- Collection -- Extent of tax lien.**

740 (1) (a) Each project entity created under this chapter that owns a project and that sells
741 any capacity, service, or other benefit from it to an energy supplier or suppliers whose tangible
742 property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad
743 valorem property tax, shall pay an annual fee in lieu of ad valorem property tax as provided in
744 this section to each taxing jurisdiction within which the project or any part of it is located.

745 (b) For purposes of this section, "annual fee" means the annual fee described in
746 Subsection (1)(a) that is in lieu of ad valorem property tax.

747 (c) The requirement to pay an annual fee shall commence:

748 (i) with respect to each taxing jurisdiction that is a candidate receiving the benefit of
749 impact alleviation payments under contracts or determination orders provided for in Sections
750 11-13-305 and 11-13-306, with the fiscal year of the candidate following the fiscal year of the
751 candidate in which the date of commercial operation of the last generating unit, other than any
752 generating unit providing additional project capacity, of the project occurs, or, in the case of
753 any facilities providing additional project capacity, with the fiscal year of the candidate
754 following the fiscal year of the candidate in which the date of commercial operation of the
755 generating unit providing the additional project capacity occurs; and

756 (ii) with respect to any taxing jurisdiction other than a taxing jurisdiction described in
757 Subsection (1)(c)(i), with the fiscal year of the taxing jurisdiction in which construction of the

758 project commences, or, in the case of facilities providing additional project capacity, with the
759 fiscal year of the taxing jurisdiction in which construction of those facilities commences.

760 (d) The requirement to pay an annual fee shall continue for the period of the useful life
761 of the project or facilities.

762 (2) (a) The annual fees due a school district shall be as provided in Subsection (2)(b)
763 because the ad valorem property tax imposed by a school district and authorized by the
764 Legislature represents both:

765 (i) a levy mandated by the state for the state minimum school program under Section
766 ~~[53A-17a-135]~~ [53F-2-301](#); and

767 (ii) local levies for capital outlay and other purposes under Sections ~~[53A-16-113]~~
768 [53F-8-303](#), ~~[53A-17a-133]~~ [53F-8-301](#), and ~~[53A-17a-164]~~ [53F-8-302](#).

769 (b) The annual fees due a school district shall be as follows:

770 (i) the project entity shall pay to the school district an annual fee for the state minimum
771 school program at the rate imposed by the school district and authorized by the Legislature
772 under Section ~~[53A-17a-135]~~ [53F-2-301](#); and

773 (ii) for all other local property tax levies authorized to be imposed by a school district,
774 the project entity shall pay to the school district either:

775 (A) an annual fee; or

776 (B) impact alleviation payments under contracts or determination orders provided for
777 in Sections [11-13-305](#) and [11-13-306](#).

778 (3) (a) An annual fee due a taxing jurisdiction for a particular year shall be calculated
779 by multiplying the tax rate or rates of the jurisdiction for that year by the product obtained by
780 multiplying the fee base or value determined in accordance with Subsection (4) for that year of
781 the portion of the project located within the jurisdiction by the percentage of the project which
782 is used to produce the capacity, service, or other benefit sold to the energy supplier or suppliers.

783 (b) As used in this section, "tax rate," when applied in respect to a school district,
784 includes any assessment to be made by the school district under Subsection (2) or Section
785 [63M-5-302](#).

786 (c) There is to be credited against the annual fee due a taxing jurisdiction for each year,
787 an amount equal to the debt service, if any, payable in that year by the project entity on bonds,
788 the proceeds of which were used to provide public facilities and services for impact alleviation
789 in the taxing jurisdiction in accordance with Sections 11-13-305 and 11-13-306.

790 (d) The tax rate for the taxing jurisdiction for that year shall be computed so as to:

791 (i) take into account the fee base or value of the percentage of the project located
792 within the taxing jurisdiction determined in accordance with Subsection (4) used to produce the
793 capacity, service, or other benefit sold to the supplier or suppliers; and

794 (ii) reflect any credit to be given in that year.

795 (4) (a) Except as otherwise provided in this section, the annual fees required by this
796 section shall be paid, collected, and distributed to the taxing jurisdiction as if:

797 (i) the annual fees were ad valorem property taxes; and

798 (ii) the project were assessed at the same rate and upon the same measure of value as
799 taxable property in the state.

800 (b) (i) Notwithstanding Subsection (4)(a), for purposes of an annual fee required by
801 this section, the fee base of a project may be determined in accordance with an agreement
802 among:

803 (A) the project entity; and

804 (B) any county that:

805 (I) is due an annual fee from the project entity; and

806 (II) agrees to have the fee base of the project determined in accordance with the
807 agreement described in this Subsection (4).

808 (ii) The agreement described in Subsection (4)(b)(i):

809 (A) shall specify each year for which the fee base determined by the agreement shall be
810 used for purposes of an annual fee; and

811 (B) may not modify any provision of this chapter except the method by which the fee
812 base of a project is determined for purposes of an annual fee.

813 (iii) For purposes of an annual fee imposed by a taxing jurisdiction within a county

814 described in Subsection (4)(b)(i)(B), the fee base determined by the agreement described in
815 Subsection (4)(b)(i) shall be used for purposes of an annual fee imposed by that taxing
816 jurisdiction.

817 (iv) (A) If there is not agreement as to the fee base of a portion of a project for any
818 year, for purposes of an annual fee, the State Tax Commission shall determine the value of that
819 portion of the project for which there is not an agreement:

820 (I) for that year; and

821 (II) using the same measure of value as is used for taxable property in the state.

822 (B) The valuation required by Subsection (4)(b)(iv)(A) shall be made by the State Tax
823 Commission in accordance with rules made by the State Tax Commission.

824 (c) Payments of the annual fees shall be made from:

825 (i) the proceeds of bonds issued for the project; and

826 (ii) revenues derived by the project entity from the project.

827 (d) (i) The contracts of the project entity with the purchasers of the capacity, service, or
828 other benefits of the project whose tangible property is not exempted by Utah Constitution
829 Article XIII, Section 3, from the payment of ad valorem property tax shall require each
830 purchaser, whether or not located in the state, to pay, to the extent not otherwise provided for,
831 its share, determined in accordance with the terms of the contract, of these fees.

832 (ii) It is the responsibility of the project entity to enforce the obligations of the
833 purchasers.

834 (5) (a) The responsibility of the project entity to make payment of the annual fees is
835 limited to the extent that there is legally available to the project entity, from bond proceeds or
836 revenues, money to make these payments, and the obligation to make payments of the annual
837 fees is not otherwise a general obligation or liability of the project entity.

838 (b) No tax lien may attach upon any property or money of the project entity by virtue of
839 any failure to pay all or any part of an annual fee.

840 (c) The project entity or any purchaser may contest the validity of an annual fee to the
841 same extent as if the payment was a payment of the ad valorem property tax itself.

842 (d) The payments of an annual fee shall be reduced to the extent that any contest is
843 successful.

844 (6) (a) The annual fee described in Subsection (1):

845 (i) shall be paid by a public agency that:

846 (A) is not a project entity; and

847 (B) owns an interest in a facility providing additional project capacity if the interest is
848 otherwise exempt from taxation pursuant to Utah Constitution, Article XIII, Section 3; and

849 (ii) for a public agency described in Subsection (6)(a)(i), shall be calculated in
850 accordance with Subsection (6)(b).

851 (b) The annual fee required under Subsection (6)(a) shall be an amount equal to the tax
852 rate or rates of the applicable taxing jurisdiction multiplied by the product of the following:

853 (i) the fee base or value of the facility providing additional project capacity located
854 within the jurisdiction;

855 (ii) the percentage of the ownership interest of the public agency in the facility; and

856 (iii) the portion, expressed as a percentage, of the public agency's ownership interest
857 that is attributable to the capacity, service, or other benefit from the facility that is sold by the
858 public agency to an energy supplier or suppliers whose tangible property is not exempted by
859 Utah Constitution, Article XIII, Section 3, from the payment of ad valorem property tax.

860 (c) A public agency paying the annual fee pursuant to Subsection (6)(a) shall have the
861 obligations, credits, rights, and protections set forth in Subsections (1) through (5) with respect
862 to its ownership interest as though it were a project entity.

863 Section 5. Section **11-13-310** is amended to read:

864 **11-13-310. Termination of impact alleviation contract.**

865 If the project or any part of it or the facilities providing additional project capacity or
866 any part of them, or the output from the project or facilities providing additional project
867 capacity become subject, in addition to the requirements of Section **11-13-302**, to ad valorem
868 property taxation or other payments in lieu of ad valorem property taxation, or other form of
869 tax equivalent payments to any candidate which is a party to an impact alleviation contract with

870 respect to the project or facilities providing additional project capacity or is receiving impact
871 alleviation payments or means with respect to the project or facilities providing additional
872 project capacity pursuant to a determination by the board, then the impact alleviation contract
873 or the requirement to make impact alleviation payments or provide means therefor pursuant to
874 the determination, as the case may be, shall, at the election of the candidate, terminate. In any
875 event, each impact alleviation contract or determination order shall terminate upon the project,
876 or, in the case of facilities providing additional project capacity, those facilities becoming
877 subject to the provisions of Section 11-13-302, except that no impact alleviation contract or
878 agreement entered by a school district shall terminate because of in lieu ad valorem property
879 tax fees levied under Subsection 11-13-302(2)(b)(i) or because of ad valorem property taxes
880 levied under Section [53A-17a-135] 53F-2-301 for the state minimum school program. In
881 addition, if the construction of the project, or, in the case of facilities providing additional
882 project capacity, of those facilities, is permanently terminated for any reason, each impact
883 alleviation contract and determination order, and the payments and means required thereunder,
884 shall terminate. No termination of an impact alleviation contract or determination order may
885 terminate or reduce any liability previously incurred pursuant to the contract or determination
886 order by the candidate beneficiary under it. If the provisions of Section 11-13-302, or its
887 successor, are held invalid by a court of competent jurisdiction, and no ad valorem taxes or
888 other form of tax equivalent payments are payable, the remaining provisions of this chapter
889 shall continue in operation without regard to the commencement of commercial operation of
890 the last generating unit of that project or of facilities providing additional project capacity.

891 Section 6. Section 11-14-202 is amended to read:

892 **11-14-202. Notice of election -- Contents -- Publication -- Mailing.**

893 (1) The governing body shall ensure that notice of the election is provided:

894 (a) once per week during three consecutive weeks by publication in a newspaper
895 having general circulation in the local political subdivision in accordance with Section
896 11-14-316, the first publication occurring not less than 21 nor more than 35 days before the
897 election;

898 (b) on a website, if available, in accordance with Section 45-1-101 for the three weeks
899 that immediately precede the election; and

900 (c) in a local political subdivision where there is no newspaper of general circulation,
901 by posting notice of the bond election in at least five public places in the local political
902 subdivision at least 21 days before the election.

903 (2) When the debt service on the bonds to be issued will increase the property tax
904 imposed upon the average value of a residence by an amount that is greater than or equal to \$15
905 per year, the governing body shall prepare and mail either a voter information pamphlet or a
906 notification described in Subsection (8):

907 (a) at least 15 days but not more than 45 days before the bond election;

908 (b) to each household containing a registered voter who is eligible to vote on the
909 bonds; and

910 (c) that includes the information required by Subsections (4) and (5).

911 (3) The election officer may change the location of, or establish an additional:

912 (a) voting precinct polling place, in accordance with Subsection (6);

913 (b) early voting polling place, in accordance with Subsection 20A-3-603(2); or

914 (c) election day voting center, in accordance with Subsection 20A-3-703(2).

915 (4) The notice described in Subsection (1) and the voter information pamphlet
916 described in Subsection (2):

917 (a) shall include, in the following order:

918 (i) the date of the election;

919 (ii) the hours during which the polls will be open;

920 (iii) the address of the Statewide Electronic Voter Information Website and, if
921 available, the address of the election officer's website, with a statement indicating that the
922 election officer will post on the website the location of each polling place for each voting
923 precinct, each early voting polling place, and each election day voting center, including any
924 changes to the location of a polling place and the location of an additional polling place;

925 (iv) a phone number that a voter may call to obtain information regarding the location

926 of a polling place; and

927 (v) the title and text of the ballot proposition, including the property tax cost of the
928 bond described in Subsection 11-14-206(2)(a); and

929 (b) may include the location of each polling place.

930 (5) The voter information pamphlet required by this section shall include:

931 (a) the information required under Subsection (4); and

932 (b) an explanation of the property tax impact, if any, of the issuance of the bonds,
933 which may be based on information the governing body determines to be useful, including:

934 (i) expected debt service on the bonds to be issued;

935 (ii) a description of the purpose, remaining principal balance, and maturity date of any
936 outstanding general obligation bonds of the issuer;

937 (iii) funds other than property taxes available to pay debt service on general obligation
938 bonds;

939 (iv) timing of expenditures of bond proceeds;

940 (v) property values; and

941 (vi) any additional information that the governing body determines may be useful to
942 explain the property tax impact of issuance of the bonds.

943 (6) (a) Except as provided in Section 20A-1-308, the election officer may, after the
944 deadlines described in Subsections (1) and (2):

945 (i) if necessary, change the location of a voting precinct polling place; or

946 (ii) if the election officer determines that the number of voting precinct polling places
947 is insufficient due to the number of registered voters who are voting, designate additional
948 voting precinct polling places.

949 (b) Except as provided in Section 20A-1-308, if an election officer changes the
950 location of a voting precinct polling place or designates an additional voting precinct polling
951 place, the election officer shall, as soon as is reasonably possible, give notice of the dates,
952 times, and location of a changed voting precinct polling place or an additional voting precinct
953 polling place:

954 (i) to the lieutenant governor, for posting on the Statewide Electronic Voter
955 Information Website;

956 (ii) by posting the information on the website of the election officer, if available; and

957 (iii) by posting notice:

958 (A) of a change in the location of a voting precinct polling place, at the new location
959 and, if possible, the old location; and

960 (B) of an additional voting precinct polling place, at the additional voting precinct
961 polling place.

962 (7) The governing body shall pay the costs associated with the notice required by this
963 section.

964 (8) (a) The governing body may mail a notice printed on a postage prepaid,
965 preaddressed return form that a person may use to request delivery of a voter information
966 pamphlet by mail.

967 (b) The notice described in Subsection (8)(a) shall include:

968 (i) the website upon which the voter information pamphlet is available; and

969 (ii) the phone number a voter may call to request delivery of a voter information
970 pamphlet by mail.

971 (9) A local school board shall comply with the voter information pamphlet
972 requirements described in Section [~~53A-18-102~~] 53G-4-603.

973 Section 7. Section **11-17-20** is amended to read:

974 **11-17-20. Power of the Utah Charter School Finance Authority.**

975 (1) The Utah Charter School Finance Authority may exercise the powers granted to
976 municipalities and counties by this chapter, subject to the same limitations as that imposed on a
977 municipality or county under the chapter, except as provided by [~~Title 53A, Chapter 20b, Part~~
978 ~~1, Utah Charter School Finance Authority~~] Title 53G, Chapter 5, Part 6, Charter School Credit
979 Enhancement Program.

980 (2) As used in this chapter, "governing body" when applied to the Utah Charter School
981 Finance Authority means the authority's governing board as described in Section

982 [~~53A-20b-103~~] 53G-5-602.

983 (3) Notwithstanding Section 11-17-15, a charter school that receives financing under
984 this chapter is subject to Title 63G, Chapter 6a, Utah Procurement Code.

985 Section 8. Section **11-36a-102** is amended to read:

986 **11-36a-102. Definitions.**

987 As used in this chapter:

988 (1) (a) "Affected entity" means each county, municipality, local district under Title
989 17B, Limited Purpose Local Government Entities - Local Districts, special service district
990 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation
991 entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

992 (i) whose services or facilities are likely to require expansion or significant
993 modification because of the facilities proposed in the proposed impact fee facilities plan; or

994 (ii) that has filed with the local political subdivision or private entity a copy of the
995 general or long-range plan of the county, municipality, local district, special service district,
996 school district, interlocal cooperation entity, or specified public utility.

997 (b) "Affected entity" does not include the local political subdivision or private entity
998 that is required under Section 11-36a-501 to provide notice.

999 (2) "Charter school" includes:

1000 (a) an operating charter school;

1001 (b) an applicant for a charter school whose application has been approved by a charter
1002 school authorizer as provided in [~~Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~]
1003 Title 53G, Chapter 5, Part 6, Charter School Credit Enhancement Program; and

1004 (c) an entity that is working on behalf of a charter school or approved charter applicant
1005 to develop or construct a charter school building.

1006 (3) "Development activity" means any construction or expansion of a building,
1007 structure, or use, any change in use of a building or structure, or any changes in the use of land
1008 that creates additional demand and need for public facilities.

1009 (4) "Development approval" means:

- 1010 (a) except as provided in Subsection (4)(b), any written authorization from a local
- 1011 political subdivision that authorizes the commencement of development activity;
- 1012 (b) development activity, for a public entity that may develop without written
- 1013 authorization from a local political subdivision;
- 1014 (c) a written authorization from a public water supplier, as defined in Section 73-1-4,
- 1015 or a private water company:
- 1016 (i) to reserve or provide:
- 1017 (A) a water right;
- 1018 (B) a system capacity; or
- 1019 (C) a distribution facility; or
- 1020 (ii) to deliver for a development activity:
- 1021 (A) culinary water; or
- 1022 (B) irrigation water; or
- 1023 (d) a written authorization from a sanitary sewer authority, as defined in Section
- 1024 10-9a-103:
- 1025 (i) to reserve or provide:
- 1026 (A) sewer collection capacity; or
- 1027 (B) treatment capacity; or
- 1028 (ii) to provide sewer service for a development activity.
- 1029 (5) "Enactment" means:
- 1030 (a) a municipal ordinance, for a municipality;
- 1031 (b) a county ordinance, for a county; and
- 1032 (c) a governing board resolution, for a local district, special service district, or private
- 1033 entity.
- 1034 (6) "Encumber" means:
- 1035 (a) a pledge to retire a debt; or
- 1036 (b) an allocation to a current purchase order or contract.
- 1037 (7) "Hookup fee" means a fee for the installation and inspection of any pipe, line,

1038 meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility
1039 system of a municipality, county, local district, special service district, or private entity.

1040 (8) (a) "Impact fee" means a payment of money imposed upon new development
1041 activity as a condition of development approval to mitigate the impact of the new development
1042 on public infrastructure.

1043 (b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a
1044 hookup fee, a fee for project improvements, or other reasonable permit or application fee.

1045 (9) "Impact fee analysis" means the written analysis of each impact fee required by
1046 Section [11-36a-303](#).

1047 (10) "Impact fee facilities plan" means the plan required by Section [11-36a-301](#).

1048 (11) "Level of service" means the defined performance standard or unit of demand for
1049 each capital component of a public facility within a service area.

1050 (12) (a) "Local political subdivision" means a county, a municipality, a local district
1051 under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special
1052 service district under Title 17D, Chapter 1, Special Service District Act.

1053 (b) "Local political subdivision" does not mean a school district, whose impact fee
1054 activity is governed by Section [~~53A-20-100.5~~] [11-36a-206](#).

1055 (13) "Private entity" means an entity in private ownership with at least 100 individual
1056 shareholders, customers, or connections, that is located in a first, second, third, or fourth class
1057 county and provides water to an applicant for development approval who is required to obtain
1058 water from the private entity either as a:

1059 (a) specific condition of development approval by a local political subdivision acting
1060 pursuant to a prior agreement, whether written or unwritten, with the private entity; or

1061 (b) functional condition of development approval because the private entity:

1062 (i) has no reasonably equivalent competition in the immediate market; and

1063 (ii) is the only realistic source of water for the applicant's development.

1064 (14) (a) "Project improvements" means site improvements and facilities that are:

1065 (i) planned and designed to provide service for development resulting from a

1066 development activity;

1067 (ii) necessary for the use and convenience of the occupants or users of development

1068 resulting from a development activity; and

1069 (iii) not identified or reimbursed as a system improvement.

1070 (b) "Project improvements" does not mean system improvements.

1071 (15) "Proportionate share" means the cost of public facility improvements that are

1072 roughly proportionate and reasonably related to the service demands and needs of any

1073 development activity.

1074 (16) "Public facilities" means only the following impact fee facilities that have a life

1075 expectancy of 10 or more years and are owned or operated by or on behalf of a local political

1076 subdivision or private entity:

1077 (a) water rights and water supply, treatment, storage, and distribution facilities;

1078 (b) wastewater collection and treatment facilities;

1079 (c) storm water, drainage, and flood control facilities;

1080 (d) municipal power facilities;

1081 (e) roadway facilities;

1082 (f) parks, recreation facilities, open space, and trails;

1083 (g) public safety facilities; or

1084 (h) environmental mitigation as provided in Section [11-36a-205](#).

1085 (17) (a) "Public safety facility" means:

1086 (i) a building constructed or leased to house police, fire, or other public safety entities;

1087 or

1088 (ii) a fire suppression vehicle costing in excess of \$500,000.

1089 (b) "Public safety facility" does not mean a jail, prison, or other place of involuntary

1090 incarceration.

1091 (18) (a) "Roadway facilities" means a street or road that has been designated on an

1092 officially adopted subdivision plat, roadway plan, or general plan of a political subdivision,

1093 together with all necessary appurtenances.

1094 (b) "Roadway facilities" includes associated improvements to a federal or state
1095 roadway only when the associated improvements:

- 1096 (i) are necessitated by the new development; and
- 1097 (ii) are not funded by the state or federal government.

1098 (c) "Roadway facilities" does not mean federal or state roadways.

1099 (19) (a) "Service area" means a geographic area designated by an entity that imposes an
1100 impact fee on the basis of sound planning or engineering principles in which a public facility,
1101 or a defined set of public facilities, provides service within the area.

1102 (b) "Service area" may include the entire local political subdivision or an entire area
1103 served by a private entity.

1104 (20) "Specified public agency" means:

- 1105 (a) the state;
- 1106 (b) a school district; or
- 1107 (c) a charter school.

1108 (21) (a) "System improvements" means:

- 1109 (i) existing public facilities that are:
 - 1110 (A) identified in the impact fee analysis under Section 11-36a-304; and
 - 1111 (B) designed to provide services to service areas within the community at large; and
- 1112 (ii) future public facilities identified in the impact fee analysis under Section
1113 11-36a-304 that are intended to provide services to service areas within the community at large.

1114 (b) "System improvements" does not mean project improvements.

1115 Section 9. Section 11-36a-202 is amended to read:

1116 **11-36a-202. Prohibitions on impact fees.**

1117 (1) A local political subdivision or private entity may not:

- 1118 (a) impose an impact fee to:
 - 1119 (i) cure deficiencies in a public facility serving existing development;
 - 1120 (ii) raise the established level of service of a public facility serving existing
1121 development;

1122 (iii) recoup more than the local political subdivision's or private entity's costs actually
1123 incurred for excess capacity in an existing system improvement; or

1124 (iv) include an expense for overhead, unless the expense is calculated pursuant to a
1125 methodology that is consistent with:

1126 (A) generally accepted cost accounting practices; and

1127 (B) the methodological standards set forth by the federal Office of Management and
1128 Budget for federal grant reimbursement;

1129 (b) delay the construction of a school or charter school because of a dispute with the
1130 school or charter school over impact fees; or

1131 (c) impose or charge any other fees as a condition of development approval unless
1132 those fees are a reasonable charge for the service provided.

1133 (2) (a) Notwithstanding any other provision of this chapter, a political subdivision or
1134 private entity may not impose an impact fee:

1135 (i) on residential components of development to pay for a public safety facility that is a
1136 fire suppression vehicle;

1137 (ii) on a school district or charter school for a park, recreation facility, open space, or
1138 trail;

1139 (iii) on a school district or charter school unless:

1140 (A) the development resulting from the school district's or charter school's
1141 development activity directly results in a need for additional system improvements for which
1142 the impact fee is imposed; and

1143 (B) the impact fee is calculated to cover only the school district's or charter school's
1144 proportionate share of the cost of those additional system improvements;

1145 (iv) to the extent that the impact fee includes a component for a law enforcement
1146 facility, on development activity for:

1147 (A) the Utah National Guard;

1148 (B) the Utah Highway Patrol; or

1149 (C) a state institution of higher education that has its own police force; or

1150 (v) on development activity on the state fair park, as defined in Section [63H-6-102](#).

1151 (b) (i) Notwithstanding any other provision of this chapter, a political subdivision or
1152 private entity may not impose an impact fee on development activity that consists of the
1153 construction of a school, whether by a school district or a charter school, if:

1154 (A) the school is intended to replace another school, whether on the same or a different
1155 parcel;

1156 (B) the new school creates no greater demand or need for public facilities than the
1157 school or school facilities, including any portable or modular classrooms that are on the site of
1158 the replaced school at the time that the new school is proposed; and

1159 (C) the new school and the school being replaced are both within the boundary of the
1160 local political subdivision or the jurisdiction of the private entity.

1161 (ii) If the imposition of an impact fee on a new school is not prohibited under
1162 Subsection (2)(b)(i) because the new school creates a greater demand or need for public
1163 facilities than the school being replaced, the impact fee shall be based only on the demand or
1164 need that the new school creates for public facilities that exceeds the demand or need that the
1165 school being replaced creates for those public facilities.

1166 (c) Notwithstanding any other provision of this chapter, a political subdivision or
1167 private entity may impose an impact fee for a road facility on the state only if and to the extent
1168 that:

1169 (i) the state's development causes an impact on the road facility; and

1170 (ii) the portion of the road facility related to an impact fee is not funded by the state or
1171 by the federal government.

1172 (3) Notwithstanding any other provision of this chapter, a local political subdivision
1173 may impose and collect impact fees on behalf of a school district if authorized by Section
1174 [\[53A-20-100.5\]](#) [11-36a-206](#).

1175 Section 10. Section **11-44-201** is amended to read:

1176 **11-44-201. Political subdivision responsibilities -- State responsibilities.**

1177 (1) A political subdivision may:

- 1178 (a) enter into a performance efficiency agreement;
- 1179 (b) develop and administer a performance efficiency program;
- 1180 (c) analyze energy consumption by the political subdivision;
- 1181 (d) designate a staff member who is responsible for a performance efficiency program;

1182 and

- 1183 (e) provide the governing body of the political subdivision with information regarding
- 1184 the performance efficiency program.

1185 (2) The following entities may provide information, technical resources, and other
1186 assistance to a political subdivision acting under this chapter:

- 1187 (a) the Utah Geological Survey, created in Section 79-3-201;
- 1188 (b) the State Board of Education~~[, under Title 53A, Chapter 1, Administration of~~
1189 ~~Public Education at the State Level]~~;
- 1190 (c) the Division of Purchasing and General Services, created in Section 63A-2-101;

1191 and

- 1192 (d) the Division of Facilities Construction and Management, created in Section
- 1193 63A-5-201.

1194 Section 11. Section 11-49-102 is amended to read:

1195 **11-49-102. Definitions.**

1196 (1) "Commission" means the Political Subdivisions Ethics Review Commission
1197 established in Section 11-49-201.

1198 (2) "Complainant" means a person who files a complaint in accordance with Section
1199 11-49-501.

1200 (3) "Ethics violation" means a violation of:

- 1201 (a) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;
- 1202 (b) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or
- 1203 (c) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

1204 (4) "Local political subdivision ethics commission" means an ethics commission
1205 established by a political subdivision within the political subdivision or with another political

1206 subdivision by interlocal agreement in accordance with Section [11-49-103](#).

1207 (5) "Political subdivision" means a county, municipality, school district, community
1208 reinvestment agency, local district, special service district, an entity created by an interlocal
1209 agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, a local building
1210 authority, or any other governmental subdivision or public corporation.

1211 (6) (a) "Political subdivision employee" means a person who is:

1212 (i) (A) in a municipality, employed as a city manager or non-elected chief executive on
1213 a full or part-time basis; or

1214 (B) employed as the non-elected chief executive by a political subdivision other than a
1215 municipality on a full or part-time basis; and

1216 (ii) subject to:

1217 (A) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

1218 (B) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

1219 (C) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

1220 (b) "Political subdivision employee" does not include:

1221 (i) a person who is a political subdivision officer;

1222 (ii) an employee of a state entity; or

1223 (iii) a legislative employee as defined in Section [67-16-3](#).

1224 (7) "Political subdivision governing body" means:

1225 (a) for a county, the county legislative body as defined in Section [68-3-12.5](#);

1226 (b) for a municipality, the council of the city or town;

1227 (c) for a school district, the local board of education described in Section [~~53A-3-101~~]

1228 [53G-4-201](#);

1229 (d) for a community reinvestment agency, the agency board described in Section

1230 [17C-1-203](#);

1231 (e) for a local district, the board of trustees described in Section [17B-1-301](#);

1232 (f) for a special service district:

1233 (i) the legislative body of the county, city, or town that established the special service

1234 district, if no administrative control board has been appointed under Section 17D-1-301; or

1235 (ii) the administrative control board of the special service district, if an administrative
1236 control board has been appointed under Section 17D-1-301;

1237 (g) for an entity created by an interlocal agreement, the governing body of an interlocal
1238 entity, as defined in Section 11-13-103;

1239 (h) for a local building authority, the governing body, as defined in Section 17D-2-102,
1240 that creates the local building authority; or

1241 (i) for any other governmental subdivision or public corporation, the board or other
1242 body authorized to make executive and management decisions for the subdivision or public
1243 corporation.

1244 (8) (a) "Political subdivision officer" means a person elected in a political subdivision
1245 who is subject to:

1246 (i) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

1247 (ii) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

1248 (iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

1249 (b) "Political subdivision officer" does not include:

1250 (i) a person elected or appointed to a state entity;

1251 (ii) the governor;

1252 (iii) the lieutenant governor;

1253 (iv) a member or member-elect of either house of the Legislature; or

1254 (v) a member of Utah's congressional delegation.

1255 (9) "Respondent" means a person who files a response in accordance with Section
1256 11-49-604.

1257 Section 12. Section 13-22-8 is amended to read:

1258 **13-22-8. Exemptions.**

1259 (1) Section 13-22-5 does not apply to:

1260 (a) a bona fide religious, ecclesiastical, or denominational organization if:

1261 (i) the solicitation is made for a church, missionary, religious, or humanitarian purpose;

1262 and

1263 (ii) the organization is either:

1264 (A) a lawfully organized corporation, institution, society, church, or established
1265 physical place of worship, at which nonprofit religious services and activities are regularly
1266 conducted and carried on;

1267 (B) a bona fide religious group:

1268 (I) that does not maintain specific places of worship;

1269 (II) that is not subject to federal income tax; and

1270 (III) not required to file an IRS Form 990 under any circumstance; or

1271 (C) a separate group or corporation that is an integral part of an institution that is an
1272 income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) and is not primarily supported
1273 by funds solicited outside the group's or corporation's own membership or congregation;

1274 (b) a solicitation by a broadcast media owned or operated by an educational institution
1275 or governmental entity, or any entity organized solely for the support of that broadcast media;

1276 (c) except as provided in Subsection 13-22-21(1), a solicitation for the relief of any
1277 person sustaining a life-threatening illness or injury specified by name at the time of
1278 solicitation if the entire amount collected without any deduction is turned over to the named
1279 person;

1280 (d) a political party authorized to transact the political party's affairs within this state
1281 and any candidate and campaign worker of the political party if the content and manner of any
1282 solicitation make clear that the solicitation is for the benefit of the political party or candidate;

1283 (e) a political action committee or group soliciting funds relating to issues or
1284 candidates on the ballot if the committee or group is required to file financial information with
1285 a federal or state election commission;

1286 (f) (i) a public school;

1287 (ii) a public institution of higher learning;

1288 (iii) a school accredited by an accreditation body recognized within the state or the
1289 United States;

- 1290 (iv) an institution of higher learning accredited by an accreditation body recognized
1291 within the state or the United States;
- 1292 (v) an organization within, and authorized by, an entity described in Subsections
1293 (1)(f)(i) through (iv); or
- 1294 (vi) a parent organization, teacher organization, or student organization authorized by
1295 an entity described in Subsection (1)(f)(i) or (iii) if:
- 1296 (A) the parent organization, teacher organization, or student organization is a branch
1297 of, or is affiliated with, a central organization;
- 1298 (B) the parent organization, teacher organization, or student organization is subject to
1299 the central organization's general control and supervision;
- 1300 (C) the central organization holds a United States Internal Revenue Service group tax
1301 exemption that covers the parent organization, teacher organization, or student organization;
1302 and
- 1303 (D) the central organization is registered with the division under this chapter;
- 1304 (g) a public or higher education foundation established under [~~Title 53A, State System~~
1305 ~~of Public Education~~] Title 53E, Public Education System -- State Administration, Title 53G,
1306 Public Education System -- Local Administration, or Title 53B, State System of Higher
1307 Education;
- 1308 (h) a television station, radio station, or newspaper of general circulation that donates
1309 air time or print space for no consideration as part of a cooperative solicitation effort on behalf
1310 of a charitable organization, whether or not that organization is required to register under this
1311 chapter;
- 1312 (i) a volunteer fire department, rescue squad, or local civil defense organization whose
1313 financial oversight is under the control of a local governmental entity;
- 1314 (j) any governmental unit of any state or the United States;
- 1315 (k) any corporation:
- 1316 (i) established by an act of the United States Congress; and
1317 (ii) that is required by federal law to submit an annual report:

1318 (A) on the activities of the corporation, including an itemized report of all receipts and
1319 expenditures of the corporation; and

1320 (B) to the United States Secretary of Defense to be:

1321 (I) audited; and

1322 (II) submitted to the United States Congress;

1323 (l) a solicitation by an applicant for a grant offered by a state agency if:

1324 (i) the terms of the grant provide that the state agency monitors a grant recipient to
1325 ensure that grant funds are used in accordance with the grant's purpose; and

1326 (ii) the sum of the amount available to the applicant under grants offered by a state
1327 agency that the applicant applies for in a calendar year is less than or equal to \$1,500; and

1328 (m) a chapter of a charitable organization or a person who solicits contributions for a
1329 charitable organization, if the charitable organization is registered with the division pursuant to
1330 Section 13-22-5, and:

1331 (i) all contributions solicited by the chapter or person are delivered directly to the
1332 control of the charitable organization; or

1333 (ii) (A) the charitable organization holds a United States Internal Revenue Service
1334 group tax exemption that covers the chapter;

1335 (B) the charitable organization provides a list of its chapters to the division with its
1336 registration or renewal of registration;

1337 (C) the chapter is on the list provided under Subsection (1)(m)(ii)(B);

1338 (D) the chapter maintains the information required under Section 13-22-15 and
1339 provides the information to the division upon request; and

1340 (E) solicitations by the chapter or the person are limited to the collection of
1341 membership-related fees, dues, or assessments from new and existing members.

1342 (2) An organization claiming an exemption under this section bears the burden of
1343 proving the organization's eligibility for, or the applicability of, the exemption claimed.

1344 (3) An organization exempt from registration pursuant to this section that makes a
1345 material change in the organization's legal status, officers, address, or similar changes shall file

1346 a report informing the division of the organization's current legal status, business address,
1347 business phone, officers, and primary contact person within 30 days of the change.

1348 (4) The division may by rule:

1349 (a) require an organization that is exempt from registration under this section to:

1350 (i) file a notice of claim of exemption; and

1351 (ii) file a renewal of a notice of claim of exemption;

1352 (b) prescribe the contents of a notice of claim of exemption and a renewal of a notice
1353 of claim of exemption; and

1354 (c) require a filing fee for a notice of claim of exemption and a renewal of a notice of
1355 claim of exemption as determined under Section [63J-1-504](#).

1356 Section 13. Section **17-27a-103** is amended to read:

1357 **17-27a-103. Definitions.**

1358 As used in this chapter:

1359 (1) "Affected entity" means a county, municipality, local district, special service
1360 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
1361 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
1362 property owner, property owners association, public utility, or the Utah Department of
1363 Transportation, if:

1364 (a) the entity's services or facilities are likely to require expansion or significant
1365 modification because of an intended use of land;

1366 (b) the entity has filed with the county a copy of the entity's general or long-range plan;
1367 or

1368 (c) the entity has filed with the county a request for notice during the same calendar
1369 year and before the county provides notice to an affected entity in compliance with a
1370 requirement imposed under this chapter.

1371 (2) "Appeal authority" means the person, board, commission, agency, or other body
1372 designated by ordinance to decide an appeal of a decision of a land use application or a
1373 variance.

1374 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
1375 residential property if the sign is designed or intended to direct attention to a business, product,
1376 or service that is not sold, offered, or existing on the property where the sign is located.

1377 (4) (a) "Charter school" means:

1378 (i) an operating charter school;

1379 (ii) a charter school applicant that has its application approved by a charter school
1380 authorizer in accordance with [~~Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~]
1381 Title 53G, Chapter 5, Part 3, Charter School Authorization; or

1382 (iii) an entity that is working on behalf of a charter school or approved charter
1383 applicant to develop or construct a charter school building.

1384 (b) "Charter school" does not include a therapeutic school.

1385 (5) "Chief executive officer" means the person or body that exercises the executive
1386 powers of the county.

1387 (6) "Conditional use" means a land use that, because of its unique characteristics or
1388 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be
1389 compatible in some areas or may be compatible only if certain conditions are required that
1390 mitigate or eliminate the detrimental impacts.

1391 (7) "Constitutional taking" means a governmental action that results in a taking of
1392 private property so that compensation to the owner of the property is required by the:

1393 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

1394 (b) Utah Constitution, Article I, Section 22.

1395 (8) "Culinary water authority" means the department, agency, or public entity with
1396 responsibility to review and approve the feasibility of the culinary water system and sources for
1397 the subject property.

1398 (9) "Development activity" means:

1399 (a) any construction or expansion of a building, structure, or use that creates additional
1400 demand and need for public facilities;

1401 (b) any change in use of a building or structure that creates additional demand and need

1402 for public facilities; or

1403 (c) any change in the use of land that creates additional demand and need for public
1404 facilities.

1405 (10) (a) "Disability" means a physical or mental impairment that substantially limits
1406 one or more of a person's major life activities, including a person having a record of such an
1407 impairment or being regarded as having such an impairment.

1408 (b) "Disability" does not include current illegal use of, or addiction to, any federally
1409 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
1410 802.

1411 (11) "Educational facility":

1412 (a) means:

1413 (i) a school district's building at which pupils assemble to receive instruction in a
1414 program for any combination of grades from preschool through grade 12, including
1415 kindergarten and a program for children with disabilities;

1416 (ii) a structure or facility:

1417 (A) located on the same property as a building described in Subsection (11)(a)(i); and

1418 (B) used in support of the use of that building; and

1419 (iii) a building to provide office and related space to a school district's administrative
1420 personnel; and

1421 (b) does not include:

1422 (i) land or a structure, including land or a structure for inventory storage, equipment
1423 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

1424 (A) not located on the same property as a building described in Subsection (11)(a)(i);

1425 and

1426 (B) used in support of the purposes of a building described in Subsection (11)(a)(i); or

1427 (ii) a therapeutic school.

1428 (12) "Fire authority" means the department, agency, or public entity with responsibility
1429 to review and approve the feasibility of fire protection and suppression services for the subject

1430 property.

1431 (13) "Flood plain" means land that:

1432 (a) is within the 100-year flood plain designated by the Federal Emergency

1433 Management Agency; or

1434 (b) has not been studied or designated by the Federal Emergency Management Agency

1435 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because

1436 the land has characteristics that are similar to those of a 100-year flood plain designated by the

1437 Federal Emergency Management Agency.

1438 (14) "Gas corporation" has the same meaning as defined in Section [54-2-1](#).

1439 (15) "General plan" means a document that a county adopts that sets forth general

1440 guidelines for proposed future development of:

1441 (a) the unincorporated land within the county; or

1442 (b) for a mountainous planning district, the land within the mountainous planning

1443 district.

1444 (16) "Geologic hazard" means:

1445 (a) a surface fault rupture;

1446 (b) shallow groundwater;

1447 (c) liquefaction;

1448 (d) a landslide;

1449 (e) a debris flow;

1450 (f) unstable soil;

1451 (g) a rock fall; or

1452 (h) any other geologic condition that presents a risk:

1453 (i) to life;

1454 (ii) of substantial loss of real property; or

1455 (iii) of substantial damage to real property.

1456 (17) "Hookup fee" means a fee for the installation and inspection of any pipe, line,

1457 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility

1458 system.

1459 (18) "Identical plans" means building plans submitted to a county that:

1460 (a) are clearly marked as "identical plans";

1461 (b) are substantially identical building plans that were previously submitted to and
1462 reviewed and approved by the county; and

1463 (c) describe a building that:

1464 (i) is located on land zoned the same as the land on which the building described in the
1465 previously approved plans is located;

1466 (ii) is subject to the same geological and meteorological conditions and the same law
1467 as the building described in the previously approved plans;

1468 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
1469 and approved by the county; and

1470 (iv) does not require any additional engineering or analysis.

1471 (19) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
1472 Impact Fees Act.

1473 (20) "Improvement completion assurance" means a surety bond, letter of credit,
1474 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
1475 by a county to guaranty the proper completion of landscaping or an infrastructure improvement
1476 required as a condition precedent to:

1477 (a) recording a subdivision plat; or

1478 (b) development of a commercial, industrial, mixed use, or multifamily project.

1479 (21) "Improvement warranty" means an applicant's unconditional warranty that the
1480 applicant's installed and accepted landscaping or infrastructure improvement:

1481 (a) complies with the county's written standards for design, materials, and
1482 workmanship; and

1483 (b) will not fail in any material respect, as a result of poor workmanship or materials,
1484 within the improvement warranty period.

1485 (22) "Improvement warranty period" means a period:

- 1486 (a) no later than one year after a county's acceptance of required landscaping; or
1487 (b) no later than one year after a county's acceptance of required infrastructure, unless
1488 the county:
- 1489 (i) determines for good cause that a one-year period would be inadequate to protect the
1490 public health, safety, and welfare; and
1491 (ii) has substantial evidence, on record:
- 1492 (A) of prior poor performance by the applicant; or
1493 (B) that the area upon which the infrastructure will be constructed contains suspect soil
1494 and the county has not otherwise required the applicant to mitigate the suspect soil.
- 1495 (23) "Infrastructure improvement" means permanent infrastructure that an applicant
1496 must install:
- 1497 (a) pursuant to published installation and inspection specifications for public
1498 improvements; and
1499 (b) as a condition of:
- 1500 (i) recording a subdivision plat; or
1501 (ii) development of a commercial, industrial, mixed use, condominium, or multifamily
1502 project.
- 1503 (24) "Internal lot restriction" means a platted note, platted demarcation, or platted
1504 designation that:
- 1505 (a) runs with the land; and
1506 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
1507 the plat; or
1508 (ii) designates a development condition that is enclosed within the perimeter of a lot
1509 described on the plat.
- 1510 (25) "Interstate pipeline company" means a person or entity engaged in natural gas
1511 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under
1512 the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 1513 (26) "Intrastate pipeline company" means a person or entity engaged in natural gas

1514 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
1515 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

1516 (27) "Land use applicant" means a property owner, or the property owner's designee,
1517 who submits a land use application regarding the property owner's land.

1518 (28) "Land use application":

1519 (a) means an application that is:

1520 (i) required by a county; and

1521 (ii) submitted by a land use applicant to obtain a land use decision; and

1522 (b) does not mean an application to enact, amend, or repeal a land use regulation.

1523 (29) "Land use authority" means:

1524 (a) a person, board, commission, agency, or body, including the local legislative body,
1525 designated by the local legislative body to act upon a land use application; or

1526 (b) if the local legislative body has not designated a person, board, commission,
1527 agency, or body, the local legislative body.

1528 (30) "Land use decision" means a final action of a land use authority or appeal
1529 authority regarding:

1530 (a) a land use permit;

1531 (b) a land use application; or

1532 (c) the enforcement of a land use regulation, land use permit, or development
1533 agreement.

1534 (31) "Land use permit" means a permit issued by a land use authority.

1535 (32) "Land use regulation":

1536 (a) means an ordinance, law, code, map, resolution, specification, fee, or rule that
1537 governs the use or development of land; and

1538 (b) does not include:

1539 (i) a general plan;

1540 (ii) a land use decision of the legislative body acting as the land use authority, even if
1541 the decision is expressed in a resolution or ordinance; or

- 1542 (iii) a temporary revision to an engineering specification that does not materially:
1543 (A) increase a land use applicant's cost of development compared to the existing
1544 specification; or
1545 (B) impact a land use applicant's use of land.
- 1546 (33) "Legislative body" means the county legislative body, or for a county that has
1547 adopted an alternative form of government, the body exercising legislative powers.
- 1548 (34) "Local district" means any entity under Title 17B, Limited Purpose Local
1549 Government Entities - Local Districts, and any other governmental or quasi-governmental
1550 entity that is not a county, municipality, school district, or the state.
- 1551 (35) "Lot line adjustment" means the relocation of the property boundary line in a
1552 subdivision between two adjoining lots with the consent of the owners of record.
- 1553 (36) "Moderate income housing" means housing occupied or reserved for occupancy
1554 by households with a gross household income equal to or less than 80% of the median gross
1555 income for households of the same size in the county in which the housing is located.
- 1556 (37) "Mountainous planning district" means an area:
1557 (a) designated by a county legislative body in accordance with Section [17-27a-901](#); and
1558 (b) that is not otherwise exempt under Section [10-9a-304](#).
- 1559 (38) "Nominal fee" means a fee that reasonably reimburses a county only for time spent
1560 and expenses incurred in:
1561 (a) verifying that building plans are identical plans; and
1562 (b) reviewing and approving those minor aspects of identical plans that differ from the
1563 previously reviewed and approved building plans.
- 1564 (39) "Noncomplying structure" means a structure that:
1565 (a) legally existed before its current land use designation; and
1566 (b) because of one or more subsequent land use ordinance changes, does not conform
1567 to the setback, height restrictions, or other regulations, excluding those regulations that govern
1568 the use of land.
- 1569 (40) "Nonconforming use" means a use of land that:

1570 (a) legally existed before its current land use designation;

1571 (b) has been maintained continuously since the time the land use ordinance regulation
1572 governing the land changed; and

1573 (c) because of one or more subsequent land use ordinance changes, does not conform
1574 to the regulations that now govern the use of the land.

1575 (41) "Official map" means a map drawn by county authorities and recorded in the
1576 county recorder's office that:

1577 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
1578 highways and other transportation facilities;

1579 (b) provides a basis for restricting development in designated rights-of-way or between
1580 designated setbacks to allow the government authorities time to purchase or otherwise reserve
1581 the land; and

1582 (c) has been adopted as an element of the county's general plan.

1583 (42) "Parcel boundary adjustment" means a recorded agreement between owners of
1584 adjoining properties adjusting their mutual boundary if:

1585 (a) no additional parcel is created; and

1586 (b) each property identified in the agreement is unsubdivided land, including a
1587 remainder of subdivided land.

1588 (43) "Person" means an individual, corporation, partnership, organization, association,
1589 trust, governmental agency, or any other legal entity.

1590 (44) "Plan for moderate income housing" means a written document adopted by a
1591 county legislative body that includes:

1592 (a) an estimate of the existing supply of moderate income housing located within the
1593 county;

1594 (b) an estimate of the need for moderate income housing in the county for the next five
1595 years as revised biennially;

1596 (c) a survey of total residential land use;

1597 (d) an evaluation of how existing land uses and zones affect opportunities for moderate

1598 income housing; and

1599 (e) a description of the county's program to encourage an adequate supply of moderate
1600 income housing.

1601 (45) "Planning advisory area" means a contiguous, geographically defined portion of
1602 the unincorporated area of a county established under this part with planning and zoning
1603 functions as exercised through the planning advisory area planning commission, as provided in
1604 this chapter, but with no legal or political identity separate from the county and no taxing
1605 authority.

1606 (46) "Plat" means a map or other graphical representation of lands being laid out and
1607 prepared in accordance with Section [17-27a-603](#), [17-23-17](#), or [57-8-13](#).

1608 (47) "Potential geologic hazard area" means an area that:

1609 (a) is designated by a Utah Geological Survey map, county geologist map, or other
1610 relevant map or report as needing further study to determine the area's potential for geologic
1611 hazard; or

1612 (b) has not been studied by the Utah Geological Survey or a county geologist but
1613 presents the potential of geologic hazard because the area has characteristics similar to those of
1614 a designated geologic hazard area.

1615 (48) "Public agency" means:

1616 (a) the federal government;

1617 (b) the state;

1618 (c) a county, municipality, school district, local district, special service district, or other
1619 political subdivision of the state; or

1620 (d) a charter school.

1621 (49) "Public hearing" means a hearing at which members of the public are provided a
1622 reasonable opportunity to comment on the subject of the hearing.

1623 (50) "Public meeting" means a meeting that is required to be open to the public under
1624 Title 52, Chapter 4, Open and Public Meetings Act.

1625 (51) "Receiving zone" means an unincorporated area of a county that the county

1626 designates, by ordinance, as an area in which an owner of land may receive a transferable
1627 development right.

1628 (52) "Record of survey map" means a map of a survey of land prepared in accordance
1629 with Section 17-23-17.

1630 (53) "Residential facility for persons with a disability" means a residence:

1631 (a) in which more than one person with a disability resides; and

1632 (b) (i) which is licensed or certified by the Department of Human Services under Title
1633 62A, Chapter 2, Licensure of Programs and Facilities; or

1634 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
1635 21, Health Care Facility Licensing and Inspection Act.

1636 (54) "Rules of order and procedure" means a set of rules that govern and prescribe in a
1637 public meeting:

1638 (a) parliamentary order and procedure;

1639 (b) ethical behavior; and

1640 (c) civil discourse.

1641 (55) "Sanitary sewer authority" means the department, agency, or public entity with
1642 responsibility to review and approve the feasibility of sanitary sewer services or onsite
1643 wastewater systems.

1644 (56) "Sending zone" means an unincorporated area of a county that the county
1645 designates, by ordinance, as an area from which an owner of land may transfer a transferable
1646 development right.

1647 (57) "Site plan" means a document or map that may be required by a county during a
1648 preliminary review preceding the issuance of a building permit to demonstrate that an owner's
1649 or developer's proposed development activity meets a land use requirement.

1650 (58) "Specified public agency" means:

1651 (a) the state;

1652 (b) a school district; or

1653 (c) a charter school.

1654 (59) "Specified public utility" means an electrical corporation, gas corporation, or
1655 telephone corporation, as those terms are defined in Section 54-2-1.

1656 (60) "State" includes any department, division, or agency of the state.

1657 (61) "Street" means a public right-of-way, including a highway, avenue, boulevard,
1658 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
1659 way.

1660 (62) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be
1661 divided into two or more lots, parcels, sites, units, plots, or other division of land for the
1662 purpose, whether immediate or future, for offer, sale, lease, or development either on the
1663 installment plan or upon any and all other plans, terms, and conditions.

1664 (b) "Subdivision" includes:

1665 (i) the division or development of land whether by deed, metes and bounds description,
1666 devise and testacy, map, plat, or other recorded instrument; and

1667 (ii) except as provided in Subsection (62)(c), divisions of land for residential and
1668 nonresidential uses, including land used or to be used for commercial, agricultural, and
1669 industrial purposes.

1670 (c) "Subdivision" does not include:

1671 (i) a bona fide division or partition of agricultural land for agricultural purposes;

1672 (ii) a recorded agreement between owners of adjoining properties adjusting their
1673 mutual boundary if:

1674 (A) no new lot is created; and

1675 (B) the adjustment does not violate applicable land use ordinances;

1676 (iii) a recorded document, executed by the owner of record:

1677 (A) revising the legal description of more than one contiguous unsubdivided parcel of
1678 property into one legal description encompassing all such parcels of property; or

1679 (B) joining a subdivided parcel of property to another parcel of property that has not
1680 been subdivided, if the joinder does not violate applicable land use ordinances;

1681 (iv) a bona fide division or partition of land in a county other than a first class county

1682 for the purpose of siting, on one or more of the resulting separate parcels:

1683 (A) an electrical transmission line or a substation;

1684 (B) a natural gas pipeline or a regulation station; or

1685 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other

1686 utility service regeneration, transformation, retransmission, or amplification facility;

1687 (v) a recorded agreement between owners of adjoining subdivided properties adjusting

1688 their mutual boundary if:

1689 (A) no new dwelling lot or housing unit will result from the adjustment; and

1690 (B) the adjustment will not violate any applicable land use ordinance;

1691 (vi) a bona fide division or partition of land by deed or other instrument where the land

1692 use authority expressly approves in writing the division in anticipation of further land use

1693 approvals on the parcel or parcels; or

1694 (vii) a parcel boundary adjustment.

1695 (d) The joining of a subdivided parcel of property to another parcel of property that has

1696 not been subdivided does not constitute a subdivision under this Subsection (62) as to the

1697 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision

1698 ordinance.

1699 (63) "Suspect soil" means soil that has:

1700 (a) a high susceptibility for volumetric change, typically clay rich, having more than a

1701 3% swell potential;

1702 (b) bedrock units with high shrink or swell susceptibility; or

1703 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum

1704 commonly associated with dissolution and collapse features.

1705 (64) "Therapeutic school" means a residential group living facility:

1706 (a) for four or more individuals who are not related to:

1707 (i) the owner of the facility; or

1708 (ii) the primary service provider of the facility;

1709 (b) that serves students who have a history of failing to function:

- 1710 (i) at home;
- 1711 (ii) in a public school; or
- 1712 (iii) in a nonresidential private school; and
- 1713 (c) that offers:
 - 1714 (i) room and board; and
 - 1715 (ii) an academic education integrated with:
 - 1716 (A) specialized structure and supervision; or
 - 1717 (B) services or treatment related to a disability, an emotional development, a
 - 1718 behavioral development, a familial development, or a social development.
- 1719 (65) "Transferable development right" means a right to develop and use land that
- 1720 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
- 1721 land use rights from a designated sending zone to a designated receiving zone.
- 1722 (66) "Unincorporated" means the area outside of the incorporated area of a
- 1723 municipality.
- 1724 (67) "Water interest" means any right to the beneficial use of water, including:
 - 1725 (a) each of the rights listed in Section 73-1-11; and
 - 1726 (b) an ownership interest in the right to the beneficial use of water represented by:
 - 1727 (i) a contract; or
 - 1728 (ii) a share in a water company, as defined in Section 73-3-3.5.
- 1729 (68) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
- 1730 land use zones, overlays, or districts.
- 1731 Section 14. Section 17-27a-305 is amended to read:
- 1732 **17-27a-305. Other entities required to conform to county's land use ordinances --**
- 1733 **Exceptions -- School districts and charter schools -- Submission of development plan and**
- 1734 **schedule.**
- 1735 (1) (a) Each county, municipality, school district, charter school, local district, special
- 1736 service district, and political subdivision of the state shall conform to any applicable land use
- 1737 ordinance of any county when installing, constructing, operating, or otherwise using any area,

1738 land, or building situated within a mountainous planning district or the unincorporated portion
1739 of the county, as applicable.

1740 (b) In addition to any other remedies provided by law, when a county's land use
1741 ordinance is violated or about to be violated by another political subdivision, that county may
1742 institute an injunction, mandamus, abatement, or other appropriate action or proceeding to
1743 prevent, enjoin, abate, or remove the improper installation, improvement, or use.

1744 (2) (a) Except as provided in Subsection (3), a school district or charter school is
1745 subject to a county's land use ordinances.

1746 (b) (i) Notwithstanding Subsection (3), a county may:

1747 (A) subject a charter school to standards within each zone pertaining to setback, height,
1748 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction
1749 staging; and

1750 (B) impose regulations upon the location of a project that are necessary to avoid
1751 unreasonable risks to health or safety, as provided in Subsection (3)(f).

1752 (ii) The standards to which a county may subject a charter school under Subsection
1753 (2)(b)(i) shall be objective standards only and may not be subjective.

1754 (iii) Except as provided in Subsection (7)(d), the only basis upon which a county may
1755 deny or withhold approval of a charter school's land use application is the charter school's
1756 failure to comply with a standard imposed under Subsection (2)(b)(i).

1757 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an
1758 obligation to comply with a requirement of an applicable building or safety code to which it is
1759 otherwise obligated to comply.

1760 (3) A county may not:

1761 (a) impose requirements for landscaping, fencing, aesthetic considerations,
1762 construction methods or materials, additional building inspections, county building codes,
1763 building use for educational purposes, or the placement or use of temporary classroom facilities
1764 on school property;

1765 (b) except as otherwise provided in this section, require a school district or charter

1766 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a
1767 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
1768 children and not located on or contiguous to school property, unless the roadway or sidewalk is
1769 required to connect an otherwise isolated school site to an existing roadway;

1770 (c) require a district or charter school to pay fees not authorized by this section;

1771 (d) provide for inspection of school construction or assess a fee or other charges for
1772 inspection, unless the school district or charter school is unable to provide for inspection by an
1773 inspector, other than the project architect or contractor, who is qualified under criteria
1774 established by the state superintendent;

1775 (e) require a school district or charter school to pay any impact fee for an improvement
1776 project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

1777 (f) impose regulations upon the location of an educational facility except as necessary
1778 to avoid unreasonable risks to health or safety; or

1779 (g) for a land use or a structure owned or operated by a school district or charter school
1780 that is not an educational facility but is used in support of providing instruction to pupils,
1781 impose a regulation that:

1782 (i) is not imposed on a similar land use or structure in the zone in which the land use or
1783 structure is approved; or

1784 (ii) uses the tax exempt status of the school district or charter school as criteria for
1785 prohibiting or regulating the land use or location of the structure.

1786 (4) Subject to Section [~~53A-20-108~~] [53E-3-710](#), a school district or charter school shall
1787 coordinate the siting of a new school with the county in which the school is to be located, to:

1788 (a) avoid or mitigate existing and potential traffic hazards, including consideration of
1789 the impacts between the new school and future highways; and

1790 (b) maximize school, student, and site safety.

1791 (5) Notwithstanding Subsection (3)(d), a county may, at its discretion:

1792 (a) provide a walk-through of school construction at no cost and at a time convenient to
1793 the district or charter school; and

- 1794 (b) provide recommendations based upon the walk-through.
- 1795 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:
- 1796 (i) a county building inspector;
- 1797 (ii) (A) for a school district, a school district building inspector from that school
- 1798 district; or
- 1799 (B) for a charter school, a school district building inspector from the school district in
- 1800 which the charter school is located; or
- 1801 (iii) an independent, certified building inspector who is:
- 1802 (A) not an employee of the contractor;
- 1803 (B) approved by:
- 1804 (I) a county building inspector; or
- 1805 (II) (Aa) for a school district, a school district building inspector from that school
- 1806 district; or
- 1807 (Bb) for a charter school, a school district building inspector from the school district in
- 1808 which the charter school is located; and
- 1809 (C) licensed to perform the inspection that the inspector is requested to perform.
- 1810 (b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.
- 1811 (c) If a school district or charter school uses a school district or independent building
- 1812 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to
- 1813 the state superintendent of public instruction and county building official, on a monthly basis
- 1814 during construction of the school building, a copy of each inspection certificate regarding the
- 1815 school building.
- 1816 (7) (a) A charter school shall be considered a permitted use in all zoning districts
- 1817 within a county.
- 1818 (b) Each land use application for any approval required for a charter school, including
- 1819 an application for a building permit, shall be processed on a first priority basis.
- 1820 (c) Parking requirements for a charter school may not exceed the minimum parking
- 1821 requirements for schools or other institutional public uses throughout the county.

1822 (d) If a county has designated zones for a sexually oriented business, or a business
1823 which sells alcohol, a charter school may be prohibited from a location which would otherwise
1824 defeat the purpose for the zone unless the charter school provides a waiver.

1825 (e) (i) A school district or a charter school may seek a certificate authorizing permanent
1826 occupancy of a school building from:

1827 (A) the state superintendent of public instruction, as provided in Subsection
1828 ~~[53A-20-104]~~ [53E-3-706\(3\)](#), if the school district or charter school used an independent
1829 building inspector for inspection of the school building; or

1830 (B) a county official with authority to issue the certificate, if the school district or
1831 charter school used a county building inspector for inspection of the school building.

1832 (ii) A school district may issue its own certificate authorizing permanent occupancy of
1833 a school building if it used its own building inspector for inspection of the school building,
1834 subject to the notification requirement of Subsection ~~[53A-20-104]~~ [53E-3-706\(3\)\(a\)\(ii\)](#).

1835 (iii) A charter school may seek a certificate authorizing permanent occupancy of a
1836 school building from a school district official with authority to issue the certificate, if the
1837 charter school used a school district building inspector for inspection of the school building.

1838 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
1839 of public instruction under Subsection ~~[53A-20-104]~~ [53E-3-706\(3\)](#) or a school district official
1840 with authority to issue the certificate shall be considered to satisfy any county requirement for
1841 an inspection or a certificate of occupancy.

1842 (8) (a) A specified public agency intending to develop its land shall submit to the land
1843 use authority a development plan and schedule:

1844 (i) as early as practicable in the development process, but no later than the
1845 commencement of construction; and

1846 (ii) with sufficient detail to enable the land use authority to assess:

1847 (A) the specified public agency's compliance with applicable land use ordinances;

1848 (B) the demand for public facilities listed in Subsections [11-36a-102\(16\)\(a\)](#), (b), (c),
1849 (d), (e), and (g) caused by the development;

1850 (C) the amount of any applicable fee described in Section 17-27a-509;

1851 (D) any credit against an impact fee; and

1852 (E) the potential for waiving an impact fee.

1853 (b) The land use authority shall respond to a specified public agency's submission
1854 under Subsection (8)(a) with reasonable promptness in order to allow the specified public
1855 agency to consider information the municipality provides under Subsection (8)(a)(ii) in the
1856 process of preparing the budget for the development.

1857 (9) Nothing in this section may be construed to:

1858 (a) modify or supersede Section 17-27a-304; or

1859 (b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that
1860 fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing
1861 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of
1862 1990, 42 U.S.C. 12102, or any other provision of federal law.

1863 Section 15. Section 20A-1-203 is amended to read:

1864 **20A-1-203. Calling and purpose of special elections -- Two-thirds vote**
1865 **limitations.**

1866 (1) Statewide and local special elections may be held for any purpose authorized by
1867 law.

1868 (2) (a) Statewide special elections shall be conducted using the procedure for regular
1869 general elections.

1870 (b) Except as otherwise provided in this title, local special elections shall be conducted
1871 using the procedures for regular municipal elections.

1872 (3) The governor may call a statewide special election by issuing an executive order
1873 that designates:

1874 (a) the date for the statewide special election; and

1875 (b) the purpose for the statewide special election.

1876 (4) The Legislature may call a statewide special election by passing a joint or
1877 concurrent resolution that designates:

- 1878 (a) the date for the statewide special election; and
- 1879 (b) the purpose for the statewide special election.
- 1880 (5) (a) The legislative body of a local political subdivision may call a local special
- 1881 election only for:
- 1882 (i) a vote on a bond or debt issue;
- 1883 (ii) a vote on a voted local levy authorized by Section [~~53A-16-110~~] [53F-8-402](#) or
- 1884 [~~53A-17a-133~~] [53F-8-301](#);
- 1885 (iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;
- 1886 (iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;
- 1887 (v) if required or authorized by federal law, a vote to determine whether or not Utah's
- 1888 legal boundaries should be changed;
- 1889 (vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;
- 1890 (vii) a vote to elect members to school district boards for a new school district and a
- 1891 remaining school district, as defined in Section [~~53A-2-117~~] [53G-3-102](#), following the creation
- 1892 of a new school district under Section [~~53A-2-118.1~~] [53G-3-302](#);
- 1893 (viii) a vote on a municipality providing cable television services or public
- 1894 telecommunications services under Section [10-18-204](#);
- 1895 (ix) a vote to create a new county under Section [17-3-1](#);
- 1896 (x) a vote on the creation of a study committee under Sections [17-52-202](#) and
- 1897 [17-52-203.5](#);
- 1898 (xi) a vote on a special property tax under Section [~~53A-16-110~~] [53F-8-402](#);
- 1899 (xii) a vote on the incorporation of a city in accordance with Section [10-2a-210](#);
- 1900 (xiii) a vote on the incorporation of a town in accordance with Section [10-2a-304](#); or
- 1901 (xiv) a vote on incorporation or annexation as described in Section [10-2a-404](#).
- 1902 (b) The legislative body of a local political subdivision may call a local special election
- 1903 by adopting an ordinance or resolution that designates:
- 1904 (i) the date for the local special election as authorized by Section [20A-1-204](#); and
- 1905 (ii) the purpose for the local special election.

1906 (c) A local political subdivision may not call a local special election unless the
1907 ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a
1908 two-thirds majority of all members of the legislative body, if the local special election is for:
1909 (i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);
1910 (ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or
1911 (iii) a vote authorized or required for a sales tax issue as described in Subsection
1912 (5)(a)(vi).

1913 Section 16. Section **20A-14-206** is amended to read:

1914 **20A-14-206. Student petition for student member on local school board.**

1915 (1) A student petition requesting that a local school board appoint a nonvoting student
1916 member to the board may be submitted to the board under this section.

1917 (2) The petition shall have the signatures of at least 500 students regularly enrolled in
1918 high school in the district or at least 10% of the number of students regularly enrolled in high
1919 school in the district, whichever is less.

1920 (3) (a) Upon receipt of the petition, the board may appoint a nonvoting student member
1921 to serve a one-year term on the local school board as an addition to the number of regular
1922 members authorized by law.

1923 (b) A student member's term begins July 1 and ends on June 30 of the following year.

1924 (4) A student board member shall be enrolled in a high school in the district and may
1925 be less than 18 years old.

1926 (5) A student member may participate in all board meetings, except executive sessions.

1927 (6) (a) A student board member shall receive the same expense allowance granted
1928 other board members under Section [~~53A-3-202~~] [53G-4-204](#).

1929 (b) A student member is not liable for any acts of the governing board.

1930 Section 17. Section **26-1-17.5 (Superseded 07/01/18)** is amended to read:

1931 **26-1-17.5 (Superseded 07/01/18). Confidential records.**

1932 (1) A record classified as confidential under this title shall remain confidential, and be
1933 released according to the provisions of this title, notwithstanding Section [63G-2-310](#).

1934 (2) In addition to those persons granted access to records described in Subsection
1935 [63G-2-302](#)(1)(b), immunization records may be shared among schools, school districts, and
1936 local and state health departments and the state Department of Human Services as necessary to
1937 assure compliance with Section [~~53A-11-301~~] [53G-9-302](#) and to prevent, investigate, and
1938 control the causes of epidemic, infectious, communicable, and other diseases affecting the
1939 public health.

1940 Section 18. Section **26-1-17.5 (Effective 07/01/18)** is amended to read:

1941 **26-1-17.5 (Effective 07/01/18). Confidential records.**

1942 (1) A record classified as confidential under this title shall remain confidential, and be
1943 released according to the provisions of this title, notwithstanding Section [63G-2-310](#).

1944 (2) In addition to those persons granted access to a private record described in
1945 Subsection [63G-2-302](#)(1)(b), schools, school districts, and local and state health departments
1946 and the state Department of Human Services may share an immunization record as defined in
1947 Section [~~53A-11-300.5~~] [53G-9-301](#) or any other record relating to a vaccination or
1948 immunization as necessary to ensure compliance with Title [~~53A, Chapter 11, Part 3,~~
1949 ~~Immunization of Students~~] [53G, Chapter 8, Part 3, Immunization Requirements](#), and to
1950 prevent, investigate, and control the causes of epidemic, infectious, communicable, and other
1951 diseases affecting the public health.

1952 Section 19. Section **26-7-9 (Effective 07/01/18)** is amended to read:

1953 **26-7-9 (Effective 07/01/18). Online public health education module.**

1954 (1) As used in this section:

1955 (a) "Health care provider" means the same as that term is defined in Section
1956 [78B-3-403](#).

1957 (b) "Nonimmune" means that a child or an individual:

1958 (i) has not received each vaccine required in Section [~~53A-11-303~~] [53G-9-305](#) and has
1959 not developed a natural immunity through previous illness to a vaccine-preventable disease, as
1960 documented by a health care provider;

1961 (ii) cannot receive each vaccine required in Section [~~53A-11-303~~] [53G-9-305](#); or

1962 (iii) is otherwise known to not be immune to a vaccine-preventable disease.

1963 (c) "Vaccine-preventable disease" means an infectious disease that can be prevented by

1964 a vaccination required in Section [~~53A-11-303~~] [53G-9-305](#).

1965 (2) The department shall develop an online education module regarding

1966 vaccine-preventable diseases:

1967 (a) to assist a parent of a nonimmune child to:

1968 (i) recognize the symptoms of vaccine-preventable diseases;

1969 (ii) respond in the case of an outbreak of a vaccine-preventable disease;

1970 (iii) protect children who contract a vaccine-preventable disease; and

1971 (iv) prevent the spread of vaccine-preventable diseases;

1972 (b) that contains only the following:

1973 (i) information about vaccine-preventable diseases necessary to achieve the goals

1974 stated in Subsection (2)(a), including the best practices to prevent the spread of

1975 vaccine-preventable diseases;

1976 (ii) recommendations to reduce the likelihood of a nonimmune individual contracting

1977 or transmitting a vaccine-preventable disease; and

1978 (iii) information about additional available resources related to vaccine-preventable

1979 diseases and the availability of low-cost vaccines;

1980 (c) that includes interactive questions or activities; and

1981 (d) that is expected to take an average user 20 minutes or less to complete, based on

1982 user testing.

1983 (3) In developing the online education module described in Subsection (2), the

1984 department shall consult with individuals interested in vaccination or vaccine-preventable

1985 diseases, including:

1986 (a) representatives from organizations of health care professionals; and

1987 (b) parents of nonimmune children.

1988 (4) The department shall make the online education module described in Subsection

1989 (2) publicly available to parents through:

- 1990 (a) a link on the department's website;
- 1991 (b) county health departments, as that term is defined in Section 26A-1-102;
- 1992 (c) local health departments, as that term is defined in Section 26A-1-102;
- 1993 (d) local education agencies, as that term is defined in Section [~~53A-1-401~~] 53E-3-401;
- 1994 and
- 1995 (e) other public health programs or organizations.

1996 (5) The department shall report to the Health and Human Services Interim Committee
 1997 before November 30, 2018, regarding compliance with this section.

1998 Section 20. Section **26-10-6** is amended to read:

1999 **26-10-6. Testing of newborn infants.**

2000 (1) Except in the case where parents object on the grounds that they are members of a
 2001 specified, well-recognized religious organization whose teachings are contrary to the tests
 2002 required by this section, a newborn infant shall be tested for:

- 2003 (a) phenylketonuria (PKU);
- 2004 (b) other heritable disorders which may result in an intellectual or physical disability or
 2005 death and for which:
 - 2006 (i) a preventive measure or treatment is available; and
 - 2007 (ii) there exists a reliable laboratory diagnostic test method;
- 2008 (c) (i) an infant born in a hospital with 100 or more live births annually, hearing loss;
- 2009 and
- 2010 (ii) an infant born in a setting other than a hospital with 100 or more live births
 2011 annually, hearing loss; and
- 2012 (d) critical congenital heart defects using pulse oximetry.

2013 (2) In accordance with Section 26-1-6, the department may charge fees for:

- 2014 (a) materials supplied by the department to conduct tests required under Subsection (1);
- 2015 (b) tests required under Subsection (1) conducted by the department;
- 2016 (c) laboratory analyses by the department of tests conducted under Subsection (1); and
- 2017 (d) the administrative cost of follow-up contacts with the parents or guardians of tested

2018 infants.

2019 (3) Tests for hearing loss described in Subsection (1) shall be based on one or more

2020 methods approved by the Newborn Hearing Screening Committee, including:

2021 (a) auditory brainstem response;

2022 (b) automated auditory brainstem response; and

2023 (c) evoked otoacoustic emissions.

2024 (4) Results of tests for hearing loss described in Subsection (1) shall be reported to:

2025 (a) the department; and

2026 (b) when results of tests for hearing loss under Subsection (1) suggest that additional

2027 diagnostic procedures or medical interventions are necessary:

2028 (i) a parent or guardian of the infant;

2029 (ii) an early intervention program administered by the department in accordance with

2030 Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1431 et seq.; and

2031 (iii) the Utah Schools for the Deaf and the Blind, created in Section [~~53A-25b-103~~]

2032 [53E-8-201](#).

2033 (5) (a) There is established the Newborn Hearing Screening Committee.

2034 (b) The committee shall advise the department on:

2035 (i) the validity and cost of newborn infant hearing loss testing procedures; and

2036 (ii) rules promulgated by the department to implement this section.

2037 (c) The committee shall be composed of at least 11 members appointed by the

2038 executive director, including:

2039 (i) one representative of the health insurance industry;

2040 (ii) one pediatrician;

2041 (iii) one family practitioner;

2042 (iv) one ear, nose, and throat specialist nominated by the Utah Medical Association;

2043 (v) two audiologists nominated by the Utah Speech-Language-Hearing Association;

2044 (vi) one representative of hospital neonatal nurseries;

2045 (vii) one representative of the Early Intervention Baby Watch Program administered by

2046 the department;

2047 (viii) one public health nurse;

2048 (ix) one consumer; and

2049 (x) the executive director or the executive director's designee.

2050 (d) Of the initial members of the committee, the executive director shall appoint as
2051 nearly as possible half to two-year terms and half to four-year terms. Thereafter, appointments
2052 shall be for four-year terms except:

2053 (i) for those members who have been appointed to complete an unexpired term; and

2054 (ii) as necessary to ensure that as nearly as possible the terms of half the appointments
2055 expire every two years.

2056 (e) A majority of the members constitute a quorum, and a vote of the majority of the
2057 members present constitutes an action of the committee.

2058 (f) The committee shall appoint a chairman from the committee's membership.

2059 (g) The committee shall meet at least quarterly.

2060 (h) A member may not receive compensation or benefits for the member's service, but
2061 may receive per diem and travel expenses in accordance with:

2062 (i) Section 63A-3-106;

2063 (ii) Section 63A-3-107; and

2064 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
2065 63A-3-107.

2066 (i) The department shall provide staff for the committee.

2067 (6) Before implementing the test required by Subsection (1)(d), the department shall
2068 conduct a pilot program for testing newborns for critical congenital heart defects using pulse
2069 oximetry. The pilot program shall include the development of:

2070 (a) appropriate oxygen saturation levels that would indicate a need for further medical
2071 follow-up; and

2072 (b) the best methods for implementing the pulse oximetry screening in newborn care
2073 units.

2074 Section 21. Section **26-10-9 (Superseded 07/01/18)** is amended to read:
2075 **26-10-9 (Superseded 07/01/18). Immunizations -- Consent of minor to treatment.**
2076 (1) This section:
2077 (a) is not intended to interfere with the integrity of the family or to minimize the rights
2078 of parents or children; and
2079 (b) applies to a minor, who at the time care is sought is:
2080 (i) married or has been married;
2081 (ii) emancipated as provided for in Section [78A-6-805](#);
2082 (iii) a parent with custody of a minor child; or
2083 (iv) pregnant.
2084 (2) (a) A minor described in Subsections (1)(b)(i) and (ii) may consent to:
2085 (i) immunizations against epidemic infections and communicable diseases as defined
2086 in Section [26-6-2](#); and
2087 (ii) examinations and immunizations required to attend school as provided in [~~Title~~
2088 ~~53A, Chapter 11, Students in Public Schools~~] Title 53G, Public Education System -- Local
2089 Administration.
2090 (b) A minor described in Subsections (1)(b)(iii) and (iv) may consent to the
2091 immunizations described in Subsections (2)(a)(i) and (ii), and the vaccine for human
2092 papillomavirus only if:
2093 (i) the minor represents to the health care provider that the minor is an abandoned
2094 minor as defined in Section [76-5-109](#); and
2095 (ii) the health care provider makes a notation in the minor's chart that the minor
2096 represented to the health care provider that the minor is an abandoned minor under Section
2097 [76-5-109](#).
2098 (c) Nothing in Subsection (2)(a) or (b) requires a health care provider to immunize a
2099 minor.
2100 (3) The consent of the minor pursuant to this section:
2101 (a) is not subject to later disaffirmance because of the minority of the person receiving

2102 the medical services;

2103 (b) is not voidable because of minority at the time the medical services were provided;

2104 (c) has the same legal effect upon the minor and the same legal obligations with regard
2105 to the giving of consent as consent given by a person of full age and capacity; and

2106 (d) does not require the consent of any other person or persons to authorize the medical
2107 services described in Subsections (2)(a) and (b).

2108 (4) A health care provider who provides medical services to a minor in accordance
2109 with the provisions of this section is not subject to civil or criminal liability for providing the
2110 services described in Subsections (2)(a) and (b) without obtaining the consent of another
2111 person prior to rendering the medical services.

2112 (5) This section does not remove the requirement for parental consent or notice when
2113 required by Section 76-7-304 or 76-7-304.5.

2114 (6) The parents, parent, or legal guardian of a minor who receives medical services
2115 pursuant to Subsections (2)(a) and (b) are not liable for the payment for those services unless
2116 the parents, parent, or legal guardian consented to the medical services.

2117 Section 22. Section 26-10-9 (Effective 07/01/18) is amended to read:

2118 **26-10-9 (Effective 07/01/18). Immunizations -- Consent of minor to treatment.**

2119 (1) This section:

2120 (a) is not intended to interfere with the integrity of the family or to minimize the rights
2121 of parents or children; and

2122 (b) applies to a minor, who at the time care is sought is:

2123 (i) married or has been married;

2124 (ii) emancipated as provided for in Section 78A-6-805;

2125 (iii) a parent with custody of a minor child; or

2126 (iv) pregnant.

2127 (2) (a) A minor described in Subsections (1)(b)(i) and (ii) may consent to:

2128 (i) vaccinations against epidemic infections and communicable diseases as defined in
2129 Section 26-6-2; and

2130 (ii) examinations and vaccinations required to attend school as provided in [~~Title 53A,~~
2131 ~~Chapter 11, Students in Public Schools~~] Title 53G, Public Education System -- Local
2132 Administration.

2133 (b) A minor described in Subsections (1)(b)(iii) and (iv) may consent to the
2134 vaccinations described in Subsections (2)(a)(i) and (ii), and the vaccine for human
2135 papillomavirus only if:

2136 (i) the minor represents to the health care provider that the minor is an abandoned
2137 minor as defined in Section [76-5-109](#); and

2138 (ii) the health care provider makes a notation in the minor's chart that the minor
2139 represented to the health care provider that the minor is an abandoned minor under Section
2140 [76-5-109](#).

2141 (c) Nothing in Subsection (2)(a) or (b) requires a health care provider to immunize a
2142 minor.

2143 (3) The consent of the minor pursuant to this section:

2144 (a) is not subject to later disaffirmance because of the minority of the person receiving
2145 the medical services;

2146 (b) is not voidable because of minority at the time the medical services were provided;

2147 (c) has the same legal effect upon the minor and the same legal obligations with regard
2148 to the giving of consent as consent given by a person of full age and capacity; and

2149 (d) does not require the consent of any other person or persons to authorize the medical
2150 services described in Subsections (2)(a) and (b).

2151 (4) A health care provider who provides medical services to a minor in accordance
2152 with the provisions of this section is not subject to civil or criminal liability for providing the
2153 services described in Subsections (2)(a) and (b) without obtaining the consent of another
2154 person prior to rendering the medical services.

2155 (5) This section does not remove the requirement for parental consent or notice when
2156 required by Section [76-7-304](#) or [76-7-304.5](#).

2157 (6) The parents, parent, or legal guardian of a minor who receives medical services

2158 pursuant to Subsections (2)(a) and (b) are not liable for the payment for those services unless
2159 the parents, parent, or legal guardian consented to the medical services.

2160 Section 23. Section **26-10-10** is amended to read:

2161 **26-10-10. Cytomegalovirus (CMV) public education and testing.**

2162 (1) As used in this section "CMV" means cytomegalovirus.

2163 (2) The department shall establish and conduct a public education program to inform
2164 pregnant women and women who may become pregnant regarding:

2165 (a) the incidence of CMV;

2166 (b) the transmission of CMV to pregnant women and women who may become
2167 pregnant;

2168 (c) birth defects caused by congenital CMV;

2169 (d) methods of diagnosing congenital CMV; and

2170 (e) available preventative measures.

2171 (3) The department shall provide the information described in Subsection (2) to:

2172 (a) child care programs licensed under Title 26, Chapter 39, Utah Child Care Licensing
2173 Act, and their employees;

2174 (b) a person described in Subsection [26-39-403\(1\)\(c\)](#), (f), (g), (h), (j), or (k);

2175 (c) a person serving as a school nurse under Section [~~53A-11-204~~] [53G-9-204](#);

2176 (d) a person offering health education in a school district;

2177 (e) health care providers offering care to pregnant women and infants; and

2178 (f) religious, ecclesiastical, or denominational organizations offering children's
2179 programs as a part of worship services.

2180 (4) If a newborn infant fails the newborn hearing screening test(s) under Subsection
2181 [26-10-6\(1\)](#), a medical practitioner shall:

2182 (a) test the newborn infant for CMV before the newborn is 21 days of age, unless a
2183 parent of the newborn infant objects; and

2184 (b) provide to the parents of the newborn infant information regarding:

2185 (i) birth defects caused by congenital CMV; and

2186 (ii) available methods of treatment.

2187 (5) The department shall provide to the family and the medical practitioner, if known,
2188 information regarding the testing requirements under Subsection (4) when providing results
2189 indicating that an infant has failed the newborn hearing screening test(s) under Subsection
2190 26-10-6(1).

2191 (6) The department may make rules in accordance with Title 63G, Chapter 3, Utah
2192 Administrative Rulemaking Act, as necessary to administer the provisions of this section.

2193 Section 24. Section 26-10-11 is amended to read:

2194 **26-10-11. Children's Hearing Aid Program.**

2195 (1) The department shall offer a program to provide hearing aids to children who
2196 qualify under this section.

2197 (2) The department shall provide hearing aids to a child who:

2198 (a) is younger than six years old;

2199 (b) is a resident of Utah;

2200 (c) has been diagnosed with hearing loss by:

2201 (i) an audiologist with pediatric expertise; and

2202 (ii) a physician;

2203 (d) provides documentation from an audiologist with pediatric expertise certifying that
2204 the child needs hearing aids;

2205 (e) has obtained medical clearance by a medical provider for hearing aid fitting;

2206 (f) does not qualify to receive a contribution that equals the full cost of a hearing aid
2207 from the state's Medicaid program or the Utah Children's Health Insurance Program; and

2208 (g) meets the financial need qualification criteria established by the department by rule,
2209 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2210 participation in the program.

2211 (3) (a) There is established the Children's Hearing Aid Advisory Committee.

2212 (b) The committee shall be composed of five members appointed by the executive
2213 director, and shall include:

- 2214 (i) one audiologist with pediatric expertise;
- 2215 (ii) one speech language pathologist;
- 2216 (iii) one teacher, certified under [~~Title 53A, State System of Public Education~~] Title
- 2217 53E, Public Education System -- State Administration, as a teacher of the deaf or a listening
- 2218 and spoken language therapist;
- 2219 (iv) one ear, nose, and throat specialist; and
- 2220 (v) one parent whose child:
- 2221 (A) is six years old or older; and
- 2222 (B) has hearing loss.
- 2223 (c) A majority of the members constitutes a quorum.
- 2224 (d) A vote of the majority of the members, with a quorum present, constitutes an action
- 2225 of the committee.
- 2226 (e) The committee shall elect a chair from its members.
- 2227 (f) The committee shall:
- 2228 (i) meet at least quarterly;
- 2229 (ii) recommend to the department medical criteria and procedures for selecting children
- 2230 who may qualify for assistance from the account; and
- 2231 (iii) review rules developed by the department.
- 2232 (g) A member may not receive compensation or benefits for the member's service, but
- 2233 may receive per diem and travel expenses in accordance with Sections [63A-3-106](#) and
- 2234 [63A-3-107](#) and rules made by the Division of Finance, pursuant to Sections [63A-3-106](#) and
- 2235 [63A-3-107](#).
- 2236 (h) The department shall provide staff to the committee.
- 2237 (4) (a) There is created within the General Fund a restricted account known as the
- 2238 "Children's Hearing Aid Program Restricted Account."
- 2239 (b) The Children's Hearing Aid Program Restricted Account shall consist of:
- 2240 (i) amounts appropriated to the account by the Legislature; and
- 2241 (ii) gifts, grants, devises, donations, and bequests of real property, personal property, or

2242 services, from any source, or any other conveyance that may be made to the account from
2243 private sources.

2244 (c) Upon appropriation, all actual and necessary operating expenses for the committee
2245 described in Subsection (3) shall be paid by the account.

2246 (d) Upon appropriation, no more than 9% of the account money may be used for the
2247 department's expenses.

2248 (e) If this account is repealed in accordance with Section 63I-1-226, any remaining
2249 assets in the account shall be deposited into the General Fund.

2250 (5) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
2251 Administrative Rulemaking Act, to establish procedures for:

2252 (a) identifying the children who are financially eligible to receive services under the
2253 program; and

2254 (b) reviewing and paying for services provided to a child under the program.

2255 (6) The department shall, before December 1 of each year, submit a report to the
2256 Health and Human Services Interim Committee that describes the operation and
2257 accomplishments of the program.

2258 Section 25. Section 26-39-402 (Effective 07/01/18) is amended to read:

2259 **26-39-402 (Effective 07/01/18). Residential child care certificate.**

2260 (1) A residential child care provider of five to eight qualifying children shall obtain a
2261 Residential Child Care Certificate from the department, unless Section 26-39-403 applies.

2262 (2) The minimum qualifications for a Residential Child Care Certificate are:

2263 (a) the submission of:

2264 (i) an application in the form prescribed by the department;

2265 (ii) a certification and criminal background fee established in accordance with Section
2266 26-1-6; and

2267 (iii) in accordance with Section 26-39-404, identifying information for each adult
2268 person and each juvenile age 12 through 17 years of age who resides in the provider's home:

2269 (A) for processing by the Department of Public Safety to determine whether any such

2270 person has been convicted of a crime;

2271 (B) to screen for a substantiated finding of child abuse or neglect by a juvenile court;

2272 and

2273 (C) to discover whether the person is listed in the Licensing Information System

2274 described in Section [62A-4a-1006](#);

2275 (b) an initial and annual inspection of the provider's home within 90 days of sending an
2276 intent to inspect notice to:

2277 (i) check the immunization record, as defined in Section [~~53A-11-300.5~~] [53G-9-301](#), of
2278 each qualifying child who receives child care in the provider's home;

2279 (ii) identify serious sanitation, fire, and health hazards to qualifying children; and

2280 (iii) make appropriate recommendations; and

2281 (c) annual training consisting of 10 hours of department-approved training as specified
2282 by the department by administrative rule, including a current department-approved CPR and
2283 first aid course.

2284 (3) If a serious sanitation, fire, or health hazard has been found during an inspection
2285 conducted pursuant to Subsection (2)(b), the department shall require corrective action for the
2286 serious hazards found and make an unannounced follow up inspection to determine
2287 compliance.

2288 (4) In addition to an inspection conducted pursuant to Subsection (2)(b), the
2289 department may inspect the home of a residential care provider of five to eight qualifying
2290 children in response to a complaint of:

2291 (a) child abuse or neglect;

2292 (b) serious health hazards in or around the provider's home; or

2293 (c) providing residential child care without the appropriate certificate or license.

2294 (5) Notwithstanding this section:

2295 (a) a license under Section [26-39-401](#) is required of a residential child care provider
2296 who cares for nine or more qualifying children;

2297 (b) a certified residential child care provider may not provide care to more than two

2298 qualifying children under the age of two; and

2299 (c) an inspection may be required of a residential child care provider in connection
2300 with a federal child care program.

2301 (6) With respect to residential child care, the department may only make and enforce
2302 rules necessary to implement this section.

2303 Section 26. Section **26-41-106** is amended to read:

2304 **26-41-106. Immunity from liability.**

2305 (1) The following, if acting in good faith, are not liable in any civil or criminal action
2306 for any act taken or not taken under the authority of this chapter with respect to an anaphylactic
2307 reaction:

2308 (a) a qualified adult;

2309 (b) a physician, pharmacist, or any other person or entity authorized to prescribe or
2310 dispense prescription drugs;

2311 (c) a person who conducts training described in Section [26-41-104](#); and

2312 (d) a qualified entity.

2313 (2) Section [~~53A-11-601~~] [53G-9-502](#) does not apply to the administration of an
2314 epinephrine auto-injector in accordance with this chapter.

2315 (3) This section does not eliminate, limit, or reduce any other immunity from liability
2316 or defense against liability that may be available under state law.

2317 Section 27. Section **30-1-9** is amended to read:

2318 **30-1-9. Marriage by minors -- Consent of parent or guardian -- Juvenile court**
2319 **authorization.**

2320 (1) For purposes of this section, "minor" means a male or female under 18 years of age.

2321 (2) (a) If at the time of applying for a license the applicant is a minor, and not before
2322 married, a license may not be issued without the signed consent of the minor's father, mother,
2323 or guardian given in person to the clerk; however:

2324 (i) if the parents of the minor are divorced, consent shall be given by the parent having
2325 legal custody of the minor as evidenced by an oath of affirmation to the clerk;

2326 (ii) if the parents of the minor are divorced and have been awarded joint custody of the
2327 minor, consent shall be given by the parent having physical custody of the minor the majority
2328 of the time as evidenced by an oath of affirmation to the clerk; or

2329 (iii) if the minor is not in the custody of a parent, the legal guardian shall provide the
2330 consent and provide proof of guardianship by court order as well as an oath of affirmation.

2331 (b) If the male or female is 15 years of age, the minor and the parent or guardian of the
2332 minor shall obtain a written authorization to marry from:

2333 (i) a judge of the court exercising juvenile jurisdiction in the county where either party
2334 to the marriage resides; or

2335 (ii) a court commissioner as permitted by rule of the Judicial Council.

2336 (3) (a) Before issuing written authorization for a minor to marry, the judge or court
2337 commissioner shall determine:

2338 (i) that the minor is entering into the marriage voluntarily; and

2339 (ii) the marriage is in the best interests of the minor under the circumstances.

2340 (b) The judge or court commissioner shall require that both parties to the marriage
2341 complete premarital counseling. This requirement may be waived if premarital counseling is
2342 not reasonably available.

2343 (c) The judge or court commissioner may require:

2344 (i) that the person continue to attend school, unless excused under Section

2345 ~~53A-11-102~~ [53G-6-204](#); and

2346 (ii) any other conditions that the court deems reasonable under the circumstances.

2347 (4) The determination required in Subsection (3) shall be made on the record. Any
2348 inquiry conducted by the judge or commissioner may be conducted in chambers.

2349 Section 28. Section **32B-2-304** is amended to read:

2350 **32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

2351 (1) For purposes of this section:

2352 (a) (i) "Landed case cost" means:

2353 (A) the cost of the product; and

- 2354 (B) inbound shipping costs incurred by the department.
- 2355 (ii) "Landed case cost" does not include the outbound shipping cost from a warehouse
2356 of the department to a state store.
- 2357 (b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.
- 2358 (c) Notwithstanding Section [32B-1-102](#), "small brewer" means a brewer who
2359 manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt
2360 beverage.
- 2361 (2) Except as provided in Subsection (3):
- 2362 (a) spirituous liquor sold by the department within the state shall be marked up in an
2363 amount not less than 88% above the landed case cost to the department;
- 2364 (b) wine sold by the department within the state shall be marked up in an amount not
2365 less than 88% above the landed case cost to the department;
- 2366 (c) heavy beer sold by the department within the state shall be marked up in an amount
2367 not less than 66.5% above the landed case cost to the department; and
- 2368 (d) a flavored malt beverage sold by the department within the state shall be marked up
2369 in an amount not less than 88% above the landed case cost to the department.
- 2370 (3) (a) Liquor sold by the department to a military installation in Utah shall be marked
2371 up in an amount not less than 17% above the landed case cost to the department.
- 2372 (b) Except for spirituous liquor sold by the department to a military installation in
2373 Utah, spirituous liquor that is sold by the department within the state shall be marked up 49%
2374 above the landed case cost to the department if:
- 2375 (i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000
2376 proof gallons of spirituous liquor in a calendar year; and
- 2377 (ii) the manufacturer applies to the department for a reduced markup.
- 2378 (c) Except for wine sold by the department to a military installation in Utah, wine that
2379 is sold by the department within the state shall be marked up 49% above the landed case cost to
2380 the department if:
- 2381 (i) the wine is manufactured by a manufacturer producing less than 20,000 gallons of

2382 wine in a calendar year; and

2383 (ii) the manufacturer applies to the department for a reduced markup.

2384 (d) Except for heavy beer sold by the department to a military installation in Utah,
2385 heavy beer that is sold by the department within the state shall be marked up 32% above the
2386 landed case cost to the department if:

2387 (i) a small brewer manufactures the heavy beer; and

2388 (ii) the small brewer applies to the department for a reduced markup.

2389 (e) The department shall verify an amount described in Subsection (3)(b), (c), or (d)
2390 pursuant to a federal or other verifiable production report.

2391 (4) The department shall deposit 10% of the total gross revenue from sales of liquor
2392 with the state treasurer to be credited to the Uniform School Fund and used to support the
2393 school lunch program administered by the State Board of Education under Section
2394 ~~[53A-19-201]~~ [53E-3-510](#).

2395 (5) This section does not prohibit the department from selling discontinued items at a
2396 discount.

2397 (6) (a) Except as provided in Section ~~[53A-13-114]~~ [53F-9-304](#), the department shall
2398 collect the markup and remit the markup collected by the department under this section:

2399 (i) to the State Tax Commission monthly on or before the last day of the month
2400 immediately following the last day of the previous month; and

2401 (ii) using a form prescribed by the State Tax Commission.

2402 (b) For liquor provided to a package agency on consignment, the department shall
2403 remit the markup to the State Tax Commission for the month during which the liquor is
2404 provided to the package agency regardless of when the package agency pays the department for
2405 the liquor provided to the package agency.

2406 (c) The State Tax Commission shall deposit revenues remitted to it under Subsection
2407 (6)(a) into the Markup Holding Fund created in Section [32B-2-301](#).

2408 (d) The assessment, collection, and refund of a markup under this section shall be in
2409 accordance with Title 59, Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

2410 (e) The department, if it fails to comply with this Subsection (6), is subject to penalties
2411 as provided in Section [59-1-401](#) and interest as provided in Section [59-1-402](#).

2412 (f) The State Tax Commission may make rules, in accordance with Title 63G, Chapter
2413 3, Utah Administrative Rulemaking Act, to establish procedures under this Subsection (6).

2414 Section 29. Section **34A-2-104.5** is amended to read:

2415 **34A-2-104.5. Nongovernment entity volunteers.**

2416 (1) As used in this section:

2417 (a) (i) "Intern" means a student or trainee who works without pay at a trade or
2418 occupation in order to gain work experience.

2419 (ii) Notwithstanding Subsection (1)(a)(i), "intern" does not include an intern described
2420 in Section [~~53A-29-103~~] [53G-7-903](#) or [53B-16-403](#).

2421 (b) "Nongovernment entity" means an entity or individual that:

2422 (i) is an employer as provided in Section [34A-2-103](#); and

2423 (ii) is not a government entity.

2424 (c) "Utah minimum wage" means the highest wage designated as Utah's minimum
2425 wage under Title 34, Chapter 40, Utah Minimum Wage Act.

2426 (d) (i) "Volunteer" means an individual who donates service without pay or other
2427 compensation except expenses actually and reasonably incurred as approved by the supervising
2428 nongovernment entity.

2429 (ii) "Volunteer" includes an intern of a nongovernment entity.

2430 (iii) "Volunteer" does not include an individual participating in human subjects
2431 research to the extent that the participation is governed by federal law or regulation inconsistent
2432 with this chapter.

2433 (2) A volunteer for a nongovernment entity is not an employee of the nongovernment
2434 entity for purposes of this chapter and Chapter 3, Utah Occupational Disease Act, unless the
2435 nongovernment entity elects in accordance with this section to provide coverage under this
2436 chapter and Chapter 3, Utah Occupational Disease Act.

2437 (3) (a) A nongovernment entity may elect to secure coverage for all of the

2438 nongovernment entity's volunteers by obtaining coverage for the volunteers in accordance with
2439 Section 34A-2-201 under the same policy it uses to cover the nongovernment entity's
2440 employees.

2441 (b) If a nongovernment entity obtains coverage under Section 34A-2-201 for the
2442 nongovernment entity's volunteers, for purposes of receiving benefits under this chapter and
2443 Chapter 3, Utah Occupational Disease Act:

2444 (i) a volunteer is considered an employee of the nongovernment entity; and
2445 (ii) these benefits are the exclusive remedy of the volunteer in accordance with Section
2446 34A-2-105 for an industrial injury or disease covered by this chapter and Chapter 3, Utah
2447 Occupational Disease Act.

2448 (4) A nongovernment entity shall keep sufficient records of the nongovernment entity's
2449 volunteers and the volunteers' duties to determine compliance with this section.

2450 (5) To compute the disability compensation benefits under Subsection (3), the
2451 disability compensation shall be calculated in accordance with Part 4, Compensation and
2452 Benefits, with the average weekly wage of the nongovernment volunteer assumed to be the
2453 Utah minimum wage at the time of the industrial accident or occupational disease that is the
2454 basis for the volunteer's workers' compensation claim.

2455 (6) A workers' compensation insurer shall calculate the premium for a nongovernment
2456 entity's volunteer on the basis of the Utah minimum wage on the actual hours the volunteer
2457 provides service to the nongovernment entity, except that a workers' compensation insurer may
2458 assume 30 hours worked per week if the nongovernment entity does not provide a record of
2459 actual hours worked. The imputed wages shall be assigned to the class code on the policy that
2460 best describes the volunteer's duties.

2461 (7) The failure or refusal of a nongovernment entity to make an election under this
2462 section in regard to volunteers does not alter, have an effect on, or give rise to any implication
2463 or presumption regarding:

2464 (a) the nongovernment entity's duties or liabilities with respect to volunteers; or
2465 (b) the rights of volunteers.

2466 (8) Subject to Subsection (3)(b)(ii), nothing in this section affects a volunteer's right to
2467 seek remedies available to the volunteer through a personal insurance policy that the volunteer
2468 obtains for the volunteer in addition to any workers' compensation benefits obtained under this
2469 section.

2470 (9) A nongovernment entity shall notify a volunteer of an election under Subsection
2471 (3)(a) by posting:

2472 (a) printed notices where volunteers are likely to see the notices in conspicuous places
2473 about the nongovernment entity's place of business; and

2474 (b) notices on a website that the nongovernment entity uses to recruit or provide
2475 information to volunteers.

2476 Section 30. Section **35A-1-102** is amended to read:

2477 **35A-1-102. Definitions.**

2478 Unless otherwise specified, as used in this title:

2479 (1) "Client" means an individual who the department has determined to be eligible for
2480 services or benefits under:

2481 (a) Chapter 3, Employment Support Act; and

2482 (b) Chapter 5, Training and Workforce Improvement Act.

2483 (2) "Department" means the Department of Workforce Services created in Section
2484 [35A-1-103](#).

2485 (3) "Economic service area" means an economic service area established in accordance
2486 with Chapter 2, Economic Service Areas.

2487 (4) "Employment assistance" means services or benefits provided by the department
2488 under:

2489 (a) Chapter 3, Employment Support Act; and

2490 (b) Chapter 5, Training and Workforce Improvement Act.

2491 (5) "Employment center" is a location in an economic service area where the services
2492 provided by an economic service area under Section [35A-2-201](#) may be accessed by a client.

2493 (6) "Employment counselor" means an individual responsible for developing an

2494 employment plan and coordinating the services and benefits under this title in accordance with
2495 Chapter 2, Economic Service Areas.

2496 (7) "Employment plan" means a written agreement between the department and a client
2497 that describes:

2498 (a) the relationship between the department and the client;

2499 (b) the obligations of the department and the client; and

2500 (c) the result if an obligation is not fulfilled by the department or the client.

2501 (8) "Executive director" means the executive director of the department appointed
2502 under Section [35A-1-201](#).

2503 (9) "Government entity" means the state or any county, municipality, local district,
2504 special service district, or other political subdivision or administrative unit of the state, a state
2505 institution of higher education as defined in Section [53B-2-101](#), or a local education agency as
2506 defined in Section [~~[53A-30-102](#)~~] [53G-7-401](#).

2507 (10) "Public assistance" means:

2508 (a) services or benefits provided under Chapter 3, Employment Support Act;

2509 (b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;

2510 (c) foster care maintenance payments provided from the General Fund or under Title
2511 IV-E of the Social Security Act;

2512 (d) SNAP benefits; and

2513 (e) any other public funds expended for the benefit of a person in need of financial,
2514 medical, food, housing, or related assistance.

2515 (11) "SNAP" means the federal "Supplemental Nutrition Assistance Program" under
2516 Title 7, U.S.C. Chapter 51, Supplemental Nutrition Assistance Program, formerly known as the
2517 federal Food Stamp Program.

2518 (12) "SNAP benefit" or "SNAP benefits" means a financial benefit, coupon, or
2519 privilege available under SNAP.

2520 (13) "Stabilization" means addressing the basic living, family care, and social or
2521 psychological needs of the client so that the client may take advantage of training or

2522 employment opportunities provided under this title or through other agencies or institutions.

2523 Section 31. Section **35A-3-304** is amended to read:

2524 **35A-3-304. Assessment -- Participation requirements and limitations --**

2525 **Employment plan -- Mentors.**

2526 (1) (a) Within 30 business days of the date of enrollment, the department shall provide
2527 that a parent recipient:

2528 (i) is assigned an employment counselor; and

2529 (ii) completes an assessment provided by the department regarding the parent
2530 recipient's:

2531 (A) prior work experience;

2532 (B) ability to become employable; and

2533 (C) skills.

2534 (b) The assessment provided under Subsection (1)(a)(ii) shall include a survey to be
2535 completed by the parent recipient with the assistance of the department.

2536 (2) (a) Within 15 business days of a parent recipient completing an assessment:

2537 (i) the department and the parent recipient shall enter into an employment plan; and

2538 (ii) the parent recipient shall complete a written questionnaire, provided by the
2539 department, designed to accurately determine the likelihood of the parent recipient having a
2540 substance use disorder involving the misuse of a controlled substance.

2541 (b) The employment plan shall have a target date for entry into employment.

2542 (c) The department shall provide a copy of the employment plan to the parent recipient.

2543 (d) For the parent recipient, the employment plan may include:

2544 (i) job searching requirements;

2545 (ii) if the parent recipient does not have a high school diploma, participation in an
2546 educational program to obtain a high school diploma, or its equivalent;

2547 (iii) education or training necessary to obtain employment;

2548 (iv) a combination of work and education or training; and

2549 (v) assisting the Office of Recovery Services in good faith to:

- 2550 (A) establish the paternity of a minor child; and
- 2551 (B) establish or enforce a child support order.
- 2552 (e) If the parent recipient tests positive for the unlawful use of a controlled substance
- 2553 after taking a drug test under Section 35A-3-304.5, the employment plan shall include an
- 2554 agreement by the parent recipient to:
- 2555 (i) participate in treatment for a substance use disorder; and
- 2556 (ii) meet the other requirements of Section 35A-3-304.5.
- 2557 (f) The department's responsibilities under the employment plan may include:
- 2558 (i) providing cash and other types of public and employment assistance, including child
- 2559 care;
- 2560 (ii) assisting the parent recipient to obtain education or training necessary for
- 2561 employment;
- 2562 (iii) assisting the parent recipient to set up and follow a household budget; and
- 2563 (iv) assisting the parent recipient to obtain employment.
- 2564 (g) The department may amend the employment plan to reflect new information or
- 2565 changed circumstances.
- 2566 (h) If immediate employment is an activity in the employment plan, the parent recipient
- 2567 shall:
- 2568 (i) promptly commence a search for employment for a specified number of hours each
- 2569 week; and
- 2570 (ii) regularly submit a report to the department on:
- 2571 (A) how time was spent in search for a job;
- 2572 (B) the number of job applications completed;
- 2573 (C) the interviews attended;
- 2574 (D) the offers of employment extended; and
- 2575 (E) other related information required by the department.
- 2576 (i) (i) If full-time education or training to secure employment is an activity in an
- 2577 employment plan, the parent recipient shall promptly undertake a full-time education or

2578 training program.

2579 (ii) The employment plan may describe courses, education or training goals, and
2580 classroom hours.

2581 (j) (i) The department may only provide cash assistance under this part if the parent
2582 recipient agrees in writing to make a good faith effort to comply with the parent recipient's
2583 employment plan.

2584 (ii) The department shall establish a process to reconcile disputes between a parent
2585 recipient and the department as to whether:

2586 (A) the parent recipient has made a good faith effort to comply with the employment
2587 plan; or

2588 (B) the department has complied with the employment plan.

2589 (iii) If a parent recipient consistently fails to show good faith in complying with the
2590 employment plan, the department may seek to terminate all or part of the cash assistance
2591 services provided under this part.

2592 (3) The department may only provide cash assistance on behalf of a minor child under
2593 this part if the minor child is:

2594 (a) enrolled in and attending school in compliance with Sections [~~53A-11-101.5~~]
2595 [53G-6-202](#) and [~~53A-11-101.7~~] [53G-6-203](#); or

2596 (b) exempt from school attendance under Section [~~53A-11-102~~] [53G-6-204](#).

2597 (4) This section does not apply to a person who has received diversion assistance under
2598 Section [35A-3-303](#).

2599 (5) (a) The department may recruit and train volunteers to serve as mentors for parent
2600 recipients.

2601 (b) A mentor may advocate on behalf of a parent recipient and help a parent recipient:

2602 (i) develop life skills;

2603 (ii) implement an employment plan; or

2604 (iii) obtain services and support from:

2605 (A) the volunteer mentor;

2606 (B) the department; or

2607 (C) civic organizations.

2608 Section 32. Section **35A-9-401** is amended to read:

2609 **35A-9-401. Eligibility determination -- Awarding of scholarship.**

2610 (1) As used in this section:

2611 (a) "Eligible child" means an individual who:

2612 (i) is experiencing intergenerational poverty;

2613 (ii) will be four years of age on or before September 2 of the school year in which the
2614 individual intends to enroll in a school readiness program; and

2615 (iii) has not enrolled in kindergarten, as reported by the individual's parent or legal
2616 guardian.

2617 (b) "Intergenerational poverty" means the same as that term is defined in Section
2618 [35A-9-102](#).

2619 (c) "Intergenerational poverty scholarship" or "IGP scholarship" means the same as that
2620 term is defined in Section [~~53A-1b-202~~] [53F-5-301](#).

2621 (2) The department shall determine if an applicant for an IGP scholarship is eligible for
2622 the Intergenerational Poverty School Readiness Scholarship Program, created in Section
2623 [~~53A-1b-206~~] [53F-5-305](#).

2624 (3) An individual may apply to the department annually to qualify for a scholarship for
2625 an eligible child to attend a high quality school readiness program.

2626 (4) (a) The department shall create an application form that requires an applicant to
2627 provide the information necessary for the department to make the eligibility determination
2628 described in Subsection (5).

2629 (b) The department may:

2630 (i) require an applicant to submit supporting documentation; and

2631 (ii) create a deadline for an applicant to apply for an IGP scholarship.

2632 (5) The department shall determine if:

2633 (a) the information contained in an application submitted under Subsection (3) is

2634 accurate and complete; and

2635 (b) the child for whom the applicant is applying for an IGP scholarship is an eligible
2636 child.

2637 (6) (a) Except as provided in Subsection (6)(b), and subject to legislative
2638 appropriations, the department shall:

2639 (i) award an IGP scholarship for an individual who is determined to be an eligible child
2640 under Subsection (5); and

2641 (ii) with input from the State Board of Education, determine the value of an IGP
2642 scholarship.

2643 (b) If the department receives an appropriation for IGP scholarships that is not
2644 sufficient to award a scholarship to each eligible child, the department shall prioritize awarding
2645 IGP scholarships to eligible children who are at the highest risk as determined by the
2646 department.

2647 (7) The department shall coordinate with the State Board of Education, as necessary, to
2648 enroll a recipient of an IGP scholarship in a high quality school readiness program of the
2649 recipient's parent's choice, space permitting, as described in Section [~~53A-1b-206~~] [53F-5-305](#).

2650 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2651 department shall make rules to administer this section.

2652 Section 33. Section **35A-13-403** is amended to read:

2653 **35A-13-403. Services provided by the division.**

2654 The division may:

2655 (1) provide:

2656 (a) a business enterprise program;

2657 (b) workshops, employment, and training; and

2658 (c) vocational rehabilitation, training and adjustment, sight conservation, prevention of
2659 blindness, low vision lenses, and recreational services;

2660 (2) assist public education officials in the discharge of their duties towards children
2661 who are blind or have visual impairments, and perform services related to vision screening

2662 under Section [~~53A-11-203~~] [53G-9-404](#);

2663 (3) maintain a register of individuals who are blind or have visual impairments,
2664 including such facts as the office considers necessary for proper planning, administration, and
2665 operations, but protecting against unwarranted invasions of privacy;

2666 (4) establish and operate community service centers, rehabilitation facilities, and
2667 workshops; and

2668 (5) perform other duties assigned by the director or the executive director.

2669 Section 34. Section ~~36-22-2~~ is amended to read:

2670 **36-22-2. Duties.**

2671 (1) The committee shall:

2672 (a) serve as a liaison between Utah Native American tribes and the Legislature;

2673 (b) recommend legislation for each annual general session of the Legislature if the
2674 committee determines that modifications to current law are in the best interest of the state of
2675 Utah and of the Utah Native American tribes;

2676 (c) review the operations of the Division of Indian Affairs and other state agencies
2677 working with Utah Native American tribes;

2678 (d) help sponsor meetings and other opportunities for discussion with and between
2679 Native Americans; and

2680 (e) hold a meeting at which public education is discussed as required by Section
2681 [~~53A-31-405~~] [53F-5-604](#).

2682 (2) In conducting its business, the committee shall comply with the rules of legislative
2683 interim committees.

2684 Section 35. Section ~~41-1a-422~~ is amended to read:

2685 **41-1a-422. Support special group license plates -- Contributor -- Voluntary**
2686 **contribution collection procedures.**

2687 (1) As used in this section:

2688 (a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who
2689 has donated or in whose name at least \$25 has been donated to:

- 2690 (A) a scholastic scholarship fund of a single named institution;
- 2691 (B) the Department of Veterans' and Military Affairs for veterans' programs;
- 2692 (C) the Division of Wildlife Resources for the Wildlife Resources Account created in
- 2693 Section [23-14-13](#), for conservation of wildlife and the enhancement, preservation, protection,
- 2694 access, and management of wildlife habitat;
- 2695 (D) the Department of Agriculture and Food for the benefit of conservation districts;
- 2696 (E) the Division of Parks and Recreation for the benefit of snowmobile programs;
- 2697 (F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with
- 2698 the donation evenly divided between the two;
- 2699 (G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America
- 2700 council as specified by the contributor;
- 2701 (H) No More Homeless Pets in Utah for distribution to organizations or individuals
- 2702 that provide spay and neuter programs that subsidize the sterilization of domestic animals;
- 2703 (I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth
- 2704 development programs;
- 2705 (J) the Utah Association of Public School Foundations to support public education;
- 2706 (K) the Utah Housing Opportunity Restricted Account created in Section [61-2-204](#) to
- 2707 assist people who have severe housing needs;
- 2708 (L) the Public Safety Honoring Heroes Restricted Account created in Section [53-1-118](#)
- 2709 to support the families of fallen Utah Highway Patrol troopers and other Department of Public
- 2710 Safety employees;
- 2711 (M) the Division of Parks and Recreation for distribution to organizations that provide
- 2712 support for Zion National Park;
- 2713 (N) the Firefighter Support Restricted Account created in Section [53-7-109](#) to support
- 2714 firefighter organizations;
- 2715 (O) the Share the Road Bicycle Support Restricted Account created in Section
- 2716 [72-2-127](#) to support bicycle operation and safety awareness programs;
- 2717 (P) the Cancer Research Restricted Account created in Section [26-21a-302](#) to support

2718 cancer research programs;

2719 (Q) Autism Awareness Restricted Account created in Section [~~53A-1-304~~] [53F-9-401](#)
2720 to support autism awareness programs;

2721 (R) Humanitarian Service and Educational and Cultural Exchange Restricted Account
2722 created in Section [9-17-102](#) to support humanitarian service and educational and cultural
2723 programs;

2724 (S) Prostate Cancer Support Restricted Account created in Section [26-21a-303](#) for
2725 programs that conduct or support prostate cancer awareness, screening, detection, or prevention
2726 until September 30, 2017, and beginning on October 1, 2017, upon renewal of a prostate cancer
2727 support special group license plate, to the Cancer Research Restricted Account created in
2728 Section [26-21a-302](#) to support cancer research programs;

2729 (T) the Choose Life Adoption Support Restricted Account created in Section
2730 [62A-4a-608](#) to support programs that promote adoption;

2731 (U) the Martin Luther King, Jr. Civil Rights Support Restricted Account created in
2732 Section [9-18-102](#);

2733 (V) the National Professional Men's Basketball Team Support of Women and Children
2734 Issues Restricted Account created in Section [62A-1-202](#);

2735 (W) the Utah Law Enforcement Memorial Support Restricted Account created in
2736 Section [53-1-120](#);

2737 (X) the Children with Cancer Support Restricted Account created in Section
2738 [26-21a-304](#) for programs that provide assistance to children with cancer;

2739 (Y) the National Professional Men's Soccer Team Support of Building Communities
2740 Restricted Account created in Section [9-19-102](#);

2741 (Z) the Children with Heart Disease Support Restricted Account created in Section
2742 [26-58-102](#);

2743 (AA) the Utah Intracurricular Student Organization Support for Agricultural Education
2744 and Leadership Restricted Account created in Section [4-42-102](#); or

2745 (BB) the Division of Wildlife Resources for the Support for State-Owned Shooting

2746 Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and
2747 operation and maintenance of existing, state-owned firearm shooting ranges.

2748 (ii) (A) For a veterans' special group license plate, "contributor" means a person who
2749 has donated or in whose name at least a \$25 donation at the time of application and \$10 annual
2750 donation thereafter has been made.

2751 (B) For a Utah Housing Opportunity special group license plate, "contributor" means a
2752 person who:

2753 (I) has donated or in whose name at least \$30 has been donated at the time of
2754 application and annually after the time of application; and

2755 (II) is a member of a trade organization for real estate licensees that has more than
2756 15,000 Utah members.

2757 (C) For an Honoring Heroes special group license plate, "contributor" means a person
2758 who has donated or in whose name at least \$35 has been donated at the time of application and
2759 annually thereafter.

2760 (D) For a firefighter support special group license plate, "contributor" means a person
2761 who:

2762 (I) has donated or in whose name at least \$15 has been donated at the time of
2763 application and annually after the time of application; and

2764 (II) is a currently employed, volunteer, or retired firefighter.

2765 (E) For a cancer research special group license plate, "contributor" means a person who
2766 has donated or in whose name at least \$35 has been donated at the time of application and
2767 annually after the time of application.

2768 (F) For a Martin Luther King, Jr. Civil Rights Support special group license plate,
2769 "contributor" means a person who has donated or in whose name at least \$35 has been donated
2770 at the time of application and annually thereafter.

2771 (G) For a Utah Law Enforcement Memorial Support special group license plate,
2772 "contributor" means a person who has donated or in whose name at least \$35 has been donated
2773 at the time of application and annually thereafter.

2774 (b) "Institution" means a state institution of higher education as defined under Section
2775 [53B-3-102](#) or a private institution of higher education in the state accredited by a regional or
2776 national accrediting agency recognized by the United States Department of Education.

2777 (2) (a) An applicant for original or renewal collegiate special group license plates under
2778 Subsection (1)(a)(i) must be a contributor to the institution named in the application and
2779 present the original contribution verification form under Subsection (2)(b) or make a
2780 contribution to the division at the time of application under Subsection (3).

2781 (b) An institution with a support special group license plate shall issue to a contributor
2782 a verification form designed by the commission containing:

2783 (i) the name of the contributor;

2784 (ii) the institution to which a donation was made;

2785 (iii) the date of the donation; and

2786 (iv) an attestation that the donation was for a scholastic scholarship.

2787 (c) The state auditor may audit each institution to verify that the money collected by the
2788 institutions from contributors is used for scholastic scholarships.

2789 (d) After an applicant has been issued collegiate license plates or renewal decals, the
2790 commission shall charge the institution whose plate was issued, a fee determined in accordance
2791 with Section [63J-1-504](#) for management and administrative expenses incurred in issuing and
2792 renewing the collegiate license plates.

2793 (e) If the contribution is made at the time of application, the contribution shall be
2794 collected, treated, and deposited as provided under Subsection (3).

2795 (3) (a) An applicant for original or renewal support special group license plates under
2796 this section must be a contributor to the sponsoring organization associated with the license
2797 plate.

2798 (b) This contribution shall be:

2799 (i) unless collected by the named institution under Subsection (2), collected by the
2800 division;

2801 (ii) considered a voluntary contribution for the funding of the activities specified under

2802 this section and not a motor vehicle registration fee;

2803 (iii) deposited into the appropriate account less actual administrative costs associated
2804 with issuing the license plates; and

2805 (iv) for a firefighter special group license plate, deposited into the appropriate account
2806 less:

2807 (A) the costs of reordering firefighter special group license plate decals; and

2808 (B) the costs of replacing recognition special group license plates with new license
2809 plates under Subsection 41-1a-1211(13).

2810 (c) The donation described in Subsection (1)(a) must be made in the 12 months prior to
2811 registration or renewal of registration.

2812 (d) The donation described in Subsection (1)(a) shall be a one-time donation made to
2813 the division when issuing original:

2814 (i) snowmobile license plates; or

2815 (ii) conservation license plates.

2816 (4) Veterans' license plates shall display one of the symbols representing the Army,
2817 Navy, Air Force, Marines, Coast Guard, or American Legion.

2818 Section 36. Section 41-6a-303 is amended to read:

2819 **41-6a-303. Definition of reduced speed school zone -- Operation of warning lights**
2820 **-- School crossing guard requirements -- Responsibility provisions -- Rulemaking**
2821 **authority.**

2822 (1) As used in this section "reduced speed school zone" means a designated length of a
2823 highway extending from a school zone speed limit sign with warning lights operating to an end
2824 school zone sign.

2825 (2) The Department of Transportation for state highways and local highway authorities
2826 for highways under their jurisdiction:

2827 (a) shall establish reduced speed school zones at elementary schools after written
2828 assurance by a local highway authority that the local highway authority complies with
2829 Subsections (3) and (4); and

2830 (b) may establish reduced speed school zones for secondary schools at the request of
2831 the local highway authority.

2832 (3) For all reduced speed school zones on highways, including state highways within
2833 the jurisdictional boundaries of a local highway authority, the local highway authority shall:

2834 (a) (i) provide shuttle service across highways for school children; or

2835 (ii) provide, train, and supervise school crossing guards in accordance with this
2836 section;

2837 (b) provide for the:

2838 (i) operation of reduced speed school zones, including providing power to warning
2839 lights and turning on and off the warning lights as required under Subsections (4) and (5); and

2840 (ii) maintenance of reduced speed school zones except on state highways as provided
2841 in Section [41-6a-302](#); and

2842 (c) notify the Department of Transportation of reduced speed school zones on state
2843 highways that are in need of maintenance.

2844 (4) While children are going to or leaving school during opening and closing hours all
2845 reduced speed school zones shall have:

2846 (a) the warning lights operating on each school zone speed limit sign; and

2847 (b) a school crossing guard present if the reduced speed school zone is for an
2848 elementary school.

2849 (5) The warning lights on a school zone speed limit sign may not be operating except
2850 as provided under Subsection (4).

2851 (6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2852 the Department of Transportation shall make rules establishing criteria and specifications for
2853 the:

2854 (i) establishment, location, and operation of school crosswalks, school zones, and
2855 reduced speed school zones;

2856 (ii) training, use, and supervision of school crossing guards at elementary schools and
2857 secondary schools; and

2858 (iii) content and implementation of child access routing plans under Section
2859 ~~[53A-3-402]~~ [53G-4-402](#).

2860 (b) If a school crosswalk is established at a signalized intersection in accordance with
2861 the requirements of this section, a local highway authority may reduce the speed limit at the
2862 signalized intersection to 20 miles per hour for a highway under its jurisdiction.

2863 (7) Each local highway authority shall pay for providing, training, and supervising
2864 school crossing guards in accordance with this section.

2865 Section 37. Section **41-6a-1307** is amended to read:

2866 **41-6a-1307. School bus parking zones -- Establishment -- Uniform markings --**
2867 **Penalty.**

2868 (1) As used in this section, "school bus parking zone" means a parking space that is
2869 clearly identified as reserved for use by a school bus.

2870 (2) A highway authority for highways under its jurisdiction and school boards for
2871 roadways located on school property may establish and locate school bus parking zones in
2872 accordance with specifications established under Subsection (3).

2873 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2874 Department of Transportation, after consultation with local highway authorities and school
2875 boards which may include input from school traffic safety committees established under
2876 Section ~~[53A-3-402]~~ [53G-4-402](#), shall make rules establishing specifications for uniform
2877 signage or markings to clearly identify school bus parking zones.

2878 (4) A person may not stop, stand, or park a vehicle other than a school bus, whether
2879 occupied or not, in a clearly identified school bus parking zone.

2880 (5) (a) A violation of Subsection (4) is an infraction.

2881 (b) A person who violates Subsection (4) shall pay a minimum fine of \$75.

2882 Section 38. Section **41-6a-1309** is amended to read:

2883 **41-6a-1309. Advertising on a school bus.**

2884 (1) A local school board or charter school governing board may sell advertising space
2885 on the exterior of a school bus in accordance with this section.

2886 (2) (a) A local school board or charter school governing board that sells advertising
2887 space on the exterior of a school bus shall adopt guidelines for the type of advertising that will
2888 be permitted.

2889 (b) Advertising on a school bus:

2890 (i) shall be age appropriate;

2891 (ii) shall be consistent with the instructional requirements of Section [~~53A-13-101~~]

2892 [53G-10-402](#);

2893 (iii) may not contain:

2894 (A) promotion of any substance or activity that is illegal for minors, such as alcohol,
2895 tobacco, drugs, or gambling;

2896 (B) promotion of any political party, candidate, or issue; or

2897 (C) sexual material; and

2898 (iv) may not resemble a traffic-control device as defined in Section [41-6a-102](#).

2899 (3) (a) The Department of Transportation shall make and enforce rules pursuant to
2900 Section [41-6a-1304](#) governing the placement and size of an advertisement on a school bus.

2901 (b) Rules made under Subsection (3)(a) shall:

2902 (i) prohibit the placement of an advertisement on the back or the front of a school bus;
2903 and

2904 (ii) limit the size of an advertisement to no more than 35% of the area of the side of a
2905 school bus.

2906 (4) (a) A school bus advertisement shall be painted or affixed by decal on a school bus
2907 in a manner that complies with rules adopted under Subsection (3).

2908 (b) A commercial advertiser that contracts with a school district for the use of space for
2909 an advertisement shall pay:

2910 (i) the cost of placing the advertisement on a school bus; and

2911 (ii) for the removal of the advertisement after the term of the contract has expired.

2912 (5) A school district or charter school shall use revenue from the sale of advertising
2913 space on a school bus for expenditures made within accounting function classification 2700,

2914 School Transportation Services, of the Financial Accounting for Local and State School
2915 Systems guidelines developed by the National Center for Education Statistics.

2916 Section 39. Section **49-12-102** is amended to read:

2917 **49-12-102. Definitions.**

2918 As used in this chapter:

2919 (1) "Benefits normally provided":

2920 (a) means a benefit offered by an employer, including:

2921 (i) a leave benefit of any kind;

2922 (ii) insurance coverage of any kind if the employer pays some or all of the premium for
2923 the coverage;

2924 (iii) employer contributions to a health savings account, health reimbursement account,
2925 health reimbursement arrangement, or medical expense reimbursement plan; and

2926 (iv) a retirement benefit of any kind if the employer pays some or all of the cost of the
2927 benefit; and

2928 (b) does not include:

2929 (i) a payment for social security;

2930 (ii) workers' compensation insurance;

2931 (iii) unemployment insurance;

2932 (iv) a payment for Medicare;

2933 (v) a payment or insurance required by federal or state law that is similar to a payment
2934 or insurance listed in Subsection (1)(b)(i), (ii), (iii), or (iv);

2935 (vi) any other benefit that state or federal law requires an employer to provide an
2936 employee who would not otherwise be eligible to receive the benefit; or

2937 (vii) any benefit that an employer provides an employee in order to avoid a penalty or
2938 tax under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health
2939 Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal
2940 regulations, including a penalty imposed by Internal Revenue Code, Section 4980H.

2941 (2) (a) "Compensation" means, except as provided in Subsection (2)(c), the total

2942 amount of payments made by a participating employer to a member of this system for services
2943 rendered to the participating employer, including:

- 2944 (i) bonuses;
- 2945 (ii) cost-of-living adjustments;
- 2946 (iii) other payments currently includable in gross income and that are subject to social
2947 security deductions, including any payments in excess of the maximum amount subject to
2948 deduction under social security law;

- 2949 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
2950 or other benefits authorized by federal law; and

- 2951 (v) member contributions.

2952 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed
2953 under Internal Revenue Code, Section 401(a)(17).

2954 (c) "Compensation" does not include:

- 2955 (i) the monetary value of remuneration paid in kind, including a residence or use of
2956 equipment;

- 2957 (ii) the cost of any employment benefits paid for by the participating employer;

- 2958 (iii) compensation paid to a temporary employee, an exempt employee, or an employee
2959 otherwise ineligible for service credit;

- 2960 (iv) any payments upon termination, including accumulated vacation, sick leave
2961 payments, severance payments, compensatory time payments, or any other special payments;

- 2962 (v) any allowances or payments to a member for costs or expenses paid by the
2963 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
2964 housing costs, insurance costs, equipment costs, and dependent care costs; or

- 2965 (vi) a teacher salary bonus described in Section ~~[53A-17a-173]~~ [53F-2-513](#).

2966 (d) The executive director may determine if a payment not listed under this Subsection
2967 (2) falls within the definition of compensation.

2968 (3) "Final average salary" means the amount calculated by averaging the highest five
2969 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), (d),

2970 and (e).

2971 (a) Except as provided in Subsection (3)(b), the percentage increase in annual
2972 compensation in any one of the years used may not exceed the previous year's compensation by
2973 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
2974 of the dollar during the previous year, as measured by a United States Bureau of Labor
2975 Statistics Consumer Price Index average as determined by the board.

2976 (b) In cases where the participating employer provides acceptable documentation to the
2977 office, the limitation in Subsection (3)(a) may be exceeded if:

- 2978 (i) the member has transferred from another agency; or
- 2979 (ii) the member has been promoted to a new position.

2980 (c) If the member retires more than six months from the date of termination of
2981 employment, the member is considered to have been in service at the member's last rate of pay
2982 from the date of the termination of employment to the effective date of retirement for purposes
2983 of computing the member's final average salary only.

2984 (d) If the member has less than five years of service credit in this system, final average
2985 salary means the average annual compensation paid to the member during the full period of
2986 service credit.

2987 (e) The annual compensation used to calculate final average salary shall be based on:

- 2988 (i) a calendar year for a member employed by a participating employer that is not an
2989 educational institution; or
- 2990 (ii) a contract year for a member employed by an educational institution.

2991 (4) "Participating employer" means an employer which meets the participation
2992 requirements of Sections [49-12-201](#) and [49-12-202](#).

2993 (5) (a) "Regular full-time employee" means an employee whose term of employment
2994 for a participating employer contemplates continued employment during a fiscal or calendar
2995 year and whose employment normally requires an average of 20 hours or more per week,
2996 except as modified by the board, and who receives benefits normally provided by the
2997 participating employer.

2998 (b) "Regular full-time employee" includes:
2999 (i) a teacher whose term of employment for a participating employer contemplates
3000 continued employment during a school year and who teaches half-time or more;
3001 (ii) a classified school employee:
3002 (A) who is hired before July 1, 2013; and
3003 (B) whose employment normally requires an average of 20 hours per week or more for
3004 a participating employer, regardless of benefits provided;
3005 (iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as
3006 of January 1, 1990, as provided in Section [49-12-407](#);
3007 (iv) a faculty member or employee of an institution of higher education who is
3008 considered full-time by that institution of higher education; and
3009 (v) an individual who otherwise meets the definition of this Subsection (5) who
3010 performs services for a participating employer through a professional employer organization or
3011 similar arrangement.
3012 (c) "Regular full-time employee" does not include a classified school employee:
3013 (i) (A) who is hired on or after July 1, 2013; and
3014 (B) who does not receive benefits normally provided by the participating employer
3015 even if the employment normally requires an average of 20 hours per week or more for a
3016 participating employer;
3017 (ii) (A) who is hired before July 1, 2013;
3018 (B) who did not qualify as a regular full-time employee before July 1, 2013;
3019 (C) who does not receive benefits normally provided by the participating employer;
3020 and
3021 (D) whose employment hours are increased on or after July 1, 2013, to require an
3022 average of 20 hours per week or more for a participating employer; or
3023 (iii) who is a person working on a contract:
3024 (A) for the purposes of vocational rehabilitation and the employment and training of
3025 people with significant disabilities; and

3026 (B) that has been set aside from procurement requirements by the state pursuant to
3027 Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

3028 (6) "System" means the Public Employees' Contributory Retirement System created
3029 under this chapter.

3030 (7) "Years of service credit" means:

3031 (a) a period consisting of 12 full months as determined by the board;

3032 (b) a period determined by the board, whether consecutive or not, during which a
3033 regular full-time employee performed services for a participating employer, including any time
3034 the regular full-time employee was absent on a paid leave of absence granted by a participating
3035 employer or was absent in the service of the United States government on military duty as
3036 provided by this chapter; or

3037 (c) the regular school year consisting of not less than eight months of full-time service
3038 for a regular full-time employee of an educational institution.

3039 Section 40. Section 49-12-202 is amended to read:

3040 **49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission**
3041 **requirements -- Exceptions -- Nondiscrimination requirements.**

3042 (1) (a) Unless excluded under Subsection (2), an employer is a participating employer
3043 and may not withdraw from participation in this system.

3044 (b) In addition to their participation in this system, participating employers may
3045 provide or participate in public or private retirement, supplemental or defined contribution
3046 plan, either directly or indirectly, for their employees.

3047 (2) The following employers may be excluded from participation in this system:

3048 (a) an employer not initially admitted or included as a participating employer in this
3049 system prior to January 1, 1982 if:

3050 (i) the employer elects not to provide or participate in any type of private or public
3051 retirement, supplemental or defined contribution plan, either directly or indirectly, for its
3052 employees, except for Social Security; or

3053 (ii) the employer offers another collectively bargained retirement benefit and has

3054 continued to do so on an uninterrupted basis since that date;

3055 (b) an employer that is a charter school authorized under [~~Title 53A, Chapter 1a, Part 5,~~
3056 ~~The Utah Charter Schools Act~~] Title 53G, Chapter 5, Part 3, Charter School Authorization, and
3057 does not elect to participate in accordance with Section [~~53A-1a-512~~] 53G-5-407;

3058 (c) an employer that is a hospital created as a special service district under Title 17D,
3059 Chapter 1, Special Service District Act, that makes an election of nonparticipation in
3060 accordance with Subsection (4); or

3061 (d) an employer that is licensed as a nursing care facility under Title 26, Chapter 21,
3062 Health Care Facility Licensing and Inspection Act, and created as a special service district
3063 under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes
3064 an election of nonparticipation in accordance with Subsection (4).

3065 (3) An employer who did not become a participating employer in this system prior to
3066 July 1, 1986, may not participate in this system.

3067 (4) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service
3068 district under Title 17D, Chapter 1, Special Service District Act, may make an election of
3069 nonparticipation as an employer for retirement programs under this chapter.

3070 (ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under
3071 Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a
3072 special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area
3073 of the state may make an election of nonparticipation as an employer for retirement programs
3074 under this chapter.

3075 (b) An election provided under Subsection (4)(a):

3076 (i) is a one-time election made no later than the time specified under Subsection (4)(a);

3077 (ii) shall be documented by a resolution adopted by the governing body of the special
3078 service district;

3079 (iii) is irrevocable; and

3080 (iv) applies to the special service district as the employer and to all employees of the
3081 special service district.

3082 (c) The governing body of the special service district may offer employee benefit plans
3083 for its employees:

3084 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

3085 or

3086 (ii) under any other program.

3087 (5) (a) If a participating employer purchases service credit on behalf of regular
3088 full-time employees for service rendered prior to the participating employer's admission to this
3089 system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all
3090 current and former regular full-time employees who were eligible for service credit at the time
3091 service was rendered.

3092 (b) For a purchase made under this Subsection (5), an employee is not required to:

3093 (i) have at least four years of service credit before the purchase can be made; or

3094 (ii) forfeit service credit or any defined contribution balance based on the employer
3095 contributions under any other retirement system or plan based on the period of employment for
3096 which service credit is being purchased.

3097 Section 41. Section **49-12-701** is amended to read:

3098 **49-12-701. Early retirement incentive -- Eligibility -- Calculation of benefit --**
3099 **Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**
3100 **reemployment.**

3101 (1) Any member of this system may retire and receive the allowance allowed under
3102 Subsection (2) if the member meets the following requirements as of the member's retirement
3103 date:

3104 (a) the member is eligible for retirement under Section [49-12-401](#), or has 25 years of
3105 service credit;

3106 (b) the member elects to forfeit any stipend for retirement offered by the participating
3107 employer; and

3108 (c) the member elects to retire from this system by applying for retirement by the date
3109 established under Subsection (3)(a) or (3)(b).

3110 (2) (a) A member who retires under Subsection (1) shall receive 2% of that member's
3111 final average salary for all years of service credit.

3112 (b) An actuarial reduction may not be applied to the allowance granted under this
3113 section.

3114 (3) In order to receive the allowance allowed by this section, a member shall submit an
3115 application to the office as follows:

3116 (a) (i) For state and school employees under Level A, the application shall be filed by
3117 May 31, 1987. The member's retirement date shall then be set by the member on the 1st or 16th
3118 day of July, August, or September, 1987.

3119 (ii) If a Level A member elects to retire, the executive director or participating
3120 employer may request the member to delay the retirement date until a later date, but no later
3121 than June 30, 1988.

3122 (iii) If the member agrees to delay the retirement date, the retirement date shall be
3123 delayed, but service credit may not be accrued after the member's original retirement date
3124 elected by the member, and compensation earned after the member's original retirement date
3125 may not be used in the calculation of the final average salary for determining the retirement
3126 allowance.

3127 (b) (i) For political subdivision employees under Level B, the application shall be filed
3128 by September 30, 1987.

3129 (ii) The retirement date shall then be set by the member on the 1st or 16th day of July,
3130 August, September, October, November, or December, 1987.

3131 (4) (a) The cost of providing the allowance under this section shall be funded in fiscal
3132 year 1987-88 by a supplemental appropriation in the 1988 General Session based on the
3133 retirement contribution rate increase established by the consulting actuary and approved by the
3134 board.

3135 (b) The cost of providing the allowance under this section shall be funded beginning
3136 July 1, 1988, by means of an increase in the retirement contribution rate established by the
3137 consulting actuary and approved by the board.

3138 (c) The rate increase under Subsections (4)(a) and (b) shall be funded:
3139 (i) for state employees, by an appropriation from the account established by the
3140 Division of Finance under Subsection (4)(d), which is funded by savings derived from this
3141 early retirement incentive and a work force reduction;
3142 (ii) for school employees, by direct contributions from the employing unit, which may
3143 not be funded through an increase in the retirement contribution amount established in [~~Title~~
3144 ~~53A, Chapter 17a, Minimum School Program Act~~] Title 53F, Chapter 2, State Funding --
3145 Minimum School Program; and
3146 (iii) for political subdivisions under Level B, by direct contributions by the
3147 participating employer.
3148 (d) (i) Each year, any excess savings derived from this early retirement incentive which
3149 are above the costs of funding the increase and the costs of paying insurance, sick leave,
3150 compensatory leave, and vacation leave under Subsections (4)(c)(i) and (ii) shall be reported to
3151 the Legislature and shall be appropriated as provided by law.
3152 (ii) In the case of Subsection (4)(c)(i), the Division of Finance shall establish an
3153 account into which all savings derived from this early retirement incentive shall be deposited as
3154 the savings are realized.
3155 (iii) In the case of Subsection (4)(c)(ii), the State Board of Education shall certify the
3156 amount of savings derived from this early retirement incentive.
3157 (iv) The State Board of Education and the participating employer may not spend the
3158 savings until appropriated by the Legislature as provided by law.
3159 (5) A member who retires under this section is subject to Section [49-11-504](#) and
3160 Chapter 11, Part 12, Postretirement Reemployment Restrictions Act.
3161 (6) The board may adopt rules to administer this section.
3162 (7) The Legislative Auditor General shall perform an audit to ensure compliance with
3163 this section.
3164 Section 42. Section **49-13-102** is amended to read:
3165 **49-13-102. Definitions.**

3166 As used in this chapter:

3167 (1) "Benefits normally provided" has the same meaning as defined in Section
3168 [49-12-102](#).

3169 (2) (a) Except as provided in Subsection (2)(c), "compensation" means the total
3170 amount of payments made by a participating employer to a member of this system for services
3171 rendered to the participating employer, including:

3172 (i) bonuses;

3173 (ii) cost-of-living adjustments;

3174 (iii) other payments currently includable in gross income and that are subject to social
3175 security deductions, including any payments in excess of the maximum amount subject to
3176 deduction under social security law; and

3177 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
3178 or other benefits authorized by federal law.

3179 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed
3180 under Internal Revenue Code, Section 401(a)(17).

3181 (c) "Compensation" does not include:

3182 (i) the monetary value of remuneration paid in kind, including a residence or use of
3183 equipment;

3184 (ii) the cost of any employment benefits paid for by the participating employer;

3185 (iii) compensation paid to a temporary employee, an exempt employee, or an employee
3186 otherwise ineligible for service credit;

3187 (iv) any payments upon termination, including accumulated vacation, sick leave
3188 payments, severance payments, compensatory time payments, or any other special payments;

3189 (v) any allowances or payments to a member for costs or expenses paid by the
3190 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
3191 housing costs, insurance costs, equipment costs, and dependent care costs; or

3192 (vi) a teacher salary bonus described in Section [~~53A-17a-173~~] [53F-2-513](#).

3193 (d) The executive director may determine if a payment not listed under this Subsection

3194 (2) falls within the definition of compensation.

3195 (3) "Final average salary" means the amount calculated by averaging the highest three
3196 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and
3197 (d).

3198 (a) Except as provided in Subsection (3)(b), the percentage increase in annual
3199 compensation in any one of the years used may not exceed the previous year's compensation by
3200 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
3201 of the dollar during the previous year, as measured by a United States Bureau of Labor
3202 Statistics Consumer Price Index average as determined by the board.

3203 (b) In cases where the participating employer provides acceptable documentation to the
3204 office, the limitation in Subsection (3)(a) may be exceeded if:

3205 (i) the member has transferred from another agency; or

3206 (ii) the member has been promoted to a new position.

3207 (c) If the member retires more than six months from the date of termination of
3208 employment and for purposes of computing the member's final average salary only, the
3209 member is considered to have been in service at the member's last rate of pay from the date of
3210 the termination of employment to the effective date of retirement.

3211 (d) The annual compensation used to calculate final average salary shall be based on:

3212 (i) a calendar year for a member employed by a participating employer that is not an
3213 educational institution; or

3214 (ii) a contract year for a member employed by an educational institution.

3215 (4) "Participating employer" means an employer which meets the participation
3216 requirements of Sections [49-13-201](#) and [49-13-202](#).

3217 (5) (a) "Regular full-time employee" means an employee whose term of employment
3218 for a participating employer contemplates continued employment during a fiscal or calendar
3219 year and whose employment normally requires an average of 20 hours or more per week,
3220 except as modified by the board, and who receives benefits normally provided by the
3221 participating employer.

- 3222 (b) "Regular full-time employee" includes:
- 3223 (i) a teacher whose term of employment for a participating employer contemplates
- 3224 continued employment during a school year and who teaches half time or more;
- 3225 (ii) a classified school employee:
- 3226 (A) who is hired before July 1, 2013; and
- 3227 (B) whose employment normally requires an average of 20 hours per week or more for
- 3228 a participating employer, regardless of benefits provided;
- 3229 (iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as
- 3230 of January 1, 1990, as provided in Section [49-13-407](#);
- 3231 (iv) a faculty member or employee of an institution of higher education who is
- 3232 considered full time by that institution of higher education; and
- 3233 (v) an individual who otherwise meets the definition of this Subsection (5) who
- 3234 performs services for a participating employer through a professional employer organization or
- 3235 similar arrangement.
- 3236 (c) "Regular full-time employee" does not include a classified school employee:
- 3237 (i) (A) who is hired on or after July 1, 2013; and
- 3238 (B) who does not receive benefits normally provided by the participating employer
- 3239 even if the employment normally requires an average of 20 hours per week or more for a
- 3240 participating employer;
- 3241 (ii) (A) who is hired before July 1, 2013;
- 3242 (B) who did not qualify as a regular full-time employee before July 1, 2013;
- 3243 (C) who does not receive benefits normally provided by the participating employer;
- 3244 and
- 3245 (D) whose employment hours are increased on or after July 1, 2013, to require an
- 3246 average of 20 hours per week or more for a participating employer; or
- 3247 (iii) who is a person working on a contract:
- 3248 (A) for the purposes of vocational rehabilitation and the employment and training of
- 3249 people with significant disabilities; and

3250 (B) that has been set aside from procurement requirements by the state pursuant to
3251 Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

3252 (6) "System" means the Public Employees' Noncontributory Retirement System.

3253 (7) "Years of service credit" means:

3254 (a) a period consisting of 12 full months as determined by the board;

3255 (b) a period determined by the board, whether consecutive or not, during which a
3256 regular full-time employee performed services for a participating employer, including any time
3257 the regular full-time employee was absent on a paid leave of absence granted by a participating
3258 employer or was absent in the service of the United States government on military duty as
3259 provided by this chapter; or

3260 (c) the regular school year consisting of not less than eight months of full-time service
3261 for a regular full-time employee of an educational institution.

3262 Section 43. Section 49-13-202 is amended to read:

3263 **49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission**
3264 **requirements -- Nondiscrimination requirements -- Service credit purchases.**

3265 (1) (a) Unless excluded under Subsection (2), an employer is a participating employer
3266 and may not withdraw from participation in this system.

3267 (b) In addition to their participation in this system, participating employers may
3268 provide or participate in any additional public or private retirement, supplemental or defined
3269 contribution plan, either directly or indirectly, for their employees.

3270 (2) The following employers may be excluded from participation in this system:

3271 (a) an employer not initially admitted or included as a participating employer in this
3272 system before January 1, 1982, if:

3273 (i) the employer elects not to provide or participate in any type of private or public
3274 retirement, supplemental or defined contribution plan, either directly or indirectly, for its
3275 employees, except for Social Security; or

3276 (ii) the employer offers another collectively bargained retirement benefit and has
3277 continued to do so on an uninterrupted basis since that date;

3278 (b) an employer that is a charter school authorized under [~~Title 53A, Chapter 1a, Part 5,~~
3279 ~~The Utah Charter Schools Act~~] Title 53G, Chapter 5, Part 3, Charter School Authorization, and
3280 does not elect to participate in accordance with Section [~~53A-1a-512~~] 53G-5-407;

3281 (c) an employer that is a hospital created as a special service district under Title 17D,
3282 Chapter 1, Special Service District Act, that makes an election of nonparticipation in
3283 accordance with Subsection (5);

3284 (d) an employer that is licensed as a nursing care facility under Title 26, Chapter 21,
3285 Health Care Facility Licensing and Inspection Act, and created as a special service district
3286 under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes
3287 an election of nonparticipation in accordance with Subsection (5); or

3288 (e) an employer that is a risk management association initially created by interlocal
3289 agreement before 1986 for the purpose of implementing a self-insurance joint protection
3290 program for the benefit of member municipalities of the association.

3291 (3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to
3292 provide or participate in any type of public or private retirement, supplemental or defined
3293 contribution plan, either directly or indirectly, except for Social Security, the employer shall be
3294 a participating employer in this system regardless of whether the employer has applied for
3295 admission under Subsection (4).

3296 (4) (a) An employer may, by resolution of its governing body, apply for admission to
3297 this system.

3298 (b) Upon approval of the resolution by the board, the employer is a participating
3299 employer in this system and is subject to this title.

3300 (5) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service
3301 district under Title 17D, Chapter 1, Special Service District Act, may make an election of
3302 nonparticipation as an employer for retirement programs under this chapter.

3303 (ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under
3304 Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a
3305 special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area

3306 of the state may make an election of nonparticipation as an employer for retirement programs
3307 under this chapter.

3308 (iii) On or before July 1, 2010, an employer described in Subsection (2)(e) may make
3309 an election of nonparticipation as an employer for retirement programs under this chapter.

3310 (b) An election provided under Subsection (5)(a):

3311 (i) is a one-time election made no later than the time specified under Subsection (5)(a);

3312 (ii) shall be documented by a resolution adopted by the governing body of the
3313 employer;

3314 (iii) is irrevocable; and

3315 (iv) applies to the employer as described in Subsection (5)(a)(i), (ii), or (iii) and to all
3316 employees of that employer.

3317 (c) The employer making an election under Subsection (5)(a) may offer employee
3318 benefit plans for its employees:

3319 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;
3320 or

3321 (ii) under any other program.

3322 (6) (a) If a participating employer purchases service credit on behalf of regular
3323 full-time employees for service rendered prior to the participating employer's admission to this
3324 system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all
3325 current and former regular full-time employees who were eligible for service credit at the time
3326 service was rendered.

3327 (b) For a purchase made under this Subsection (6), an employee is not required to:

3328 (i) have at least four years of service credit before the purchase can be made; or

3329 (ii) forfeit service credit or any defined contribution balance based on the employer
3330 contributions under any other retirement system or plan based on the period of employment for
3331 which service credit is being purchased.

3332 Section 44. Section **49-13-701** is amended to read:

3333 **49-13-701. Early retirement incentive -- Eligibility -- Calculation of benefit --**

3334 **Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**
3335 **reemployment.**

3336 (1) Any member of this system may retire and receive the allowance allowed under
3337 Subsection (2) if the member meets the following requirements as of the member's retirement:

3338 (a) the member is eligible for retirement under Section 49-13-401, or has 25 years of
3339 service credit;

3340 (b) the member elects to forfeit any stipend for retirement offered by the participating
3341 employer; and

3342 (c) the member elects to retire from this system by applying for retirement by the date
3343 established under Subsection (3)(a) or (3)(b).

3344 (2) (a) A member who retires under Subsection (1) shall receive 2% of that member's
3345 final average salary for all years of service credit.

3346 (b) No actuarial reduction may be applied to the allowance granted under this section.

3347 (3) In order to receive the allowance allowed by this section, a member shall submit an
3348 application to the office as follows:

3349 (a) (i) For state and school employees under Level A, the application shall be filed by
3350 May 31, 1987. The member's retirement date shall then be set by the member on the 1st or 16th
3351 day of July, August, or September, 1987.

3352 (ii) If a Level A member elects to retire, the executive director or participating
3353 employer may request the member to delay the retirement date until a later date, but no later
3354 than June 30, 1988.

3355 (iii) If the member agrees to delay the retirement date, the retirement date shall be
3356 delayed, but service credit may not be accrued after the member's original retirement date
3357 elected by the member, and compensation earned after the member's original retirement date
3358 may not be used in the calculation of the final average salary for determining the retirement
3359 allowance.

3360 (b) (i) For political subdivision employees under Level B, the application shall be filed
3361 by September 30, 1987.

3362 (ii) The member's retirement date shall then be set by the member on the 1st or 16th
3363 day of July, August, September, October, November, or December, 1987.

3364 (4) (a) The cost of providing the allowance under this section shall be funded in fiscal
3365 year 1987-88 by a supplemental appropriation in the 1988 General Session based on the
3366 retirement contribution rate increase established by the consulting actuary and approved by the
3367 board.

3368 (b) The cost of providing the allowance under this section shall be funded beginning
3369 July 1, 1988, by means of an increase in the retirement contribution rate established by the
3370 consulting actuary and approved by the board.

3371 (c) The rate increase under Subsections (4)(a) and (b) shall be funded:

3372 (i) for state employees, by an appropriation from the account established by the
3373 Division of Finance under Subsection (4)(d), which is funded by savings derived from this
3374 early retirement incentive and a work force reduction;

3375 (ii) for school employees, by direct contributions from the employing unit, which may
3376 not be funded through an increase in the retirement contribution amount established in [~~Title~~
3377 ~~53A, Chapter 17a, Minimum School Program Act~~] Title 53F, Chapter 2, State Funding --
3378 Minimum School Program; and

3379 (iii) for political subdivisions under Level B, by direct contributions by the
3380 participating employer.

3381 (d) (i) Each year, any excess savings derived from this early retirement incentive which
3382 are above the costs of funding the increase and the costs of paying insurance, sick leave,
3383 compensatory leave, and vacation leave under Subsections (4)(c)(i) and (ii) shall be reported to
3384 the Legislature and shall be appropriated as provided by law.

3385 (ii) In the case of Subsection (4)(c)(i), the Division of Finance shall establish an
3386 account into which all savings derived from this early retirement incentive shall be deposited as
3387 the savings are realized.

3388 (iii) In the case of Subsection (4)(c)(ii), the State Board of Education shall certify the
3389 amount of savings derived from this early retirement incentive.

3390 (iv) The State Board of Education and the participating employer may not spend the
3391 savings until appropriated by the Legislature as provided by law.

3392 (5) A member who retires under this section is subject to Section 49-11-504 and
3393 Chapter 11, Part 12, Postretirement Reemployment Restrictions Act.

3394 (6) The board may make rules to administer this section.

3395 (7) The Legislative Auditor General shall perform an audit to ensure compliance with
3396 this section.

3397 Section 45. Section 49-22-102 is amended to read:

3398 **49-22-102. Definitions.**

3399 As used in this chapter:

3400 (1) "Benefits normally provided" has the same meaning as defined in Section
3401 49-12-102.

3402 (2) (a) "Compensation" means, except as provided in Subsection (2)(c), the total
3403 amount of payments made by a participating employer to a member of this system for services
3404 rendered to the participating employer, including:

3405 (i) bonuses;

3406 (ii) cost-of-living adjustments;

3407 (iii) other payments currently includable in gross income and that are subject to social
3408 security deductions, including any payments in excess of the maximum amount subject to
3409 deduction under social security law;

3410 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
3411 or other benefits authorized by federal law; and

3412 (v) member contributions.

3413 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed
3414 under Internal Revenue Code, Section 401(a)(17).

3415 (c) "Compensation" does not include:

3416 (i) the monetary value of remuneration paid in kind, including a residence or use of
3417 equipment;

3418 (ii) the cost of any employment benefits paid for by the participating employer;

3419 (iii) compensation paid to a temporary employee or an employee otherwise ineligible
3420 for service credit;

3421 (iv) any payments upon termination, including accumulated vacation, sick leave
3422 payments, severance payments, compensatory time payments, or any other special payments;

3423 (v) any allowances or payments to a member for costs or expenses paid by the
3424 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
3425 housing costs, insurance costs, equipment costs, and dependent care costs; or

3426 (vi) a teacher salary bonus described in Section [~~53A-17a-173~~] [53F-2-513](#).

3427 (d) The executive director may determine if a payment not listed under this Subsection
3428 (2) falls within the definition of compensation.

3429 (3) "Corresponding Tier I system" means the system or plan that would have covered
3430 the member if the member had initially entered employment before July 1, 2011.

3431 (4) "Final average salary" means the amount calculated by averaging the highest five
3432 years of annual compensation preceding retirement subject to Subsections (4)(a), (b), (c), (d),
3433 and (e).

3434 (a) Except as provided in Subsection (4)(b), the percentage increase in annual
3435 compensation in any one of the years used may not exceed the previous year's compensation by
3436 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
3437 of the dollar during the previous year, as measured by a United States Bureau of Labor
3438 Statistics Consumer Price Index average as determined by the board.

3439 (b) In cases where the participating employer provides acceptable documentation to the
3440 office, the limitation in Subsection (4)(a) may be exceeded if:

3441 (i) the member has transferred from another agency; or

3442 (ii) the member has been promoted to a new position.

3443 (c) If the member retires more than six months from the date of termination of
3444 employment, the member is considered to have been in service at the member's last rate of pay
3445 from the date of the termination of employment to the effective date of retirement for purposes

3446 of computing the member's final average salary only.

3447 (d) If the member has less than five years of service credit in this system, final average
3448 salary means the average annual compensation paid to the member during the full period of
3449 service credit.

3450 (e) The annual compensation used to calculate final average salary shall be based on:

3451 (i) a calendar year for a member employed by a participating employer that is not an
3452 educational institution; or

3453 (ii) a contract year for a member employed by an educational institution.

3454 (5) "Participating employer" means an employer which meets the participation
3455 requirements of:

3456 (a) Sections [49-12-201](#) and [49-12-202](#);

3457 (b) Sections [49-13-201](#) and [49-13-202](#);

3458 (c) Section [49-19-201](#); or

3459 (d) Section [49-22-201](#) or [49-22-202](#).

3460 (6) (a) "Regular full-time employee" means an employee whose term of employment
3461 for a participating employer contemplates continued employment during a fiscal or calendar
3462 year and whose employment normally requires an average of 20 hours or more per week,
3463 except as modified by the board, and who receives benefits normally provided by the
3464 participating employer.

3465 (b) "Regular full-time employee" includes:

3466 (i) a teacher whose term of employment for a participating employer contemplates
3467 continued employment during a school year and who teaches half time or more;

3468 (ii) a classified school employee:

3469 (A) who is hired before July 1, 2013; and

3470 (B) whose employment normally requires an average of 20 hours per week or more for
3471 a participating employer, regardless of benefits provided;

3472 (iii) an appointive officer whose appointed position is full time as certified by the
3473 participating employer;

3474 (iv) the governor, the lieutenant governor, the state auditor, the state treasurer, the
3475 attorney general, and a state legislator;

3476 (v) an elected official not included under Subsection (6)(b)(iv) whose elected position
3477 is full time as certified by the participating employer;

3478 (vi) a faculty member or employee of an institution of higher education who is
3479 considered full time by that institution of higher education; and

3480 (vii) an individual who otherwise meets the definition of this Subsection (6) who
3481 performs services for a participating employer through a professional employer organization or
3482 similar arrangement.

3483 (c) "Regular full-time employee" does not include:

3484 (i) a firefighter service employee as defined in Section [49-23-102](#);

3485 (ii) a public safety service employee as defined in Section [49-23-102](#);

3486 (iii) a classified school employee:

3487 (A) who is hired on or after July 1, 2013; and

3488 (B) who does not receive benefits normally provided by the participating employer
3489 even if the employment normally requires an average of 20 hours per week or more for a
3490 participating employer;

3491 (iv) a classified school employee:

3492 (A) who is hired before July 1, 2013;

3493 (B) who did not qualify as a regular full-time employee before July 1, 2013;

3494 (C) who does not receive benefits normally provided by the participating employer;

3495 and

3496 (D) whose employment hours are increased on or after July 1, 2013, to require an
3497 average of 20 hours per week or more for a participating employer; or

3498 (E) who is a person working on a contract:

3499 (I) for the purposes of vocational rehabilitation and the employment and training of
3500 people with significant disabilities; and

3501 (II) that has been set aside from procurement requirements by the state pursuant to

3502 Section [63G-6a-805](#) or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

3503 (7) "System" means the New Public Employees' Tier II Contributory Retirement
3504 System created under this chapter.

3505 (8) "Years of service credit" means:

3506 (a) a period consisting of 12 full months as determined by the board;

3507 (b) a period determined by the board, whether consecutive or not, during which a
3508 regular full-time employee performed services for a participating employer, including any time
3509 the regular full-time employee was absent on a paid leave of absence granted by a participating
3510 employer or was absent in the service of the United States government on military duty as
3511 provided by this chapter; or

3512 (c) the regular school year consisting of not less than eight months of full-time service
3513 for a regular full-time employee of an educational institution.

3514 Section 46. Section **49-22-202** is amended to read:

3515 **49-22-202. Participation of employers -- Limitations -- Exclusions -- Admission**
3516 **requirements.**

3517 (1) Unless excluded under Subsection (2), an employer is a participating employer and
3518 may not withdraw from participation in this system.

3519 (2) The following employers may be excluded from participation in this system:

3520 (a) an employer not initially admitted or included as a participating employer in this
3521 system before January 1, 1982, if:

3522 (i) the employer elects not to provide or participate in any type of private or public
3523 retirement, supplemental or defined contribution plan, either directly or indirectly, for its
3524 employees, except for Social Security; or

3525 (ii) the employer offers another collectively bargained retirement benefit and has
3526 continued to do so on an uninterrupted basis since that date;

3527 (b) an employer that is a charter school authorized under [~~Title 53A, Chapter 1a, Part 5,~~
3528 ~~The Utah Charter Schools Act~~] Title 53G, Chapter 5, Part 3, Charter School Authorization, and
3529 does not elect to participate in accordance with Section [~~53A-1a-512~~] [53G-5-407](#); or

3530 (c) an employer that is a risk management association initially created by interlocal
3531 agreement before 1986 for the purpose of implementing a self-insurance joint protection
3532 program for the benefit of member municipalities of the association.

3533 (3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to
3534 provide or participate in any type of public or private retirement, supplemental or defined
3535 contribution plan, either directly or indirectly, except for Social Security, the employer shall be
3536 a participating employer in this system regardless of whether the employer has applied for
3537 admission under Subsection (4).

3538 (4) (a) An employer may, by resolution of its governing body, apply for admission to
3539 this system.

3540 (b) Upon approval of the resolution by the board, the employer is a participating
3541 employer in this system and is subject to this title.

3542 (5) If a participating employer purchases service credit on behalf of a regular full-time
3543 employee for service rendered prior to the participating employer's admission to this system,
3544 the participating employer:

3545 (a) shall purchase credit in a nondiscriminatory manner on behalf of all current and
3546 former regular full-time employees who were eligible for service credit at the time service was
3547 rendered; and

3548 (b) shall comply with the provisions of Section [49-11-403](#).

3549 Section 47. Section **51-2a-201.5** is amended to read:

3550 **51-2a-201.5. Accounting reports required -- Reporting to state auditor.**

3551 (1) As used in this section:

3552 (a) (i) "Federal pass through money" means federal money received by a nonprofit
3553 corporation through a subaward or contract from the state or a political subdivision.

3554 (ii) "Federal pass through money" does not include federal money received by a
3555 nonprofit corporation as payment for goods or services purchased by the state or political
3556 subdivision from the nonprofit corporation.

3557 (b) (i) "Local money" means money that is owned, held, or administered by a political

3558 subdivision of the state that is derived from fee or tax revenues.

3559 (ii) "Local money" does not include:

3560 (A) money received by a nonprofit corporation as payment for goods or services
3561 purchased from the nonprofit corporation; or

3562 (B) contributions or donations received by the political subdivision.

3563 (c) (i) "State money" means money that is owned, held, or administered by a state
3564 agency and derived from state fee or tax revenues.

3565 (ii) "State money" does not include:

3566 (A) money received by a nonprofit corporation as payment for goods or services
3567 purchased from the nonprofit corporation; or

3568 (B) contributions or donations received by the state agency.

3569 (2) (a) The governing board of a nonprofit corporation whose revenues or expenditures
3570 of federal pass through money, state money, and local money is \$1,000,000 or more shall cause
3571 an audit to be made of its accounts by an independent certified public accountant.

3572 (b) The governing board of a nonprofit corporation whose revenues or expenditures of
3573 federal pass through money, state money, and local money is at least \$350,000 but less than
3574 \$1,000,000 shall cause a review to be made of its accounts by an independent certified public
3575 accountant.

3576 (c) The governing board of a nonprofit corporation whose revenues or expenditures of
3577 federal pass through money, state money, and local money is at least \$100,000 but less than
3578 \$350,000 shall cause a compilation to be made of its accounts by an independent certified
3579 public accountant.

3580 (d) The governing board of a nonprofit corporation whose revenues or expenditures of
3581 federal pass through money, state money, and local money is less than \$100,000 but greater
3582 than \$25,000 shall cause a fiscal report to be made in a format prescribed by the state auditor.

3583 (3) A nonprofit corporation described in Subsection [51-2a-102\(6\)\(f\)](#) shall provide the
3584 state auditor a copy of an accounting report prepared under this section within six months of
3585 the end of the nonprofit corporation's fiscal year.

3586 (4) (a) A state agency that disburses federal pass through money or state money to a
3587 nonprofit corporation shall enter into a written agreement with the nonprofit corporation that
3588 requires the nonprofit corporation to annually disclose whether:

3589 (i) the nonprofit corporation met or exceeded the dollar amounts listed in Subsection
3590 (2) in the previous fiscal year of the nonprofit corporation; or

3591 (ii) the nonprofit corporation anticipates meeting or exceeding the dollar amounts listed
3592 in Subsection (2) in the fiscal year the money is disbursed.

3593 (b) If the nonprofit corporation discloses to the state agency that the nonprofit
3594 corporation meets or exceeds the dollar amounts as described in Subsection (4)(a), the state
3595 agency shall notify the state auditor.

3596 (5) This section does not apply to a nonprofit corporation that is a charter school
3597 created under [~~Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~] Title 53G,
3598 Chapter 5, Charter Schools. A charter school is subject to the requirements of Section
3599 [~~53A-1a-507~~] 53G-5-404.

3600 (6) A nonprofit corporation is exempt from Section 51-2a-201.

3601 Section 48. Section **51-7-13** is amended to read:

3602 **51-7-13. Funds of member institutions of state system of higher education and**
3603 **public education foundations -- Authorized deposits or investments.**

3604 (1) The provisions of this section apply to all funds of:

3605 (a) higher education institutions, other than endowment funds, that are not transferred
3606 to the state treasurer under Section 51-7-4; and

3607 (b) public education foundations established under Section [~~53A-4-205~~] 53E-3-403.

3608 (2) (a) Proceeds of general obligation bond issues and all funds pledged or otherwise
3609 dedicated to the payment of interest and principal of general obligation bonds issued by or for
3610 the benefit of the institution shall be invested according to the requirements of:

3611 (i) Section 51-7-11 and the rules of the council; or

3612 (ii) the terms of the borrowing instruments applicable to those bonds and funds if those
3613 terms are more restrictive than Section 51-7-11.

3614 (b) (i) The public treasurer shall invest the proceeds of bonds other than general
3615 obligation bonds issued by or for the benefit of the institution and all funds pledged or
3616 otherwise dedicated to the payment of interest and principal of bonds other than general
3617 obligation bonds according to the terms of the borrowing instruments applicable to those
3618 bonds.

3619 (ii) If no provisions governing investment of bond proceeds or pledged or dedicated
3620 funds are contained in the borrowing instruments applicable to those bonds or funds, the public
3621 treasurer shall comply with the requirements of Section 51-7-11 in investing those proceeds
3622 and funds.

3623 (c) All other funds in the custody or control of any of those institutions or public
3624 education foundations shall be invested as provided in Section 51-7-11 and the rules of the
3625 council.

3626 (3) (a) Each institution shall make monthly reports detailing the deposit and investment
3627 of funds in its custody or control to its institutional council and the State Board of Regents.

3628 (b) The state auditor may conduct or cause to be conducted an annual audit of the
3629 investment program of each institution.

3630 (c) The State Board of Regents shall:

3631 (i) require whatever internal controls and supervision are necessary to ensure the
3632 appropriate safekeeping, investment, and accounting for all funds of these institutions; and

3633 (ii) submit annually to the governor and the Legislature a summary report of all
3634 investments by institutions under its jurisdiction.

3635 Section 49. Section 52-4-103 is amended to read:

3636 **52-4-103. Definitions.**

3637 As used in this chapter:

3638 (1) "Anchor location" means the physical location from which:

3639 (a) an electronic meeting originates; or

3640 (b) the participants are connected.

3641 (2) "Capitol hill complex" means the grounds and buildings within the area bounded by

3642 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake
3643 City.

3644 (3) "Convening" means the calling together of a public body by a person authorized to
3645 do so for the express purpose of discussing or acting upon a subject over which that public
3646 body has jurisdiction or advisory power.

3647 (4) "Electronic meeting" means a public meeting convened or conducted by means of a
3648 conference using electronic communications.

3649 (5) "Electronic message" means a communication transmitted electronically, including:

3650 (a) electronic mail;

3651 (b) instant messaging;

3652 (c) electronic chat;

3653 (d) text messaging as defined in Section 76-4-401; or

3654 (e) any other method that conveys a message or facilitates communication
3655 electronically.

3656 (6) (a) "Meeting" means the convening of a public body or a specified body, with a
3657 quorum present, including a workshop or an executive session, whether in person or by means
3658 of electronic communications, for the purpose of discussing, receiving comments from the
3659 public about, or acting upon a matter over which the public body or specific body has
3660 jurisdiction or advisory power.

3661 (b) "Meeting" does not mean:

3662 (i) a chance gathering or social gathering; or

3663 (ii) a convening of the State Tax Commission to consider a confidential tax matter in
3664 accordance with Section 59-1-405.

3665 (c) "Meeting" does not mean the convening of a public body that has both legislative
3666 and executive responsibilities if:

3667 (i) no public funds are appropriated for expenditure during the time the public body is
3668 convened; and

3669 (ii) the public body is convened solely for the discussion or implementation of

3670 administrative or operational matters:

3671 (A) for which no formal action by the public body is required; or

3672 (B) that would not come before the public body for discussion or action.

3673 (7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the

3674 public statements of each member of the public body who is participating in a meeting.

3675 (8) "Participate" means the ability to communicate with all of the members of a public

3676 body, either verbally or electronically, so that each member of the public body can hear or

3677 observe the communication.

3678 (9) (a) "Public body" means:

3679 (i) any administrative, advisory, executive, or legislative body of the state or its

3680 political subdivisions that:

3681 (A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

3682 (B) consists of two or more persons;

3683 (C) expends, disburses, or is supported in whole or in part by tax revenue; and

3684 (D) is vested with the authority to make decisions regarding the public's business; or

3685 (ii) any administrative, advisory, executive, or policymaking body of an association, as

3686 defined in Section [~~53A-1-1601~~] [53G-7-1101](#), that:

3687 (A) consists of two or more persons;

3688 (B) expends, disburses, or is supported in whole or in part by dues paid by a public

3689 school or whose employees participate in a benefit or program described in Title 49, Utah State

3690 Retirement and Insurance Benefit Act; and

3691 (C) is vested with authority to make decisions regarding the participation of a public

3692 school or student in an interscholastic activity as defined in Section [~~53A-1-1601~~] [53G-7-1101](#).

3693 (b) "Public body" includes:

3694 (i) as defined in Section [11-13-103](#), an interlocal entity or joint or cooperative

3695 undertaking; and

3696 (ii) as defined in Section [11-13a-102](#), a governmental nonprofit corporation.

3697 (c) "Public body" does not include:

- 3698 (i) a political party, a political group, or a political caucus;
- 3699 (ii) a conference committee, a rules committee, or a sifting committee of the
3700 Legislature;
- 3701 (iii) a school community council or charter trust land council as defined in Section
3702 ~~[53A-1a-108.1]~~ [53G-7-1203](#); or
- 3703 (iv) the Economic Development Legislative Liaison Committee created in Section
3704 [36-30-201](#).
- 3705 (10) "Public statement" means a statement made in the ordinary course of business of
3706 the public body with the intent that all other members of the public body receive it.
- 3707 (11) (a) "Quorum" means a simple majority of the membership of a public body, unless
3708 otherwise defined by applicable law.
- 3709 (b) "Quorum" does not include a meeting of two elected officials by themselves when
3710 no action, either formal or informal, is taken on a subject over which these elected officials
3711 have advisory power.
- 3712 (12) "Recording" means an audio, or an audio and video, record of the proceedings of a
3713 meeting that can be used to review the proceedings of the meeting.
- 3714 (13) "Specified body":
- 3715 (a) means an administrative, advisory, executive, or legislative body that:
- 3716 (i) is not a public body;
- 3717 (ii) consists of three or more members; and
- 3718 (iii) includes at least one member who is:
- 3719 (A) a legislator; and
- 3720 (B) officially appointed to the body by the president of the Senate, speaker of the
3721 House of Representatives, or governor; and
- 3722 (b) does not include a body listed in Subsection (9)(c)(ii).
- 3723 (14) "Transmit" means to send, convey, or communicate an electronic message by
3724 electronic means.
- 3725 Section 50. Section **52-4-209** is amended to read:

3726 **52-4-209. Electronic meetings for charter school board.**

3727 (1) Notwithstanding the definitions provided in Section 52-4-103 for this chapter, as
3728 used in this section:

3729 (a) "Anchor location" means a physical location where:

3730 (i) the charter school board would normally meet if the charter school board were not
3731 holding an electronic meeting; and

3732 (ii) space, a facility, and technology are provided to the public to monitor and, if public
3733 comment is allowed, to participate in an electronic meeting during regular business hours.

3734 (b) "Charter school board" means the governing board of a school created under [~~Title~~
3735 ~~53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~] Title 53G, Chapter 5, Charter Schools.

3736 (c) "Meeting" means the convening of a charter school board:

3737 (i) with a quorum who:

3738 (A) monitors a website at least once during the electronic meeting; and

3739 (B) casts a vote on a website, if a vote is taken; and

3740 (ii) for the purpose of discussing, receiving comments from the public about, or acting
3741 upon a matter over which the charter school board has jurisdiction or advisory power.

3742 (d) "Monitor" means to:

3743 (i) read all the content added to a website by the public or a charter school board
3744 member; and

3745 (ii) view a vote cast by a charter school board member on a website.

3746 (e) "Participate" means to add content to a website.

3747 (2) (a) A charter school board may convene and conduct an electronic meeting in
3748 accordance with Section 52-4-207.

3749 (b) A charter school board may convene and conduct an electronic meeting in
3750 accordance with this section that is in writing on a website if:

3751 (i) the chair verifies that a quorum monitors the website;

3752 (ii) the content of the website is available to the public;

3753 (iii) the chair controls the times in which a charter school board member or the public

3754 participates; and

3755 (iv) the chair requires a person to identify himself or herself if the person:

3756 (A) participates; or

3757 (B) casts a vote as a charter school board member.

3758 (3) A charter school that conducts an electronic meeting under this section shall:

3759 (a) give public notice of the electronic meeting:

3760 (i) in accordance with Section 52-4-202; and

3761 (ii) by posting written notice at the anchor location as required under Section 52-4-207;

3762 (b) in addition to giving public notice required by Subsection (3)(a), provide:

3763 (i) notice of the electronic meeting to the members of the charter school board at least

3764 24 hours before the meeting so that they may participate in and be counted as present for all

3765 purposes, including the determination that a quorum is present;

3766 (ii) a description of how the members and the public may be connected to the

3767 electronic meeting;

3768 (iii) a start and end time for the meeting, which shall be no longer than 5 days; and

3769 (iv) a start and end time for when a vote will be taken in an electronic meeting, which

3770 shall be no longer than four hours; and

3771 (c) provide an anchor location.

3772 (4) The chair shall:

3773 (a) not allow anyone to participate from the time the notice described in Subsection

3774 (3)(b)(iv) is given until the end time for when a vote will be taken; and

3775 (b) allow a charter school board member to change a vote until the end time for when a

3776 vote will be taken.

3777 (5) During the time in which a vote may be taken, a charter school board member may

3778 not communicate in any way with any person regarding an issue over which the charter school

3779 board has jurisdiction.

3780 (6) A charter school conducting an electronic meeting under this section may not close

3781 a meeting as otherwise allowed under this part.

3782 (7) (a) Written minutes shall be kept of an electronic meeting conducted as required in
3783 Section 52-4-203.

3784 (b) (i) Notwithstanding Section 52-4-203, a recording is not required of an electronic
3785 meeting described in Subsection (2)(b).

3786 (ii) All of the content of the website shall be kept for an electronic meeting conducted
3787 under this section.

3788 (c) Written minutes are the official record of action taken at an electronic meeting as
3789 required in Section 52-4-203.

3790 (8) (a) A charter school board shall ensure that the website used to conduct an
3791 electronic meeting:

3792 (i) is secure; and

3793 (ii) provides with reasonably certainty the identity of a charter school board member
3794 who logs on, adds content, or casts a vote on the website.

3795 (b) A person is guilty of a class B misdemeanor if the person falsely identifies himself
3796 or herself as required by Subsection (2)(b)(iv).

3797 (9) Compliance with the provisions of this section by a charter school constitutes full
3798 and complete compliance by the public body with the corresponding provisions of Sections
3799 52-4-201 and 52-4-202.

3800 Section 51. Section 53-3-104 is amended to read:

3801 **53-3-104. Division duties.**

3802 The division shall:

3803 (1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3804 make rules:

3805 (a) for examining applicants for a license, as necessary for the safety and welfare of the
3806 traveling public;

3807 (b) for acceptable documentation of an applicant's identity, Social Security number,
3808 Utah resident status, Utah residence address, proof of legal presence, proof of citizenship in the
3809 United States, honorable or general discharge from the United States military, and other proof

3810 or documentation required under this chapter;

3811 (c) regarding the restrictions to be imposed on a person driving a motor vehicle with a
3812 temporary learner permit or learner permit;

3813 (d) for exemptions from licensing requirements as authorized in this chapter; and

3814 (e) establishing procedures for the storage and maintenance of applicant information
3815 provided in accordance with Section [53-3-205](#), [53-3-410](#), or [53-3-804](#);

3816 (2) examine each applicant according to the class of license applied for;

3817 (3) license motor vehicle drivers;

3818 (4) file every application for a license received by it and shall maintain indices

3819 containing:

3820 (a) all applications denied and the reason each was denied;

3821 (b) all applications granted; and

3822 (c) the name of every licensee whose license has been suspended, disqualified, or
3823 revoked by the division and the reasons for the action;

3824 (5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with
3825 this chapter;

3826 (6) file all accident reports and abstracts of court records of convictions received by it
3827 under state law;

3828 (7) maintain a record of each licensee showing the licensee's convictions and the traffic
3829 accidents in which the licensee has been involved where a conviction has resulted;

3830 (8) consider the record of a licensee upon an application for renewal of a license and at
3831 other appropriate times;

3832 (9) search the license files, compile, and furnish a report on the driving record of any
3833 person licensed in the state in accordance with Section [53-3-109](#);

3834 (10) develop and implement a record system as required by Section [41-6a-604](#);

3835 (11) in accordance with Section [~~53A-13-208~~] [53G-10-507](#), establish:

3836 (a) procedures and standards to certify teachers of driver education classes to
3837 administer knowledge and skills tests;

3838 (b) minimal standards for the tests; and
3839 (c) procedures to enable school districts to administer or process any tests for students
3840 to receive a class D operator's license;
3841 (12) in accordance with Section 53-3-510, establish:
3842 (a) procedures and standards to certify licensed instructors of commercial driver
3843 training school courses to administer the skills test;
3844 (b) minimal standards for the test; and
3845 (c) procedures to enable licensed commercial driver training schools to administer or
3846 process skills tests for students to receive a class D operator's license;
3847 (13) provide administrative support to the Driver License Medical Advisory Board
3848 created in Section 53-3-303;
3849 (14) upon request by the lieutenant governor, provide the lieutenant governor with a
3850 digital copy of the driver license or identification card signature of a person who is an applicant
3851 for voter registration under Section 20A-2-206; and
3852 (15) in accordance with Section 53-3-407.1, establish:
3853 (a) procedures and standards to license a commercial driver license third party tester or
3854 commercial driver license third party examiner to administer the commercial driver license
3855 skills tests;
3856 (b) minimum standards for the commercial driver license skills test; and
3857 (c) procedures to enable a licensed commercial driver license third party tester or
3858 commercial driver license third party examiner to administer a commercial driver license skills
3859 test for an applicant to receive a commercial driver license.
3860 Section 52. Section 53-3-505.5 is amended to read:
3861 **53-3-505.5. Behind-the-wheel training requirements.**
3862 (1) Except as provided under Subsection (2), a driver education course under this part
3863 or [~~Title 53A, Chapter 13, Part 2, Driver Education Classes~~] Title 53G, Chapter 10, Part 5,
3864 Driver Education Classes, that is used to satisfy the driver training requirement under Section
3865 53-3-204 shall require each student to complete at least six hours of behind-the-wheel driving a

3866 dual-control motor vehicle with a certified instructor seated in the front seat next to the student
3867 driver.

3868 (2) Up to three hours of the behind-the-wheel driving may be substituted as follows:

3869 (a) two hours of range driving on an approved driving range under Section
3870 ~~[53A-13-201]~~ [53G-10-502](#) equals one hour of the behind-the-wheel driving required under
3871 Subsection (1);

3872 (b) two hours of driving simulation practice on a driving simulation device that is fully
3873 interactive as set forth in rules made under Section [53-3-505](#), equals one hour of the
3874 behind-the-wheel driving required under Subsection (1); and

3875 (c) four hours of driving simulation practice on a driving simulation device that is not
3876 fully interactive as set forth in rules made under Section [53-3-505](#), equals one hour of the
3877 behind-the-wheel driving required under Subsection (1), with a maximum of one hour of the
3878 behind-the-wheel driving required under Subsection (1) that may be substituted under this
3879 Subsection (2)(c).

3880 (3) The behind-the-wheel driving required under Subsection (1) shall include, if
3881 feasible, driving on interstate and other multilane highways.

3882 Section 53. Section **53-7-103** is amended to read:

3883 **53-7-103. State Fire Marshal Division -- Creation -- State fire marshal --**
3884 **Appointment, qualifications, duties, and compensation.**

3885 (1) There is created within the department the State Fire Marshal Division.

3886 (2) (a) The director of the division is the state fire marshal, who shall be appointed by
3887 the commissioner upon the recommendation of the Utah Fire Prevention Board created in
3888 Section [53-7-203](#) and with the approval of the governor.

3889 (b) The state fire marshal is the executive and administrative head of the division, and
3890 shall be qualified by experience and education to:

- 3891 (i) enforce the state fire code;
- 3892 (ii) enforce rules made under this chapter; and
- 3893 (iii) perform the duties prescribed by the commissioner.

3894 (3) The state fire marshal acts under the supervision and control of the commissioner
3895 and may be removed from the position at the will of the commissioner.

3896 (4) The state fire marshal shall:

3897 (a) enforce the state fire code and rules made under this chapter in accordance with
3898 Section [53-7-104](#);

3899 (b) complete the duties assigned by the commissioner;

3900 (c) examine plans and specifications for school buildings, as required by Section
3901 ~~[53A-20-104]~~ [53E-3-706](#);

3902 (d) approve criteria established by the state superintendent for building inspectors;

3903 (e) promote and support injury prevention public education programs; and

3904 (f) perform all other duties provided in this chapter.

3905 (5) The state fire marshal shall receive compensation as provided by Title 67, Chapter
3906 19, Utah State Personnel Management Act.

3907 Section 54. Section **53-10-202** is amended to read:

3908 **53-10-202. Criminal identification -- Duties of bureau.**

3909 The bureau shall:

3910 (1) procure and file information relating to identification and activities of persons who:

3911 (a) are fugitives from justice;

3912 (b) are wanted or missing;

3913 (c) have been arrested for or convicted of a crime under the laws of any state or nation;

3914 and

3915 (d) are believed to be involved in racketeering, organized crime, or a dangerous
3916 offense;

3917 (2) establish a statewide uniform crime reporting system that shall include:

3918 (a) statistics concerning general categories of criminal activities;

3919 (b) statistics concerning crimes that exhibit evidence of prejudice based on race,

3920 religion, ancestry, national origin, ethnicity, or other categories that the division finds

3921 appropriate; and

- 3922 (c) other statistics as required by the Federal Bureau of Investigation;
- 3923 (3) make a complete and systematic record and index of the information obtained
- 3924 under this part;
- 3925 (4) subject to the restrictions in this part, establish policy concerning the use and
- 3926 dissemination of data obtained under this part;
- 3927 (5) publish an annual report concerning the extent, fluctuation, distribution, and nature
- 3928 of crime in Utah;
- 3929 (6) establish a statewide central register for the identification and location of missing
- 3930 persons, which may include:
- 3931 (a) identifying data including fingerprints of each missing person;
- 3932 (b) identifying data of any missing person who is reported as missing to a law
- 3933 enforcement agency having jurisdiction;
- 3934 (c) dates and circumstances of any persons requesting or receiving information from
- 3935 the register; and
- 3936 (d) any other information, including blood types and photographs found necessary in
- 3937 furthering the purposes of this part;
- 3938 (7) publish a quarterly directory of missing persons for distribution to persons or
- 3939 entities likely to be instrumental in the identification and location of missing persons;
- 3940 (8) list the name of every missing person with the appropriate nationally maintained
- 3941 missing persons lists;
- 3942 (9) establish and operate a 24-hour communication network for reports of missing
- 3943 persons and reports of sightings of missing persons;
- 3944 (10) coordinate with the National Center for Missing and Exploited Children and other
- 3945 agencies to facilitate the identification and location of missing persons and the identification of
- 3946 unidentified persons and bodies;
- 3947 (11) receive information regarding missing persons, as provided in Sections [26-2-27](#)
- 3948 and [\[53A-11-502\] 53G-6-602](#), and stolen vehicles, vessels, and outboard motors, as provided
- 3949 in Section [41-1a-1401](#);

3950 (12) adopt systems of identification, including the fingerprint system, to be used by the
3951 division to facilitate law enforcement;

3952 (13) assign a distinguishing number or mark of identification to any pistol or revolver,
3953 as provided in Section [76-10-520](#);

3954 (14) check certain criminal records databases for information regarding motor vehicle
3955 salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons,
3956 and inform the Motor Vehicle Enforcement Division when new entries are made for certain
3957 criminal offenses for motor vehicle salespersons in accordance with the requirements of
3958 Section [41-3-205.5](#);

3959 (15) check certain criminal records databases for information regarding driving
3960 privilege card applicants or cardholders and maintain a separate file of fingerprints for driving
3961 privilege applicants and cardholders and inform the federal Immigration and Customs
3962 Enforcement Agency of the United States Department of Homeland Security when new entries
3963 are made in accordance with the requirements of Section [53-3-205.5](#).

3964 (16) review and approve or disapprove applications for license renewal that meet the
3965 requirements for renewal;

3966 (17) forward to the board those applications for renewal under Subsection (16) that do
3967 not meet the requirements for renewal; and

3968 (18) within funds appropriated by the Legislature for the purpose, implement and
3969 manage the operation of firearm safety and suicide prevention education programs, in
3970 conjunction with the state suicide prevention coordinator, as described in this section and
3971 Section [62A-15-1101](#), including:

3972 (a) coordinating with the Department of Health, local mental health and substance
3973 abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a
3974 Utah-based nonprofit organization with expertise in the field of firearm use and safety that
3975 represents firearm owners, to:

3976 (i) produce a firearm safety brochure with information about the safe handling and use
3977 of firearms that includes:

- 3978 (A) rules for safe handling, storage, and use of firearms in a home environment;
- 3979 (B) information about at-risk individuals and individuals who are legally prohibited
- 3980 from possessing firearms;
- 3981 (C) information about suicide prevention and awareness; and
- 3982 (D) information about the availability of firearm safety packets;
- 3983 (ii) procure cable-style gun locks for distribution pursuant to this section;
- 3984 (iii) produce a firearm safety packet that includes both the firearm safety brochure
- 3985 described in Subsection (18)(a)(i) and the cable-style gun lock described in Subsection
- 3986 (18)(a)(ii); and
- 3987 (iv) create a suicide prevention education course that:
- 3988 (A) provides information that includes posters for display and pamphlets or brochures
- 3989 for distribution regarding firearm safety education;
- 3990 (B) incorporates current information on how to recognize suicidal behaviors and
- 3991 identify persons who may be suicidal;
- 3992 (C) provides information regarding crisis intervention resources; and
- 3993 (D) provides continuing education in the area of suicide prevention;
- 3994 (b) distributing, free of charge, the firearm safety packet to the following persons, who
- 3995 shall make the firearm safety packet available free of charge:
- 3996 (i) health care providers, including emergency rooms;
- 3997 (ii) mental health practitioners;
- 3998 (iii) other public health suicide prevention organizations;
- 3999 (iv) entities that teach firearm safety courses; and
- 4000 (v) school districts for use in the seminar, described in Section ~~53A-15-1302~~
- 4001 53G-9-703, for parents of students in the school district;
- 4002 (c) creating and administering a redeemable coupon program described in this section
- 4003 and Section 76-10-526, that may include:
- 4004 (i) producing a redeemable coupon that offers between \$10 and \$200 off the purchase
- 4005 of a gun safe from a participating federally licensed firearms dealer, as defined in Section

4006 76-10-501, by a Utah resident who has filed an application for a concealed firearm permit;
4007 (ii) advertising the redeemable coupon program to all federally licensed firearms
4008 dealers and maintaining a list of dealers who wish to participate in the program;
4009 (iii) printing or writing the name of a Utah resident who has filed an application for a
4010 concealed firearm permit on the redeemable coupon;
4011 (iv) mailing the redeemable coupon and the firearm safety brochure to Utah residents
4012 who have filed an application for a concealed firearm permit; and
4013 (v) collecting from the participating dealers receipts described in Section 76-10-526
4014 and reimbursing the dealers;
4015 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
4016 making rules that establish procedures for:
4017 (i) producing and distributing the firearm safety brochures and packets;
4018 (ii) procuring the cable-style gun locks for distribution; and
4019 (iii) administering the redeemable coupon program; and
4020 (e) reporting to the Law Enforcement and Criminal Justice Interim Committee
4021 regarding implementation and success of the firearm safety program:
4022 (i) during the 2016 interim, before November 1; and
4023 (ii) during the 2018 interim, before June 1.

4024 Section 55. Section 53-10-203 is amended to read:

4025 **53-10-203. Missing persons -- Reports -- Notification.**

4026 (1) Each law enforcement agency that is investigating the report of a missing person
4027 shall provide information regarding that report to the division. The report shall include
4028 descriptive information and the date and location of the last-known contact with the missing
4029 person.
4030 (2) The division shall notify the state registrar of Vital Statistics and the FBI National
4031 Crime Information Center of all missing persons reported in accordance with Subsection (1)
4032 and shall provide the state registrar with information concerning the identity of those missing
4033 persons.

4034 (3) If the division has reason to believe that a missing person reported in accordance
4035 with Subsection (1) has been enrolled in a specific school in this state, the division shall also
4036 notify the last-known school of that report.

4037 (4) Upon learning of the recovery of a missing person, the division shall notify the state
4038 registrar and any school that it has previously informed of the person's disappearance.

4039 (5) The division shall, by rule, determine the manner and form of reports, notices, and
4040 information required by this section.

4041 (6) Upon notification by the state registrar or school personnel that a request for a birth
4042 certificate, school record, or other information concerning a missing person has been made, or
4043 that an investigation is needed in accordance with Section [~~53A-11-503~~] 53G-6-603, the
4044 division shall immediately notify the local law enforcement authority.

4045 Section 56. Section **53B-1-109** is amended to read:

4046 **53B-1-109. Coordination of higher education and public education information**
4047 **technology systems -- Use of unique student identifier.**

4048 (1) As used in this section, "unique student identifier" means the same as that term is
4049 defined in Section [~~53A-1-603.5~~] 53E-4-308.

4050 (2) The State Board of Regents and State Board of Education shall coordinate public
4051 education and higher education information technology systems to allow individual student
4052 academic achievement to be tracked through both education systems in accordance with this
4053 section and Section [~~53A-1-603.5~~] 53E-4-308.

4054 (3) Information technology systems utilized at an institution within the state system of
4055 higher education shall utilize the unique student identifier of all students who have previously
4056 been assigned a unique student identifier.

4057 Section 57. Section **53B-1-114** is amended to read:

4058 **53B-1-114. Coordination for education.**

4059 (1) At least quarterly, in order to coordinate education services, individuals who have
4060 responsibilities related to Utah's education system shall meet, including:

4061 (a) the state superintendent of public instruction described in Section [~~53A-1-301~~]

4062 [53E-3-301](#);

4063 (b) the commissioner;

4064 (c) the commissioner of technical education described in Section [53B-2a-102](#);

4065 (d) the executive director of the Department of Workforce Services described in

4066 Section [35A-1-201](#);

4067 (e) the executive director of the Governor's Office of Economic Development

4068 described in Section [63N-1-202](#);

4069 (f) the chair of the State Board of Education;

4070 (g) the chair of the State Board of Regents;

4071 (h) the chair of the Utah System of Technical Colleges Board of Trustees described in

4072 Section [53B-2a-103](#); and

4073 (i) the chairs of the Education Interim Committee.

4074 (2) A meeting described in this section is not subject to Title 52, Chapter 4, Open and

4075 Public Meetings Act.

4076 Section 58. Section **53B-2a-106** is amended to read:

4077 **53B-2a-106. Technical colleges -- Duties.**

4078 (1) Each technical college shall, within the geographic area served by the technical
4079 college:

4080 (a) offer a noncredit postsecondary and secondary career and technical education
4081 curriculum;

4082 (b) offer that curriculum at:

4083 (i) low cost to adult students, as approved by the board of trustees; and

4084 (ii) no tuition to secondary students;

4085 (c) provide career and technical education that will result in:

4086 (i) appropriate licensing, certification, or other evidence of completion of training; and

4087 (ii) qualification for specific employment, with an emphasis on high demand, high

4088 wage, and high skill jobs in business and industry;

4089 (d) develop cooperative agreements with school districts, charter schools, other higher

4090 education institutions, businesses, industries, and community and private agencies to maximize
4091 the availability of instructional facilities within the geographic area served by the technical
4092 college; and

4093 (e) after consulting with school districts and charter schools within the geographic area
4094 served by the technical college:

4095 (i) ensure that secondary students in the public education system have access to career
4096 and technical education at the technical college; and

4097 (ii) prepare and submit an annual report to the board of trustees detailing:

4098 (A) how the career and technical education needs of secondary students within the
4099 region are being met;

4100 (B) what access secondary students within the region have to programs offered at the
4101 technical college;

4102 (C) how the emphasis on high demand, high wage, high skill jobs in business and
4103 industry described in Subsection (1)(c)(ii) is being provided; and

4104 (D) student tuition and fees.

4105 (2) A technical college may offer:

4106 (a) a competency-based high school diploma approved by the State Board of Education
4107 in accordance with Section [~~53A-1-402~~] [53E-3-501](#);

4108 (b) noncredit, basic instruction in areas such as reading, language arts, and
4109 mathematics that are necessary for student success in a chosen career and technical education
4110 or job-related program;

4111 (c) noncredit courses of interest when similar offerings to the community are limited
4112 and courses are financially self-supporting; and

4113 (d) secondary school level courses through the Statewide Online Education Program in
4114 accordance with Section [~~53A-15-1205~~] [53F-4-504](#).

4115 (3) Except as provided in Subsection (2)(d), a technical college may not:

4116 (a) offer courses other than noncredit career and technical education or the noncredit,
4117 basic instruction described in Subsections (2)(b) and (c);

4118 (b) offer a degree;
4119 (c) offer career and technical education or basic instruction outside the geographic area
4120 served by the technical college without a cooperative agreement between an affected
4121 institution, except as provided in Subsection (6);

4122 (d) provide tenure or academic rank for its instructors; or

4123 (e) participate in intercollegiate athletics.

4124 (4) The mission of a technical college is limited to noncredit career and technical
4125 education and may not expand to include credit-based academic programs typically offered by
4126 community colleges or other institutions of higher education.

4127 (5) A technical college shall be recognized as a member of the Utah System of
4128 Technical Colleges, and regional affiliation shall be retained and recognized through local
4129 designations such as "Bridgerland Technical College: A member technical college of the Utah
4130 System of Technical Colleges."

4131 (6) (a) A technical college may offer career and technical education or basic instruction
4132 outside the geographic area served by the technical college without a cooperative agreement, as
4133 required in Subsection (3)(c), if:

4134 (i) the career and technical education or basic instruction is specifically requested by:

4135 (A) an employer; or

4136 (B) a craft, trade, or apprenticeship program;

4137 (ii) the technical college notifies the affected institution about the request; and

4138 (iii) the affected institution is given an opportunity to make a proposal, prior to any
4139 contract being finalized or training being initiated by the technical college, to the employer,
4140 craft, trade, or apprenticeship program about offering the requested career and technical
4141 education or basic instruction, provided that the proposal shall be presented no later than one
4142 business week from the delivery of the notice described under Subsection (6)(a)(ii).

4143 (b) The requirements under Subsection (6)(a)(iii) do not apply if there is a prior
4144 training relationship.

4145 Section 59. Section **53B-10-101** is amended to read:

4146 **53B-10-101. Terrel H. Bell Teaching Incentive Loans program -- Eligible**
4147 **students -- Cancellation of incentive loans -- Repayment by recipient who fails to meet**
4148 **requirements -- Duration of incentive loans.**

4149 (1) (a) A Terrel H. Bell Teaching Incentive Loans program is established to recruit and
4150 train superior candidates for teaching in Utah's public school system as a component of the
4151 teacher quality continuum referred to in Subsections [~~53A-1a-104~~] 53E-2-302(7) and
4152 [~~53A-6-102~~] 53E-6-103(2)(a).

4153 (b) Under the program, the incentive loans may be used in any of Utah's state-operated
4154 institutions of higher education or at a private institution of higher education in Utah that offers
4155 a state-approved teacher education program.

4156 (2) (a) The State Board of Regents shall award the incentive loans to college students
4157 who have been admitted to, or have made application to and are prepared to enter into, a
4158 program preparing students for licensure and who declare an intent to complete the prescribed
4159 course of instruction and to teach in this state in accordance with the priorities described under
4160 Subsection (5)(c).

4161 (b) The incentive loan may be canceled at any time by the institution of attendance if:

4162 (i) the student fails to make reasonable progress towards completion of licensing
4163 requirements; or

4164 (ii) it appears to be a reasonable certainty that the student does not intend to teach in
4165 Utah.

4166 (c) The State Board of Regents may grant leaves of absence to incentive loan holders.

4167 (3) The State Board of Regents may require an incentive loan recipient who fails to
4168 complete the requirements for licensing without good cause to repay all tuition and fees
4169 provided by the loan, together with appropriate interest.

4170 (4) (a) The State Board of Regents may require an incentive loan recipient who does
4171 not work in the state's public school system or a private school within the state within two years
4172 after graduation to repay all tuition and fees provided by the loan, together with appropriate
4173 interest, unless waived for good cause.

4174 (b) (i) A recipient who does not teach for a term equal to the number of years of the
4175 incentive loan within a reasonable period of time after graduation shall repay a graduated
4176 portion of the tuition and fees based upon the uncompleted term.

4177 (ii) One year of teaching is credit for one year's tuition and fees.

4178 (c) All repayments made under this Subsection (4) are for use in the Terrel H. Bell
4179 Teaching Incentive Loans program.

4180 (5) (a) Each incentive loan is valid for up to four years of full-time equivalent
4181 enrollment, or until requirements for licensing or advanced licensing have been met, whichever
4182 is less.

4183 (b) (i) Incentive loans apply to both tuition and fees in amounts and are subject to
4184 conditions approved by the State Board of Regents, based upon criteria developed to insure that
4185 all recipients of the loans will pursue an education career within the state.

4186 (ii) An incentive loan for tuition and fees at a private institution may not exceed the
4187 average scholarship amounts granted for tuition and fees at public institutions of higher
4188 education within the state.

4189 (c) Incentive loans shall be awarded in accordance with prioritized critical areas of
4190 need for teaching expertise within the state, as determined by the State Board of Education's
4191 criticality index and school district priorities based upon data provided by the school district,
4192 and may include preparing persons as:

4193 (i) a special education teacher;

4194 (ii) a speech or language pathologist; or

4195 (iii) another licensed professional providing services in the public schools to pupils
4196 with disabilities.

4197 Section 60. Section **53B-16-108** is amended to read:

4198 **53B-16-108. Courses offered through the Statewide Online Education Program.**

4199 An institution of higher education listed in Section **53B-2-101** may offer a secondary
4200 school level course through the Statewide Online Education Program in accordance with
4201 Section [~~53A-15-1205~~] 53F-4-504.

4202 Section 61. Section **53B-16-404** is amended to read:

4203 **53B-16-404. Internship programs -- Criminal background checks.**

4204 An institution of higher education shall require an officer or employee of the institution
4205 or a cooperating employer, who will be given significant unsupervised access to a minor
4206 student in connection with the student's activities as an intern, to submit to a criminal
4207 background check on the same basis as a volunteer under Section [~~53A-15-1503~~] 53G-11-402.

4208 Section 62. Section **53C-1-203** is amended to read:

4209 **53C-1-203. Board of trustees nominating committee -- Composition --**
4210 **Responsibilities -- Per diem and expenses.**

4211 (1) There is established an 11 member board of trustees nominating committee.

4212 (2) (a) The State Board of Education shall appoint five members to the nominating
4213 committee from different geographical areas of the state.

4214 (b) The governor shall appoint five members to the nominating committee on or before
4215 the December 1 of the year preceding the vacancy on the nominating committee as follows:

4216 (i) one individual from a nomination list of at least two names of individuals
4217 knowledgeable about institutional trust lands submitted on or before the October 1 of the year
4218 preceding the vacancy on the nominating committee by the University of Utah and Utah State
4219 University on an alternating basis every four years;

4220 (ii) one individual from a nomination list of at least two names submitted by the Utah
4221 Farm Bureau in consultation with the Utah Cattleman's Association and the Utah Wool
4222 Growers' Association on or before the October 1 of the year preceding the vacancy on the
4223 nominating committee;

4224 (iii) one individual from a nomination list of at least two names submitted by the Utah
4225 Petroleum Association on or before the October 1 of the year preceding the vacancy on the
4226 nominating committee;

4227 (iv) one individual from a nomination list of at least two names submitted by the Utah
4228 Mining Association on or before the October 1 of the year preceding the vacancy on the
4229 nominating committee; and

4230 (v) one individual from a nomination list of at least two names submitted by the
4231 executive director of the Department of Natural Resources after consultation with statewide
4232 wildlife and conservation organizations on or before the October 1 of the year preceding the
4233 vacancy on the nominating committee.

4234 (c) The president of the Utah Association of Counties shall designate the chair of the
4235 Public Lands Steering Committee, who must be an elected county commissioner or councilor,
4236 to serve as the eleventh member of the nominating committee.

4237 (3) (a) Except as required by Subsection (3)(b), each member shall serve a four-year
4238 term.

4239 (b) Notwithstanding the requirements of Subsection (3)(a), the state board and the
4240 governor shall, at the time of appointment or reappointment, adjust the length of terms to
4241 ensure that the terms of committee members are staggered so that approximately half of the
4242 committee is appointed every two years.

4243 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
4244 appointed for the unexpired term.

4245 (4) The nominating committee shall select a chair and vice chair from its membership
4246 by majority vote.

4247 (5) (a) The nominating committee shall nominate at least two candidates for each
4248 position or vacancy which occurs on the board of trustees except for the governor's appointee
4249 under Subsection 53C-1-202(5).

4250 (b) The nominations shall be by majority vote of the committee.

4251 (6) A member may not receive compensation or benefits for the member's service, but
4252 may receive per diem and travel expenses in accordance with:

4253 (a) Section 63A-3-106;

4254 (b) Section 63A-3-107; and

4255 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
4256 63A-3-107.

4257 (7) The School Children's Trust Section, established in Section [~~53A-16-101.6~~]

4258 [53E-3-514](#), shall provide staff support to the nominating committee.

4259 Section 63. Section **53D-1-102** is amended to read:

4260 **53D-1-102. Definitions.**

4261 (1) "Account" means the School and Institutional Trust Fund Management Account,
4262 created in Section [53D-1-203](#).

4263 (2) "Beneficiaries":

4264 (a) means those for whose benefit the trust fund is managed and preserved, consistent
4265 with the enabling act, the Utah Constitution, and state law; and

4266 (b) does not include other government institutions or agencies, the public at large, or
4267 the general welfare of the state.

4268 (3) "Board" means the board of trustees established in Section [53D-1-301](#).

4269 (4) "Director" means the director of the office.

4270 (5) "Enabling act" means the act of Congress, dated July 16, 1894, enabling the people
4271 of Utah to form a constitution and state government and to be admitted into the Union.

4272 (6) "Nominating committee" means the committee established under Section
4273 [53D-1-501](#).

4274 (7) "Office" means the School and Institutional Trust Fund Office, created in Section
4275 [53D-1-201](#).

4276 (8) "School children's trust section" means the School Children's Trust Section under
4277 the State Board of Education, established in Section [~~53A-16-101.6~~] [53E-3-514](#).

4278 (9) "Trust fund" means money derived from:

4279 (a) the sale or use of land granted to the state under Sections 6, 8, and 12 of the
4280 enabling act;

4281 (b) proceeds referred to in Section 9 of the enabling act from the sale of public land;
4282 and

4283 (c) revenue and assets referred to in Utah Constitution, Article X, Section 5,
4284 Subsections (1)(c), (e), and (f).

4285 Section 64. Section **53D-1-403** is amended to read:

4286 **53D-1-403. Reports.**

4287 (1) At least annually, the director shall report in person to the Legislative Management
4288 Committee, the governor, and the State Board of Education, concerning the office's
4289 investments, performance, estimated distributions, and other activities.

4290 (2) The director shall report to the board concerning the work of the director and the
4291 investment activities and other activities of the office:

4292 (a) in a public meeting at least six times per year; and

4293 (b) as otherwise requested by the board.

4294 (3) (a) Before November 1 of each year, the director shall:

4295 (i) submit a written report to school community councils, created under Section
4296 ~~[53A-1a-108]~~ [53G-7-1202](#), and charter trust land councils, established under Section
4297 ~~[53A-16-101.5]~~ [53F-2-404](#) concerning the office's investments, performance, estimated
4298 distributions, and other activities; and

4299 (ii) post the written report described in Subsection (3)(a)(i) on the office's website.

4300 (b) A report under Subsection (3)(a) shall be prepared in simple language designed to
4301 be understood by the general public.

4302 (4) The director shall provide to the board:

4303 (a) monthly written reports on the activities of the office;

4304 (b) quarterly financial reports; and

4305 (c) any other report requested by the board.

4306 (5) The director shall:

4307 (a) invite the director of the school children's trust section to attend any meeting at
4308 which the director gives a report under this section; and

4309 (b) provide the director of the school children's trust section:

4310 (i) a copy of any written report prepared under this section; and

4311 (ii) any other report requested by the director of the school children's trust section.

4312 Section 65. Section **58-11a-302** is amended to read:

4313 **58-11a-302. Qualifications for licensure.**

- 4314 (1) Each applicant for licensure as a barber shall:
- 4315 (a) submit an application in a form prescribed by the division;
- 4316 (b) pay a fee determined by the department under Section 63J-1-504;
- 4317 (c) be of good moral character;
- 4318 (d) provide satisfactory documentation of:
- 4319 (i) graduation from a licensed or recognized barber school, or a licensed or recognized
- 4320 cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of
- 4321 instruction, or the equivalent number of credit hours, over a period of not less than 25 weeks;
- 4322 (ii) (A) graduation from a recognized barber school located in a state other than Utah
- 4323 whose curriculum consists of less than 1,000 hours of instruction or the equivalent number of
- 4324 credit hours; and
- 4325 (B) practice as a licensed barber in a state other than Utah for not less than the number
- 4326 of hours required to equal 1,000 total hours when added to the hours of instruction described in
- 4327 Subsection (1)(d)(ii)(A); or
- 4328 (iii) completion of an approved barber apprenticeship; and
- 4329 (e) meet the examination requirement established by rule.
- 4330 (2) Each applicant for licensure as a barber instructor shall:
- 4331 (a) submit an application in a form prescribed by the division;
- 4332 (b) subject to Subsection (24), pay a fee determined by the department under Section
- 4333 63J-1-504;
- 4334 (c) provide satisfactory documentation that the applicant is currently licensed as a
- 4335 barber;
- 4336 (d) be of good moral character;
- 4337 (e) provide satisfactory documentation of completion of:
- 4338 (i) an instructor training program conducted by a licensed or recognized school, as
- 4339 defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit
- 4340 hours;
- 4341 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or

4342 recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent
4343 number of credit hours; or

4344 (iii) a minimum of 2,000 hours of experience as a barber; and
4345 (f) meet the examination requirement established by rule.

4346 (3) Each applicant for licensure as a barber school shall:

4347 (a) submit an application in a form prescribed by the division;
4348 (b) pay a fee determined by the department under Section 63J-1-504; and
4349 (c) provide satisfactory documentation:

4350 (i) of appropriate registration with the Division of Corporations and Commercial Code;
4351 (ii) of business licensure from the city, town, or county in which the school is located;
4352 (iii) that the applicant's physical facilities comply with the requirements established by
4353 rule; and

4354 (iv) that the applicant meets:

4355 (A) the standards for barber schools, including staff and accreditation requirements,
4356 established by rule; and

4357 (B) the requirements for recognition as an institution of postsecondary study as
4358 described in Subsection (22).

4359 (4) Each applicant for licensure as a cosmetologist/barber shall:

4360 (a) submit an application in a form prescribed by the division;
4361 (b) pay a fee determined by the department under Section 63J-1-504;
4362 (c) be of good moral character;
4363 (d) provide satisfactory documentation of:

4364 (i) graduation from a licensed or recognized cosmetology/barber school whose
4365 curriculum consists of a minimum of 1,600 hours of instruction, or the equivalent number of
4366 credit hours, with full flexibility within those hours;

4367 (ii) (A) graduation from a recognized cosmetology/barber school located in a state
4368 other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the
4369 equivalent number of credit hours, with full flexibility within those hours; and

- 4370 (B) practice as a licensed cosmetologist/barber in a state other than Utah for not less
4371 than the number of hours required to equal 1,600 total hours when added to the hours of
4372 instruction described in Subsection (4)(d)(ii)(A); or
- 4373 (iii) completion of an approved cosmetology/barber apprenticeship; and
4374 (e) meet the examination requirement established by rule.
- 4375 (5) Each applicant for licensure as a cosmetologist/barber instructor shall:
- 4376 (a) submit an application in a form prescribed by the division;
4377 (b) subject to Subsection (24), pay a fee determined by the department under Section
4378 [63J-1-504](#);
- 4379 (c) provide satisfactory documentation that the applicant is currently licensed as a
4380 cosmetologist/barber;
- 4381 (d) be of good moral character;
- 4382 (e) provide satisfactory documentation of completion of:
- 4383 (i) an instructor training program conducted by a licensed or recognized school, as
4384 defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit
4385 hours;
- 4386 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
4387 recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent
4388 number of credit hours; or
- 4389 (iii) a minimum of 3,000 hours of experience as a cosmetologist/barber; and
- 4390 (f) meet the examination requirement established by rule.
- 4391 (6) Each applicant for licensure as a cosmetologist/barber school shall:
- 4392 (a) submit an application in a form prescribed by the division;
4393 (b) pay a fee determined by the department under Section [63J-1-504](#); and
4394 (c) provide satisfactory documentation:
- 4395 (i) of appropriate registration with the Division of Corporations and Commercial Code;
4396 (ii) of business licensure from the city, town, or county in which the school is located;
4397 (iii) that the applicant's physical facilities comply with the requirements established by

4398 rule; and

4399 (iv) that the applicant meets:

4400 (A) the standards for cosmetology schools, including staff and accreditation
4401 requirements, established by rule; and

4402 (B) the requirements for recognition as an institution of postsecondary study as
4403 described in Subsection (22).

4404 (7) Each applicant for licensure as an electrologist shall:

4405 (a) submit an application in a form prescribed by the division;

4406 (b) pay a fee determined by the department under Section 63J-1-504;

4407 (c) be of good moral character;

4408 (d) provide satisfactory documentation of having graduated from a licensed or
4409 recognized electrology school after completing a curriculum of 600 hours of instruction or the
4410 equivalent number of credit hours; and

4411 (e) meet the examination requirement established by rule.

4412 (8) Each applicant for licensure as an electrologist instructor shall:

4413 (a) submit an application in a form prescribed by the division;

4414 (b) subject to Subsection (24), pay a fee determined by the department under Section
4415 63J-1-504;

4416 (c) provide satisfactory documentation that the applicant is currently licensed as an
4417 electrologist;

4418 (d) be of good moral character;

4419 (e) provide satisfactory documentation of completion of:

4420 (i) an instructor training program conducted by a licensed or recognized school, as
4421 defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit
4422 hours;

4423 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
4424 recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent
4425 number of credit hours; or

- 4426 (iii) a minimum of 1,000 hours of experience as an electrologist; and
- 4427 (f) meet the examination requirement established by rule.
- 4428 (9) Each applicant for licensure as an electrologist school shall:
- 4429 (a) submit an application in a form prescribed by the division;
- 4430 (b) pay a fee determined by the department under Section 63J-1-504; and
- 4431 (c) provide satisfactory documentation:
- 4432 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 4433 (ii) of business licensure from the city, town, or county in which the school is located;
- 4434 (iii) that the applicant's facilities comply with the requirements established by rule; and
- 4435 (iv) that the applicant meets:
- 4436 (A) the standards for electrologist schools, including staff, curriculum, and
- 4437 accreditation requirements, established by rule; and
- 4438 (B) the requirements for recognition as an institution of postsecondary study as
- 4439 described in Subsection (22).
- 4440 (10) Each applicant for licensure as an esthetician shall:
- 4441 (a) submit an application in a form prescribed by the division;
- 4442 (b) pay a fee determined by the department under Section 63J-1-504;
- 4443 (c) be of good moral character;
- 4444 (d) provide satisfactory documentation of one of the following:
- 4445 (i) graduation from a licensed or recognized esthetic school or a licensed or recognized
- 4446 cosmetology/barber school whose curriculum consists of not less than 15 weeks of esthetic
- 4447 instruction with a minimum of 600 hours or the equivalent number of credit hours;
- 4448 (ii) completion of an approved esthetician apprenticeship; or
- 4449 (iii) (A) graduation from a recognized cosmetology/barber school located in a state
- 4450 other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the
- 4451 equivalent number of credit hours, with full flexibility within those hours; and
- 4452 (B) practice as a licensed cosmetologist/barber for not less than the number of hours
- 4453 required to equal 1,600 total hours when added to the hours of instruction described in

- 4454 Subsection (10)(d)(iii)(A); and
- 4455 (e) meet the examination requirement established by division rule.
- 4456 (11) Each applicant for licensure as a master esthetician shall:
- 4457 (a) submit an application in a form prescribed by the division;
- 4458 (b) pay a fee determined by the department under Section 63J-1-504;
- 4459 (c) be of good moral character;
- 4460 (d) provide satisfactory documentation of:
- 4461 (i) completion of at least 1,200 hours of training, or the equivalent number of credit
- 4462 hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the
- 4463 1,200 hours may have been completed:
- 4464 (A) at a licensed or recognized cosmetology/barbering school, if the applicant
- 4465 graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or
- 4466 the equivalent number of credit hours, with full flexibility within those hours; or
- 4467 (B) at a licensed or recognized cosmetology/barber school located in a state other than
- 4468 Utah, if the applicant graduated from the school and its curriculum contained full flexibility
- 4469 within its hours of instruction; or
- 4470 (ii) completion of an approved master esthetician apprenticeship;
- 4471 (e) if the applicant will practice lymphatic massage, provide satisfactory documentation
- 4472 to show completion of 200 hours of training, or the equivalent number of credit hours, in
- 4473 lymphatic massage as defined by division rule; and
- 4474 (f) meet the examination requirement established by division rule.
- 4475 (12) Each applicant for licensure as an esthetician instructor shall:
- 4476 (a) submit an application in a form prescribed by the division;
- 4477 (b) subject to Subsection (24), pay a fee determined by the department under Section
- 4478 63J-1-504;
- 4479 (c) provide satisfactory documentation that the applicant is currently licensed as a
- 4480 master esthetician;
- 4481 (d) be of good moral character;

- 4482 (e) provide satisfactory documentation of completion of:
- 4483 (i) an instructor training program conducted by a licensed or recognized school, as
- 4484 defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit
- 4485 hours;
- 4486 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
- 4487 recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent
- 4488 number of credit hours; or
- 4489 (iii) a minimum of 1,000 hours of experience in esthetics; and
- 4490 (f) meet the examination requirement established by rule.
- 4491 (13) Each applicant for licensure as an esthetics school shall:
- 4492 (a) submit an application in a form prescribed by the division;
- 4493 (b) pay a fee determined by the department under Section [63J-1-504](#); and
- 4494 (c) provide satisfactory documentation:
- 4495 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 4496 (ii) of business licensure from the city, town, or county in which the school is located;
- 4497 (iii) that the applicant's physical facilities comply with the requirements established by
- 4498 rule; and
- 4499 (iv) that the applicant meets:
- 4500 (A) the standards for esthetics schools, including staff, curriculum, and accreditation
- 4501 requirements, established by division rule made in collaboration with the board; and
- 4502 (B) the requirements for recognition as an institution of postsecondary study as
- 4503 described in Subsection (22).
- 4504 (14) Each applicant for licensure as a hair designer shall:
- 4505 (a) submit an application in a form prescribed by the division;
- 4506 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 4507 (c) be of good moral character;
- 4508 (d) provide satisfactory documentation of:
- 4509 (i) graduation from a licensed or recognized cosmetology/barber, hair design, or

4510 barbering school whose curriculum consists of a minimum of 1,200 hours of instruction, or the
4511 equivalent number of credit hours, with full flexibility within those hours;

4512 (ii) (A) graduation from a recognized cosmetology/barber, hair design, or barbering
4513 school located in a state other than Utah whose curriculum consists of less than 1,200 hours of
4514 instruction, or the equivalent number of credit hours, with full flexibility within those hours;
4515 and

4516 (B) practice as a licensed cosmetologist/barber or hair designer in a state other than
4517 Utah for not less than the number of hours required to equal 1,200 total hours when added to
4518 the hours of instruction described in Subsection (14)(d)(ii)(A); or

4519 (iii) being a state licensed cosmetologist/barber; and

4520 (e) meet the examination requirements established by rule.

4521 (15) Each applicant for licensure as a hair designer instructor shall:

4522 (a) submit an application in a form prescribed by the division;

4523 (b) subject to Subsection (24), pay a fee determined by the department under Section
4524 [63J-1-504](#);

4525 (c) provide satisfactory documentation that the applicant is currently licensed as a hair
4526 designer or as a cosmetologist/barber;

4527 (d) be of good moral character;

4528 (e) provide satisfactory documentation of completion of:

4529 (i) an instructor training program conducted by a licensed or recognized school, as
4530 defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit
4531 hours;

4532 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
4533 recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent
4534 number of credit hours; or

4535 (iii) a minimum of 2,500 hours of experience as a hair designer or as a
4536 cosmetologist/barber; and

4537 (f) meet the examination requirement established by rule.

- 4538 (16) Each applicant for licensure as a hair design school shall:
- 4539 (a) submit an application in a form prescribed by the division;
- 4540 (b) pay a fee determined by the department under Section 63J-1-504; and
- 4541 (c) provide satisfactory documentation:
- 4542 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 4543 (ii) of business licensure from the city, town, or county in which the school is located;
- 4544 (iii) that the applicant's physical facilities comply with the requirements established by
- 4545 rule; and
- 4546 (iv) that the applicant meets:
- 4547 (A) the standards for a hair design school, including staff and accreditation
- 4548 requirements, established by rule; and
- 4549 (B) the requirements for recognition as an institution of postsecondary study as
- 4550 described in Subsection (22).
- 4551 (17) Each applicant for licensure as a nail technician shall:
- 4552 (a) submit an application in a form prescribed by the division;
- 4553 (b) pay a fee determined by the department under Section 63J-1-504;
- 4554 (c) be of good moral character;
- 4555 (d) provide satisfactory documentation of:
- 4556 (i) graduation from a licensed or recognized nail technology school, or a licensed or
- 4557 recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of
- 4558 instruction, or the equivalent number of credit hours;
- 4559 (ii) (A) graduation from a recognized nail technology school located in a state other
- 4560 than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent
- 4561 number of credit hours; and
- 4562 (B) practice as a licensed nail technician in a state other than Utah for not less than the
- 4563 number of hours required to equal 300 total hours when added to the hours of instruction
- 4564 described in Subsection (17)(d)(ii)(A); or
- 4565 (iii) completion of an approved nail technician apprenticeship; and

- 4566 (e) meet the examination requirement established by division rule.
- 4567 (18) Each applicant for licensure as a nail technician instructor shall:
- 4568 (a) submit an application in a form prescribed by the division;
- 4569 (b) subject to Subsection (24), pay a fee determined by the department under Section
- 4570 [63J-1-504](#);
- 4571 (c) provide satisfactory documentation that the applicant is currently licensed as a nail
- 4572 technician;
- 4573 (d) be of good moral character;
- 4574 (e) provide satisfactory documentation of completion of:
- 4575 (i) an instructor training program conducted by a licensed or recognized school, as
- 4576 defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours;
- 4577 (ii) an on-the-job instructor training program conducted by a licensed instructor at a
- 4578 licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the
- 4579 equivalent number of credit hours; or
- 4580 (iii) a minimum of 600 hours of experience in nail technology; and
- 4581 (f) meet the examination requirement established by rule.
- 4582 (19) Each applicant for licensure as a nail technology school shall:
- 4583 (a) submit an application in a form prescribed by the division;
- 4584 (b) pay a fee determined by the department under Section [63J-1-504](#); and
- 4585 (c) provide satisfactory documentation:
- 4586 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 4587 (ii) of business licensure from the city, town, or county in which the school is located;
- 4588 (iii) that the applicant's facilities comply with the requirements established by rule; and
- 4589 (iv) that the applicant meets:
- 4590 (A) the standards for nail technology schools, including staff, curriculum, and
- 4591 accreditation requirements, established by rule; and
- 4592 (B) the requirements for recognition as an institution of postsecondary study as
- 4593 described in Subsection (22).

4594 (20) Each applicant for licensure under this chapter whose education in the field for
4595 which a license is sought was completed at a foreign school may satisfy the educational
4596 requirement for licensure by demonstrating, to the satisfaction of the division, the educational
4597 equivalency of the foreign school education with a licensed school under this chapter.

4598 (21) (a) A licensed or recognized school under this section shall accept credit hours
4599 towards graduation for documented, relevant, and substantially equivalent coursework
4600 previously completed by:

4601 (i) a student that did not complete the student's education while attending a different
4602 school; or

4603 (ii) a licensee of any other profession listed in this section, based on the licensee's
4604 schooling, apprenticeship, or experience.

4605 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
4606 consistent with this section, the division may make rules governing the acceptance of credit
4607 hours under Subsection (21)(a).

4608 (22) A school licensed or applying for licensure under this chapter shall maintain
4609 recognition as an institution of postsecondary study by meeting the following conditions:

4610 (a) the school shall admit as a regular student only an individual who has earned a
4611 recognized high school diploma or the equivalent of a recognized high school diploma, or who
4612 is beyond the age of compulsory high school attendance as prescribed by [~~Title 53A, Chapter~~
4613 ~~11, Students in Public Schools~~] Title 53G, Chapter 6, Part 2, Compulsory Education; and

4614 (b) the school shall be licensed by name, or in the case of an applicant, shall apply for
4615 licensure by name, under this chapter to offer one or more training programs beyond the
4616 secondary level.

4617 (23) A person seeking to qualify for licensure under this chapter by apprenticing in an
4618 approved apprenticeship shall register with the division as described in Section [58-11a-306](#).

4619 (24) The department may only charge a fee to a person applying for licensure as any
4620 type of instructor under this chapter if the person is not a licensed instructor in any other
4621 profession under this chapter.

4622 Section 66. Section **58-41-4** is amended to read:

4623 **58-41-4. Exemptions from chapter.**

4624 (1) In addition to the exemptions from licensure in Section **58-1-307**, the following
4625 persons may engage in the practice of speech-language pathology and audiology subject to the
4626 stated circumstances and limitations without being licensed under this chapter:

4627 (a) a qualified person licensed in this state under any law existing in this state prior to
4628 May 13, 1975, from engaging in the profession for which he is licensed;

4629 (b) a medical doctor, physician, or surgeon licensed in this state, from engaging in his
4630 specialty in the practice of medicine;

4631 (c) a hearing aid dealer or salesman from selling, fitting, adjusting, and repairing
4632 hearing aids, and conducting hearing tests solely for that purpose. However, a hearing aid
4633 dealer may not conduct audiologic testing on persons under the age of 18 years except under
4634 the direct supervision of an audiologist licensed under this chapter;

4635 (d) a person who has obtained a valid and current credential issued by the State Board
4636 of Education while performing specifically the functions of a speech-language pathologist or
4637 audiologist, in no way in his own interest, solely within the confines of and under the direction
4638 and jurisdiction of and only in the academic interest of the schools by which employed in this
4639 state;

4640 (e) a person employed as a speech-language pathologist or audiologist by federal
4641 government agencies or subdivisions or, prior to July 1, 1989, by state or local government
4642 agencies or subdivisions, while specifically performing speech-language pathology or
4643 audiology services in no way in his own interest, solely within the confines of and under the
4644 direction and jurisdiction of and in the specific interest of that agency or subdivision;

4645 (f) a person identified in Subsections (1)(d) and (e) may offer lectures for a fee, or
4646 monetary or other compensation, without being licensed; however, such person may elect to be
4647 subject to the requirements of this chapter;

4648 (g) a person employed by accredited colleges or universities as a speech-language
4649 pathologist or audiologist from performing the services or functions described in this chapter

4650 when they are:

4651 (i) performed solely as an assigned teaching function of employment;

4652 (ii) solely in academic interest and pursuit as a function of that employment;

4653 (iii) in no way for their own interest; and

4654 (iv) provided for no fee, monetary or otherwise, other than their agreed institutional
4655 salary;

4656 (h) a person pursuing a course of study leading to a degree in speech-language
4657 pathology or audiology while enrolled in an accredited college or university, provided those
4658 activities constitute an assigned, directed, and supervised part of his curricular study, and in no
4659 other interest, and that all examinations, tests, histories, charts, progress notes, reports,
4660 correspondence, and all documents and records which he produces be identified clearly as
4661 having been conducted and prepared by a student in training and that such a person is
4662 obviously identified and designated by appropriate title clearly indicating the training status
4663 and provided that he does not hold himself out directly or indirectly as being qualified to
4664 practice independently;

4665 (i) a person trained in elementary audiometry and qualified to perform basic
4666 audiometric tests while employed by a licensed medical doctor to perform solely for him while
4667 under his direct supervision, the elementary conventional audiometric tests of air conduction
4668 screening, air conduction threshold testing, and tympanometry;

4669 (j) a person while performing as a speech-language pathologist or audiologist for the
4670 purpose of obtaining required professional experience under the provisions of this chapter, if he
4671 meets all training requirements and is professionally responsible to and under the supervision
4672 of a speech-language pathologist or audiologist who holds the CCC or a state license in
4673 speech-language pathology or audiology. This provision is applicable only during the time that
4674 person is obtaining the required professional experience;

4675 (k) a corporation, partnership, trust, association, group practice, or like organization
4676 engaging in speech-language pathology or audiology services without certification or license, if
4677 it acts only through employees or consists only of persons who are licensed under this chapter;

4678 (l) performance of speech-language pathology or audiology services in this state by a
4679 speech-language pathologist or audiologist who is not a resident of this state and is not licensed
4680 under this chapter if those services are performed for no more than one month in any calendar
4681 year in association with a speech-language pathologist or audiologist licensed under this
4682 chapter, and if that person meets the qualifications and requirements for application for
4683 licensure described in Section 58-41-5; and

4684 (m) a person certified under [~~Title 53A, State System of Public Education~~] Title 53E,
4685 Public Education System -- State Administration, as a teacher of the deaf, from providing the
4686 services or performing the functions he is certified to perform.

4687 (2) No person is exempt from the requirements of this chapter who performs or
4688 provides any services as a speech-language pathologist or audiologist for which a fee, salary,
4689 bonus, gratuity, or compensation of any kind paid by the recipient of the service; or who
4690 engages any part of his professional work for a fee practicing in conjunction with, by
4691 permission of, or apart from his position of employment as speech-language pathologist or
4692 audiologist in any branch or subdivision of local, state, or federal government or as otherwise
4693 identified in this section.

4694 Section 67. Section 58-61-307 is amended to read:

4695 **58-61-307. Exemptions from licensure.**

4696 (1) Except as modified in Section 58-61-301, the exemptions from licensure in Section
4697 58-1-307 apply to this chapter.

4698 (2) In addition to the exemptions from licensure in Section 58-1-307, the following
4699 when practicing within the scope of the license held, may engage in acts included within the
4700 definition of practice as a psychologist, subject to the stated circumstances and limitations,
4701 without being licensed under this chapter:

4702 (a) a physician and surgeon or osteopathic physician licensed under Chapter 67, Utah
4703 Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

4704 (b) a registered psychiatric mental health nurse specialist licensed under Chapter 31b,
4705 Nurse Practice Act;

4706 (c) a recognized member of the clergy while functioning in his ministerial capacity as
4707 long as he does not represent himself as or use the title of psychologist;

4708 (d) an individual who is offering expert testimony in any proceeding before a court,
4709 administrative hearing, deposition upon the order of any court or other body having power to
4710 order the deposition, or proceedings before any master, referee, or alternative dispute resolution
4711 provider;

4712 (e) an individual engaged in performing hypnosis who is not licensed under this title in
4713 a profession which includes hypnosis in its scope of practice, and who:

4714 (i) (A) induces a hypnotic state in a client for the purpose of increasing motivation or
4715 altering lifestyles or habits, such as eating or smoking, through hypnosis;

4716 (B) consults with a client to determine current motivation and behavior patterns;

4717 (C) prepares the client to enter hypnotic states by explaining how hypnosis works and
4718 what the client will experience;

4719 (D) tests clients to determine degrees of suggestibility;

4720 (E) applies hypnotic techniques based on interpretation of consultation results and
4721 analysis of client's motivation and behavior patterns; and

4722 (F) trains clients in self-hypnosis conditioning;

4723 (ii) may not:

4724 (A) engage in the practice of mental health therapy;

4725 (B) represent himself using the title of a license classification in Subsection
4726 [58-60-102\(5\)](#); or

4727 (C) use hypnosis with or treat a medical, psychological, or dental condition defined in
4728 generally recognized diagnostic and statistical manuals of medical, psychological, or dental
4729 disorders;

4730 (f) an individual's exemption from licensure under Subsection [58-1-307\(1\)\(b\)](#)
4731 terminates when the student's training is no longer supervised by qualified faculty or staff and
4732 the activities are no longer a defined part of the degree program;

4733 (g) an individual holding an earned doctoral degree in psychology who is employed by

4734 an accredited institution of higher education and who conducts research and teaches in that
4735 individual's professional field, but only if the individual does not engage in providing delivery
4736 or supervision of professional services regulated under this chapter to individuals or groups
4737 regardless of whether there is compensation for the services;

4738 (h) any individual who was employed as a psychologist by a state, county, or municipal
4739 agency or other political subdivision of the state prior to July 1, 1981, and who subsequently
4740 has maintained employment as a psychologist in the same state, county, or municipal agency or
4741 other political subdivision while engaged in the performance of his official duties for that
4742 agency or political subdivision;

4743 (i) an individual licensed as a school psychologist under Section [~~53A-6-104~~]
4744 [53E-6-201](#):

4745 (i) may represent himself as and use the terms "school psychologist" or "licensed
4746 school psychologist"; and

4747 (ii) is restricted in his practice to employment within settings authorized by the State
4748 Board of Education;

4749 (j) an individual providing advice or counsel to another individual in a setting of their
4750 association as friends or relatives and in a nonprofessional and noncommercial relationship, if
4751 there is no compensation paid for the advice or counsel; and

4752 (k) an individual who is licensed, in good standing, to practice mental health therapy in
4753 a state or territory of the United States outside of Utah may provide short term transitional
4754 mental health therapy remotely to a client in Utah only if:

4755 (i) the individual is present in the state or territory where the individual is licensed to
4756 practice mental health therapy;

4757 (ii) the client relocates to Utah;

4758 (iii) the client is a client of the individual immediately before the client relocates to
4759 Utah;

4760 (iv) the individual provides the short term transitional mental health therapy to the
4761 client only during the 45 day period beginning on the day on which the client relocates to Utah;

4762 (v) within 10 days after the day on which the client relocates to Utah, the individual
4763 provides written notice to the division of the individual's intent to provide short term
4764 transitional mental health therapy remotely to the client; and

4765 (vi) the individual does not engage in unlawful conduct or unprofessional conduct.

4766 Section 68. Section **59-2-102** is amended to read:

4767 **59-2-102. Definitions.**

4768 As used in this chapter and title:

4769 (1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of
4770 engaging in dispensing activities directly affecting agriculture or horticulture with an
4771 airworthiness certificate from the Federal Aviation Administration certifying the aircraft or
4772 rotorcraft's use for agricultural and pest control purposes.

4773 (2) "Air charter service" means an air carrier operation that requires the customer to
4774 hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled
4775 trip.

4776 (3) "Air contract service" means an air carrier operation available only to customers
4777 that engage the services of the carrier through a contractual agreement and excess capacity on
4778 any trip and is not available to the public at large.

4779 (4) "Aircraft" means the same as that term is defined in Section [72-10-102](#).

4780 (5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

4781 (i) operates:

4782 (A) on an interstate route; and

4783 (B) on a scheduled basis; and

4784 (ii) offers to fly one or more passengers or cargo on the basis of available capacity on a
4785 regularly scheduled route.

4786 (b) "Airline" does not include an:

4787 (i) air charter service; or

4788 (ii) air contract service.

4789 (6) "Assessment roll" means a permanent record of the assessment of property as

4790 assessed by the county assessor and the commission and may be maintained manually or as a
4791 computerized file as a consolidated record or as multiple records by type, classification, or
4792 categories.

4793 (7) "Base parcel" means a parcel of property that was legally:

4794 (a) subdivided into two or more lots, parcels, or other divisions of land; or

4795 (b) (i) combined with one or more other parcels of property; and

4796 (ii) subdivided into two or more lots, parcels, or other divisions of land.

4797 (8) (a) "Certified revenue levy" means a property tax levy that provides an amount of
4798 ad valorem property tax revenue equal to the sum of:

4799 (i) the amount of ad valorem property tax revenue to be generated statewide in the
4800 previous year from imposing a school minimum basic tax rate, as specified in Section
4801 ~~[53A-17a-135]~~ [53F-2-301](#), or multicounty assessing and collecting levy, as specified in Section
4802 [59-2-1602](#); and

4803 (ii) the product of:

4804 (A) eligible new growth, as defined in Section [59-2-924](#); and

4805 (B) the school minimum basic tax rate or multicounty assessing and collecting levy
4806 certified by the commission for the previous year.

4807 (b) For purposes of this Subsection (8), "ad valorem property tax revenue" does not
4808 include property tax revenue received by a taxing entity from personal property that is:

4809 (i) assessed by a county assessor in accordance with Part 3, County Assessment; and

4810 (ii) semiconductor manufacturing equipment.

4811 (c) For purposes of calculating the certified revenue levy described in this Subsection
4812 (8), the commission shall use:

4813 (i) the taxable value of real property assessed by a county assessor contained on the
4814 assessment roll;

4815 (ii) the taxable value of real and personal property assessed by the commission; and

4816 (iii) the taxable year end value of personal property assessed by a county assessor
4817 contained on the prior year's assessment roll.

- 4818 (9) "County-assessed commercial vehicle" means:
- 4819 (a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section
- 4820 [41-1a-301](#) and is not operated interstate to transport the vehicle owner's goods or property in
- 4821 furtherance of the owner's commercial enterprise;
- 4822 (b) any passenger vehicle owned by a business and used by its employees for
- 4823 transportation as a company car or vanpool vehicle; and
- 4824 (c) vehicles that are:
- 4825 (i) especially constructed for towing or wrecking, and that are not otherwise used to
- 4826 transport goods, merchandise, or people for compensation;
- 4827 (ii) used or licensed as taxicabs or limousines;
- 4828 (iii) used as rental passenger cars, travel trailers, or motor homes;
- 4829 (iv) used or licensed in this state for use as ambulances or hearses;
- 4830 (v) especially designed and used for garbage and rubbish collection; or
- 4831 (vi) used exclusively to transport students or their instructors to or from any private,
- 4832 public, or religious school or school activities.
- 4833 (10) (a) Except as provided in Subsection (10)(b), for purposes of Section [59-2-801](#),
- 4834 "designated tax area" means a tax area created by the overlapping boundaries of only the
- 4835 following taxing entities:
- 4836 (i) a county; and
- 4837 (ii) a school district.
- 4838 (b) "Designated tax area" includes a tax area created by the overlapping boundaries of
- 4839 the taxing entities described in Subsection (10)(a) and:
- 4840 (i) a city or town if the boundaries of the school district under Subsection (10)(a) and
- 4841 the boundaries of the city or town are identical; or
- 4842 (ii) a special service district if the boundaries of the school district under Subsection
- 4843 (10)(a) are located entirely within the special service district.
- 4844 (11) "Eligible judgment" means a final and unappealable judgment or order under
- 4845 Section [59-2-1330](#):

4846 (a) that became a final and unappealable judgment or order no more than 14 months
4847 before the day on which the notice described in Section 59-2-919.1 is required to be provided;
4848 and

4849 (b) for which a taxing entity's share of the final and unappealable judgment or order is
4850 greater than or equal to the lesser of:

4851 (i) \$5,000; or

4852 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the
4853 previous fiscal year.

4854 (12) (a) "Escaped property" means any property, whether personal, land, or any
4855 improvements to the property, that is subject to taxation and is:

4856 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed
4857 to the wrong taxpayer by the assessing authority;

4858 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to
4859 comply with the reporting requirements of this chapter; or

4860 (iii) undervalued because of errors made by the assessing authority based upon
4861 incomplete or erroneous information furnished by the taxpayer.

4862 (b) "Escaped property" does not include property that is undervalued because of the use
4863 of a different valuation methodology or because of a different application of the same valuation
4864 methodology.

4865 (13) "Fair market value" means the amount at which property would change hands
4866 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell
4867 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair
4868 market value" shall be determined using the current zoning laws applicable to the property in
4869 question, except in cases where there is a reasonable probability of a change in the zoning laws
4870 affecting that property in the tax year in question and the change would have an appreciable
4871 influence upon the value.

4872 (14) (a) "Farm machinery and equipment," for purposes of the exemption provided
4873 under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities,

4874 feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters,
4875 tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and
4876 cubers, and any other machinery or equipment used primarily for agricultural purposes.

4877 (b) "Farm machinery and equipment" does not include vehicles required to be
4878 registered with the Motor Vehicle Division or vehicles or other equipment used for business
4879 purposes other than farming.

4880 (15) "Geothermal fluid" means water in any form at temperatures greater than 120
4881 degrees centigrade naturally present in a geothermal system.

4882 (16) "Geothermal resource" means:

4883 (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade;
4884 and

4885 (b) the energy, in whatever form, including pressure, present in, resulting from, created
4886 by, or which may be extracted from that natural heat, directly or through a material medium.

4887 (17) (a) "Goodwill" means:

4888 (i) acquired goodwill that is reported as goodwill on the books and records that a
4889 taxpayer maintains for financial reporting purposes; or

4890 (ii) the ability of a business to:

4891 (A) generate income that exceeds a normal rate of return on assets and that results from
4892 a factor described in Subsection (17)(b); or

4893 (B) obtain an economic or competitive advantage resulting from a factor described in
4894 Subsection (17)(b).

4895 (b) The following factors apply to Subsection (17)(a)(ii):

4896 (i) superior management skills;

4897 (ii) reputation;

4898 (iii) customer relationships;

4899 (iv) patronage; or

4900 (v) a factor similar to Subsections (17)(b)(i) through (iv).

4901 (c) "Goodwill" does not include:

- 4902 (i) the intangible property described in Subsection (21)(a) or (b);
- 4903 (ii) locational attributes of real property, including:
 - 4904 (A) zoning;
 - 4905 (B) location;
 - 4906 (C) view;
 - 4907 (D) a geographic feature;
 - 4908 (E) an easement;
 - 4909 (F) a covenant;
 - 4910 (G) proximity to raw materials;
 - 4911 (H) the condition of surrounding property; or
 - 4912 (I) proximity to markets;
- 4913 (iii) value attributable to the identification of an improvement to real property,
- 4914 including:
 - 4915 (A) reputation of the designer, builder, or architect of the improvement;
 - 4916 (B) a name given to, or associated with, the improvement; or
 - 4917 (C) the historic significance of an improvement; or
 - 4918 (iv) the enhancement or assemblage value specifically attributable to the interrelation
 - 4919 of the existing tangible property in place working together as a unit.
- 4920 (18) "Governing body" means:
 - 4921 (a) for a county, city, or town, the legislative body of the county, city, or town;
 - 4922 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -
 - 4923 Local Districts, the local district's board of trustees;
 - 4924 (c) for a school district, the local board of education; or
 - 4925 (d) for a special service district under Title 17D, Chapter 1, Special Service District
 - 4926 Act:
 - 4927 (i) the legislative body of the county or municipality that created the special service
 - 4928 district, to the extent that the county or municipal legislative body has not delegated authority
 - 4929 to an administrative control board established under Section [17D-1-301](#); or

4930 (ii) the administrative control board, to the extent that the county or municipal
4931 legislative body has delegated authority to an administrative control board established under
4932 Section 17D-1-301.

4933 (19) (a) For purposes of Section 59-2-103:

4934 (i) "household" means the association of individuals who live in the same dwelling,
4935 sharing its furnishings, facilities, accommodations, and expenses; and

4936 (ii) "household" includes married individuals, who are not legally separated, that have
4937 established domiciles at separate locations within the state.

4938 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4939 commission may make rules defining the term "domicile."

4940 (20) (a) Except as provided in Subsection (20)(c), "improvement" means a building,
4941 structure, fixture, fence, or other item that is permanently attached to land, regardless of
4942 whether the title has been acquired to the land, if:

4943 (i) (A) attachment to land is essential to the operation or use of the item; and

4944 (B) the manner of attachment to land suggests that the item will remain attached to the
4945 land in the same place over the useful life of the item; or

4946 (ii) removal of the item would:

4947 (A) cause substantial damage to the item; or

4948 (B) require substantial alteration or repair of a structure to which the item is attached.

4949 (b) "Improvement" includes:

4950 (i) an accessory to an item described in Subsection (20)(a) if the accessory is:

4951 (A) essential to the operation of the item described in Subsection (20)(a); and

4952 (B) installed solely to serve the operation of the item described in Subsection (20)(a);

4953 and

4954 (ii) an item described in Subsection (20)(a) that is temporarily detached from the land
4955 for repairs and remains located on the land.

4956 (c) "Improvement" does not include:

4957 (i) an item considered to be personal property pursuant to rules made in accordance

4958 with Section 59-2-107;

4959 (ii) a moveable item that is attached to land for stability only or for an obvious
4960 temporary purpose;

4961 (iii) (A) manufacturing equipment and machinery; or

4962 (B) essential accessories to manufacturing equipment and machinery;

4963 (iv) an item attached to the land in a manner that facilitates removal without substantial
4964 damage to the land or the item; or

4965 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that
4966 transportable factory-built housing unit is considered to be personal property under Section
4967 59-2-1503.

4968 (21) "Intangible property" means:

4969 (a) property that is capable of private ownership separate from tangible property,
4970 including:

4971 (i) money;

4972 (ii) credits;

4973 (iii) bonds;

4974 (iv) stocks;

4975 (v) representative property;

4976 (vi) franchises;

4977 (vii) licenses;

4978 (viii) trade names;

4979 (ix) copyrights; and

4980 (x) patents;

4981 (b) a low-income housing tax credit;

4982 (c) goodwill; or

4983 (d) a renewable energy tax credit or incentive, including:

4984 (i) a federal renewable energy production tax credit under Section 45, Internal Revenue
4985 Code;

4986 (ii) a federal energy credit for qualified renewable electricity production facilities under
4987 Section 48, Internal Revenue Code;

4988 (iii) a federal grant for a renewable energy property under American Recovery and
4989 Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

4990 (iv) a tax credit under Subsection 59-7-614(5).

4991 (22) "Livestock" means:

4992 (a) a domestic animal;

4993 (b) a fish;

4994 (c) a fur-bearing animal;

4995 (d) a honeybee; or

4996 (e) poultry.

4997 (23) "Low-income housing tax credit" means:

4998 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;

4999 or

5000 (b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.

5001 (24) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

5002 (25) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
5003 valuable mineral.

5004 (26) "Mining" means the process of producing, extracting, leaching, evaporating, or
5005 otherwise removing a mineral from a mine.

5006 (27) (a) "Mobile flight equipment" means tangible personal property that is owned or
5007 operated by an air charter service, air contract service, or airline and:

5008 (i) is capable of flight or is attached to an aircraft that is capable of flight; or

5009 (ii) is contained in an aircraft that is capable of flight if the tangible personal property
5010 is intended to be used:

5011 (A) during multiple flights;

5012 (B) during a takeoff, flight, or landing; and

5013 (C) as a service provided by an air charter service, air contract service, or airline.

5014 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare
5015 engine that is rotated at regular intervals with an engine that is attached to the aircraft.

5016 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5017 commission may make rules defining the term "regular intervals."

5018 (28) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,
5019 sand, rock, gravel, and all carboniferous materials.

5020 (29) "Part-year residential property" means property that is not residential property on
5021 January 1 of a calendar year but becomes residential property after January 1 of the calendar
5022 year.

5023 (30) "Personal property" includes:

5024 (a) every class of property as defined in Subsection (31) that is the subject of
5025 ownership and is not real estate or an improvement;

5026 (b) any pipe laid in or affixed to land whether or not the ownership of the pipe is
5027 separate from the ownership of the underlying land, even if the pipe meets the definition of an
5028 improvement;

5029 (c) bridges and ferries;

5030 (d) livestock; and

5031 (e) outdoor advertising structures as defined in Section [72-7-502](#).

5032 (31) (a) "Property" means property that is subject to assessment and taxation according
5033 to its value.

5034 (b) "Property" does not include intangible property as defined in this section.

5035 (32) "Public utility" means:

5036 (a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil
5037 or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation,
5038 telephone corporation, sewerage corporation, or heat corporation where the company performs
5039 the service for, or delivers the commodity to, the public generally or companies serving the
5040 public generally, or in the case of a gas corporation or an electrical corporation, where the gas
5041 or electricity is sold or furnished to any member or consumers within the state for domestic,

5042 commercial, or industrial use; and

5043 (b) the operating property of any entity or person defined under Section 54-2-1 except
5044 water corporations.

5045 (33) (a) Subject to Subsection (33)(b), "qualifying exempt primary residential rental
5046 personal property" means household furnishings, furniture, and equipment that:

5047 (i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

5048 (ii) are owned by the owner of the dwelling unit that is the primary residence of a
5049 tenant; and

5050 (iii) after applying the residential exemption described in Section 59-2-103, are exempt
5051 from taxation under this chapter in accordance with Subsection 59-2-1115(2).

5052 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5053 commission may by rule define the term "dwelling unit" for purposes of this Subsection (33)
5054 and Subsection (36).

5055 (34) "Real estate" or "real property" includes:

5056 (a) the possession of, claim to, ownership of, or right to the possession of land;

5057 (b) all mines, minerals, and quarries in and under the land, all timber belonging to
5058 individuals or corporations growing or being on the lands of this state or the United States, and
5059 all rights and privileges appertaining to these; and

5060 (c) improvements.

5061 (35) (a) "Relationship with an owner of the property's land surface rights" means a
5062 relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25%
5063 shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

5064 (b) For purposes of determining if a relationship described in Subsection 267(b),
5065 Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership
5066 rules in Subsection 267(c), Internal Revenue Code.

5067 (36) (a) Subject to Subsection (36)(b), "residential property," for purposes of the
5068 reductions and adjustments under this chapter, means any property used for residential
5069 purposes as a primary residence.

- 5070 (b) Subject to Subsection (36)(c), "residential property":
5071 (i) except as provided in Subsection (36)(b)(ii), includes household furnishings,
5072 furniture, and equipment if the household furnishings, furniture, and equipment are:
5073 (A) used exclusively within a dwelling unit that is the primary residence of a tenant;
5074 and
5075 (B) owned by the owner of the dwelling unit that is the primary residence of a tenant;
5076 and
5077 (ii) does not include property used for transient residential use.
5078 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5079 commission may by rule define the term "dwelling unit" for purposes of Subsection (33) and
5080 this Subsection (36).
5081 (37) "Split estate mineral rights owner" means a person that:
5082 (a) has a legal right to extract a mineral from property;
5083 (b) does not hold more than a 25% interest in:
5084 (i) the land surface rights of the property where the wellhead is located; or
5085 (ii) an entity with an ownership interest in the land surface rights of the property where
5086 the wellhead is located;
5087 (c) is not an entity in which the owner of the land surface rights of the property where
5088 the wellhead is located holds more than a 25% interest; and
5089 (d) does not have a relationship with an owner of the land surface rights of the property
5090 where the wellhead is located.
5091 (38) (a) "State-assessed commercial vehicle" means:
5092 (i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to
5093 transport passengers, freight, merchandise, or other property for hire; or
5094 (ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports
5095 the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.
5096 (b) "State-assessed commercial vehicle" does not include vehicles used for hire that are
5097 specified in Subsection (9)(c) as county-assessed commercial vehicles.

5098 (39) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of
5099 a base parcel.

5100 (40) "Taxable value" means fair market value less any applicable reduction allowed for
5101 residential property under Section [59-2-103](#).

5102 (41) "Tax area" means a geographic area created by the overlapping boundaries of one
5103 or more taxing entities.

5104 (42) "Taxing entity" means any county, city, town, school district, special taxing
5105 district, local district under Title 17B, Limited Purpose Local Government Entities - Local
5106 Districts, or other political subdivision of the state with the authority to levy a tax on property.

5107 (43) (a) "Tax roll" means a permanent record of the taxes charged on property, as
5108 extended on the assessment roll, and may be maintained on the same record or records as the
5109 assessment roll or may be maintained on a separate record properly indexed to the assessment
5110 roll.

5111 (b) "Tax roll" includes tax books, tax lists, and other similar materials.

5112 Section 69. Section **59-2-918.6** is amended to read:

5113 **59-2-918.6. New and remaining school district budgets -- Advertisement -- Public**
5114 **hearing.**

5115 (1) As used in this section, "existing school district," "new school district," and
5116 "remaining school district" are as defined in Section [~~53A-2-117~~] [53G-3-102](#).

5117 (2) For the first fiscal year in which a new school district created under Section
5118 [~~53A-2-118.1~~] [53G-3-302](#) assumes responsibility for providing student instruction, the new
5119 school district and the remaining school district or districts may not impose a property tax
5120 unless the district imposing the tax:

5121 (a) advertises its intention to do so in accordance with Subsection (3); and

5122 (b) holds a public hearing in accordance with Subsection (4).

5123 (3) The advertisement required by this section:

5124 (a) may be combined with the advertisement described in Section [59-2-919](#);

5125 (b) shall be at least 1/4 of a page in size and shall meet the type, placement, and

5126 frequency requirements established under Section 59-2-919; and

5127 (c) shall specify the date, time, and location of the public hearing at which the levy will
5128 be considered and shall set forth the total amount of the district's proposed property tax levy
5129 and the tax impact on an average residential and business property located within the taxing
5130 entity compared to the property tax levy imposed in the prior year by the existing school
5131 district.

5132 (4) (a) The date, time, and place of public hearings required by this section shall be
5133 included on the notice provided to property owners pursuant to Section 59-2-919.1.

5134 (b) If a final decision regarding the property tax levy is not made at the public hearing,
5135 the school district shall announce at the public hearing the scheduled time and place for
5136 consideration and adoption of the budget and property tax levies.

5137 Section 70. Section 59-2-919 is amended to read:

5138 **59-2-919. Notice and public hearing requirements for certain tax increases --**

5139 **Exceptions.**

5140 (1) As used in this section:

5141 (a) "Additional ad valorem tax revenue" means ad valorem property tax revenue
5142 generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

5143 (b) "Ad valorem tax revenue" means ad valorem property tax revenue not including
5144 revenue from:

5145 (i) eligible new growth as defined in Section 59-2-924; or

5146 (ii) personal property that is:

5147 (A) assessed by a county assessor in accordance with Part 3, County Assessment; and

5148 (B) semiconductor manufacturing equipment.

5149 (c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year
5150 that begins on January 1 and ends on December 31.

5151 (d) "County executive calendar year taxing entity" means a calendar year taxing entity
5152 that operates under the county executive-council form of government described in Section
5153 17-52-504.

5154 (e) "Current calendar year" means the calendar year immediately preceding the
5155 calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the
5156 calendar year taxing entity's certified tax rate.

5157 (f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that
5158 begins on July 1 and ends on June 30.

5159 (g) "Last year's property tax budgeted revenue" does not include revenue received by a
5160 taxing entity from a debt service levy voted on by the public.

5161 (2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax
5162 rate unless the taxing entity meets:

5163 (a) the requirements of this section that apply to the taxing entity; and

5164 (b) all other requirements as may be required by law.

5165 (3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar
5166 year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax
5167 rate if the calendar year taxing entity:

5168 (i) 14 or more days before the date of the regular general election or municipal general
5169 election held in the current calendar year, states at a public meeting:

5170 (A) that the calendar year taxing entity intends to levy a tax rate that exceeds the
5171 calendar year taxing entity's certified tax rate;

5172 (B) the dollar amount of and purpose for additional ad valorem tax revenue that would
5173 be generated by the proposed increase in the certified tax rate; and

5174 (C) the approximate percentage increase in ad valorem tax revenue for the taxing entity
5175 based on the proposed increase described in Subsection (3)(a)(i)(B);

5176 (ii) provides notice for the public meeting described in Subsection (3)(a)(i) in
5177 accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a
5178 separate item on the meeting agenda that notifies the public that the calendar year taxing entity
5179 intends to make the statement described in Subsection (3)(a)(i);

5180 (iii) meets the advertisement requirements of Subsections (6) and (7) before the
5181 calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

- 5182 (iv) provides notice by mail:
- 5183 (A) seven or more days before the regular general election or municipal general
- 5184 election held in the current calendar year; and
- 5185 (B) as provided in Subsection (3)(c); and
- 5186 (v) conducts a public hearing that is held:
- 5187 (A) in accordance with Subsections (8) and (9); and
- 5188 (B) in conjunction with the public hearing required by Section [17-36-13](#) or [17B-1-610](#).
- 5189 (b) (i) For a county executive calendar year taxing entity, the statement described in
- 5190 Subsection (3)(a)(i) shall be made by the:
- 5191 (A) county council;
- 5192 (B) county executive; or
- 5193 (C) both the county council and county executive.
- 5194 (ii) If the county council makes the statement described in Subsection (3)(a)(i) or the
- 5195 county council states a dollar amount of additional ad valorem tax revenue that is greater than
- 5196 the amount of additional ad valorem tax revenue previously stated by the county executive in
- 5197 accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:
- 5198 (A) make the statement described in Subsection (3)(a)(i) 14 or more days before the
- 5199 county executive calendar year taxing entity conducts the public hearing under Subsection
- 5200 (3)(a)(v); and
- 5201 (B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the
- 5202 county executive calendar year taxing entity conducts the public hearing required by
- 5203 Subsection (3)(a)(v).
- 5204 (c) The notice described in Subsection (3)(a)(iv):
- 5205 (i) shall be mailed to each owner of property:
- 5206 (A) within the calendar year taxing entity; and
- 5207 (B) listed on the assessment roll;
- 5208 (ii) shall be printed on a separate form that:
- 5209 (A) is developed by the commission;

5210 (B) states at the top of the form, in bold upper-case type no smaller than 18 point
5211 "NOTICE OF PROPOSED TAX INCREASE"; and
5212 (C) may be mailed with the notice required by Section 59-2-1317;
5213 (iii) shall contain for each property described in Subsection (3)(c)(i):
5214 (A) the value of the property for the current calendar year;
5215 (B) the tax on the property for the current calendar year; and
5216 (C) subject to Subsection (3)(d), for the calendar year for which the calendar year
5217 taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax
5218 rate, the estimated tax on the property;
5219 (iv) shall contain the following statement:
5220 "[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar
5221 year]. This notice contains estimates of the tax on your property and the proposed tax increase
5222 on your property as a result of this tax increase. These estimates are calculated on the basis of
5223 [insert previous applicable calendar year] data. The actual tax on your property and proposed
5224 tax increase on your property may vary from this estimate.";
5225 (v) shall state the date, time, and place of the public hearing described in Subsection
5226 (3)(a)(v); and
5227 (vi) may contain other property tax information approved by the commission.
5228 (d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall
5229 calculate the estimated tax on property on the basis of:
5230 (i) data for the current calendar year; and
5231 (ii) the amount of additional ad valorem tax revenue stated in accordance with this
5232 section.
5233 (4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate
5234 that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:
5235 (a) provides notice by meeting the advertisement requirements of Subsections (6) and
5236 (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year
5237 taxing entity's annual budget is adopted; and

5238 (b) conducts a public hearing in accordance with Subsections (8) and (9) before the
5239 fiscal year taxing entity's annual budget is adopted.

5240 (5) (a) A taxing entity is not required to meet the notice or public hearing requirements
5241 of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with
5242 the requirements of this section.

5243 (b) A taxing entity is not required to meet the notice requirements of Subsection (3) or
5244 (4) if:

5245 (i) Section [~~53A-17a-133~~] 53F-8-301 allows the taxing entity to levy a tax rate that
5246 exceeds that certified tax rate without having to comply with the notice provisions of this
5247 section; or

5248 (ii) the taxing entity:

5249 (A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year;
5250 and

5251 (B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax
5252 revenues.

5253 (6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this
5254 section shall be published:

5255 (i) subject to Section 45-1-101, in a newspaper or combination of newspapers of
5256 general circulation in the taxing entity;

5257 (ii) electronically in accordance with Section 45-1-101; and

5258 (iii) on the Utah Public Notice Website created in Section 63F-1-701.

5259 (b) The advertisement described in Subsection (6)(a)(i) shall:

5260 (i) be no less than 1/4 page in size;

5261 (ii) use type no smaller than 18 point; and

5262 (iii) be surrounded by a 1/4-inch border.

5263 (c) The advertisement described in Subsection (6)(a)(i) may not be placed in that
5264 portion of the newspaper where legal notices and classified advertisements appear.

5265 (d) It is the intent of the Legislature that:

5266 (i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a
5267 newspaper that is published at least one day per week; and

5268 (ii) the newspaper or combination of newspapers selected:

5269 (A) be of general interest and readership in the taxing entity; and

5270 (B) not be of limited subject matter.

5271 (e) (i) The advertisement described in Subsection (6)(a)(i) shall:

5272 (A) except as provided in Subsection (6)(f), be run once each week for the two weeks
5273 before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b);
5274 and

5275 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the
5276 advertisement, which shall be seven or more days after the day the first advertisement is
5277 published, for the purpose of hearing comments regarding any proposed increase and to explain
5278 the reasons for the proposed increase.

5279 (ii) The advertisement described in Subsection (6)(a)(ii) shall:

5280 (A) be published two weeks before a taxing entity conducts a public hearing described
5281 in Subsection (3)(a)(v) or (4)(b); and

5282 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the
5283 advertisement, which shall be seven or more days after the day the first advertisement is
5284 published, for the purpose of hearing comments regarding any proposed increase and to explain
5285 the reasons for the proposed increase.

5286 (f) If a fiscal year taxing entity's public hearing information is published by the county
5287 auditor in accordance with Section [59-2-919.2](#), the fiscal year taxing entity is not subject to the
5288 requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run
5289 the advertisement once during the week before the fiscal year taxing entity conducts a public
5290 hearing at which the taxing entity's annual budget is discussed.

5291 (g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an
5292 advertisement shall be substantially as follows:

5293 "NOTICE OF PROPOSED TAX INCREASE

5294 (NAME OF TAXING ENTITY)

5295 The (name of the taxing entity) is proposing to increase its property tax revenue.

5296 • The (name of the taxing entity) tax on a (insert the average value of a residence
5297 in the taxing entity rounded to the nearest thousand dollars) residence would
5298 increase from \$_____ to \$_____, which is \$_____ per year.

5299 • The (name of the taxing entity) tax on a (insert the value of a business having
5300 the same value as the average value of a residence in the taxing entity) business
5301 would increase from \$_____ to \$_____, which is \$_____ per year.

5302 • If the proposed budget is approved, (name of the taxing entity) would increase
5303 its property tax budgeted revenue by ___% above last year's property tax
5304 budgeted revenue excluding eligible new growth.

5305 All concerned citizens are invited to a public hearing on the tax increase.

5306 PUBLIC HEARING

5307 Date/Time: (date) (time)

5308 Location: (name of meeting place and address of meeting place)

5309 To obtain more information regarding the tax increase, citizens may contact the (name
5310 of the taxing entity) at (phone number of taxing entity)."

5311 (7) The commission:

5312 (a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative
5313 Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by
5314 two or more taxing entities; and

5315 (b) subject to Section 45-1-101, may authorize:

5316 (i) the use of a weekly newspaper:

5317 (A) in a county having both daily and weekly newspapers if the weekly newspaper
5318 would provide equal or greater notice to the taxpayer; and

5319 (B) if the county petitions the commission for the use of the weekly newspaper; or

5320 (ii) the use by a taxing entity of a commission approved direct notice to each taxpayer

5321 if:

5322 (A) the cost of the advertisement would cause undue hardship;
5323 (B) the direct notice is different and separate from that provided for in Section
5324 59-2-919.1; and
5325 (C) the taxing entity petitions the commission for the use of a commission approved
5326 direct notice.

5327 (8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county
5328 legislative body in which the fiscal year taxing entity is located of the date, time, and place of
5329 the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

5330 (B) A county that receives notice from a fiscal year taxing entity under Subsection
5331 (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place
5332 of the public hearing described in Subsection (8)(a)(i)(A).

5333 (ii) A calendar year taxing entity shall, on or before October 1 of the current calendar
5334 year, notify the county legislative body in which the calendar year taxing entity is located of the
5335 date, time, and place of the first public hearing at which the calendar year taxing entity's annual
5336 budget will be discussed.

5337 (b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be open to the
5338 public.

5339 (ii) The governing body of a taxing entity conducting a public hearing described in
5340 Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an
5341 opportunity to present oral testimony within reasonable time limits.

5342 (c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a
5343 public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing
5344 of another overlapping taxing entity in the same county.

5345 (ii) The taxing entities in which the power to set tax levies is vested in the same
5346 governing board or authority may consolidate the public hearings described in Subsection
5347 (3)(a)(v) or (4)(b) into one public hearing.

5348 (d) A county legislative body shall resolve any conflict in public hearing dates and
5349 times after consultation with each affected taxing entity.

5350 (e) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or
5351 (4)(b) beginning at or after 6 p.m.

5352 (9) (a) If a taxing entity does not make a final decision on budgeting additional ad
5353 valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing
5354 entity shall announce at that public hearing the scheduled time and place of the next public
5355 meeting at which the taxing entity will consider budgeting the additional ad valorem tax
5356 revenue.

5357 (b) A calendar year taxing entity may not adopt a final budget that budgets an amount
5358 of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem
5359 tax revenue stated at a public meeting under Subsection (3)(a)(i).

5360 (c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's
5361 certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed
5362 annual budget.

5363 Section 71. Section **59-2-924** is amended to read:

5364 **59-2-924. Definitions -- Report of valuation of property to county auditor and**
5365 **commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax**
5366 **rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the**
5367 **commission.**

5368 (1) As used in this section:

5369 (a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with
5370 this chapter.

5371 (ii) "Ad valorem property tax revenue" does not include:

5372 (A) interest;

5373 (B) penalties;

5374 (C) collections from redemptions; or

5375 (D) revenue received by a taxing entity from personal property that is semiconductor
5376 manufacturing equipment assessed by a county assessor in accordance with Part 3, County
5377 Assessment.

- 5378 (b) (i) "Aggregate taxable value of all property taxed" means:
- 5379 (A) the aggregate taxable value of all real property a county assessor assesses in
5380 accordance with Part 3, County Assessment, for the current year;
- 5381 (B) the aggregate taxable value of all real and personal property the commission
5382 assesses in accordance with Part 2, Assessment of Property, for the current year; and
- 5383 (C) the aggregate year end taxable value of all personal property a county assessor
5384 assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls
5385 of the taxing entity.
- 5386 (ii) "Aggregate taxable value of all property taxed" does not include the aggregate year
5387 end taxable value of personal property that is:
- 5388 (A) semiconductor manufacturing equipment assessed by a county assessor in
5389 accordance with Part 3, County Assessment; and
- 5390 (B) contained on the prior year's tax rolls of the taxing entity.
- 5391 (c) "Centrally assessed benchmark value" means an amount equal to the highest year
5392 end taxable value of real and personal property the commission assesses in accordance with
5393 Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1,
5394 2015, adjusted for taxable value attributable to:
- 5395 (i) an annexation to a taxing entity; or
- 5396 (ii) an incorrect allocation of taxable value of real or personal property the commission
5397 assesses in accordance with Part 2, Assessment of Property.
- 5398 (d) (i) "Centrally assessed new growth" means the greater of:
- 5399 (A) zero; or
- 5400 (B) the amount calculated by subtracting the centrally assessed benchmark value
5401 adjusted for prior year end incremental value from the taxable value of real and personal
5402 property the commission assesses in accordance with Part 2, Assessment of Property, for the
5403 current year, adjusted for current year incremental value.
- 5404 (ii) "Centrally assessed new growth" does not include a change in value as a result of a
5405 change in the method of apportioning the value prescribed by the Legislature, a court, or the

5406 commission in an administrative rule or administrative order.

5407 (e) "Certified tax rate" means a tax rate that will provide the same ad valorem property
5408 tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

5409 (f) "Eligible new growth" means the greater of:

5410 (i) zero; or

5411 (ii) the sum of:

5412 (A) locally assessed new growth;

5413 (B) centrally assessed new growth; and

5414 (C) project area new growth.

5415 (g) "Incremental value" means the same as that term is defined in Section 17C-1-102.

5416 (h) (i) "Locally assessed new growth" means the greater of:

5417 (A) zero; or

5418 (B) the amount calculated by subtracting the year end taxable value of real property the
5419 county assessor assesses in accordance with Part 3, County Assessment, for the previous year,
5420 adjusted for prior year end incremental value from the taxable value of real property the county
5421 assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted
5422 for current year incremental value.

5423 (ii) "Locally assessed new growth" does not include a change in:

5424 (A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or
5425 another adjustment;

5426 (B) assessed value based on whether a property is allowed a residential exemption for a
5427 primary residence under Section 59-2-103;

5428 (C) assessed value based on whether a property is assessed under Part 5, Farmland
5429 Assessment Act; or

5430 (D) assessed value based on whether a property is assessed under Part 17, Urban
5431 Farming Assessment Act.

5432 (i) "Project area" means the same as that term is defined in Section 17C-1-102.

5433 (j) "Project area new growth" means an amount equal to the incremental value that is

5434 no longer provided to an agency as tax increment.

5435 (2) Before June 1 of each year, the county assessor of each county shall deliver to the
5436 county auditor and the commission the following statements:

5437 (a) a statement containing the aggregate valuation of all taxable real property a county
5438 assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

5439 (b) a statement containing the taxable value of all personal property a county assessor
5440 assesses in accordance with Part 3, County Assessment, from the prior year end values.

5441 (3) The county auditor shall, on or before June 8, transmit to the governing body of
5442 each taxing entity:

5443 (a) the statements described in Subsections (2)(a) and (b);

5444 (b) an estimate of the revenue from personal property;

5445 (c) the certified tax rate; and

5446 (d) all forms necessary to submit a tax levy request.

5447 (4) (a) Except as otherwise provided in this section, the certified tax rate shall be
5448 calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the
5449 prior year by the amount calculated under Subsection (4)(b).

5450 (b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall
5451 calculate an amount as follows:

5452 (i) calculate for the taxing entity the difference between:

5453 (A) the aggregate taxable value of all property taxed; and

5454 (B) any adjustments for current year incremental value;

5455 (ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount
5456 determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the
5457 average of the percentage net change in the value of taxable property for the equalization
5458 period for the three calendar years immediately preceding the current calendar year;

5459 (iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product
5460 of:

5461 (A) the amount calculated under Subsection (4)(b)(ii); and

5462 (B) the percentage of property taxes collected for the five calendar years immediately
5463 preceding the current calendar year; and

5464 (iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount
5465 determined by subtracting eligible new growth from the amount calculated under Subsection
5466 (4)(b)(iii).

5467 (5) A certified tax rate for a taxing entity described in this Subsection (5) shall be
5468 calculated as follows:

5469 (a) except as provided in Subsection (5)(b), for a new taxing entity, the certified tax
5470 rate is zero;

5471 (b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

5472 (i) in a county of the first, second, or third class, the levy imposed for municipal-type
5473 services under Sections [17-34-1](#) and [17-36-9](#); and

5474 (ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county
5475 purposes and such other levies imposed solely for the municipal-type services identified in
5476 Section [17-34-1](#) and Subsection [17-36-3\(22\)](#); and

5477 (c) for debt service voted on by the public, the certified tax rate is the actual levy
5478 imposed by that section, except that a certified tax rate for the following levies shall be
5479 calculated in accordance with Section [59-2-913](#) and this section:

5480 (i) a school levy provided for under Section [~~53A-16-113~~] [53F-8-303](#), [~~53A-17a-133~~]
5481 [53F-8-301](#), or [~~53A-17a-164~~] [53F-8-302](#); and

5482 (ii) a levy to pay for the costs of state legislative mandates or judicial or administrative
5483 orders under Section [59-2-1602](#).

5484 (6) (a) A judgment levy imposed under Section [59-2-1328](#) or [59-2-1330](#) may be
5485 imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more
5486 eligible judgments.

5487 (b) The ad valorem property tax revenue generated by a judgment levy described in
5488 Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax
5489 rate.

5490 (7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

5491 (i) the taxable value of real property:

5492 (A) the county assessor assesses in accordance with Part 3, County Assessment; and

5493 (B) contained on the assessment roll;

5494 (ii) the year end taxable value of personal property:

5495 (A) a county assessor assesses in accordance with Part 3, County Assessment; and

5496 (B) contained on the prior year's assessment roll; and

5497 (iii) the taxable value of real and personal property the commission assesses in

5498 accordance with Part 2, Assessment of Property.

5499 (b) For purposes of Subsection (7)(a), taxable value does not include eligible new
5500 growth.

5501 (8) (a) On or before June 22, a taxing entity shall annually adopt a tentative budget.

5502 (b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall
5503 notify the county auditor of:

5504 (i) the taxing entity's intent to exceed the certified tax rate; and

5505 (ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

5506 (c) The county auditor shall notify property owners of any intent to levy a tax rate that
5507 exceeds the certified tax rate in accordance with Sections [59-2-919](#) and [59-2-919.1](#).

5508 (9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through
5509 electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim
5510 Committee if:

5511 (i) the amount calculated under Subsection (9)(b) is 10% or more of the year end
5512 taxable value of the real and personal property the commission assesses in accordance with
5513 Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental
5514 value; and

5515 (ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end
5516 taxable value of the real and personal property of a taxpayer the commission assesses in
5517 accordance with Part 2, Assessment of Property, for the previous year.

5518 (b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by
5519 subtracting the taxable value of real and personal property the commission assesses in
5520 accordance with Part 2, Assessment of Property, for the current year, adjusted for current year
5521 incremental value, from the year end taxable value of the real and personal property the
5522 commission assesses in accordance with Part 2, Assessment of Property, for the previous year,
5523 adjusted for prior year end incremental value.

5524 (c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by
5525 subtracting the total taxable value of real and personal property of a taxpayer the commission
5526 assesses in accordance with Part 2, Assessment of Property, for the current year, from the total
5527 year end taxable value of the real and personal property of a taxpayer the commission assesses
5528 in accordance with Part 2, Assessment of Property, for the previous year.

5529 (d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet
5530 the requirement under Subsection (9)(a)(ii).

5531 Section 72. Section **59-2-926** is amended to read:

5532 **59-2-926. Proposed tax increase by state -- Notice -- Contents -- Dates.**

5533 If the state authorizes a levy pursuant to Section [~~53A-17a-135~~] 53F-2-301 that exceeds
5534 the certified revenue levy as defined in Section [~~53A-17a-103~~] 53F-2-102 or authorizes a levy
5535 pursuant to Section 59-2-1602 that exceeds the certified revenue levy as defined in Section
5536 59-2-102, the state shall publish a notice no later than 10 days after the last day of the annual
5537 legislative general session that meets the following requirements:

5538 (1) (a) The Office of the Legislative Fiscal Analyst shall advertise that the state
5539 authorized a levy that generates revenue in excess of the previous year's ad valorem tax
5540 revenue, plus eligible new growth as defined in Section 59-2-924, but exclusive of revenue
5541 from collections from redemptions, interest, and penalties:

5542 (i) in a newspaper of general circulation in the state; and

5543 (ii) as required in Section 45-1-101.

5544 (b) Except an advertisement published on a website, the advertisement described in
5545 Subsection (1)(a):

5546 (i) shall be no less than 1/4 page in size and the type used shall be no smaller than 18
5547 point, and surrounded by a 1/4-inch border;

5548 (ii) may not be placed in that portion of the newspaper where legal notices and
5549 classified advertisements appear; and

5550 (iii) shall be run once.

5551 (2) The form and content of the notice shall be substantially as follows:

5552 "NOTICE OF TAX INCREASE

5553 The state has budgeted an increase in its property tax revenue from \$_____ to
5554 \$_____ or ____%. The increase in property tax revenues will come from the following
5555 sources (include all of the following provisions):

5556 (a) \$_____ of the increase will come from (provide an explanation of the cause
5557 of adjustment or increased revenues, such as reappraisals or factoring orders);

5558 (b) \$_____ of the increase will come from natural increases in the value of the
5559 tax base due to (explain cause of eligible new growth, such as new building activity,
5560 annexation, etc.);

5561 (c) a home valued at \$100,000 in the state of Utah which based on last year's (levy for
5562 the basic state-supported school program, levy for the Property Tax Valuation Agency Fund, or
5563 both) paid \$_____ in property taxes would pay the following:

5564 (i) \$_____ if the state of Utah did not budget an increase in property tax revenue
5565 exclusive of eligible new growth; and

5566 (ii) \$_____ under the increased property tax revenues exclusive of eligible new
5567 growth budgeted by the state of Utah."

5568 Section 73. Section **59-2-1101** is amended to read:

5569 **59-2-1101. Definitions -- Exemption of certain property -- Proportional payments**
5570 **for certain property -- County legislative body authority to adopt rules or ordinances.**

5571 (1) As used in this section:

5572 (a) "Educational purposes" includes:

5573 (i) the physical or mental teaching, training, or conditioning of competitive athletes by

5574 a national governing body of sport recognized by the United States Olympic Committee that
5575 qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

5576 (ii) an activity in support of or incidental to the teaching, training, or conditioning
5577 described in Subsection (1)(a)(i).

5578 (b) "Exclusive use exemption" means a property tax exemption under Subsection
5579 (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or
5580 educational purposes.

5581 (c) "Government exemption" means a property tax exemption provided under
5582 Subsection (3)(a)(i), (ii), or (iii).

5583 (d) "Nonprofit entity" includes an entity if the:

5584 (i) entity is treated as a disregarded entity for federal income tax purposes;

5585 (ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity;

5586 and

5587 (iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit
5588 entity.

5589 (e) "Tax relief" means an exemption, deferral, or abatement that is authorized by this
5590 part.

5591 (2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if
5592 the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

5593 (b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional
5594 tax based upon the length of time that the property was not owned by the claimant if:

5595 (i) the claimant is a federal, state, or political subdivision entity described in

5596 Subsection (3)(a)(i), (ii), or (iii); or

5597 (ii) pursuant to Subsection (3)(a)(iv):

5598 (A) the claimant is a nonprofit entity; and

5599 (B) the property is used exclusively for religious, charitable, or educational purposes.

5600 (c) Subsection (2)(a) does not apply to an exemption under Section [59-2-1104](#).

5601 (3) (a) The following property is exempt from taxation:

- 5602 (i) property exempt under the laws of the United States;
- 5603 (ii) property of:
- 5604 (A) the state;
- 5605 (B) school districts; and
- 5606 (C) public libraries;
- 5607 (iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:
- 5608 (A) counties;
- 5609 (B) cities;
- 5610 (C) towns;
- 5611 (D) local districts;
- 5612 (E) special service districts; and
- 5613 (F) all other political subdivisions of the state;
- 5614 (iv) property owned by a nonprofit entity used exclusively for religious, charitable, or
- 5615 educational purposes;
- 5616 (v) places of burial not held or used for private or corporate benefit;
- 5617 (vi) farm machinery and equipment;
- 5618 (vii) a high tunnel, as defined in Section [10-9a-525](#);
- 5619 (viii) intangible property; and
- 5620 (ix) the ownership interest of an out-of-state public agency, as defined in Section
- 5621 [11-13-103](#):
- 5622 (A) if that ownership interest is in property providing additional project capacity, as
- 5623 defined in Section [11-13-103](#); and
- 5624 (B) on which a fee in lieu of ad valorem property tax is payable under Section
- 5625 [11-13-302](#).
- 5626 (b) For purposes of a property tax exemption for property of school districts under
- 5627 Subsection (3)(a)(ii)(B), a charter school under [~~Title 53A, Chapter 1a, Part 5, The Utah~~
- 5628 ~~Charter Schools Act~~] Title 53G, Chapter 5, Charter Schools, is considered to be a school
- 5629 district.

5630 (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or
5631 a government exemption ceases to qualify for the exemption because of a change in the
5632 ownership of the property:

5633 (a) the new owner of the property shall pay a proportional tax based upon the period of
5634 time:

5635 (i) beginning on the day that the new owner acquired the property; and

5636 (ii) ending on the last day of the calendar year during which the new owner acquired
5637 the property; and

5638 (b) the new owner of the property and the person from whom the new owner acquires
5639 the property shall notify the county assessor, in writing, of the change in ownership of the
5640 property within 30 days from the day that the new owner acquires the property.

5641 (5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection
5642 (4)(a):

5643 (a) is subject to any exclusive use exemption or government exemption that the
5644 property is entitled to under the new ownership of the property; and

5645 (b) applies only to property that is acquired after December 31, 2005.

5646 (6) A county legislative body may adopt rules or ordinances to:

5647 (a) effectuate the exemptions, deferrals, abatements, or other relief from taxation
5648 provided in this part; and

5649 (b) designate one or more persons to perform the functions given the county under this
5650 part.

5651 Section 74. Section **59-10-1018** is amended to read:

5652 **59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.**

5653 (1) As used in this section:

5654 (a) "Dependent adult with a disability" means an individual who:

5655 (i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the
5656 claimant's federal individual income tax return for the taxable year;

5657 (ii) is not the claimant or the claimant's spouse; and

- 5658 (iii) is:
- 5659 (A) 18 years of age or older;
- 5660 (B) eligible for services under Title 62A, Chapter 5, Services for People with
- 5661 Disabilities; and
- 5662 (C) not enrolled in an education program for students with disabilities that is
- 5663 authorized under Section [~~53A-15-301~~] [53E-7-202](#).
- 5664 (b) "Dependent child with a disability" means an individual 21 years of age or younger
- 5665 who:
- 5666 (i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the
- 5667 claimant's federal individual income tax return for the taxable year;
- 5668 (ii) is not the claimant or the claimant's spouse; and
- 5669 (iii) is:
- 5670 (A) an eligible student with a disability; or
- 5671 (B) identified under guidelines of the Department of Health as qualified for Early
- 5672 Intervention or Infant Development Services.
- 5673 (c) "Eligible student with a disability" means an individual who is:
- 5674 (i) diagnosed by a school district representative under rules the State Board of
- 5675 Education adopts in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
- 5676 Act, as having a disability classified as autism, deafness, preschool developmental delay, dual
- 5677 sensory impairment, hearing impairment, intellectual disability, multidisability, orthopedic
- 5678 impairment, other health impairment, traumatic brain injury, or visual impairment;
- 5679 (ii) not receiving residential services from the Division of Services for People with
- 5680 Disabilities created under Section [62A-5-102](#) or a school established under [~~Title 53A, Chapter~~
- 5681 ~~25b, Utah Schools for the Deaf and the Blind~~] [Title 53E, Chapter 8, Utah Schools for the Deaf](#)
- 5682 [and the Blind](#); and
- 5683 (iii) (A) enrolled in an education program for students with disabilities that is
- 5684 authorized under Section [~~53A-15-301~~] [53E-7-202](#); or
- 5685 (B) a recipient of a scholarship awarded under [~~Title 53A, Chapter 1a, Part 7, Carson~~

5686 ~~Smith Scholarships for Students with Special Needs Act]~~ Title 53F, Chapter 4, Part 3, Carson
5687 Smith Scholarship Program.

5688 (d) "Head of household filing status" means a head of household, as defined in Section
5689 2(b), Internal Revenue Code, who files a single federal individual income tax return for the
5690 taxable year.

5691 (e) "Joint filing status" means:

5692 (i) a husband and wife who file a single return jointly under this chapter for a taxable
5693 year; or

5694 (ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a
5695 single federal individual income tax return for the taxable year.

5696 (f) "Single filing status" means:

5697 (i) a single individual who files a single federal individual income tax return for the
5698 taxable year; or

5699 (ii) a married individual who:

5700 (A) does not file a single federal individual income tax return jointly with that married
5701 individual's spouse for the taxable year; and

5702 (B) files a single federal individual income tax return for the taxable year.

5703 (2) Except as provided in Section [59-10-1002.2](#), and subject to Subsections (3) through
5704 (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part
5705 equal to the sum of:

5706 (a) (i) for a claimant that deducts the standard deduction on the claimant's federal
5707 individual income tax return for the taxable year, 6% of the amount the claimant deducts as
5708 allowed as the standard deduction on the claimant's federal individual income tax return for
5709 that taxable year; or

5710 (ii) for a claimant that itemizes deductions on the claimant's federal individual income
5711 tax return for the taxable year, the product of:

5712 (A) the difference between:

5713 (I) the amount the claimant deducts as allowed as an itemized deduction on the

5714 claimant's federal individual income tax return for that taxable year; and
5715 (II) any amount of state or local income taxes the claimant deducts as allowed as an
5716 itemized deduction on the claimant's federal individual income tax return for that taxable year;
5717 and

5718 (B) 6%; and

5719 (b) the product of:

5720 (i) 75% of the total amount the claimant deducts as allowed as a personal exemption
5721 deduction on the claimant's federal individual income tax return for that taxable year, plus an
5722 additional 75% of the amount the claimant deducts as allowed as a personal exemption
5723 deduction on the claimant's federal individual income tax return for that taxable year with
5724 respect to each dependent adult with a disability or dependent child with a disability; and

5725 (ii) 6%.

5726 (3) A claimant may not carry forward or carry back a tax credit under this section.

5727 (4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar
5728 by which a claimant's state taxable income exceeds:

5729 (a) for a claimant who has a single filing status, \$12,000;

5730 (b) for a claimant who has a head of household filing status, \$18,000; or

5731 (c) for a claimant who has a joint filing status, \$24,000.

5732 (5) (a) For taxable years beginning on or after January 1, 2009, the commission shall
5733 increase or decrease the following dollar amounts by a percentage equal to the percentage
5734 difference between the consumer price index for the preceding calendar year and the consumer
5735 price index for calendar year 2007:

5736 (i) the dollar amount listed in Subsection (4)(a); and

5737 (ii) the dollar amount listed in Subsection (4)(b).

5738 (b) After the commission increases or decreases the dollar amounts listed in Subsection
5739 (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the
5740 nearest whole dollar.

5741 (c) After the commission rounds the dollar amounts as required by Subsection (5)(b),

5742 the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that
5743 the dollar amount listed in Subsection (4)(c) is equal to the product of:

5744 (i) the dollar amount listed in Subsection (4)(a); and

5745 (ii) two.

5746 (d) For purposes of Subsection (5)(a), the commission shall calculate the consumer
5747 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

5748 Section 75. Section **59-10-1307** is amended to read:

5749 **59-10-1307. Contributions for education.**

5750 (1) Except as provided in Section [59-10-1304](#), a resident or nonresident individual that
5751 files an individual income tax return under this chapter may designate on the resident or
5752 nonresident individual's individual income tax return a contribution as provided in this part to:

5753 (a) the foundation of any school district if that foundation is exempt from federal
5754 income taxation under Section 501(c)(3), Internal Revenue Code; or

5755 (b) a school district described in [~~Title 53A, Chapter 2, School Districts~~] Title 53G,
5756 Chapter 3, School District Creation and Change, if the school district has not established a
5757 foundation.

5758 (2) If a resident or nonresident individual designates an amount as a contribution
5759 under:

5760 (a) Subsection (1)(a), but does not designate a particular school district foundation to
5761 receive the contribution, the contribution shall be made to the State Board of Education to be
5762 distributed to one or more associations of foundations:

5763 (i) if those foundations that are members of the association are established in
5764 accordance with Section [~~53A-4-205~~] [53E-3-403](#); and

5765 (ii) as determined by the State Board of Education; or

5766 (b) Subsection (1)(b), but does not designate a particular school district to receive the
5767 contribution, the contribution shall be made to the State Board of Education.

5768 (3) The commission shall:

5769 (a) determine annually the total amount of contributions designated to each entity

5770 described in Subsection (1) in accordance with this section; and

5771 (b) subject to Subsection (2), credit the amounts described in Subsection (1) to the
5772 entities.

5773 Section 76. Section **59-10-1318** is amended to read:

5774 **59-10-1318. Contribution to Invest More for Education Account.**

5775 (1) Except as provided in Section [59-10-1304](#), a resident or nonresident individual that
5776 files an individual income tax return under this chapter may designate on the resident or
5777 nonresident individual's individual income tax return a contribution as provided in this section
5778 to be:

5779 (a) deposited into the Invest More for Education Account; and

5780 (b) expended as provided in Section [~~53A-16-115~~] [53F-9-205](#).

5781 (2) The commission shall:

5782 (a) determine the total amount of contributions designated in accordance with this
5783 section for a taxable year; and

5784 (b) credit the amount described in Subsection (2)(a) to the Invest More for Education
5785 Account created in Section [~~53A-16-115~~] [53F-9-205](#).

5786 Section 77. Section **59-12-102** is amended to read:

5787 **59-12-102. Definitions.**

5788 As used in this chapter:

5789 (1) "800 service" means a telecommunications service that:

5790 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

5791 (b) is typically marketed:

5792 (i) under the name 800 toll-free calling;

5793 (ii) under the name 855 toll-free calling;

5794 (iii) under the name 866 toll-free calling;

5795 (iv) under the name 877 toll-free calling;

5796 (v) under the name 888 toll-free calling; or

5797 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

5798 Federal Communications Commission.

5799 (2) (a) "900 service" means an inbound toll telecommunications service that:

5800 (i) a subscriber purchases;

5801 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to

5802 the subscriber's:

5803 (A) prerecorded announcement; or

5804 (B) live service; and

5805 (iii) is typically marketed:

5806 (A) under the name 900 service; or

5807 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

5808 Communications Commission.

5809 (b) "900 service" does not include a charge for:

5810 (i) a collection service a seller of a telecommunications service provides to a

5811 subscriber; or

5812 (ii) the following a subscriber sells to the subscriber's customer:

5813 (A) a product; or

5814 (B) a service.

5815 (3) (a) "Admission or user fees" includes season passes.

5816 (b) "Admission or user fees" does not include annual membership dues to private

5817 organizations.

5818 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on

5819 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax

5820 Agreement after November 12, 2002.

5821 (5) "Agreement combined tax rate" means the sum of the tax rates:

5822 (a) listed under Subsection (6); and

5823 (b) that are imposed within a local taxing jurisdiction.

5824 (6) "Agreement sales and use tax" means a tax imposed under:

5825 (a) Subsection [59-12-103\(2\)\(a\)\(i\)\(A\)](#);

- 5826 (b) Subsection 59-12-103(2)(b)(i);
- 5827 (c) Subsection 59-12-103(2)(c)(i);
- 5828 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 5829 (e) Section 59-12-204;
- 5830 (f) Section 59-12-401;
- 5831 (g) Section 59-12-402;
- 5832 (h) Section 59-12-402.1;
- 5833 (i) Section 59-12-703;
- 5834 (j) Section 59-12-802;
- 5835 (k) Section 59-12-804;
- 5836 (l) Section 59-12-1102;
- 5837 (m) Section 59-12-1302;
- 5838 (n) Section 59-12-1402;
- 5839 (o) Section 59-12-1802;
- 5840 (p) Section 59-12-2003;
- 5841 (q) Section 59-12-2103;
- 5842 (r) Section 59-12-2213;
- 5843 (s) Section 59-12-2214;
- 5844 (t) Section 59-12-2215;
- 5845 (u) Section 59-12-2216;
- 5846 (v) Section 59-12-2217;
- 5847 (w) Section 59-12-2218; or
- 5848 (x) Section 59-12-2219.
- 5849 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 5850 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 5851 (a) except for:
- 5852 (i) an airline as defined in Section 59-2-102; or
- 5853 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"

5854 includes a corporation that is qualified to do business but is not otherwise doing business in the
5855 state, of an airline; and

5856 (b) that has the workers, expertise, and facilities to perform the following, regardless of
5857 whether the business entity performs the following in this state:

5858 (i) check, diagnose, overhaul, and repair:

5859 (A) an onboard system of a fixed wing turbine powered aircraft; and

5860 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

5861 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
5862 engine;

5863 (iii) perform at least the following maintenance on a fixed wing turbine powered
5864 aircraft:

5865 (A) an inspection;

5866 (B) a repair, including a structural repair or modification;

5867 (C) changing landing gear; and

5868 (D) addressing issues related to an aging fixed wing turbine powered aircraft;

5869 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
5870 completely apply new paint to the fixed wing turbine powered aircraft; and

5871 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
5872 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
5873 authority that certifies the fixed wing turbine powered aircraft.

5874 (9) "Alcoholic beverage" means a beverage that:

5875 (a) is suitable for human consumption; and

5876 (b) contains .5% or more alcohol by volume.

5877 (10) "Alternative energy" means:

5878 (a) biomass energy;

5879 (b) geothermal energy;

5880 (c) hydroelectric energy;

5881 (d) solar energy;

- 5882 (e) wind energy; or
- 5883 (f) energy that is derived from:
 - 5884 (i) coal-to-liquids;
 - 5885 (ii) nuclear fuel;
 - 5886 (iii) oil-impregnated diatomaceous earth;
 - 5887 (iv) oil sands;
 - 5888 (v) oil shale;
 - 5889 (vi) petroleum coke; or
 - 5890 (vii) waste heat from:
 - 5891 (A) an industrial facility; or
 - 5892 (B) a power station in which an electric generator is driven through a process in which
 - 5893 water is heated, turns into steam, and spins a steam turbine.
- 5894 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 5895 facility" means a facility that:
 - 5896 (i) uses alternative energy to produce electricity; and
 - 5897 (ii) has a production capacity of two megawatts or greater.
- 5898 (b) A facility is an alternative energy electricity production facility regardless of
- 5899 whether the facility is:
 - 5900 (i) connected to an electric grid; or
 - 5901 (ii) located on the premises of an electricity consumer.
- 5902 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 5903 provision of telecommunications service.
 - 5904 (b) "Ancillary service" includes:
 - 5905 (i) a conference bridging service;
 - 5906 (ii) a detailed communications billing service;
 - 5907 (iii) directory assistance;
 - 5908 (iv) a vertical service; or
 - 5909 (v) a voice mail service.

5910 (13) "Area agency on aging" means the same as that term is defined in Section
5911 62A-3-101.

5912 (14) "Assisted amusement device" means an amusement device, skill device, or ride
5913 device that is started and stopped by an individual:

5914 (a) who is not the purchaser or renter of the right to use or operate the amusement
5915 device, skill device, or ride device; and

5916 (b) at the direction of the seller of the right to use the amusement device, skill device,
5917 or ride device.

5918 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
5919 washing of tangible personal property if the cleaning or washing labor is primarily performed
5920 by an individual:

5921 (a) who is not the purchaser of the cleaning or washing of the tangible personal
5922 property; and

5923 (b) at the direction of the seller of the cleaning or washing of the tangible personal
5924 property.

5925 (16) "Authorized carrier" means:

5926 (a) in the case of vehicles operated over public highways, the holder of credentials
5927 indicating that the vehicle is or will be operated pursuant to both the International Registration
5928 Plan and the International Fuel Tax Agreement;

5929 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
5930 certificate or air carrier's operating certificate; or

5931 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
5932 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
5933 stock in more than one state.

5934 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
5935 following that is used as the primary source of energy to produce fuel or electricity:

5936 (i) material from a plant or tree; or

5937 (ii) other organic matter that is available on a renewable basis, including:

- 5938 (A) slash and brush from forests and woodlands;
- 5939 (B) animal waste;
- 5940 (C) waste vegetable oil;
- 5941 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
- 5942 wastewater residuals, or through the conversion of a waste material through a nonincineration,
- 5943 thermal conversion process;
- 5944 (E) aquatic plants; and
- 5945 (F) agricultural products.
- 5946 (b) "Biomass energy" does not include:
- 5947 (i) black liquor; or
- 5948 (ii) treated woods.
- 5949 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 5950 property, products, or services if the tangible personal property, products, or services are:
- 5951 (i) distinct and identifiable; and
- 5952 (ii) sold for one nonitemized price.
- 5953 (b) "Bundled transaction" does not include:
- 5954 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 5955 the basis of the selection by the purchaser of the items of tangible personal property included in
- 5956 the transaction;
- 5957 (ii) the sale of real property;
- 5958 (iii) the sale of services to real property;
- 5959 (iv) the retail sale of tangible personal property and a service if:
- 5960 (A) the tangible personal property:
- 5961 (I) is essential to the use of the service; and
- 5962 (II) is provided exclusively in connection with the service; and
- 5963 (B) the service is the true object of the transaction;
- 5964 (v) the retail sale of two services if:
- 5965 (A) one service is provided that is essential to the use or receipt of a second service;

5966 (B) the first service is provided exclusively in connection with the second service; and

5967 (C) the second service is the true object of the transaction;

5968 (vi) a transaction that includes tangible personal property or a product subject to
5969 taxation under this chapter and tangible personal property or a product that is not subject to
5970 taxation under this chapter if the:

5971 (A) seller's purchase price of the tangible personal property or product subject to
5972 taxation under this chapter is de minimis; or

5973 (B) seller's sales price of the tangible personal property or product subject to taxation
5974 under this chapter is de minimis; and

5975 (vii) the retail sale of tangible personal property that is not subject to taxation under
5976 this chapter and tangible personal property that is subject to taxation under this chapter if:

5977 (A) that retail sale includes:

5978 (I) food and food ingredients;

5979 (II) a drug;

5980 (III) durable medical equipment;

5981 (IV) mobility enhancing equipment;

5982 (V) an over-the-counter drug;

5983 (VI) a prosthetic device; or

5984 (VII) a medical supply; and

5985 (B) subject to Subsection (18)(f):

5986 (I) the seller's purchase price of the tangible personal property subject to taxation under
5987 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

5988 (II) the seller's sales price of the tangible personal property subject to taxation under
5989 this chapter is 50% or less of the seller's total sales price of that retail sale.

5990 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
5991 service that is distinct and identifiable does not include:

5992 (A) packaging that:

5993 (I) accompanies the sale of the tangible personal property, product, or service; and

5994 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
5995 service;

5996 (B) tangible personal property, a product, or a service provided free of charge with the
5997 purchase of another item of tangible personal property, a product, or a service; or

5998 (C) an item of tangible personal property, a product, or a service included in the
5999 definition of "purchase price."

6000 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
6001 product, or a service is provided free of charge with the purchase of another item of tangible
6002 personal property, a product, or a service if the sales price of the purchased item of tangible
6003 personal property, product, or service does not vary depending on the inclusion of the tangible
6004 personal property, product, or service provided free of charge.

6005 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
6006 does not include a price that is separately identified by tangible personal property, product, or
6007 service on the following, regardless of whether the following is in paper format or electronic
6008 format:

6009 (A) a binding sales document; or

6010 (B) another supporting sales-related document that is available to a purchaser.

6011 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
6012 supporting sales-related document that is available to a purchaser includes:

6013 (A) a bill of sale;

6014 (B) a contract;

6015 (C) an invoice;

6016 (D) a lease agreement;

6017 (E) a periodic notice of rates and services;

6018 (F) a price list;

6019 (G) a rate card;

6020 (H) a receipt; or

6021 (I) a service agreement.

6022 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
6023 property or a product subject to taxation under this chapter is de minimis if:

6024 (A) the seller's purchase price of the tangible personal property or product is 10% or
6025 less of the seller's total purchase price of the bundled transaction; or

6026 (B) the seller's sales price of the tangible personal property or product is 10% or less of
6027 the seller's total sales price of the bundled transaction.

6028 (ii) For purposes of Subsection (18)(b)(vi), a seller:

6029 (A) shall use the seller's purchase price or the seller's sales price to determine if the
6030 purchase price or sales price of the tangible personal property or product subject to taxation
6031 under this chapter is de minimis; and

6032 (B) may not use a combination of the seller's purchase price and the seller's sales price
6033 to determine if the purchase price or sales price of the tangible personal property or product
6034 subject to taxation under this chapter is de minimis.

6035 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
6036 contract to determine if the sales price of tangible personal property or a product is de minimis.

6037 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
6038 the seller's purchase price and the seller's sales price to determine if tangible personal property
6039 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
6040 price of that retail sale.

6041 (19) "Certified automated system" means software certified by the governing board of
6042 the agreement that:

6043 (a) calculates the agreement sales and use tax imposed within a local taxing
6044 jurisdiction:

6045 (i) on a transaction; and

6046 (ii) in the states that are members of the agreement;

6047 (b) determines the amount of agreement sales and use tax to remit to a state that is a
6048 member of the agreement; and

6049 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

6050 (20) "Certified service provider" means an agent certified:
6051 (a) by the governing board of the agreement; and
6052 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
6053 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
6054 own purchases.

6055 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
6056 suitable for general use.

6057 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6058 commission shall make rules:

6059 (i) listing the items that constitute "clothing"; and

6060 (ii) that are consistent with the list of items that constitute "clothing" under the
6061 agreement.

6062 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

6063 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
6064 fuels that does not constitute industrial use under Subsection (56) or residential use under
6065 Subsection (106).

6066 (24) (a) "Common carrier" means a person engaged in or transacting the business of
6067 transporting passengers, freight, merchandise, or other property for hire within this state.

6068 (b) (i) "Common carrier" does not include a person who, at the time the person is
6069 traveling to or from that person's place of employment, transports a passenger to or from the
6070 passenger's place of employment.

6071 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
6072 Utah Administrative Rulemaking Act, the commission may make rules defining what
6073 constitutes a person's place of employment.

6074 (c) "Common carrier" does not include a person that provides transportation network
6075 services, as defined in Section 13-51-102.

6076 (25) "Component part" includes:

6077 (a) poultry, dairy, and other livestock feed, and their components;

- 6078 (b) baling ties and twine used in the baling of hay and straw;
- 6079 (c) fuel used for providing temperature control of orchards and commercial
- 6080 greenhouses doing a majority of their business in wholesale sales, and for providing power for
- 6081 off-highway type farm machinery; and
- 6082 (d) feed, seeds, and seedlings.
- 6083 (26) "Computer" means an electronic device that accepts information:
- 6084 (a) (i) in digital form; or
- 6085 (ii) in a form similar to digital form; and
- 6086 (b) manipulates that information for a result based on a sequence of instructions.
- 6087 (27) "Computer software" means a set of coded instructions designed to cause:
- 6088 (a) a computer to perform a task; or
- 6089 (b) automatic data processing equipment to perform a task.
- 6090 (28) "Computer software maintenance contract" means a contract that obligates a seller
- 6091 of computer software to provide a customer with:
- 6092 (a) future updates or upgrades to computer software;
- 6093 (b) support services with respect to computer software; or
- 6094 (c) a combination of Subsections (28)(a) and (b).
- 6095 (29) (a) "Conference bridging service" means an ancillary service that links two or
- 6096 more participants of an audio conference call or video conference call.
- 6097 (b) "Conference bridging service" may include providing a telephone number as part of
- 6098 the ancillary service described in Subsection (29)(a).
- 6099 (c) "Conference bridging service" does not include a telecommunications service used
- 6100 to reach the ancillary service described in Subsection (29)(a).
- 6101 (30) "Construction materials" means any tangible personal property that will be
- 6102 converted into real property.
- 6103 (31) "Delivered electronically" means delivered to a purchaser by means other than
- 6104 tangible storage media.
- 6105 (32) (a) "Delivery charge" means a charge:

6106 (i) by a seller of:
6107 (A) tangible personal property;
6108 (B) a product transferred electronically; or
6109 (C) services; and
6110 (ii) for preparation and delivery of the tangible personal property, product transferred
6111 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
6112 purchaser.

6113 (b) "Delivery charge" includes a charge for the following:

- 6114 (i) transportation;
- 6115 (ii) shipping;
- 6116 (iii) postage;
- 6117 (iv) handling;
- 6118 (v) crating; or
- 6119 (vi) packing.

6120 (33) "Detailed telecommunications billing service" means an ancillary service of
6121 separately stating information pertaining to individual calls on a customer's billing statement.

6122 (34) "Dietary supplement" means a product, other than tobacco, that:

- 6123 (a) is intended to supplement the diet;
- 6124 (b) contains one or more of the following dietary ingredients:
 - 6125 (i) a vitamin;
 - 6126 (ii) a mineral;
 - 6127 (iii) an herb or other botanical;
 - 6128 (iv) an amino acid;
 - 6129 (v) a dietary substance for use by humans to supplement the diet by increasing the total
6130 dietary intake; or
 - 6131 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
6132 described in Subsections (34)(b)(i) through (v);
- 6133 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

- 6134 (A) tablet form;
- 6135 (B) capsule form;
- 6136 (C) powder form;
- 6137 (D) softgel form;
- 6138 (E) gelcap form; or
- 6139 (F) liquid form; or
- 6140 (ii) if the product is not intended for ingestion in a form described in Subsections
- 6141 (34)(c)(i)(A) through (F), is not represented:
 - 6142 (A) as conventional food; and
 - 6143 (B) for use as a sole item of:
 - 6144 (I) a meal; or
 - 6145 (II) the diet; and
 - 6146 (d) is required to be labeled as a dietary supplement:
 - 6147 (i) identifiable by the "Supplemental Facts" box found on the label; and
 - 6148 (ii) as required by 21 C.F.R. Sec. 101.36.
- 6149 (35) "Digital audio-visual work" means a series of related images which, when shown
- 6150 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 6151 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 6152 musical, spoken, or other sounds.
 - 6153 (b) "Digital audio work" includes a ringtone.
- 6154 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
- 6155 sense as a book.
- 6156 (38) (a) "Direct mail" means printed material delivered or distributed by United States
- 6157 mail or other delivery service:
 - 6158 (i) to:
 - 6159 (A) a mass audience; or
 - 6160 (B) addressees on a mailing list provided:
 - 6161 (I) by a purchaser of the mailing list; or

- 6162 (II) at the discretion of the purchaser of the mailing list; and
- 6163 (ii) if the cost of the printed material is not billed directly to the recipients.
- 6164 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 6165 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 6166 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 6167 single address.
- 6168 (39) "Directory assistance" means an ancillary service of providing:
- 6169 (a) address information; or
- 6170 (b) telephone number information.
- 6171 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
- 6172 or supplies that:
- 6173 (i) cannot withstand repeated use; and
- 6174 (ii) are purchased by, for, or on behalf of a person other than:
- 6175 (A) a health care facility as defined in Section [26-21-2](#);
- 6176 (B) a health care provider as defined in Section [78B-3-403](#);
- 6177 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
- 6178 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
- 6179 (b) "Disposable home medical equipment or supplies" does not include:
- 6180 (i) a drug;
- 6181 (ii) durable medical equipment;
- 6182 (iii) a hearing aid;
- 6183 (iv) a hearing aid accessory;
- 6184 (v) mobility enhancing equipment; or
- 6185 (vi) tangible personal property used to correct impaired vision, including:
- 6186 (A) eyeglasses; or
- 6187 (B) contact lenses.
- 6188 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 6189 commission may by rule define what constitutes medical equipment or supplies.

- 6190 (41) "Drilling equipment manufacturer" means a facility:
6191 (a) located in the state;
6192 (b) with respect to which 51% or more of the manufacturing activities of the facility
6193 consist of manufacturing component parts of drilling equipment;
6194 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
6195 manufacturing process; and
6196 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
6197 manufacturing process.
- 6198 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a
6199 compound, substance, or preparation that is:
- 6200 (i) recognized in:
6201 (A) the official United States Pharmacopoeia;
6202 (B) the official Homeopathic Pharmacopoeia of the United States;
6203 (C) the official National Formulary; or
6204 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
6205 (ii) intended for use in the:
6206 (A) diagnosis of disease;
6207 (B) cure of disease;
6208 (C) mitigation of disease;
6209 (D) treatment of disease; or
6210 (E) prevention of disease; or
6211 (iii) intended to affect:
6212 (A) the structure of the body; or
6213 (B) any function of the body.
- 6214 (b) "Drug" does not include:
6215 (i) food and food ingredients;
6216 (ii) a dietary supplement;
6217 (iii) an alcoholic beverage; or

- 6218 (iv) a prosthetic device.
- 6219 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
- 6220 equipment that:
 - 6221 (i) can withstand repeated use;
 - 6222 (ii) is primarily and customarily used to serve a medical purpose;
 - 6223 (iii) generally is not useful to a person in the absence of illness or injury; and
 - 6224 (iv) is not worn in or on the body.
- 6225 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 6226 equipment described in Subsection (43)(a).
- 6227 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 6228 (44) "Electronic" means:
 - 6229 (a) relating to technology; and
 - 6230 (b) having:
 - 6231 (i) electrical capabilities;
 - 6232 (ii) digital capabilities;
 - 6233 (iii) magnetic capabilities;
 - 6234 (iv) wireless capabilities;
 - 6235 (v) optical capabilities;
 - 6236 (vi) electromagnetic capabilities; or
 - 6237 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- 6238 (45) "Electronic financial payment service" means an establishment:
 - 6239 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
 - 6240 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
 - 6241 federal Executive Office of the President, Office of Management and Budget; and
 - 6242 (b) that performs electronic financial payment services.
- 6243 (46) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 6244 (47) "Fixed guideway" means a public transit facility that uses and occupies:
 - 6245 (a) rail for the use of public transit; or

- 6246 (b) a separate right-of-way for the use of public transit.
- 6247 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
- 6248 (a) is powered by turbine engines;
- 6249 (b) operates on jet fuel; and
- 6250 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 6251 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 6252 communication between fixed points.
- 6253 (50) (a) "Food and food ingredients" means substances:
- 6254 (i) regardless of whether the substances are in:
- 6255 (A) liquid form;
- 6256 (B) concentrated form;
- 6257 (C) solid form;
- 6258 (D) frozen form;
- 6259 (E) dried form; or
- 6260 (F) dehydrated form; and
- 6261 (ii) that are:
- 6262 (A) sold for:
- 6263 (I) ingestion by humans; or
- 6264 (II) chewing by humans; and
- 6265 (B) consumed for the substance's:
- 6266 (I) taste; or
- 6267 (II) nutritional value.
- 6268 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
- 6269 (c) "Food and food ingredients" does not include:
- 6270 (i) an alcoholic beverage;
- 6271 (ii) tobacco; or
- 6272 (iii) prepared food.
- 6273 (51) (a) "Fundraising sales" means sales:

6274 (i) (A) made by a school; or
6275 (B) made by a school student;
6276 (ii) that are for the purpose of raising funds for the school to purchase equipment,
6277 materials, or provide transportation; and
6278 (iii) that are part of an officially sanctioned school activity.
6279 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"
6280 means a school activity:
6281 (i) that is conducted in accordance with a formal policy adopted by the school or school
6282 district governing the authorization and supervision of fundraising activities;
6283 (ii) that does not directly or indirectly compensate an individual teacher or other
6284 educational personnel by direct payment, commissions, or payment in kind; and
6285 (iii) the net or gross revenues from which are deposited in a dedicated account
6286 controlled by the school or school district.
6287 (52) "Geothermal energy" means energy contained in heat that continuously flows
6288 outward from the earth that is used as the sole source of energy to produce electricity.
6289 (53) "Governing board of the agreement" means the governing board of the agreement
6290 that is:
6291 (a) authorized to administer the agreement; and
6292 (b) established in accordance with the agreement.
6293 (54) (a) For purposes of Subsection [59-12-104](#)(41), "governmental entity" means:
6294 (i) the executive branch of the state, including all departments, institutions, boards,
6295 divisions, bureaus, offices, commissions, and committees;
6296 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
6297 Office of the Court Administrator, and similar administrative units in the judicial branch;
6298 (iii) the legislative branch of the state, including the House of Representatives, the
6299 Senate, the Legislative Printing Office, the Office of Legislative Research and General
6300 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
6301 Analyst;

- 6302 (iv) the National Guard;
- 6303 (v) an independent entity as defined in Section [63E-1-102](#); or
- 6304 (vi) a political subdivision as defined in Section [17B-1-102](#).
- 6305 (b) "Governmental entity" does not include the state systems of public and higher
- 6306 education, including:
 - 6307 (i) a school;
 - 6308 (ii) the State Board of Education;
 - 6309 (iii) the State Board of Regents; or
 - 6310 (iv) an institution of higher education described in Section [53B-1-102](#).
- 6311 (55) "Hydroelectric energy" means water used as the sole source of energy to produce
- 6312 electricity.
- 6313 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 6314 other fuels:
 - 6315 (a) in mining or extraction of minerals;
 - 6316 (b) in agricultural operations to produce an agricultural product up to the time of
 - 6317 harvest or placing the agricultural product into a storage facility, including:
 - 6318 (i) commercial greenhouses;
 - 6319 (ii) irrigation pumps;
 - 6320 (iii) farm machinery;
 - 6321 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
 - 6322 under Title 41, Chapter 1a, Part 2, Registration; and
 - 6323 (v) other farming activities;
 - 6324 (c) in manufacturing tangible personal property at an establishment described in SIC
 - 6325 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
 - 6326 Executive Office of the President, Office of Management and Budget;
 - 6327 (d) by a scrap recycler if:
 - 6328 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
 - 6329 one or more of the following items into prepared grades of processed materials for use in new

- 6330 products:
- 6331 (A) iron;
- 6332 (B) steel;
- 6333 (C) nonferrous metal;
- 6334 (D) paper;
- 6335 (E) glass;
- 6336 (F) plastic;
- 6337 (G) textile; or
- 6338 (H) rubber; and
- 6339 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with
- 6340 nonrecycled materials; or
- 6341 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 6342 cogeneration facility as defined in Section 54-2-1.
- 6343 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge
- 6344 for installing:
- 6345 (i) tangible personal property; or
- 6346 (ii) a product transferred electronically.
- 6347 (b) "Installation charge" does not include a charge for:
- 6348 (i) repairs or renovations of:
- 6349 (A) tangible personal property; or
- 6350 (B) a product transferred electronically; or
- 6351 (ii) attaching tangible personal property or a product transferred electronically:
- 6352 (A) to other tangible personal property; and
- 6353 (B) as part of a manufacturing or fabrication process.
- 6354 (58) "Institution of higher education" means an institution of higher education listed in
- 6355 Section 53B-2-101.
- 6356 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 6357 personal property or a product transferred electronically for:

- 6358 (i) (A) a fixed term; or
6359 (B) an indeterminate term; and
6360 (ii) consideration.
- 6361 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
6362 amount of consideration may be increased or decreased by reference to the amount realized
6363 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
6364 Code.
- 6365 (c) "Lease" or "rental" does not include:
- 6366 (i) a transfer of possession or control of property under a security agreement or
6367 deferred payment plan that requires the transfer of title upon completion of the required
6368 payments;
- 6369 (ii) a transfer of possession or control of property under an agreement that requires the
6370 transfer of title:
- 6371 (A) upon completion of required payments; and
6372 (B) if the payment of an option price does not exceed the greater of:
- 6373 (I) \$100; or
6374 (II) 1% of the total required payments; or
- 6375 (iii) providing tangible personal property along with an operator for a fixed period of
6376 time or an indeterminate period of time if the operator is necessary for equipment to perform as
6377 designed.
- 6378 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
6379 perform as designed if the operator's duties exceed the:
- 6380 (i) set-up of tangible personal property;
6381 (ii) maintenance of tangible personal property; or
6382 (iii) inspection of tangible personal property.
- 6383 (60) "Life science establishment" means an establishment in this state that is classified
6384 under the following NAICS codes of the 2007 North American Industry Classification System
6385 of the federal Executive Office of the President, Office of Management and Budget:

- 6386 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 6387 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
- 6388 Manufacturing; or
- 6389 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 6390 (61) "Life science research and development facility" means a facility owned, leased,
- 6391 or rented by a life science establishment if research and development is performed in 51% or
- 6392 more of the total area of the facility.
- 6393 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media
- 6394 if the tangible storage media is not physically transferred to the purchaser.
- 6395 (63) "Local taxing jurisdiction" means a:
- 6396 (a) county that is authorized to impose an agreement sales and use tax;
- 6397 (b) city that is authorized to impose an agreement sales and use tax; or
- 6398 (c) town that is authorized to impose an agreement sales and use tax.
- 6399 (64) "Manufactured home" means the same as that term is defined in Section
- 6400 [15A-1-302](#).
- 6401 (65) "Manufacturing facility" means:
- 6402 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
- 6403 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 6404 Management and Budget;
- 6405 (b) a scrap recycler if:
- 6406 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 6407 one or more of the following items into prepared grades of processed materials for use in new
- 6408 products:
- 6409 (A) iron;
- 6410 (B) steel;
- 6411 (C) nonferrous metal;
- 6412 (D) paper;
- 6413 (E) glass;

- 6414 (F) plastic;
- 6415 (G) textile; or
- 6416 (H) rubber; and
- 6417 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
- 6418 nonrecycled materials; or
- 6419 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is
- 6420 placed in service on or after May 1, 2006.
- 6421 (66) "Member of the immediate family of the producer" means a person who is related
- 6422 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:
- 6423 (a) child or stepchild, regardless of whether the child or stepchild is:
- 6424 (i) an adopted child or adopted stepchild; or
- 6425 (ii) a foster child or foster stepchild;
- 6426 (b) grandchild or stepgrandchild;
- 6427 (c) grandparent or stepgrandparent;
- 6428 (d) nephew or stepnephew;
- 6429 (e) niece or stepniece;
- 6430 (f) parent or stepparent;
- 6431 (g) sibling or stepsibling;
- 6432 (h) spouse;
- 6433 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);
- 6434 or
- 6435 (j) person similar to a person described in Subsections (66)(a) through (i) as
- 6436 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 6437 Administrative Rulemaking Act.
- 6438 (67) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).
- 6439 (68) "Mobile telecommunications service" is as defined in the Mobile
- 6440 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 6441 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of

6442 the technology used, if:

- 6443 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 6444 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 6445 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
- 6446 described in Subsection (69)(a)(ii) are not fixed.

6447 (b) "Mobile wireless service" includes a telecommunications service that is provided
6448 by a commercial mobile radio service provider.

6449 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6450 commission may by rule define "commercial mobile radio service provider."

6451 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"
6452 means equipment that is:

6453 (i) primarily and customarily used to provide or increase the ability to move from one
6454 place to another;

6455 (ii) appropriate for use in a:

6456 (A) home; or

6457 (B) motor vehicle; and

6458 (iii) not generally used by persons with normal mobility.

6459 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
6460 the equipment described in Subsection (70)(a).

6461 (c) "Mobility enhancing equipment" does not include:

6462 (i) a motor vehicle;

6463 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
6464 vehicle manufacturer;

6465 (iii) durable medical equipment; or

6466 (iv) a prosthetic device.

6467 (71) "Model 1 seller" means a seller registered under the agreement that has selected a
6468 certified service provider as the seller's agent to perform all of the seller's sales and use tax
6469 functions for agreement sales and use taxes other than the seller's obligation under Section

6470 [59-12-124](#) to remit a tax on the seller's own purchases.

6471 (72) "Model 2 seller" means a seller registered under the agreement that:

6472 (a) except as provided in Subsection (72)(b), has selected a certified automated system
6473 to perform the seller's sales tax functions for agreement sales and use taxes; and

6474 (b) retains responsibility for remitting all of the sales tax:

6475 (i) collected by the seller; and

6476 (ii) to the appropriate local taxing jurisdiction.

6477 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under
6478 the agreement that has:

6479 (i) sales in at least five states that are members of the agreement;

6480 (ii) total annual sales revenues of at least \$500,000,000;

6481 (iii) a proprietary system that calculates the amount of tax:

6482 (A) for an agreement sales and use tax; and

6483 (B) due to each local taxing jurisdiction; and

6484 (iv) entered into a performance agreement with the governing board of the agreement.

6485 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of
6486 sellers using the same proprietary system.

6487 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a
6488 model 1 seller, model 2 seller, or model 3 seller.

6489 (75) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

6490 (76) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

6491 (77) "Oil sands" means impregnated bituminous sands that:

6492 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
6493 other hydrocarbons, or otherwise treated;

6494 (b) yield mixtures of liquid hydrocarbon; and

6495 (c) require further processing other than mechanical blending before becoming finished
6496 petroleum products.

6497 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen

6498 material that yields petroleum upon heating and distillation.

6499 (79) "Optional computer software maintenance contract" means a computer software
6500 maintenance contract that a customer is not obligated to purchase as a condition to the retail
6501 sale of computer software.

6502 (80) (a) "Other fuels" means products that burn independently to produce heat or
6503 energy.

6504 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
6505 personal property.

6506 (81) (a) "Paging service" means a telecommunications service that provides
6507 transmission of a coded radio signal for the purpose of activating a specific pager.

6508 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal
6509 includes a transmission by message or sound.

6510 (82) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

6511 (83) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

6512 (84) (a) "Permanently attached to real property" means that for tangible personal
6513 property attached to real property:

6514 (i) the attachment of the tangible personal property to the real property:

6515 (A) is essential to the use of the tangible personal property; and

6516 (B) suggests that the tangible personal property will remain attached to the real
6517 property in the same place over the useful life of the tangible personal property; or

6518 (ii) if the tangible personal property is detached from the real property, the detachment
6519 would:

6520 (A) cause substantial damage to the tangible personal property; or

6521 (B) require substantial alteration or repair of the real property to which the tangible
6522 personal property is attached.

6523 (b) "Permanently attached to real property" includes:

6524 (i) the attachment of an accessory to the tangible personal property if the accessory is:

6525 (A) essential to the operation of the tangible personal property; and

6526 (B) attached only to facilitate the operation of the tangible personal property;
6527 (ii) a temporary detachment of tangible personal property from real property for a
6528 repair or renovation if the repair or renovation is performed where the tangible personal
6529 property and real property are located; or
6530 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
6531 Subsection (84)(c)(iii) or (iv).
6532 (c) "Permanently attached to real property" does not include:
6533 (i) the attachment of portable or movable tangible personal property to real property if
6534 that portable or movable tangible personal property is attached to real property only for:
6535 (A) convenience;
6536 (B) stability; or
6537 (C) for an obvious temporary purpose;
6538 (ii) the detachment of tangible personal property from real property except for the
6539 detachment described in Subsection (84)(b)(ii);
6540 (iii) an attachment of the following tangible personal property to real property if the
6541 attachment to real property is only through a line that supplies water, electricity, gas,
6542 telecommunications, cable, or supplies a similar item as determined by the commission by rule
6543 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
6544 (A) a computer;
6545 (B) a telephone;
6546 (C) a television; or
6547 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as
6548 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
6549 Administrative Rulemaking Act; or
6550 (iv) an item listed in Subsection (125)(c).
6551 (85) "Person" includes any individual, firm, partnership, joint venture, association,
6552 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
6553 municipality, district, or other local governmental entity of the state, or any group or

6554 combination acting as a unit.

6555 (86) "Place of primary use":

6556 (a) for telecommunications service other than mobile telecommunications service,
6557 means the street address representative of where the customer's use of the telecommunications
6558 service primarily occurs, which shall be:

6559 (i) the residential street address of the customer; or

6560 (ii) the primary business street address of the customer; or

6561 (b) for mobile telecommunications service, is as defined in the Mobile
6562 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

6563 (87) (a) "Postpaid calling service" means a telecommunications service a person
6564 obtains by making a payment on a call-by-call basis:

6565 (i) through the use of a:

6566 (A) bank card;

6567 (B) credit card;

6568 (C) debit card; or

6569 (D) travel card; or

6570 (ii) by a charge made to a telephone number that is not associated with the origination
6571 or termination of the telecommunications service.

6572 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
6573 service, that would be a prepaid wireless calling service if the service were exclusively a
6574 telecommunications service.

6575 (88) "Postproduction" means an activity related to the finishing or duplication of a
6576 medium described in Subsection [59-12-104\(54\)\(a\)](#).

6577 (89) "Prepaid calling service" means a telecommunications service:

6578 (a) that allows a purchaser access to telecommunications service that is exclusively
6579 telecommunications service;

6580 (b) that:

6581 (i) is paid for in advance; and

- 6582 (ii) enables the origination of a call using an:
- 6583 (A) access number; or
- 6584 (B) authorization code;
- 6585 (c) that is dialed:
- 6586 (i) manually; or
- 6587 (ii) electronically; and
- 6588 (d) sold in predetermined units or dollars that decline:
- 6589 (i) by a known amount; and
- 6590 (ii) with use.
- 6591 (90) "Prepaid wireless calling service" means a telecommunications service:
- 6592 (a) that provides the right to utilize:
- 6593 (i) mobile wireless service; and
- 6594 (ii) other service that is not a telecommunications service, including:
- 6595 (A) the download of a product transferred electronically;
- 6596 (B) a content service; or
- 6597 (C) an ancillary service;
- 6598 (b) that:
- 6599 (i) is paid for in advance; and
- 6600 (ii) enables the origination of a call using an:
- 6601 (A) access number; or
- 6602 (B) authorization code;
- 6603 (c) that is dialed:
- 6604 (i) manually; or
- 6605 (ii) electronically; and
- 6606 (d) sold in predetermined units or dollars that decline:
- 6607 (i) by a known amount; and
- 6608 (ii) with use.
- 6609 (91) (a) "Prepared food" means:

- 6610 (i) food:
- 6611 (A) sold in a heated state; or
- 6612 (B) heated by a seller;
- 6613 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 6614 item; or
- 6615 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
- 6616 by the seller, including a:
 - 6617 (A) plate;
 - 6618 (B) knife;
 - 6619 (C) fork;
 - 6620 (D) spoon;
 - 6621 (E) glass;
 - 6622 (F) cup;
 - 6623 (G) napkin; or
 - 6624 (H) straw.
- 6625 (b) "Prepared food" does not include:
 - 6626 (i) food that a seller only:
 - 6627 (A) cuts;
 - 6628 (B) repackages; or
 - 6629 (C) pasteurizes; or
 - 6630 (ii) (A) the following:
 - 6631 (I) raw egg;
 - 6632 (II) raw fish;
 - 6633 (III) raw meat;
 - 6634 (IV) raw poultry; or
 - 6635 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
 - 6636 and
 - 6637 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the

6638 Food and Drug Administration's Food Code that a consumer cook the items described in
6639 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
6640 (iii) the following if sold without eating utensils provided by the seller:
6641 (A) food and food ingredients sold by a seller if the seller's proper primary
6642 classification under the 2002 North American Industry Classification System of the federal
6643 Executive Office of the President, Office of Management and Budget, is manufacturing in
6644 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
6645 Manufacturing;
6646 (B) food and food ingredients sold in an unheated state:
6647 (I) by weight or volume; and
6648 (II) as a single item; or
6649 (C) a bakery item, including:
6650 (I) a bagel;
6651 (II) a bar;
6652 (III) a biscuit;
6653 (IV) bread;
6654 (V) a bun;
6655 (VI) a cake;
6656 (VII) a cookie;
6657 (VIII) a croissant;
6658 (IX) a danish;
6659 (X) a donut;
6660 (XI) a muffin;
6661 (XII) a pastry;
6662 (XIII) a pie;
6663 (XIV) a roll;
6664 (XV) a tart;
6665 (XVI) a torte; or

6666 (XVII) a tortilla.

6667 (c) An eating utensil provided by the seller does not include the following used to
6668 transport the food:

6669 (i) a container; or

6670 (ii) packaging.

6671 (92) "Prescription" means an order, formula, or recipe that is issued:

6672 (a) (i) orally;

6673 (ii) in writing;

6674 (iii) electronically; or

6675 (iv) by any other manner of transmission; and

6676 (b) by a licensed practitioner authorized by the laws of a state.

6677 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
6678 software" means computer software that is not designed and developed:

6679 (i) by the author or other creator of the computer software; and

6680 (ii) to the specifications of a specific purchaser.

6681 (b) "Prewritten computer software" includes:

6682 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
6683 software is not designed and developed:

6684 (A) by the author or other creator of the computer software; and

6685 (B) to the specifications of a specific purchaser;

6686 (ii) computer software designed and developed by the author or other creator of the
6687 computer software to the specifications of a specific purchaser if the computer software is sold
6688 to a person other than the purchaser; or

6689 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
6690 prewritten portion of prewritten computer software:

6691 (A) that is modified or enhanced to any degree; and

6692 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
6693 designed and developed to the specifications of a specific purchaser.

6694 (c) "Prewritten computer software" does not include a modification or enhancement
6695 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

6696 (i) reasonable; and

6697 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
6698 invoice or other statement of price provided to the purchaser at the time of sale or later, as
6699 demonstrated by:

6700 (A) the books and records the seller keeps at the time of the transaction in the regular
6701 course of business, including books and records the seller keeps at the time of the transaction in
6702 the regular course of business for nontax purposes;

6703 (B) a preponderance of the facts and circumstances at the time of the transaction; and

6704 (C) the understanding of all of the parties to the transaction.

6705 (94) (a) "Private communications service" means a telecommunications service:

6706 (i) that entitles a customer to exclusive or priority use of one or more communications
6707 channels between or among termination points; and

6708 (ii) regardless of the manner in which the one or more communications channels are
6709 connected.

6710 (b) "Private communications service" includes the following provided in connection
6711 with the use of one or more communications channels:

6712 (i) an extension line;

6713 (ii) a station;

6714 (iii) switching capacity; or

6715 (iv) another associated service that is provided in connection with the use of one or
6716 more communications channels as defined in Section 59-12-215.

6717 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
6718 means a product transferred electronically that would be subject to a tax under this chapter if
6719 that product was transferred in a manner other than electronically.

6720 (b) "Product transferred electronically" does not include:

6721 (i) an ancillary service;

- 6722 (ii) computer software; or
- 6723 (iii) a telecommunications service.
- 6724 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 6725 (i) artificially replace a missing portion of the body;
- 6726 (ii) prevent or correct a physical deformity or physical malfunction; or
- 6727 (iii) support a weak or deformed portion of the body.
- 6728 (b) "Prosthetic device" includes:
- 6729 (i) parts used in the repairs or renovation of a prosthetic device;
- 6730 (ii) replacement parts for a prosthetic device;
- 6731 (iii) a dental prosthesis; or
- 6732 (iv) a hearing aid.
- 6733 (c) "Prosthetic device" does not include:
- 6734 (i) corrective eyeglasses; or
- 6735 (ii) contact lenses.
- 6736 (97) (a) "Protective equipment" means an item:
- 6737 (i) for human wear; and
- 6738 (ii) that is:
- 6739 (A) designed as protection:
- 6740 (I) to the wearer against injury or disease; or
- 6741 (II) against damage or injury of other persons or property; and
- 6742 (B) not suitable for general use.
- 6743 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 6744 commission shall make rules:
- 6745 (i) listing the items that constitute "protective equipment"; and
- 6746 (ii) that are consistent with the list of items that constitute "protective equipment"
- 6747 under the agreement.
- 6748 (98) (a) For purposes of Subsection [59-12-104\(41\)](#), "publication" means any written or
- 6749 printed matter, other than a photocopy:

- 6750 (i) regardless of:
- 6751 (A) characteristics;
- 6752 (B) copyright;
- 6753 (C) form;
- 6754 (D) format;
- 6755 (E) method of reproduction; or
- 6756 (F) source; and
- 6757 (ii) made available in printed or electronic format.
- 6758 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 6759 commission may by rule define the term "photocopy."
- 6760 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 6761 (i) valued in money; and
- 6762 (ii) for which tangible personal property, a product transferred electronically, or
- 6763 services are:
- 6764 (A) sold;
- 6765 (B) leased; or
- 6766 (C) rented.
- 6767 (b) "Purchase price" and "sales price" include:
- 6768 (i) the seller's cost of the tangible personal property, a product transferred
- 6769 electronically, or services sold;
- 6770 (ii) expenses of the seller, including:
- 6771 (A) the cost of materials used;
- 6772 (B) a labor cost;
- 6773 (C) a service cost;
- 6774 (D) interest;
- 6775 (E) a loss;
- 6776 (F) the cost of transportation to the seller; or
- 6777 (G) a tax imposed on the seller;

- 6778 (iii) a charge by the seller for any service necessary to complete the sale; or
6779 (iv) consideration a seller receives from a person other than the purchaser if:
6780 (A) (I) the seller actually receives consideration from a person other than the purchaser;
6781 and
6782 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
6783 price reduction or discount on the sale;
6784 (B) the seller has an obligation to pass the price reduction or discount through to the
6785 purchaser;
6786 (C) the amount of the consideration attributable to the sale is fixed and determinable by
6787 the seller at the time of the sale to the purchaser; and
6788 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
6789 seller to claim a price reduction or discount; and
6790 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
6791 coupon, or other documentation with the understanding that the person other than the seller
6792 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
6793 (II) the purchaser identifies that purchaser to the seller as a member of a group or
6794 organization allowed a price reduction or discount, except that a preferred customer card that is
6795 available to any patron of a seller does not constitute membership in a group or organization
6796 allowed a price reduction or discount; or
6797 (III) the price reduction or discount is identified as a third party price reduction or
6798 discount on the:
6799 (Aa) invoice the purchaser receives; or
6800 (Bb) certificate, coupon, or other documentation the purchaser presents.
6801 (c) "Purchase price" and "sales price" do not include:
6802 (i) a discount:
6803 (A) in a form including:
6804 (I) cash;
6805 (II) term; or

6806 (III) coupon;
6807 (B) that is allowed by a seller;
6808 (C) taken by a purchaser on a sale; and
6809 (D) that is not reimbursed by a third party; or
6810 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
6811 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
6812 sale or later, as demonstrated by the books and records the seller keeps at the time of the
6813 transaction in the regular course of business, including books and records the seller keeps at the
6814 time of the transaction in the regular course of business for nontax purposes, by a
6815 preponderance of the facts and circumstances at the time of the transaction, and by the
6816 understanding of all of the parties to the transaction:
6817 (A) the following from credit extended on the sale of tangible personal property or
6818 services:
6819 (I) a carrying charge;
6820 (II) a financing charge; or
6821 (III) an interest charge;
6822 (B) a delivery charge;
6823 (C) an installation charge;
6824 (D) a manufacturer rebate on a motor vehicle; or
6825 (E) a tax or fee legally imposed directly on the consumer.
6826 (100) "Purchaser" means a person to whom:
6827 (a) a sale of tangible personal property is made;
6828 (b) a product is transferred electronically; or
6829 (c) a service is furnished.
6830 (101) "Qualifying enterprise data center" means an establishment that will:
6831 (a) own and operate a data center facility that will house a group of networked server
6832 computers in one physical location in order to centralize the dissemination, management, and
6833 storage of data and information;

- 6834 (b) be located in the state;
- 6835 (c) be a new operation constructed on or after July 1, 2016;
- 6836 (d) consist of one or more buildings that total 150,000 or more square feet;
- 6837 (e) be owned or leased by:
 - 6838 (i) the establishment; or
 - 6839 (ii) a person under common ownership, as defined in Section 59-7-101, of the
 - 6840 establishment; and
- 6841 (f) be located on one or more parcels of land that are owned or leased by:
 - 6842 (i) the establishment; or
 - 6843 (ii) a person under common ownership, as defined in Section 59-7-101, of the
 - 6844 establishment.
- 6845 (102) "Regularly rented" means:
 - 6846 (a) rented to a guest for value three or more times during a calendar year; or
 - 6847 (b) advertised or held out to the public as a place that is regularly rented to guests for
 - 6848 value.
- 6849 (103) "Rental" means the same as that term is defined in Subsection (59).
- 6850 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
- 6851 personal property" means:
 - 6852 (i) a repair or renovation of tangible personal property that is not permanently attached
 - 6853 to real property; or
 - 6854 (ii) attaching tangible personal property or a product transferred electronically to other
 - 6855 tangible personal property or detaching tangible personal property or a product transferred
 - 6856 electronically from other tangible personal property if:
 - 6857 (A) the other tangible personal property to which the tangible personal property or
 - 6858 product transferred electronically is attached or from which the tangible personal property or
 - 6859 product transferred electronically is detached is not permanently attached to real property; and
 - 6860 (B) the attachment of tangible personal property or a product transferred electronically
 - 6861 to other tangible personal property or detachment of tangible personal property or a product

6862 transferred electronically from other tangible personal property is made in conjunction with a
6863 repair or replacement of tangible personal property or a product transferred electronically.

6864 (b) "Repairs or renovations of tangible personal property" does not include:

6865 (i) attaching prewritten computer software to other tangible personal property if the
6866 other tangible personal property to which the prewritten computer software is attached is not
6867 permanently attached to real property; or

6868 (ii) detaching prewritten computer software from other tangible personal property if the
6869 other tangible personal property from which the prewritten computer software is detached is
6870 not permanently attached to real property.

6871 (105) "Research and development" means the process of inquiry or experimentation
6872 aimed at the discovery of facts, devices, technologies, or applications and the process of
6873 preparing those devices, technologies, or applications for marketing.

6874 (106) (a) "Residential telecommunications services" means a telecommunications
6875 service or an ancillary service that is provided to an individual for personal use:

6876 (i) at a residential address; or

6877 (ii) at an institution, including a nursing home or a school, if the telecommunications
6878 service or ancillary service is provided to and paid for by the individual residing at the
6879 institution rather than the institution.

6880 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

6881 (i) apartment; or

6882 (ii) other individual dwelling unit.

6883 (107) "Residential use" means the use in or around a home, apartment building,
6884 sleeping quarters, and similar facilities or accommodations.

6885 (108) (a) "Retailer" means any person engaged in a regularly organized business in
6886 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
6887 who is selling to the user or consumer and not for resale.

6888 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
6889 engaged in the business of selling to users or consumers within the state.

6890 (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
6891 than:

- 6892 (a) resale;
- 6893 (b) sublease; or
- 6894 (c) subrent.

6895 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
6896 otherwise, in any manner, of tangible personal property or any other taxable transaction under
6897 Subsection 59-12-103(1), for consideration.

6898 (b) "Sale" includes:

- 6899 (i) installment and credit sales;
- 6900 (ii) any closed transaction constituting a sale;
- 6901 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
6902 chapter;

6903 (iv) any transaction if the possession of property is transferred but the seller retains the
6904 title as security for the payment of the price; and

6905 (v) any transaction under which right to possession, operation, or use of any article of
6906 tangible personal property is granted under a lease or contract and the transfer of possession
6907 would be taxable if an outright sale were made.

6908 (111) "Sale at retail" means the same as that term is defined in Subsection (109).

6909 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
6910 personal property or a product transferred electronically that is subject to a tax under this
6911 chapter is transferred:

- 6912 (a) by a purchaser-lessee;
- 6913 (b) to a lessor;
- 6914 (c) for consideration; and
- 6915 (d) if:

6916 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
6917 of the tangible personal property or product transferred electronically;

6918 (ii) the sale of the tangible personal property or product transferred electronically to the
6919 lessor is intended as a form of financing:

6920 (A) for the tangible personal property or product transferred electronically; and

6921 (B) to the purchaser-lessee; and

6922 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
6923 is required to:

6924 (A) capitalize the tangible personal property or product transferred electronically for
6925 financial reporting purposes; and

6926 (B) account for the lease payments as payments made under a financing arrangement.

6927 (113) "Sales price" means the same as that term is defined in Subsection (99).

6928 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
6929 amounts charged by a school:

6930 (i) sales that are directly related to the school's educational functions or activities

6931 including:

6932 (A) the sale of:

6933 (I) textbooks;

6934 (II) textbook fees;

6935 (III) laboratory fees;

6936 (IV) laboratory supplies; or

6937 (V) safety equipment;

6938 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

6939 that:

6940 (I) a student is specifically required to wear as a condition of participation in a
6941 school-related event or school-related activity; and

6942 (II) is not readily adaptable to general or continued usage to the extent that it takes the
6943 place of ordinary clothing;

6944 (C) sales of the following if the net or gross revenues generated by the sales are
6945 deposited into a school district fund or school fund dedicated to school meals:

- 6946 (I) food and food ingredients; or
- 6947 (II) prepared food; or
- 6948 (D) transportation charges for official school activities; or
- 6949 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 6950 event or school-related activity.
- 6951 (b) "Sales relating to schools" does not include:
- 6952 (i) bookstore sales of items that are not educational materials or supplies;
- 6953 (ii) except as provided in Subsection (114)(a)(i)(B):
- 6954 (A) clothing;
- 6955 (B) clothing accessories or equipment;
- 6956 (C) protective equipment; or
- 6957 (D) sports or recreational equipment; or
- 6958 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 6959 event or school-related activity if the amounts paid or charged are passed through to a person:
- 6960 (A) other than a:
- 6961 (I) school;
- 6962 (II) nonprofit organization authorized by a school board or a governing body of a
- 6963 private school to organize and direct a competitive secondary school activity; or
- 6964 (III) nonprofit association authorized by a school board or a governing body of a
- 6965 private school to organize and direct a competitive secondary school activity; and
- 6966 (B) that is required to collect sales and use taxes under this chapter.
- 6967 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 6968 commission may make rules defining the term "passed through."
- 6969 (115) For purposes of this section and Section [59-12-104](#), "school":
- 6970 (a) means:
- 6971 (i) an elementary school or a secondary school that:
- 6972 (A) is a:
- 6973 (I) public school; or

- 6974 (II) private school; and
- 6975 (B) provides instruction for one or more grades kindergarten through 12; or
- 6976 (ii) a public school district; and
- 6977 (b) includes the Electronic High School as defined in Section [~~53A-15-1002~~
- 6978 [53E-10-601](#).
- 6979 (116) "Seller" means a person that makes a sale, lease, or rental of:
- 6980 (a) tangible personal property;
- 6981 (b) a product transferred electronically; or
- 6982 (c) a service.
- 6983 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
- 6984 means tangible personal property or a product transferred electronically if the tangible personal
- 6985 property or product transferred electronically is:
- 6986 (i) used primarily in the process of:
- 6987 (A) (I) manufacturing a semiconductor;
- 6988 (II) fabricating a semiconductor; or
- 6989 (III) research or development of a:
- 6990 (Aa) semiconductor; or
- 6991 (Bb) semiconductor manufacturing process; or
- 6992 (B) maintaining an environment suitable for a semiconductor; or
- 6993 (ii) consumed primarily in the process of:
- 6994 (A) (I) manufacturing a semiconductor;
- 6995 (II) fabricating a semiconductor; or
- 6996 (III) research or development of a:
- 6997 (Aa) semiconductor; or
- 6998 (Bb) semiconductor manufacturing process; or
- 6999 (B) maintaining an environment suitable for a semiconductor.
- 7000 (b) "Semiconductor fabricating, processing, research, or development materials"
- 7001 includes:

7002 (i) parts used in the repairs or renovations of tangible personal property or a product
7003 transferred electronically described in Subsection (117)(a); or

7004 (ii) a chemical, catalyst, or other material used to:

7005 (A) produce or induce in a semiconductor a:

7006 (I) chemical change; or

7007 (II) physical change;

7008 (B) remove impurities from a semiconductor; or

7009 (C) improve the marketable condition of a semiconductor.

7010 (118) "Senior citizen center" means a facility having the primary purpose of providing
7011 services to the aged as defined in Section [62A-3-101](#).

7012 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"
7013 means tangible personal property that:

7014 (i) a business that provides accommodations and services described in Subsection
7015 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services
7016 to a purchaser;

7017 (ii) is intended to be consumed by the purchaser; and

7018 (iii) is:

7019 (A) included in the purchase price of the accommodations and services; and

7020 (B) not separately stated on an invoice, bill of sale, or other similar document provided
7021 to the purchaser.

7022 (b) "Short-term lodging consumable" includes:

7023 (i) a beverage;

7024 (ii) a brush or comb;

7025 (iii) a cosmetic;

7026 (iv) a hair care product;

7027 (v) lotion;

7028 (vi) a magazine;

7029 (vii) makeup;

- 7030 (viii) a meal;
- 7031 (ix) mouthwash;
- 7032 (x) nail polish remover;
- 7033 (xi) a newspaper;
- 7034 (xii) a notepad;
- 7035 (xiii) a pen;
- 7036 (xiv) a pencil;
- 7037 (xv) a razor;
- 7038 (xvi) saline solution;
- 7039 (xvii) a sewing kit;
- 7040 (xviii) shaving cream;
- 7041 (xix) a shoe shine kit;
- 7042 (xx) a shower cap;
- 7043 (xxi) a snack item;
- 7044 (xxii) soap;
- 7045 (xxiii) toilet paper;
- 7046 (xxiv) a toothbrush;
- 7047 (xxv) toothpaste; or
- 7048 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
- 7049 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 7050 Rulemaking Act.
- 7051 (c) "Short-term lodging consumable" does not include:
- 7052 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 7053 property to be reused; or
- 7054 (ii) a product transferred electronically.
- 7055 (120) "Simplified electronic return" means the electronic return:
- 7056 (a) described in Section 318(C) of the agreement; and
- 7057 (b) approved by the governing board of the agreement.

7058 (121) "Solar energy" means the sun used as the sole source of energy for producing
7059 electricity.

7060 (122) (a) "Sports or recreational equipment" means an item:

7061 (i) designed for human use; and

7062 (ii) that is:

7063 (A) worn in conjunction with:

7064 (I) an athletic activity; or

7065 (II) a recreational activity; and

7066 (B) not suitable for general use.

7067 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
7068 commission shall make rules:

7069 (i) listing the items that constitute "sports or recreational equipment"; and

7070 (ii) that are consistent with the list of items that constitute "sports or recreational
7071 equipment" under the agreement.

7072 (123) "State" means the state of Utah, its departments, and agencies.

7073 (124) "Storage" means any keeping or retention of tangible personal property or any
7074 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except
7075 sale in the regular course of business.

7076 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"
7077 means personal property that:

7078 (i) may be:

7079 (A) seen;

7080 (B) weighed;

7081 (C) measured;

7082 (D) felt; or

7083 (E) touched; or

7084 (ii) is in any manner perceptible to the senses.

7085 (b) "Tangible personal property" includes:

7086 (i) electricity;
7087 (ii) water;
7088 (iii) gas;
7089 (iv) steam; or
7090 (v) prewritten computer software, regardless of the manner in which the prewritten
7091 computer software is transferred.

7092 (c) "Tangible personal property" includes the following regardless of whether the item
7093 is attached to real property:

7094 (i) a dishwasher;
7095 (ii) a dryer;
7096 (iii) a freezer;
7097 (iv) a microwave;
7098 (v) a refrigerator;
7099 (vi) a stove;
7100 (vii) a washer; or
7101 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the
7102 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
7103 Rulemaking Act.

7104 (d) "Tangible personal property" does not include a product that is transferred
7105 electronically.

7106 (e) "Tangible personal property" does not include the following if attached to real
7107 property, regardless of whether the attachment to real property is only through a line that
7108 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
7109 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
7110 Rulemaking Act:

7111 (i) a hot water heater;
7112 (ii) a water filtration system; or
7113 (iii) a water softener system.

7114 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or
7115 software" means an item listed in Subsection (126)(b) if that item is purchased or leased
7116 primarily to enable or facilitate one or more of the following to function:

- 7117 (i) telecommunications switching or routing equipment, machinery, or software; or
- 7118 (ii) telecommunications transmission equipment, machinery, or software.

7119 (b) The following apply to Subsection (126)(a):

- 7120 (i) a pole;
- 7121 (ii) software;
- 7122 (iii) a supplementary power supply;
- 7123 (iv) temperature or environmental equipment or machinery;
- 7124 (v) test equipment;
- 7125 (vi) a tower; or
- 7126 (vii) equipment, machinery, or software that functions similarly to an item listed in
7127 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in
7128 accordance with Subsection (126)(c).

7129 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
7130 commission may by rule define what constitutes equipment, machinery, or software that
7131 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

7132 (127) "Telecommunications equipment, machinery, or software required for 911
7133 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
7134 Sec. 20.18.

7135 (128) "Telecommunications maintenance or repair equipment, machinery, or software"
7136 means equipment, machinery, or software purchased or leased primarily to maintain or repair
7137 one or more of the following, regardless of whether the equipment, machinery, or software is
7138 purchased or leased as a spare part or as an upgrade or modification to one or more of the
7139 following:

- 7140 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 7141 (b) telecommunications switching or routing equipment, machinery, or software; or

- 7142 (c) telecommunications transmission equipment, machinery, or software.
- 7143 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or
7144 transmission of audio, data, video, voice, or any other information or signal to a point, or
7145 among or between points.
- 7146 (b) "Telecommunications service" includes:
- 7147 (i) an electronic conveyance, routing, or transmission with respect to which a computer
7148 processing application is used to act:
- 7149 (A) on the code, form, or protocol of the content;
- 7150 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 7151 (C) regardless of whether the service:
- 7152 (I) is referred to as voice over Internet protocol service; or
- 7153 (II) is classified by the Federal Communications Commission as enhanced or value
7154 added;
- 7155 (ii) an 800 service;
- 7156 (iii) a 900 service;
- 7157 (iv) a fixed wireless service;
- 7158 (v) a mobile wireless service;
- 7159 (vi) a postpaid calling service;
- 7160 (vii) a prepaid calling service;
- 7161 (viii) a prepaid wireless calling service; or
- 7162 (ix) a private communications service.
- 7163 (c) "Telecommunications service" does not include:
- 7164 (i) advertising, including directory advertising;
- 7165 (ii) an ancillary service;
- 7166 (iii) a billing and collection service provided to a third party;
- 7167 (iv) a data processing and information service if:
- 7168 (A) the data processing and information service allows data to be:
- 7169 (I) (Aa) acquired;

- 7170 (Bb) generated;
- 7171 (Cc) processed;
- 7172 (Dd) retrieved; or
- 7173 (Ee) stored; and
- 7174 (II) delivered by an electronic transmission to a purchaser; and
- 7175 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 7176 or information;
- 7177 (v) installation or maintenance of the following on a customer's premises:
 - 7178 (A) equipment; or
 - 7179 (B) wiring;
- 7180 (vi) Internet access service;
- 7181 (vii) a paging service;
- 7182 (viii) a product transferred electronically, including:
 - 7183 (A) music;
 - 7184 (B) reading material;
 - 7185 (C) a ring tone;
 - 7186 (D) software; or
 - 7187 (E) video;
- 7188 (ix) a radio and television audio and video programming service:
 - 7189 (A) regardless of the medium; and
 - 7190 (B) including:
 - 7191 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 7192 programming service by a programming service provider;
 - 7193 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 7194 (III) audio and video programming services delivered by a commercial mobile radio
 - 7195 service provider as defined in 47 C.F.R. Sec. 20.3;
 - 7196 (x) a value-added nonvoice data service; or
 - 7197 (xi) tangible personal property.

7198 (130) (a) "Telecommunications service provider" means a person that:
7199 (i) owns, controls, operates, or manages a telecommunications service; and
7200 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
7201 resale to any person of the telecommunications service.

7202 (b) A person described in Subsection (130)(a) is a telecommunications service provider
7203 whether or not the Public Service Commission of Utah regulates:

7204 (i) that person; or
7205 (ii) the telecommunications service that the person owns, controls, operates, or
7206 manages.

7207 (131) (a) "Telecommunications switching or routing equipment, machinery, or
7208 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
7209 primarily for switching or routing:

7210 (i) an ancillary service;
7211 (ii) data communications;
7212 (iii) voice communications; or
7213 (iv) telecommunications service.

7214 (b) The following apply to Subsection (131)(a):

7215 (i) a bridge;
7216 (ii) a computer;
7217 (iii) a cross connect;
7218 (iv) a modem;
7219 (v) a multiplexer;
7220 (vi) plug in circuitry;
7221 (vii) a router;
7222 (viii) software;
7223 (ix) a switch; or
7224 (x) equipment, machinery, or software that functions similarly to an item listed in
7225 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in

7226 accordance with Subsection (131)(c).

7227 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
7228 commission may by rule define what constitutes equipment, machinery, or software that
7229 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

7230 (132) (a) "Telecommunications transmission equipment, machinery, or software"
7231 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for
7232 sending, receiving, or transporting:

- 7233 (i) an ancillary service;
- 7234 (ii) data communications;
- 7235 (iii) voice communications; or
- 7236 (iv) telecommunications service.

7237 (b) The following apply to Subsection (132)(a):

- 7238 (i) an amplifier;
- 7239 (ii) a cable;
- 7240 (iii) a closure;
- 7241 (iv) a conduit;
- 7242 (v) a controller;
- 7243 (vi) a duplexer;
- 7244 (vii) a filter;
- 7245 (viii) an input device;
- 7246 (ix) an input/output device;
- 7247 (x) an insulator;
- 7248 (xi) microwave machinery or equipment;
- 7249 (xii) an oscillator;
- 7250 (xiii) an output device;
- 7251 (xiv) a pedestal;
- 7252 (xv) a power converter;
- 7253 (xvi) a power supply;

7254 (xvii) a radio channel;
7255 (xviii) a radio receiver;
7256 (xix) a radio transmitter;
7257 (xx) a repeater;
7258 (xxi) software;
7259 (xxii) a terminal;
7260 (xxiii) a timing unit;
7261 (xxiv) a transformer;
7262 (xxv) a wire; or
7263 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
7264 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
7265 accordance with Subsection (132)(c).

7266 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
7267 commission may by rule define what constitutes equipment, machinery, or software that
7268 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

7269 (133) (a) "Textbook for a higher education course" means a textbook or other printed
7270 material that is required for a course:

- 7271 (i) offered by an institution of higher education; and
- 7272 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 7273 (b) "Textbook for a higher education course" includes a textbook in electronic format.

7274 (134) "Tobacco" means:

- 7275 (a) a cigarette;
- 7276 (b) a cigar;
- 7277 (c) chewing tobacco;
- 7278 (d) pipe tobacco; or
- 7279 (e) any other item that contains tobacco.

7280 (135) "Unassisted amusement device" means an amusement device, skill device, or
7281 ride device that is started and stopped by the purchaser or renter of the right to use or operate

7282 the amusement device, skill device, or ride device.

7283 (136) (a) "Use" means the exercise of any right or power over tangible personal
7284 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
7285 incident to the ownership or the leasing of that tangible personal property, product transferred
7286 electronically, or service.

7287 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
7288 property, a product transferred electronically, or a service in the regular course of business and
7289 held for resale.

7290 (137) "Value-added nonvoice data service" means a service:

7291 (a) that otherwise meets the definition of a telecommunications service except that a
7292 computer processing application is used to act primarily for a purpose other than conveyance,
7293 routing, or transmission; and

7294 (b) with respect to which a computer processing application is used to act on data or
7295 information:

- 7296 (i) code;
- 7297 (ii) content;
- 7298 (iii) form; or
- 7299 (iv) protocol.

7300 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
7301 required to be titled, registered, or titled and registered:

- 7302 (i) an aircraft as defined in Section 72-10-102;
- 7303 (ii) a vehicle as defined in Section 41-1a-102;
- 7304 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 7305 (iv) a vessel as defined in Section 41-1a-102.

7306 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 7307 (i) a vehicle described in Subsection (138)(a); or
- 7308 (ii) (A) a locomotive;
- 7309 (B) a freight car;

- 7310 (C) railroad work equipment; or
7311 (D) other railroad rolling stock.
- 7312 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
7313 exchanging a vehicle as defined in Subsection (138).
- 7314 (140) (a) "Vertical service" means an ancillary service that:
7315 (i) is offered in connection with one or more telecommunications services; and
7316 (ii) offers an advanced calling feature that allows a customer to:
7317 (A) identify a caller; and
7318 (B) manage multiple calls and call connections.
- 7319 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
7320 conference bridging service.
- 7321 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
7322 receive, send, or store a recorded message.
- 7323 (b) "Voice mail service" does not include a vertical service that a customer is required
7324 to have in order to utilize a voice mail service.
- 7325 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a
7326 facility that generates electricity:
7327 (i) using as the primary source of energy waste materials that would be placed in a
7328 landfill or refuse pit if it were not used to generate electricity, including:
7329 (A) tires;
7330 (B) waste coal;
7331 (C) oil shale; or
7332 (D) municipal solid waste; and
7333 (ii) in amounts greater than actually required for the operation of the facility.
- 7334 (b) "Waste energy facility" does not include a facility that incinerates:
7335 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
7336 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 7337 (143) "Watercraft" means a vessel as defined in Section [73-18-2](#).

7338 (144) "Wind energy" means wind used as the sole source of energy to produce
7339 electricity.

7340 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
7341 location by the United States Postal Service.

7342 Section 78. Section **59-28-103** is amended to read:

7343 **59-28-103. Imposition -- Rate -- Revenue distribution.**

7344 (1) Subject to the other provisions of this chapter, the state shall impose a tax on the
7345 transactions described in Subsection [59-12-103\(1\)\(i\)](#) at a rate of .32%.

7346 (2) The tax imposed under this chapter is in addition to any other taxes imposed on the
7347 transactions described in Subsection [59-12-103\(1\)\(i\)](#).

7348 (3) (a) (i) Subject to Subsection (3)(a)(ii), the commission shall deposit 6% of the
7349 revenue the state collects from the tax under this chapter into the Hospitality and Tourism
7350 Management Education Account created in Section [~~53A-15-207~~] [53F-9-501](#) to fund the
7351 Hospitality and Tourism Management Career and Technical Education Pilot Program created
7352 in Section [~~53A-15-206~~] [53E-3-515](#).

7353 (ii) The commission may not deposit more than \$300,000 into the Hospitality and
7354 Tourism Management Education Account under Subsection (3)(a)(i) in a fiscal year.

7355 (b) Except for the amount deposited into the Hospitality and Tourism Management
7356 Education Account under Subsection (3)(a) and the administrative charge retained under
7357 Subsection [59-28-104\(4\)](#), the commission shall deposit any revenue the state collects from the
7358 tax under this chapter into the Outdoor Recreation Infrastructure Account created in Section
7359 [63N-9-205](#) to fund the Outdoor Recreational Infrastructure Grant Program created in Section
7360 [63N-9-202](#).

7361 Section 79. Section **62A-2-108.1** is amended to read:

7362 **62A-2-108.1. Coordination of human services and educational services --**
7363 **Licensing of programs -- Procedures.**

7364 (1) For purposes of this section:

7365 (a) "accredited private school" means a private school that is accredited by an

7366 accrediting entity recognized by the Utah State Board of Education; and

7367 (b) "education entitled children" means children:

7368 (i) subject to compulsory education under Section [~~53A-11-101.5~~] [53G-6-202](#);

7369 (ii) subject to the school attendance requirements of Section [~~53A-11-101.7~~]

7370 [53G-6-203](#); or

7371 (iii) entitled to educational services under Section [~~53A-15-301~~] [53E-7-202](#).

7372 (2) Subject to Subsection (8) or (9), a human services program may not be licensed to

7373 serve education entitled children unless the human services program presents an educational

7374 service plan that includes evidence:

7375 (a) satisfactory to:

7376 (i) the office; and

7377 (ii) (A) the local school board of the school district in which the human services

7378 program will be operated; or

7379 (B) the school district superintendent of the school district in which the human services

7380 program will be operated; and

7381 (b) that children served by the human services program shall receive appropriate

7382 educational services satisfying the requirements of applicable law.

7383 (3) Subject to Subsection (8) or (9), if a human services program serves any education

7384 entitled children whose custodial parents or legal guardians reside outside the state, then the

7385 program shall also provide an educational funding plan that includes evidence:

7386 (a) satisfactory to:

7387 (i) the office; and

7388 (ii) (A) the local school board of the school district in which the human services

7389 program will be operated; or

7390 (B) the school district superintendent of the school district in which the human services

7391 program will be operated; and

7392 (b) that all costs for educational services to be provided to the education entitled

7393 children, including tuition, and school fees approved by the local school board, shall be borne

7394 by the human services program.

7395 (4) Subject to Subsection (8) or (9), and in accordance with Subsection (2), the human
7396 services program shall obtain and provide the office with a letter:

7397 (a) from the entity referred to in Subsection (2)(a)(ii):

7398 (i) approving the educational service plan referred to in Subsection (2); or

7399 (ii) (A) disapproving the educational service plan referred to in Subsection (2); and

7400 (B) listing the specific requirements the human services program must meet before
7401 approval is granted; and

7402 (b) from the entity referred to in Subsection (3)(a)(ii):

7403 (i) approving the educational funding plan, referred to in Subsection (3); or

7404 (ii) (A) disapproving the educational funding plan, referred to in Subsection (3); and

7405 (B) listing the specific requirements the human services program must meet before
7406 approval is granted.

7407 (5) Subject to Subsection (8), failure of a local school board or school district
7408 superintendent to respond to a proposed plan within 45 days of receipt of the plan is equivalent
7409 to approval of the plan by the local school board or school district superintendent if the human
7410 services program provides to the office:

7411 (a) proof that:

7412 (i) the human services program submitted the proposed plan to the local school board
7413 or school district superintendent; and

7414 (ii) more than 45 days have passed from the day on which the plan was submitted; and

7415 (b) an affidavit, on a form produced by the office, stating:

7416 (i) the date that the human services program submitted the proposed plan to the local
7417 school board or school district superintendent;

7418 (ii) that more than 45 days have passed from the day on which the plan was submitted;

7419 and

7420 (iii) that the local school board or school district superintendent described in

7421 Subsection (5)(b)(i) failed to respond to the proposed plan within 45 days from the day on

7422 which the plan was submitted.

7423 (6) If a licensee that is licensed to serve an education entitled child fails to comply with
7424 its approved educational service plan or educational funding plan, then:

7425 (a) the office shall give the licensee notice of intent to revoke the licensee's license; and

7426 (b) if the licensee continues its noncompliance for more than 30 days after receipt of
7427 the notice described in Subsection (6)(a), the office shall revoke the licensee's license.

7428 (7) If an education entitled child whose custodial parent or legal guardian resides
7429 within the state is provided with educational services by a school district other than the school
7430 district in which the custodial parent or legal guardian resides, then the funding provisions of
7431 Section [~~53A-2-210~~] 53G-6-405 apply.

7432 (8) A human services program that is an accredited private school:

7433 (a) for purposes of Subsection (2):

7434 (i) is only required to submit proof to the office that the accreditation of the private
7435 school is current; and

7436 (ii) is not required to submit an educational service plan for approval by an entity
7437 described in Subsection (2)(a)(ii);

7438 (b) for purposes of Subsection (3):

7439 (i) is only required to submit proof to the office that all costs for educational services
7440 provided to education entitled children will be borne by the human services program; and

7441 (ii) is not required to submit an educational funding plan for approval by an entity
7442 described in Subsection (3)(a)(ii); and

7443 (c) is not required to comply with Subsections (4) and (5).

7444 (9) Except for Subsection (7), the provisions of this section do not apply to a human
7445 services program that is:

7446 (a) a foster home; and

7447 (b) required to be licensed by the office.

7448 Section 80. Section ~~62A-4a-202.6~~ is amended to read:

7449 **62A-4a-202.6. Conflict child protective services investigations -- Authority of**

7450 **investigators.**

7451 (1) (a) The division shall contract with an independent child protective service
7452 investigator from the private sector to investigate reports of abuse or neglect of a child that
7453 occur while the child is in the custody of the division.

7454 (b) The executive director shall designate an entity within the department, other than
7455 the division, to monitor the contract for the investigators described in Subsection (1)(a).

7456 (c) Subject to Subsection (4), when a report is made that a child is abused or neglected
7457 while in the custody of the division:

7458 (i) the attorney general may, in accordance with Section 67-5-16, and with the consent
7459 of the division, employ a child protective services investigator to conduct a conflict
7460 investigation of the report; or

7461 (ii) a law enforcement officer, as defined in Section 53-13-103, may, with the consent
7462 of the division, conduct a conflict investigation of the report.

7463 (d) Subsection (1)(c)(ii) does not prevent a law enforcement officer from, without the
7464 consent of the division, conducting a criminal investigation of abuse or neglect under Title 53,
7465 Public Safety Code.

7466 (2) The investigators described in Subsections (1)(c) and (d) may also investigate
7467 allegations of abuse or neglect of a child by a department employee or a licensed substitute care
7468 provider.

7469 (3) The investigators described in Subsection (1), if not peace officers, shall have the
7470 same rights, duties, and authority of a child protective services investigator employed by the
7471 division to:

7472 (a) make a thorough investigation upon receiving either an oral or written report of
7473 alleged abuse or neglect of a child, with the primary purpose of that investigation being the
7474 protection of the child;

7475 (b) make an inquiry into the child's home environment, emotional, or mental health, the
7476 nature and extent of the child's injuries, and the child's physical safety;

7477 (c) make a written report of their investigation, including determination regarding

7478 whether the alleged abuse or neglect was substantiated, unsubstantiated, or without merit, and
7479 forward a copy of that report to the division within the time mandates for investigations
7480 established by the division; and

7481 (d) immediately consult with school authorities to verify the child's status in
7482 accordance with Sections [~~53A-11-101~~] [53G-6-201](#) through [~~53A-11-103~~] [53G-6-206](#) when a
7483 report is based upon or includes an allegation of educational neglect.

7484 (4) If there is a lapse in the contract with a private child protective service investigator
7485 and no other investigator is available under Subsection (1)(a) or (c), the department may
7486 conduct an independent investigation.

7487 Section 81. Section ~~62A-4a-409~~ is amended to read:

7488 **62A-4a-409. Investigation by division -- Temporary protective custody --**
7489 **Preremoval interviews of children.**

7490 (1) (a) The division shall make a thorough preremoval investigation upon receiving
7491 either an oral or written report of alleged abuse, neglect, fetal alcohol syndrome, or fetal drug
7492 dependency, when there is reasonable cause to suspect that a situation of abuse, neglect, fetal
7493 alcohol syndrome, or fetal drug dependency exists.

7494 (b) The primary purpose of the investigation described in Subsection (1)(a) shall be
7495 protection of the child.

7496 (2) The preremoval investigation described in Subsection (1)(a) shall include the same
7497 investigative requirements described in Section [62A-4a-202.3](#).

7498 (3) The division shall make a written report of its investigation that shall include a
7499 determination regarding whether the alleged abuse or neglect is supported, unsupported, or
7500 without merit.

7501 (4) (a) The division shall use an interdisciplinary approach when appropriate in dealing
7502 with reports made under this part.

7503 (b) The division shall convene a child protection team to assist the division in the
7504 division's protective, diagnostic, assessment, treatment, and coordination services.

7505 (c) The division may include members of a child protection unit in the division's

7506 protective, diagnostic, assessment, treatment, and coordination services.

7507 (d) A representative of the division shall serve as the team's coordinator and chair.

7508 Members of the team shall serve at the coordinator's invitation. Whenever possible, the team
7509 shall include representatives of:

7510 (i) health, mental health, education, and law enforcement agencies;

7511 (ii) the child;

7512 (iii) parent and family support groups unless the parent is alleged to be the perpetrator;

7513 and

7514 (iv) other appropriate agencies or individuals.

7515 (5) If a report of neglect is based upon or includes an allegation of educational neglect,
7516 the division shall immediately consult with school authorities to verify the child's status in
7517 accordance with Sections [~~53A-11-101~~] [53G-6-201](#) through [~~53A-11-103~~] [53G-6-206](#).

7518 (6) When the division completes its initial investigation under this part, it shall give
7519 notice of that completion to the person who made the initial report.

7520 (7) Division workers or other child protection team members have authority to enter
7521 upon public or private premises, using appropriate legal processes, to investigate reports of
7522 alleged abuse or neglect, upon notice to parents of their rights under the Child Abuse
7523 Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof.

7524 (8) With regard to any interview of a child prior to removal of that child from the
7525 child's home:

7526 (a) except as provided in Subsection (8)(b) or (c), the division shall inform a parent of
7527 the child prior to the interview of:

7528 (i) the specific allegations concerning the child; and

7529 (ii) the time and place of the interview;

7530 (b) if a child's parent or stepparent, or a parent's paramour has been identified as the
7531 alleged perpetrator, the division is not required to comply with Subsection (8)(a);

7532 (c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family
7533 is unknown, the division may conduct a minimal interview or conversation, not to exceed 15

7534 minutes, with the child prior to complying with Subsection (8)(a);

7535 (d) in all cases described in Subsection (8)(b) or (c), a parent of the child shall be
7536 notified as soon as practicable after the child has been interviewed, but in no case later than 24
7537 hours after the interview has taken place;

7538 (e) a child's parents shall be notified of the time and place of all subsequent interviews
7539 with the child; and

7540 (f) the child shall be allowed to have a support person of the child's choice present,
7541 who:

7542 (i) may include:

7543 (A) a school teacher;

7544 (B) an administrator;

7545 (C) a guidance counselor;

7546 (D) a child care provider;

7547 (E) a family member;

7548 (F) a family advocate; or

7549 (G) clergy; and

7550 (ii) may not be a person who is alleged to be, or potentially may be, the perpetrator.

7551 (9) In accordance with the procedures and requirements of Sections [62A-4a-202.1](#)
7552 through [62A-4a-202.3](#), a division worker or child protection team member may take a child
7553 into protective custody and deliver the child to a law enforcement officer, or place the child in
7554 an emergency shelter facility approved by the juvenile court, at the earliest opportunity
7555 subsequent to the child's removal from the child's original environment. Control and
7556 jurisdiction over the child is determined by the provisions of Title 78A, Chapter 6, Juvenile
7557 Court Act, and as otherwise provided by law.

7558 (10) With regard to cases in which law enforcement has or is conducting an
7559 investigation of alleged abuse or neglect of a child:

7560 (a) the division shall coordinate with law enforcement to ensure that there is an
7561 adequate safety plan to protect the child from further abuse or neglect; and

7562 (b) the division is not required to duplicate an aspect of the investigation that, in the
7563 division's determination, has been satisfactorily completed by law enforcement.

7564 (11) With regard to a mutual case in which a child protection unit was involved in the
7565 investigation of alleged abuse or neglect of a child, the division shall consult with the child
7566 protection unit before closing the case.

7567 Section 82. Section **62A-4a-606** is amended to read:

7568 **62A-4a-606. Child-placing agency responsibility for educational services --**
7569 **Payment of costs.**

7570 (1) A child-placing agency shall ensure that the requirements of Subsections
7571 [~~53A-11-101.5~~] [53G-6-202](#)(2) and [~~53A-11-101.7~~] [53G-6-203](#)(1) are met through the provision
7572 of appropriate educational services for all children served in the state by the agency.

7573 (2) If the educational services are to be provided through a public school, and:

7574 (a) the custodial parent or legal guardian resides outside the state, then the child
7575 placing agency shall pay all educational costs required under Sections [~~53A-2-205~~] [53G-6-306](#)
7576 and [~~53A-12-102~~] [53G-7-503](#); or

7577 (b) the custodial parent or legal guardian resides within the state, then the child placing
7578 agency shall pay all educational costs required under Section [~~53A-12-102~~] [53G-7-503](#).

7579 (3) Children in the custody or under the care of a Utah state agency are exempt from
7580 the payment of fees required under Subsection (2).

7581 (4) A public school shall admit any child living within its school boundaries who is
7582 under the supervision of a child placing agency upon payment by the agency of the tuition and
7583 fees required under Subsection (2).

7584 Section 83. Section **62A-4a-1002** is amended to read:

7585 **62A-4a-1002. Definitions.**

7586 As used in this part:

7587 (1) (a) Except as provided in Subsection (1)(b), "severe type of child abuse or neglect"
7588 means:

7589 (i) if committed by a person 18 years of age or older:

- 7590 (A) chronic abuse;
- 7591 (B) severe abuse;
- 7592 (C) sexual abuse;
- 7593 (D) sexual exploitation;
- 7594 (E) abandonment;
- 7595 (F) chronic neglect; or
- 7596 (G) severe neglect; or
- 7597 (ii) if committed by a person under the age of 18:
 - 7598 (A) serious physical injury, as defined in Subsection [76-5-109\(1\)](#), to another child
 - 7599 which indicates a significant risk to other children; or
 - 7600 (B) sexual behavior with or upon another child which indicates a significant risk to
 - 7601 other children.
 - 7602 (b) "Severe type of child abuse or neglect" does not include:
 - 7603 (i) the use of reasonable and necessary physical restraint by an educator in accordance
 - 7604 with Subsection [~~53A-11-802~~] [53G-8-302\(2\)](#) or Section [76-2-401](#);
 - 7605 (ii) a person's conduct that:
 - 7606 (A) is justified under Section [76-2-401](#); or
 - 7607 (B) constitutes the use of reasonable and necessary physical restraint or force in
 - 7608 self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or
 - 7609 other dangerous object in the possession or under the control of a child or to protect the child or
 - 7610 another person from physical injury; or
 - 7611 (iii) a health care decision made for a child by the child's parent or guardian, unless,
 - 7612 subject to Subsection [62A-4a-1004\(2\)](#), the state or other party to the proceeding shows, by
 - 7613 clear and convincing evidence, that the health care decision is not reasonable and informed.
 - 7614 (2) "Significant risk" means a risk of harm that is determined to be significant in
 - 7615 accordance with risk assessment tools and rules established by the division that focus on:
 - 7616 (a) age;
 - 7617 (b) social factors;

- 7618 (c) emotional factors;
- 7619 (d) sexual factors;
- 7620 (e) intellectual factors;
- 7621 (f) family risk factors; and
- 7622 (g) other related considerations.

7623 Section 84. Section **62A-5a-102** is amended to read:

7624 **62A-5a-102. Definitions.**

7625 As used in this chapter:

7626 (1) "Council" means the Coordinating Council for Persons with Disabilities.

7627 (2) "State agencies" means:

7628 (a) the Division of Services for People with Disabilities and the Division of Substance
7629 Abuse and Mental Health, within the Department of Human Services;

7630 (b) the Division of Health Care Financing within the Department of Health;

7631 (c) family health services programs established under Title 26, Chapter 10, Family
7632 Health Services, operated by the Department of Health;

7633 (d) the Utah State Office of Rehabilitation created in Section [35A-1-202](#); and

7634 (e) special education programs operated by the State Board of Education and local
7635 school districts under [~~Title 53A, Chapter 15, Part 3, Education of Children with Disabilities~~]
7636 Title 53E, Chapter 7, Part 2, Special Education Program.

7637 Section 85. Section **62A-5a-105** is amended to read:

7638 **62A-5a-105. Coordination of services for school-age children.**

7639 (1) Within appropriations authorized by the Legislature, the state director of special
7640 education, the director of the Utah State Office of Rehabilitation created in Section [35A-1-202](#),
7641 the executive director of the Department of Human Services, and the family health services
7642 director within the Department of Health, or their designees, and the affected local school
7643 district shall cooperatively develop a single coordinated education program, treatment services,
7644 and individual and family supports for students entitled to a free appropriate education under
7645 [~~Title 53A, Chapter 15, Part 3, Education of Children with Disabilities~~] Title 53E, Chapter 7,

7646 Part 2, Special Education Program, who also require services from the Department of Human
7647 Services, the Department of Health, or the Utah State Office of Rehabilitation.

7648 (2) Distribution of costs for services and supports described in Subsection (1) shall be
7649 determined through a process established by the State Board of Education, the Department of
7650 Human Services, and the Department of Health.

7651 Section 86. Section **62A-15-1101** is amended to read:

7652 **62A-15-1101. Suicide prevention -- Reporting requirements.**

7653 (1) As used in the section:

7654 (a) "Bureau" means the Bureau of Criminal Identification created in Section [53-10-201](#)
7655 within the Department of Public Safety.

7656 (b) "Division" means the Division of Substance Abuse and Mental Health.

7657 (c) "Intervention" means an effort to prevent a person from attempting suicide.

7658 (d) "Postvention" means mental health intervention after a suicide attempt or death to
7659 prevent or contain contagion.

7660 (e) "State suicide prevention coordinator" means an individual designated by the
7661 division as described in Subsections (2) and (3).

7662 (2) The division shall appoint a state suicide prevention coordinator to administer a
7663 state suicide prevention program composed of suicide prevention, intervention, and postvention
7664 programs, services, and efforts.

7665 (3) The state suicide prevention program may include the following components:

7666 (a) delivery of resources, tools, and training to community-based coalitions;

7667 (b) evidence-based suicide risk assessment tools and training;

7668 (c) town hall meetings for building community-based suicide prevention strategies;

7669 (d) suicide prevention gatekeeper training;

7670 (e) training to identify warning signs and to manage an at-risk individual's crisis;

7671 (f) evidence-based intervention training;

7672 (g) intervention skills training; and

7673 (h) postvention training.

7674 (4) The state suicide prevention coordinator shall coordinate with the following to
7675 gather statistics, among other duties:

- 7676 (a) local mental health and substance abuse authorities;
- 7677 (b) the State Board of Education, including the public education suicide prevention
7678 coordinator described in Section [~~53A-15-1301~~] [53G-9-702](#);
- 7679 (c) the Department of Health;
- 7680 (d) health care providers, including emergency rooms;
- 7681 (e) federal agencies, including the Federal Bureau of Investigation;
- 7682 (f) other unbiased sources; and
- 7683 (g) other public health suicide prevention efforts.

7684 (5) The state suicide prevention coordinator shall provide a written report to the Health
7685 and Human Services Interim Committee, by the October meeting every year, on:

- 7686 (a) implementation of the state suicide prevention program, as described in Subsections
7687 (2) and (3);
- 7688 (b) data measuring the effectiveness of each component of the state suicide prevention
7689 program;
- 7690 (c) funds appropriated for each component of the state suicide prevention program; and
- 7691 (d) five-year trends of suicides in Utah, including subgroups of youths and adults and
7692 other subgroups identified by the state suicide prevention coordinator.

7693 (6) The state suicide prevention coordinator shall report to the Legislature's:

- 7694 (a) Education Interim Committee, by the October 2015 meeting, jointly with the State
7695 Board of Education, on the coordination of suicide prevention programs and efforts with the
7696 State Board of Education and the public education suicide prevention coordinator as described
7697 in Section [~~53A-15-1301~~] [53G-9-702](#); and

- 7698 (b) Health and Human Services Interim Committee, by the October 2017 meeting,
7699 statistics on the number of annual suicides in Utah, including how many suicides were
7700 committed with a gun, and if so:

- 7701 (i) where the victim procured the gun and if the gun was legally possessed by the

7702 victim;

7703 (ii) if the victim purchased the gun legally and whether a background check was
7704 performed before the victim purchased the gun;

7705 (iii) whether the victim had a history of mental illness or was under the treatment of a
7706 mental health professional;

7707 (iv) whether any medication or illegal drugs or alcohol were also involved in the
7708 suicide; and

7709 (v) if the suicide incident also involved the injury or death of another individual,
7710 whether the shooter had a history of domestic violence.

7711 (7) The state suicide prevention coordinator shall consult with the bureau to implement
7712 and manage the operation of a firearm safety program, as described in Subsection
7713 53-10-202(18), Section 53-10-202.1, and the Suicide Prevention Education Program described
7714 in Section 53-10-202.3.

7715 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
7716 division shall make rules:

7717 (a) governing the implementation of the state suicide prevention program, consistent
7718 with this section; and

7719 (b) in conjunction with the bureau, defining the criteria for employers to apply for
7720 grants under the Suicide Prevention Education Program in Section 53-10-202.3, which shall
7721 include:

7722 (i) attendance at a suicide prevention education course; and

7723 (ii) display of posters and distribution of the firearm safety brochures or packets
7724 created in Subsection 53-10-202(18)(a)(iii), but does not require the distribution of a
7725 cable-style gun lock with a firearm if the firearm already has a trigger lock or comparable
7726 safety mechanism.

7727 (9) The state suicide prevention coordinator shall present to the Health and Human
7728 Services Interim Committee, no later than November 2017, a 10-year statewide suicide
7729 prevention plan.

7730 (10) As funding by the Legislature allows, the state suicide prevention coordinator
7731 shall award grants, not to exceed a total of \$100,000 per fiscal year, to suicide prevention
7732 programs that focus on the needs of children who have been served by the Division of Juvenile
7733 Justice Services.

7734 Section 87. Section **63A-3-106** is amended to read:

7735 **63A-3-106. Per diem rates for board members.**

7736 (1) As used in this section and Section **63A-3-107**:

7737 (a) "Board" means a board, commission, council, committee, task force, or similar
7738 body established to perform a governmental function.

7739 (b) "Board member" means a person appointed or designated by statute to serve on a
7740 board.

7741 (c) "Executive branch" means an agency within the executive branch of state
7742 government.

7743 (d) (i) "Governmental entity" has the same meaning, except as provided in Subsection
7744 (1)(d)(ii), as provided under Section **63G-2-103**.

7745 (ii) "Governmental entity" does not include an association as defined in Section
7746 [~~53A-16-101~~] **53G-7-1101**.

7747 (e) "Higher education" means a state institution of higher education, as defined under
7748 Section **53B-1-102**.

7749 (f) "Officer" means a person who is elected or appointed to an office or position within
7750 a governmental entity.

7751 (g) "Official meeting" means a meeting of a board that is called in accordance with
7752 statute.

7753 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
7754 subject to approval by the executive director, the director of the Division of Finance shall make
7755 rules establishing per diem rates to defray subsistence costs for a board member's attendance at
7756 an official meeting.

7757 (3) Unless otherwise provided by statute, a per diem rate established under Subsection

- 7758 (2) is applicable to a board member who serves:
- 7759 (a) within the executive branch, except as provided under Subsection (3)(b);
- 7760 (b) within higher education, unless higher education pays the costs of the per diem;
- 7761 (c) on a board that is:
- 7762 (i) not included under Subsection (3)(a) or (b); and
- 7763 (ii) created by a statute that adopts the per diem rates by reference to:
- 7764 (A) this section; and
- 7765 (B) the rule authorized by this section; and
- 7766 (d) within a government entity that is not included under Subsection (3)(a), if the
- 7767 government entity adopts the per diem rates by reference to:
- 7768 (i) this section; or
- 7769 (ii) the rule establishing the per diem rates.
- 7770 (4) (a) Unless otherwise provided by statute, a board member who is not a legislator
- 7771 may receive per diem under this section and travel expenses under Section [63A-3-107](#) if the per
- 7772 diem and travel expenses are incurred by the board member for attendance at an official
- 7773 meeting.
- 7774 (b) Notwithstanding Subsection (4)(a), a board member may not receive per diem or
- 7775 travel expenses under this Subsection (4) if the board member is being paid by a governmental
- 7776 entity while performing the board member's service on the board.
- 7777 (5) A board member may decline to receive per diem for the board member's service.
- 7778 (6) Compensation and expenses of a board member who is a legislator are governed by
- 7779 Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- 7780 Section 88. Section [63A-3-402](#) is amended to read:
- 7781 **63A-3-402. Utah Public Finance Website -- Establishment and administration --**
- 7782 **Records disclosure -- Exceptions.**
- 7783 (1) There is created the Utah Public Finance Website to be administered by the
- 7784 Division of Finance with the technical assistance of the Department of Technology Services.
- 7785 (2) The Utah Public Finance Website shall:

- 7786 (a) permit Utah taxpayers to:
- 7787 (i) view, understand, and track the use of taxpayer dollars by making public financial
- 7788 information available on the Internet for participating state entities, independent entities, and
- 7789 participating local entities, using the Utah Public Finance Website; and
- 7790 (ii) link to websites administered by participating local entities or independent entities
- 7791 that do not use the Utah Public Finance Website for the purpose of providing participating
- 7792 local entities' or independent entities' public financial information as required by this part and
- 7793 by rule under Section [63A-3-404](#);
- 7794 (b) allow a person who has Internet access to use the website without paying a fee;
- 7795 (c) allow the public to search public financial information on the Utah Public Finance
- 7796 Website using criteria established by the board;
- 7797 (d) provide access to financial reports, financial audits, budgets, or other financial
- 7798 documents that are used to allocate, appropriate, spend, and account for government funds, as
- 7799 may be established by rule under Section [63A-3-404](#);
- 7800 (e) have a unique and simplified website address;
- 7801 (f) be directly accessible via a link from the main page of the official state website;
- 7802 (g) include other links, features, or functionality that will assist the public in obtaining
- 7803 and reviewing public financial information, as may be established by rule under Section
- 7804 [63A-3-404](#); and
- 7805 (h) include a link to school report cards published on the State Board of Education's
- 7806 website under Section [~~53A-1-1112~~] [53E-5-211](#).
- 7807 (3) The division shall:
- 7808 (a) establish and maintain the website, including the provision of equipment, resources,
- 7809 and personnel as necessary;
- 7810 (b) maintain an archive of all information posted to the website;
- 7811 (c) coordinate and process the receipt and posting of public financial information from
- 7812 participating state entities;
- 7813 (d) coordinate and regulate the posting of public financial information by participating

7814 local entities and independent entities; and

7815 (e) provide staff support for the advisory committee.

7816 (4) (a) A participating state entity and each independent entity shall permit the public
7817 to view the entity's public financial information via the website, beginning with information
7818 that is generated not later than the fiscal year that begins July 1, 2008, except that public
7819 financial information for an:

7820 (i) institution of higher education shall be provided beginning with information
7821 generated for the fiscal year beginning July 1, 2009; and

7822 (ii) independent entity shall be provided beginning with information generated for the
7823 entity's fiscal year beginning in 2014.

7824 (b) No later than May 15, 2009, the website shall:

7825 (i) be operational; and

7826 (ii) permit public access to participating state entities' public financial information,
7827 except as provided in Subsections (4)(c) and (d).

7828 (c) An institution of higher education that is a participating state entity shall submit the
7829 entity's public financial information at a time allowing for inclusion on the website no later
7830 than May 15, 2010.

7831 (d) No later than the first full quarter after July 1, 2014, an independent entity shall
7832 submit the entity's public financial information for inclusion on the Utah Public Finance
7833 Website or via a link to its own website on the Utah Public Finance Website.

7834 (5) (a) The Utah Educational Savings Plan, created in Section [53B-8a-103](#), shall
7835 provide the following financial information to the division for posting on the Utah Public
7836 Finance Website:

7837 (i) administrative fund expense transactions from its general ledger accounting system;
7838 and

7839 (ii) employee compensation information.

7840 (b) The plan is not required to submit other financial information to the division,
7841 including:

- 7842 (i) revenue transactions;
- 7843 (ii) account owner transactions; and
- 7844 (iii) fiduciary or commercial information, as defined in Section [53B-12-102](#).
- 7845 (6) (a) The following independent entities shall each provide administrative expense
- 7846 transactions from its general ledger accounting system and employee compensation
- 7847 information to the division for posting on the Utah Public Finance Website or via a link to a
- 7848 website administered by the independent entity:
 - 7849 (i) the Utah Capital Investment Corporation, created in Section [63N-6-301](#);
 - 7850 (ii) the Utah Housing Corporation, created in Section [63H-8-201](#); and
 - 7851 (iii) the School and Institutional Trust Lands Administration, created in Section
 - 7852 [53C-1-201](#).
- 7853 (b) For purposes of this part, an independent entity described in Subsection (6)(a) is not
- 7854 required to submit to the division, or provide a link to, other financial information, including:
 - 7855 (i) revenue transactions of a fund or account created in its enabling statute;
 - 7856 (ii) fiduciary or commercial information related to any subject if the disclosure of the
 - 7857 information:
 - 7858 (A) would conflict with fiduciary obligations; or
 - 7859 (B) is prohibited by insider trading provisions;
 - 7860 (iii) information of a commercial nature, including information related to:
 - 7861 (A) account owners, borrowers, and dependents;
 - 7862 (B) demographic data;
 - 7863 (C) contracts and related payments;
 - 7864 (D) negotiations;
 - 7865 (E) proposals or bids;
 - 7866 (F) investments;
 - 7867 (G) the investment and management of funds;
 - 7868 (H) fees and charges;
 - 7869 (I) plan and program design;

- 7870 (J) investment options and underlying investments offered to account owners;
- 7871 (K) marketing and outreach efforts;
- 7872 (L) lending criteria;
- 7873 (M) the structure and terms of bonding; and
- 7874 (N) financial plans or strategies; and
- 7875 (iv) information protected from public disclosure by federal law.
- 7876 (7) (a) As used in this Subsection (7):
- 7877 (i) "Local education agency" means a school district or a charter school.
- 7878 (ii) "New school building project" means:
- 7879 (A) the construction of a school or school facility that did not previously exist in a local
- 7880 education agency; or
- 7881 (B) the lease or purchase of an existing building, by a local education agency, to be
- 7882 used as a school or school facility.
- 7883 (iii) "School facility" means a facility, including a pool, theater, stadium, or
- 7884 maintenance building, that is built, leased, acquired, or remodeled by a local education agency
- 7885 regardless of whether the facility is open to the public.
- 7886 (iv) "Significant school remodel" means a construction project undertaken by a local
- 7887 education agency with a project cost equal to or greater than \$2,000,000, including:
- 7888 (A) the upgrading, changing, alteration, refurbishment, modification, or complete
- 7889 substitution of an existing school or school facility in a local education agency; or
- 7890 (B) the addition of a school facility.
- 7891 (b) For each new school building project or significant school remodel, the local
- 7892 education agency shall:
- 7893 (i) prepare an annual school plant capital outlay report; and
- 7894 (ii) submit the report:
- 7895 (A) to the division for publication on the Utah Public Finance Website; and
- 7896 (B) in a format, including any raw data or electronic formatting, prescribed by
- 7897 applicable division policy.

7898 (c) The local education agency shall include in the capital outlay report described in
7899 Subsection (7)(b)(i) the following information as applicable to each new school building
7900 project or significant school remodel:

7901 (i) the name and location of the new school building project or significant school
7902 remodel;

7903 (ii) construction and design costs, including:

7904 (A) the purchase price or lease terms of any real property acquired or leased for the
7905 project or remodel;

7906 (B) facility construction;

7907 (C) facility and landscape design;

7908 (D) applicable impact fees; and

7909 (E) furnishings and equipment;

7910 (iii) the gross square footage of the project or remodel;

7911 (iv) the year construction was completed; and

7912 (v) the final student capacity of the new school building project or, for a significant
7913 school remodel, the increase or decrease in student capacity created by the remodel.

7914 (d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c),
7915 the local education agency shall report the actual cost, fee, or other expense.

7916 (ii) The division may require that a local education agency provide further itemized
7917 data on information listed in Subsection (7)(c).

7918 (e) (i) No later than May 15, 2015, a local education agency shall provide the division a
7919 school plant capital outlay report for each new school building project and significant school
7920 remodel completed on or after July 1, 2004, and before May 13, 2014.

7921 (ii) For a new school building project or significant school remodel completed after
7922 May 13, 2014, the local education agency shall provide the school plant capital outlay report
7923 described in this Subsection (7) to the division annually by a date designated by the division.

7924 (8) A person who negligently discloses a record that is classified as private, protected,
7925 or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is

7926 not criminally or civilly liable for an improper disclosure of the record if the record is disclosed
7927 solely as a result of the preparation or publication of the Utah Public Finance Website.

7928 Section 89. Section **63A-4-204** is amended to read:

7929 **63A-4-204. School district participation in Risk Management Fund.**

7930 (1) (a) For the purpose of this section, action by a public school district shall be taken
7931 upon resolution by a majority of the members of the school district's board of education.

7932 (b) (i) Upon approval by the state risk manager and the board of education of the
7933 school district, a public school district may participate in the Risk Management Fund and may
7934 permit a foundation established under Section [~~53A-4-205~~] [53E-3-403](#) to participate in the
7935 Risk Management Fund.

7936 (ii) Upon approval by the state risk manager and the State Board of Education, a state
7937 public education foundation may participate in the Risk Management Fund.

7938 (c) Subject to any cancellation or other applicable coverage provisions, either the state
7939 risk manager or the public school district may terminate participation in the fund.

7940 (2) The state risk manager shall contract for all insurance, legal, loss adjustment,
7941 consulting, loss control, safety, and other related services necessary to support the insurance
7942 program provided to a participating public school district, except that all supporting legal
7943 services are subject to the prior approval of the state attorney general.

7944 (3) (a) The state risk manager shall treat each participating public school district as a
7945 state agency when participating in the Risk Management Fund.

7946 (b) Each public school district participating in the fund shall comply with the
7947 provisions of this part that affect state agencies.

7948 (4) (a) Each year, the risk manager shall prepare, in writing, the information required
7949 by Subsection (4)(b) regarding the coverage against legal liability provided a school district
7950 employee of this state:

7951 (i) by the Risk Management Fund;

7952 (ii) under Title 63G, Chapter 7, Governmental Immunity Act of Utah; and

7953 (iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and

7954 Employees Act.

7955 (b) (i) The information described in Subsection (4)(a) shall include:

7956 (A) the eligibility requirements, if any, to receive the coverage;

7957 (B) the basic nature of the coverage for a school district employee, including what is
7958 not covered; and

7959 (C) whether the coverage is primary or in excess of any other coverage the risk
7960 manager knows is commonly available to a school district employee in this state.

7961 (ii) The information described in Subsection (4)(a) may include:

7962 (A) comparisons the risk manager considers beneficial to a school district employee
7963 between:

7964 (I) the coverage described in Subsection (4)(a); and

7965 (II) other coverage the risk manager knows is commonly available to a school district
7966 employee in this state; and

7967 (B) any other information the risk manager considers appropriate.

7968 (c) By no later than July 1 of each year, the risk manager shall provide the information
7969 prepared under this Subsection (4) to each school district that participates in the Risk
7970 Management Fund.

7971 (d) A school district that participates in the Risk Management Fund shall provide a
7972 copy of the information described in Subsection (4)(c) to each school district employee within
7973 the school district no later than the first day of each school year.

7974 (e) If a school district hires an employee after the first day of the school year, no later
7975 than 10 days after the day on which the employee is hired, the school district shall provide the
7976 information described in Subsection (4)(c) to the employee.

7977 Section 90. Section **63A-4-204.5** is amended to read:

7978 **63A-4-204.5. Charter school participation in Risk Management Fund.**

7979 (1) A charter school established under the authority of [~~Title 53A, Chapter 1a, Part 5,~~
7980 ~~The Utah Charter Schools Act~~] Title 53G, Chapter 5, Charter Schools, may participate in the
7981 Risk Management Fund upon the approval of the state risk manager and the governing body of

7982 the charter school.

7983 (2) (a) For purposes of administration, the state risk manager shall treat each charter
7984 school participating in the fund as a state agency.

7985 (b) Each charter school participating in the fund shall comply with the provisions of
7986 this part that affect state agencies.

7987 (3) (a) Each year, the risk manager shall prepare, in writing, the information required
7988 by Subsection (3)(b) regarding the coverage against legal liability provided a charter school
7989 employee of this state:

7990 (i) by the Risk Management Fund;

7991 (ii) under Title 63G, Chapter 7, Utah Governmental Immunity Act of Utah; and

7992 (iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and
7993 Employees Act.

7994 (b) (i) The information described in Subsection (3)(a) shall include:

7995 (A) the eligibility requirements, if any, to receive the coverage;

7996 (B) the basic nature of the coverage for a charter school employee, including what is
7997 not covered; and

7998 (C) whether the coverage is primary or in excess of any other coverage the risk
7999 manager knows is commonly available to a charter school employee in this state.

8000 (ii) The information described in Subsection (3)(a) may include:

8001 (A) comparisons the risk manager considers beneficial to a charter school employee
8002 between:

8003 (I) the coverage described in Subsection (3)(a); and

8004 (II) other coverage the risk manager knows is commonly available to a charter school
8005 employee in this state; and

8006 (B) any other information the risk manager considers appropriate.

8007 (c) By no later than July 1 of each year, the risk manager shall provide the information
8008 prepared under this Subsection (3) to each charter school that participates in the Risk
8009 Management Fund.

8010 (d) A charter school that participates in the Risk Management Fund shall provide a
8011 copy of the information described in Subsection (3)(c) to each charter school employee within
8012 the charter school no later than the first day of each school year.

8013 (e) If a charter school hires an employee after the first day of the school year, no later
8014 than 10 days after the day on which the employee is hired, the charter school shall provide the
8015 information described in Subsection (3)(c) to the employee.

8016 Section 91. Section **63G-2-103** is amended to read:

8017 **63G-2-103. Definitions.**

8018 As used in this chapter:

8019 (1) "Audit" means:

8020 (a) a systematic examination of financial, management, program, and related records
8021 for the purpose of determining the fair presentation of financial statements, adequacy of
8022 internal controls, or compliance with laws and regulations; or

8023 (b) a systematic examination of program procedures and operations for the purpose of
8024 determining their effectiveness, economy, efficiency, and compliance with statutes and
8025 regulations.

8026 (2) "Chronological logs" mean the regular and customary summary records of law
8027 enforcement agencies and other public safety agencies that show:

8028 (a) the time and general nature of police, fire, and paramedic calls made to the agency;
8029 and

8030 (b) any arrests or jail bookings made by the agency.

8031 (3) "Classification," "classify," and their derivative forms mean determining whether a
8032 record series, record, or information within a record is public, private, controlled, protected, or
8033 exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

8034 (4) (a) "Computer program" means:

8035 (i) a series of instructions or statements that permit the functioning of a computer
8036 system in a manner designed to provide storage, retrieval, and manipulation of data from the
8037 computer system; and

8038 (ii) any associated documentation and source material that explain how to operate the
8039 computer program.

8040 (b) "Computer program" does not mean:

8041 (i) the original data, including numbers, text, voice, graphics, and images;

8042 (ii) analysis, compilation, and other manipulated forms of the original data produced by
8043 use of the program; or

8044 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
8045 algorithms contained in the program, that would be used if the manipulated forms of the
8046 original data were to be produced manually.

8047 (5) (a) "Contractor" means:

8048 (i) any person who contracts with a governmental entity to provide goods or services
8049 directly to a governmental entity; or

8050 (ii) any private, nonprofit organization that receives funds from a governmental entity.

8051 (b) "Contractor" does not mean a private provider.

8052 (6) "Controlled record" means a record containing data on individuals that is controlled
8053 as provided by Section [63G-2-304](#).

8054 (7) "Designation," "designate," and their derivative forms mean indicating, based on a
8055 governmental entity's familiarity with a record series or based on a governmental entity's
8056 review of a reasonable sample of a record series, the primary classification that a majority of
8057 records in a record series would be given if classified and the classification that other records
8058 typically present in the record series would be given if classified.

8059 (8) "Elected official" means each person elected to a state office, county office,
8060 municipal office, school board or school district office, local district office, or special service
8061 district office, but does not include judges.

8062 (9) "Explosive" means a chemical compound, device, or mixture:

8063 (a) commonly used or intended for the purpose of producing an explosion; and

8064 (b) that contains oxidizing or combustive units or other ingredients in proportions,
8065 quantities, or packing so that:

- 8066 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
8067 compound or mixture may cause a sudden generation of highly heated gases; and
8068 (ii) the resultant gaseous pressures are capable of:
8069 (A) producing destructive effects on contiguous objects; or
8070 (B) causing death or serious bodily injury.
- 8071 (10) "Government audit agency" means any governmental entity that conducts an audit.
8072 (11) (a) "Governmental entity" means:
8073 (i) executive department agencies of the state, the offices of the governor, lieutenant
8074 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
8075 the Board of Examiners, the National Guard, the Career Service Review Office, the State
8076 Board of Education, the State Board of Regents, and the State Archives;
8077 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
8078 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative
8079 committees, except any political party, group, caucus, or rules or sifting committee of the
8080 Legislature;
8081 (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar
8082 administrative units in the judicial branch;
8083 (iv) any state-funded institution of higher education or public education; or
8084 (v) any political subdivision of the state, but, if a political subdivision has adopted an
8085 ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this
8086 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or
8087 as specified in any other section of this chapter that specifically refers to political subdivisions.
- 8088 (b) "Governmental entity" also means:
8089 (i) every office, agency, board, bureau, committee, department, advisory board, or
8090 commission of an entity listed in Subsection (11)(a) that is funded or established by the
8091 government to carry out the public's business;
8092 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative
8093 undertaking;

8094 (iii) as defined in Section [11-13a-102](#), a governmental nonprofit corporation; and

8095 (iv) an association as defined in Section [~~53A-1-1601~~] [53G-7-1101](#).

8096 (c) "Governmental entity" does not include the Utah Educational Savings Plan created
8097 in Section [53B-8a-103](#).

8098 (12) "Gross compensation" means every form of remuneration payable for a given
8099 period to an individual for services provided including salaries, commissions, vacation pay,
8100 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any
8101 similar benefit received from the individual's employer.

8102 (13) "Individual" means a human being.

8103 (14) (a) "Initial contact report" means an initial written or recorded report, however
8104 titled, prepared by peace officers engaged in public patrol or response duties describing official
8105 actions initially taken in response to either a public complaint about or the discovery of an
8106 apparent violation of law, which report may describe:

8107 (i) the date, time, location, and nature of the complaint, the incident, or offense;

8108 (ii) names of victims;

8109 (iii) the nature or general scope of the agency's initial actions taken in response to the
8110 incident;

8111 (iv) the general nature of any injuries or estimate of damages sustained in the incident;

8112 (v) the name, address, and other identifying information about any person arrested or
8113 charged in connection with the incident; or

8114 (vi) the identity of the public safety personnel, except undercover personnel, or
8115 prosecuting attorney involved in responding to the initial incident.

8116 (b) Initial contact reports do not include follow-up or investigative reports prepared
8117 after the initial contact report. However, if the information specified in Subsection (14)(a)
8118 appears in follow-up or investigative reports, it may only be treated confidentially if it is
8119 private, controlled, protected, or exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

8120 (15) "Legislative body" means the Legislature.

8121 (16) "Notice of compliance" means a statement confirming that a governmental entity

8122 has complied with a records committee order.

8123 (17) "Person" means:

8124 (a) an individual;

8125 (b) a nonprofit or profit corporation;

8126 (c) a partnership;

8127 (d) a sole proprietorship;

8128 (e) other type of business organization; or

8129 (f) any combination acting in concert with one another.

8130 (18) "Private provider" means any person who contracts with a governmental entity to
8131 provide services directly to the public.

8132 (19) "Private record" means a record containing data on individuals that is private as
8133 provided by Section [63G-2-302](#).

8134 (20) "Protected record" means a record that is classified protected as provided by
8135 Section [63G-2-305](#).

8136 (21) "Public record" means a record that is not private, controlled, or protected and that
8137 is not exempt from disclosure as provided in Subsection [63G-2-201\(3\)\(b\)](#).

8138 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,
8139 card, tape, recording, electronic data, or other documentary material regardless of physical form
8140 or characteristics:

8141 (i) that is prepared, owned, received, or retained by a governmental entity or political
8142 subdivision; and

8143 (ii) where all of the information in the original is reproducible by photocopy or other
8144 mechanical or electronic means.

8145 (b) "Record" does not mean:

8146 (i) a personal note or personal communication prepared or received by an employee or
8147 officer of a governmental entity:

8148 (A) in a capacity other than the employee's or officer's governmental capacity; or

8149 (B) that is unrelated to the conduct of the public's business;

- 8150 (ii) a temporary draft or similar material prepared for the originator's personal use or
8151 prepared by the originator for the personal use of an individual for whom the originator is
8152 working;
- 8153 (iii) material that is legally owned by an individual in the individual's private capacity;
- 8154 (iv) material to which access is limited by the laws of copyright or patent unless the
8155 copyright or patent is owned by a governmental entity or political subdivision;
- 8156 (v) proprietary software;
- 8157 (vi) junk mail or a commercial publication received by a governmental entity or an
8158 official or employee of a governmental entity;
- 8159 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections
8160 of a library open to the public;
- 8161 (viii) material that is cataloged, indexed, or inventoried and contained in the collections
8162 of a library open to the public, regardless of physical form or characteristics of the material;
- 8163 (ix) a daily calendar or other personal note prepared by the originator for the
8164 originator's personal use or for the personal use of an individual for whom the originator is
8165 working;
- 8166 (x) a computer program that is developed or purchased by or for any governmental
8167 entity for its own use;
- 8168 (xi) a note or internal memorandum prepared as part of the deliberative process by:
- 8169 (A) a member of the judiciary;
- 8170 (B) an administrative law judge;
- 8171 (C) a member of the Board of Pardons and Parole; or
- 8172 (D) a member of any other body, other than an association or appeals panel as defined
8173 in Section [~~53A-1-1601~~] [53G-7-1101](#), charged by law with performing a quasi-judicial
8174 function;
- 8175 (xii) a telephone number or similar code used to access a mobile communication
8176 device that is used by an employee or officer of a governmental entity, provided that the
8177 employee or officer of the governmental entity has designated at least one business telephone

8178 number that is a public record as provided in Section 63G-2-301;

8179 (xiii) information provided by the Public Employees' Benefit and Insurance Program,
8180 created in Section 49-20-103, to a county to enable the county to calculate the amount to be
8181 paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

8182 (xiv) information that an owner of unimproved property provides to a local entity as
8183 provided in Section 11-42-205; or

8184 (xv) a video or audio recording of an interview, or a transcript of the video or audio
8185 recording, that is conducted at a Children's Justice Center established under Section 67-5b-102.

8186 (23) "Record series" means a group of records that may be treated as a unit for
8187 purposes of designation, description, management, or disposition.

8188 (24) "Records committee" means the State Records Committee created in Section
8189 63G-2-501.

8190 (25) "Records officer" means the individual appointed by the chief administrative
8191 officer of each governmental entity, or the political subdivision to work with state archives in
8192 the care, maintenance, scheduling, designation, classification, disposal, and preservation of
8193 records.

8194 (26) "Schedule," "scheduling," and their derivative forms mean the process of
8195 specifying the length of time each record series should be retained by a governmental entity for
8196 administrative, legal, fiscal, or historical purposes and when each record series should be
8197 transferred to the state archives or destroyed.

8198 (27) "Sponsored research" means research, training, and other sponsored activities as
8199 defined by the federal Executive Office of the President, Office of Management and Budget:

8200 (a) conducted:

8201 (i) by an institution within the state system of higher education defined in Section
8202 53B-1-102; and

8203 (ii) through an office responsible for sponsored projects or programs; and

8204 (b) funded or otherwise supported by an external:

8205 (i) person that is not created or controlled by the institution within the state system of

8206 higher education; or

8207 (ii) federal, state, or local governmental entity.

8208 (28) "State archives" means the Division of Archives and Records Service created in

8209 Section [63A-12-101](#).

8210 (29) "State archivist" means the director of the state archives.

8211 (30) "Summary data" means statistical records and compilations that contain data

8212 derived from private, controlled, or protected information but that do not disclose private,

8213 controlled, or protected information.

8214 Section 92. Section **63G-2-301** is amended to read:

8215 **63G-2-301. Public records.**

8216 (1) As used in this section:

8217 (a) "Business address" means a single address of a governmental agency designated for
8218 the public to contact an employee or officer of the governmental agency.

8219 (b) "Business email address" means a single email address of a governmental agency
8220 designated for the public to contact an employee or officer of the governmental agency.

8221 (c) "Business telephone number" means a single telephone number of a governmental
8222 agency designated for the public to contact an employee or officer of the governmental agency.

8223 (2) The following records are public except to the extent they contain information

8224 expressly permitted to be treated confidentially under the provisions of Subsections

8225 [63G-2-201](#)(3)(b) and (6)(a):

8226 (a) laws;

8227 (b) the name, gender, gross compensation, job title, job description, business address,

8228 business email address, business telephone number, number of hours worked per pay period,

8229 dates of employment, and relevant education, previous employment, and similar job

8230 qualifications of a current or former employee or officer of the governmental entity, excluding:

8231 (i) undercover law enforcement personnel; and

8232 (ii) investigative personnel if disclosure could reasonably be expected to impair the

8233 effectiveness of investigations or endanger any individual's safety;

8234 (c) final opinions, including concurring and dissenting opinions, and orders that are
8235 made by a governmental entity in an administrative, adjudicative, or judicial proceeding except
8236 that if the proceedings were properly closed to the public, the opinion and order may be
8237 withheld to the extent that they contain information that is private, controlled, or protected;

8238 (d) final interpretations of statutes or rules by a governmental entity unless classified as
8239 protected as provided in Subsection 63G-2-305(17) or (18);

8240 (e) information contained in or compiled from a transcript, minutes, or report of the
8241 open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open
8242 and Public Meetings Act, including the records of all votes of each member of the
8243 governmental entity;

8244 (f) judicial records unless a court orders the records to be restricted under the rules of
8245 civil or criminal procedure or unless the records are private under this chapter;

8246 (g) unless otherwise classified as private under Section 63G-2-303, records or parts of
8247 records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning
8248 commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust
8249 Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or
8250 other governmental entities that give public notice of:

8251 (i) titles or encumbrances to real property;

8252 (ii) restrictions on the use of real property;

8253 (iii) the capacity of persons to take or convey title to real property; or

8254 (iv) tax status for real and personal property;

8255 (h) records of the Department of Commerce that evidence incorporations, mergers,
8256 name changes, and uniform commercial code filings;

8257 (i) data on individuals that would otherwise be private under this chapter if the
8258 individual who is the subject of the record has given the governmental entity written
8259 permission to make the records available to the public;

8260 (j) documentation of the compensation that a governmental entity pays to a contractor
8261 or private provider;

- 8262 (k) summary data;
- 8263 (l) voter registration records, including an individual's voting history, except for a voter
8264 registration record or those parts of a voter registration record that are classified as private
8265 under Subsection [63G-2-302](#)(1)(j) or (k);
- 8266 (m) for an elected official, as defined in Section [11-47-102](#), a telephone number, if
8267 available, and email address, if available, where that elected official may be reached as required
8268 in Title 11, Chapter 47, Access to Elected Officials;
- 8269 (n) for a school community council member, a telephone number, if available, and
8270 email address, if available, where that elected official may be reached directly as required in
8271 Section [~~53A-1a-108.1~~] [53G-7-1203](#);
- 8272 (o) annual audited financial statements of the Utah Educational Savings Plan described
8273 in Section [53B-8a-111](#); and
- 8274 (p) an initiative packet, as defined in Section [20A-7-101](#), and a referendum packet, as
8275 defined in Section [20A-7-101](#), after the packet is submitted to a county clerk.
- 8276 (3) The following records are normally public, but to the extent that a record is
8277 expressly exempt from disclosure, access may be restricted under Subsection [63G-2-201](#)(3)(b),
8278 Section [63G-2-302](#), [63G-2-304](#), or [63G-2-305](#):
- 8279 (a) administrative staff manuals, instructions to staff, and statements of policy;
- 8280 (b) records documenting a contractor's or private provider's compliance with the terms
8281 of a contract with a governmental entity;
- 8282 (c) records documenting the services provided by a contractor or a private provider to
8283 the extent the records would be public if prepared by the governmental entity;
- 8284 (d) contracts entered into by a governmental entity;
- 8285 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds
8286 by a governmental entity;
- 8287 (f) records relating to government assistance or incentives publicly disclosed,
8288 contracted for, or given by a governmental entity, encouraging a person to expand or relocate a
8289 business in Utah, except as provided in Subsection [63G-2-305](#)(35);

- 8290 (g) chronological logs and initial contact reports;
- 8291 (h) correspondence by and with a governmental entity in which the governmental entity
8292 determines or states an opinion upon the rights of the state, a political subdivision, the public,
8293 or any person;
- 8294 (i) empirical data contained in drafts if:
- 8295 (i) the empirical data is not reasonably available to the requester elsewhere in similar
8296 form; and
- 8297 (ii) the governmental entity is given a reasonable opportunity to correct any errors or
8298 make nonsubstantive changes before release;
- 8299 (j) drafts that are circulated to anyone other than:
- 8300 (i) a governmental entity;
- 8301 (ii) a political subdivision;
- 8302 (iii) a federal agency if the governmental entity and the federal agency are jointly
8303 responsible for implementation of a program or project that has been legislatively approved;
- 8304 (iv) a government-managed corporation; or
- 8305 (v) a contractor or private provider;
- 8306 (k) drafts that have never been finalized but were relied upon by the governmental
8307 entity in carrying out action or policy;
- 8308 (l) original data in a computer program if the governmental entity chooses not to
8309 disclose the program;
- 8310 (m) arrest warrants after issuance, except that, for good cause, a court may order
8311 restricted access to arrest warrants prior to service;
- 8312 (n) search warrants after execution and filing of the return, except that a court, for good
8313 cause, may order restricted access to search warrants prior to trial;
- 8314 (o) records that would disclose information relating to formal charges or disciplinary
8315 actions against a past or present governmental entity employee if:
- 8316 (i) the disciplinary action has been completed and all time periods for administrative
8317 appeal have expired; and

- 8318 (ii) the charges on which the disciplinary action was based were sustained;
- 8319 (p) records maintained by the Division of Forestry, Fire, and State Lands, the School
8320 and Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining that
8321 evidence mineral production on government lands;
- 8322 (q) final audit reports;
- 8323 (r) occupational and professional licenses;
- 8324 (s) business licenses; and
- 8325 (t) a notice of violation, a notice of agency action under Section [63G-4-201](#), or similar
8326 records used to initiate proceedings for discipline or sanctions against persons regulated by a
8327 governmental entity, but not including records that initiate employee discipline.
- 8328 (4) The list of public records in this section is not exhaustive and should not be used to
8329 limit access to records.
- 8330 Section 93. Section **63G-2-302** is amended to read:
- 8331 **63G-2-302. Private records.**
- 8332 (1) The following records are private:
- 8333 (a) records concerning an individual's eligibility for unemployment insurance benefits,
8334 social services, welfare benefits, or the determination of benefit levels;
- 8335 (b) records containing data on individuals describing medical history, diagnosis,
8336 condition, treatment, evaluation, or similar medical data;
- 8337 (c) records of publicly funded libraries that when examined alone or with other records
8338 identify a patron;
- 8339 (d) records received by or generated by or for:
- 8340 (i) the Independent Legislative Ethics Commission, except for:
- 8341 (A) the commission's summary data report that is required under legislative rule; and
8342 (B) any other document that is classified as public under legislative rule; or
- 8343 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
8344 unless the record is classified as public under legislative rule;
- 8345 (e) records received by, or generated by or for, the Independent Executive Branch

8346 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review
8347 of Executive Branch Ethics Complaints;

8348 (f) records received or generated for a Senate confirmation committee concerning
8349 character, professional competence, or physical or mental health of an individual:

8350 (i) if, prior to the meeting, the chair of the committee determines release of the records:

8351 (A) reasonably could be expected to interfere with the investigation undertaken by the
8352 committee; or

8353 (B) would create a danger of depriving a person of a right to a fair proceeding or
8354 impartial hearing; and

8355 (ii) after the meeting, if the meeting was closed to the public;

8356 (g) employment records concerning a current or former employee of, or applicant for
8357 employment with, a governmental entity that would disclose that individual's home address,
8358 home telephone number, social security number, insurance coverage, marital status, or payroll
8359 deductions;

8360 (h) records or parts of records under Section 63G-2-303 that a current or former
8361 employee identifies as private according to the requirements of that section;

8362 (i) that part of a record indicating a person's social security number or federal employer
8363 identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202,
8364 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

8365 (j) that part of a voter registration record identifying a voter's:

8366 (i) driver license or identification card number;

8367 (ii) Social Security number, or last four digits of the Social Security number;

8368 (iii) email address; or

8369 (iv) date of birth;

8370 (k) a voter registration record that is classified as a private record by the lieutenant
8371 governor or a county clerk under Subsection 20A-2-104(4)(f) or 20A-2-101.1(5)(a);

8372 (l) a record that:

8373 (i) contains information about an individual;

- 8374 (ii) is voluntarily provided by the individual; and
8375 (iii) goes into an electronic database that:
8376 (A) is designated by and administered under the authority of the Chief Information
8377 Officer; and
8378 (B) acts as a repository of information about the individual that can be electronically
8379 retrieved and used to facilitate the individual's online interaction with a state agency;
8380 (m) information provided to the Commissioner of Insurance under:
8381 (i) Subsection [31A-23a-115\(3\)\(a\)](#);
8382 (ii) Subsection [31A-23a-302\(4\)](#); or
8383 (iii) Subsection [31A-26-210\(4\)](#);
8384 (n) information obtained through a criminal background check under Title 11, Chapter
8385 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
8386 (o) information provided by an offender that is:
8387 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap
8388 Offender Registry or Title 77, Chapter 43, Child Abuse Registry; and
8389 (ii) not required to be made available to the public under Subsection [77-41-110\(4\)](#) or
8390 [77-43-108\(4\)](#);
8391 (p) a statement and any supporting documentation filed with the attorney general in
8392 accordance with Section [34-45-107](#), if the federal law or action supporting the filing involves
8393 homeland security;
8394 (q) electronic toll collection customer account information received or collected under
8395 Section [72-6-118](#) and customer information described in Section [17B-2a-815](#) received or
8396 collected by a public transit district, including contact and payment information and customer
8397 travel data;
8398 (r) an email address provided by a military or overseas voter under Section
8399 [20A-16-501](#);
8400 (s) a completed military-overseas ballot that is electronically transmitted under Title
8401 20A, Chapter 16, Uniform Military and Overseas Voters Act;

8402 (t) records received by or generated by or for the Political Subdivisions Ethics Review
8403 Commission established in Section 11-49-201, except for:

8404 (i) the commission's summary data report that is required in Section 11-49-202; and
8405 (ii) any other document that is classified as public in accordance with Title 11, Chapter
8406 49, Political Subdivisions Ethics Review Commission;

8407 (u) a record described in Subsection [~~53A-11a-203~~] 53G-9-604(3) that verifies that a
8408 parent was notified of an incident or threat; and

8409 (v) a criminal background check or credit history report conducted in accordance with
8410 Section 63A-3-201.

8411 (2) The following records are private if properly classified by a governmental entity:

8412 (a) records concerning a current or former employee of, or applicant for employment
8413 with a governmental entity, including performance evaluations and personal status information
8414 such as race, religion, or disabilities, but not including records that are public under Subsection
8415 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

8416 (b) records describing an individual's finances, except that the following are public:

8417 (i) records described in Subsection 63G-2-301(2);

8418 (ii) information provided to the governmental entity for the purpose of complying with
8419 a financial assurance requirement; or

8420 (iii) records that must be disclosed in accordance with another statute;

8421 (c) records of independent state agencies if the disclosure of those records would
8422 conflict with the fiduciary obligations of the agency;

8423 (d) other records containing data on individuals the disclosure of which constitutes a
8424 clearly unwarranted invasion of personal privacy;

8425 (e) records provided by the United States or by a government entity outside the state
8426 that are given with the requirement that the records be managed as private records, if the
8427 providing entity states in writing that the record would not be subject to public disclosure if
8428 retained by it;

8429 (f) any portion of a record in the custody of the Division of Aging and Adult Services,

8430 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a
8431 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

8432 (g) audio and video recordings created by a body-worn camera, as defined in Section
8433 77-7a-103, that record sound or images inside a home or residence except for recordings that:

8434 (i) depict the commission of an alleged crime;

8435 (ii) record any encounter between a law enforcement officer and a person that results in
8436 death or bodily injury, or includes an instance when an officer fires a weapon;

8437 (iii) record any encounter that is the subject of a complaint or a legal proceeding
8438 against a law enforcement officer or law enforcement agency;

8439 (iv) contain an officer involved critical incident as defined in Section 76-2-408(1)(d);

8440 or

8441 (v) have been requested for reclassification as a public record by a subject or
8442 authorized agent of a subject featured in the recording.

8443 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
8444 records, statements, history, diagnosis, condition, treatment, and evaluation.

8445 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
8446 doctors, or affiliated entities are not private records or controlled records under Section
8447 63G-2-304 when the records are sought:

8448 (i) in connection with any legal or administrative proceeding in which the patient's
8449 physical, mental, or emotional condition is an element of any claim or defense; or

8450 (ii) after a patient's death, in any legal or administrative proceeding in which any party
8451 relies upon the condition as an element of the claim or defense.

8452 (c) Medical records are subject to production in a legal or administrative proceeding
8453 according to state or federal statutes or rules of procedure and evidence as if the medical
8454 records were in the possession of a nongovernmental medical care provider.

8455 Section 94. Section 63G-7-102 is amended to read:

8456 **63G-7-102. Definitions.**

8457 As used in this chapter:

- 8458 (1) "Arises out of or in connection with, or results from," when used to describe the
8459 relationship between conduct or a condition and an injury, means that:
- 8460 (a) there is some causal relationship between the conduct or condition and the injury;
 - 8461 (b) the causal relationship is more than any causal connection but less than proximate
8462 cause; and
 - 8463 (c) the causal relationship is sufficient to conclude that the injury originates with, flows
8464 from, or is incident to the conduct or condition.
- 8465 (2) "Claim" means any asserted demand for or cause of action for money or damages,
8466 whether arising under the common law, under state constitutional provisions, or under state
8467 statutes, against a governmental entity or against an employee in the employee's personal
8468 capacity.
- 8469 (3) (a) "Employee" includes:
- 8470 (i) a governmental entity's officers, employees, servants, trustees, or commissioners;
 - 8471 (ii) members of a governing body;
 - 8472 (iii) members of a government entity board;
 - 8473 (iv) members of a government entity commission;
 - 8474 (v) members of an advisory body, officers, and employees of a Children's Justice
8475 Center created in accordance with Section [67-5b-102](#);
 - 8476 (vi) student teachers holding a letter of authorization in accordance with Sections
8477 ~~[53A-6-103]~~ [53E-6-102](#) and ~~[53A-6-104]~~ [53E-6-201](#);
 - 8478 (vii) educational aides;
 - 8479 (viii) students engaged in providing services to members of the public in the course of
8480 an approved medical, nursing, or other professional health care clinical training program;
 - 8481 (ix) volunteers as defined by Subsection [67-20-2\(3\)](#); and
 - 8482 (x) tutors.
- 8483 (b) "Employee" includes all of the positions identified in Subsection (3)(a), whether or
8484 not the individual holding that position receives compensation.
- 8485 (c) "Employee" does not include an independent contractor.

8486 (4) "Governmental entity" means the state and its political subdivisions as both are
8487 defined in this section.

8488 (5) (a) "Governmental function" means each activity, undertaking, or operation of a
8489 governmental entity.

8490 (b) "Governmental function" includes each activity, undertaking, or operation
8491 performed by a department, agency, employee, agent, or officer of a governmental entity.

8492 (c) "Governmental function" includes a governmental entity's failure to act.

8493 (6) "Injury" means death, injury to a person, damage to or loss of property, or any other
8494 injury that a person may suffer to the person or estate, that would be actionable if inflicted by a
8495 private person or the private person's agent.

8496 (7) "Personal injury" means an injury of any kind other than property damage.

8497 (8) "Political subdivision" means any county, city, town, school district, community
8498 reinvestment agency, special improvement or taxing district, local district, special service
8499 district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13,
8500 Interlocal Cooperation Act, or other governmental subdivision or public corporation.

8501 (9) "Property damage" means injury to, or loss of, any right, title, estate, or interest in
8502 real or personal property.

8503 (10) "State" means the state of Utah, and includes each office, department, division,
8504 agency, authority, commission, board, institution, hospital, college, university, Children's
8505 Justice Center, or other instrumentality of the state.

8506 (11) "Willful misconduct" means the intentional doing of a wrongful act, or the
8507 wrongful failure to act, without just cause or excuse, where the actor is aware that the actor's
8508 conduct will probably result in injury.

8509 Section 95. Section **63I-1-253** is amended to read:

8510 **63I-1-253. Repeal dates, Titles 53, 53A, and 53B.**

8511 The following provisions are repealed on the following dates:

8512 (1) Subsection [53-10-202\(18\)](#) is repealed July 1, 2018.

8513 (2) Section [53-10-202.1](#) is repealed July 1, 2018.

- 8514 (3) [~~Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program~~]
 8515 Section 53F-2-514, is repealed July 1, 2020.
- 8516 (4) Section [~~53A-13-106.5~~] 53F-6-201 is repealed July 1, 2019.
- 8517 (5) Section [~~53A-15-106~~] 53F-5-203 is repealed July 1, 2019.
- 8518 (6) Sections [~~53A-15-206~~] 53E-3-515 and [~~53A-15-207~~] 53F-9-501 are repealed
 8519 January 1, 2023.
- 8520 (7) [~~Title 53A, Chapter 31, Part 4, American Indian and Alaskan Native Education~~
 8521 State Plan Pilot Program] Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native
 8522 Education State Plan Pilot Program, is repealed July 1, 2022.
- 8523 (8) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.
- 8524 (9) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money
 8525 from the Land Exchange Distribution Account to the Geological Survey for test wells, other
 8526 hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.
- 8527 Section 96. Section **63I-2-253** is amended to read:
 8528 **63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.**
- 8529 [~~(1) Section 53A-1-403.5 is repealed July 1, 2017.~~]
 8530 [~~(2) Section 53A-1-411 is repealed July 1, 2017.~~]
 8531 [~~(3)~~] (1) Section [~~53A-1-415~~] 53F-4-204 is repealed July 1, 2019.
 8532 [~~(4)~~] (2) Section [~~53A-1-709~~] 53F-6-202 is repealed July 1, 2020.
 8533 [~~(5)~~] (3) Subsection [~~53A-1-1207~~] 53E-5-306(3)(b)(ii)(B) is repealed July 1, 2020.
 8534 [~~(6)~~] (4) Section [~~53A-1-1208~~] 53E-5-307 is repealed July 1, 2020.
 8535 [~~(7) Subsection 53A-1a-513(4) is repealed July 1, 2017.~~]
 8536 [~~(8) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is~~
 8537 repealed July 1, 2017.]
 8538 [~~(9) Section 53A-24-601 is repealed January 1, 2018.~~]
 8539 [~~(10)~~] (5) Section 53A-24-602 is repealed July 1, 2018.
 8540 [~~(11)~~] (6) (a) Subsections 53B-2a-103(2) and (4) are repealed July 1, 2019.
 8541 (b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative

8542 Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3),
8543 make necessary changes to subsection numbering and cross references.

8544 [~~(12)~~ Subsections ~~53B-7-101~~(2)(b)(iii)(A) and (3) are repealed January 1, 2018.]

8545 [~~(13)~~ (7) Subsection 53B-7-705(6)(b)(ii)(B) is repealed July 1, 2021.

8546 [~~(14)~~ (8) Subsection 53B-7-707(4)(b) is repealed July 1, 2021.

8547 [~~(15)~~ (9) (a) The following sections are repealed on July 1, 2023:

8548 (i) Section 53B-8-202;

8549 (ii) Section 53B-8-203;

8550 (iii) Section 53B-8-204; and

8551 (iv) Section 53B-8-205.

8552 (b) (i) Subsection 53B-8-201(2) is repealed on July 1, 2023.

8553 (ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and
8554 General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make
8555 necessary changes to subsection numbering and cross references.

8556 [~~(16)~~ (10) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project,
8557 is repealed July 1, 2023.

8558 Section 97. Section 63I-4a-102 is amended to read:

8559 **63I-4a-102. Definitions.**

8560 (1) (a) "Activity" means to provide a good or service.

8561 (b) "Activity" includes to:

8562 (i) manufacture a good or service;

8563 (ii) process a good or service;

8564 (iii) sell a good or service;

8565 (iv) offer for sale a good or service;

8566 (v) rent a good or service;

8567 (vi) lease a good or service;

8568 (vii) deliver a good or service;

8569 (viii) distribute a good or service; or

- 8570 (ix) advertise a good or service.
- 8571 (2) (a) Except as provided in Subsection (2)(b), "agency" means:
- 8572 (i) the state; or
- 8573 (ii) an entity of the state including a department, office, division, authority,
- 8574 commission, or board.
- 8575 (b) "Agency" does not include:
- 8576 (i) the Legislature;
- 8577 (ii) an entity or agency of the Legislature;
- 8578 (iii) the state auditor;
- 8579 (iv) the state treasurer;
- 8580 (v) the Office of the Attorney General;
- 8581 (vi) the Utah Dairy Commission created in Section [4-22-103](#);
- 8582 (vii) the Heber Valley Historic Railroad Authority created in Section [63H-4-102](#);
- 8583 (viii) the Utah State Railroad Museum Authority created in Section [63H-5-102](#);
- 8584 (ix) the Utah Housing Corporation created in Section [63H-8-201](#);
- 8585 (x) the Utah State Fair Corporation created in Section [63H-6-103](#);
- 8586 (xi) the Utah State Retirement Office created in Section [49-11-201](#);
- 8587 (xii) a charter school chartered by the State Charter School Board or a board of trustees
- 8588 of a higher education institution under [~~Title 53A, Chapter 1a, Part 5, The Utah Charter~~
- 8589 ~~Schools Act~~] Title 53G, Chapter 5, Charter Schools;
- 8590 (xiii) the Utah Schools for the Deaf and the Blind created in [~~Title 53A, Chapter 25b,~~
- 8591 ~~Utah Schools for the Deaf and the Blind~~] Title 53E, Chapter 8, Utah Schools for the Deaf and
- 8592 the Blind;
- 8593 (xiv) an institution of higher education as defined in Section [53B-3-102](#);
- 8594 (xv) the School and Institutional Trust Lands Administration created in Section
- 8595 [53C-1-201](#);
- 8596 (xvi) the Utah Communications Authority created in Section [63H-7a-201](#); or
- 8597 (xvii) the Utah Capital Investment Corporation created in Section [63N-6-301](#).

- 8598 (3) "Agency head" means the chief administrative officer of an agency.
- 8599 (4) "Board" means the Free Market Protection and Privatization Board created in
8600 Section [63I-4a-202](#).
- 8601 (5) "Commercial activity" means to engage in an activity that can be obtained in whole
8602 or in part from a private enterprise.
- 8603 (6) "Local entity" means:
- 8604 (a) a political subdivision of the state, including a:
- 8605 (i) county;
- 8606 (ii) city;
- 8607 (iii) town;
- 8608 (iv) local school district;
- 8609 (v) local district; or
- 8610 (vi) special service district;
- 8611 (b) an agency of an entity described in this Subsection (6), including a department,
8612 office, division, authority, commission, or board; or
- 8613 (c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13,
8614 Interlocal Cooperation Act, between two or more entities described in this Subsection (6).
- 8615 (7) "Private enterprise" means a person that engages in an activity for profit.
- 8616 (8) "Privatize" means that an activity engaged in by an agency is transferred so that a
8617 private enterprise engages in the activity, including a transfer by:
- 8618 (a) contract;
- 8619 (b) transfer of property; or
- 8620 (c) another arrangement.
- 8621 (9) "Special district" means:
- 8622 (a) a local district, as defined in Section [17B-1-102](#);
- 8623 (b) a special service district, as defined in Section [17D-1-102](#); or
- 8624 (c) a conservation district, as defined in Section [17D-3-102](#).
- 8625 Section 98. Section **63J-1-206** is amended to read:

8626 **63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures --**
8627 **Transfer of funds -- Exclusion.**

8628 (1) As used in this section, "work program" means a budget that contains revenues and
8629 expenditures for specific purposes or functions within an item of appropriation.

8630 (2) (a) Except as provided in Subsection (2)(b), (3)(e), or where expressly exempted in
8631 the appropriating act:

8632 (i) all money appropriated by the Legislature is appropriated upon the terms and
8633 conditions set forth in this chapter; and

8634 (ii) any department, agency, or institution that accepts money appropriated by the
8635 Legislature does so subject to the requirements of this chapter.

8636 (b) This section does not apply to:

8637 (i) the Legislature and its committees; and

8638 (ii) the Investigation Account of the Water Resources Construction Fund, which is
8639 governed by Section [73-10-8](#).

8640 (3) (a) Each appropriation item is to be expended subject to any schedule of programs
8641 and any restriction attached to the appropriation item, as designated by the Legislature.

8642 (b) Each schedule of programs or restriction attached to an appropriation item:

8643 (i) is a restriction or limitation upon the expenditure of the respective appropriation
8644 made;

8645 (ii) does not itself appropriate any money; and

8646 (iii) is not itself an item of appropriation.

8647 (c) (i) Except as provided in Subsection (3)(c)(ii), an appropriation or any surplus of
8648 any appropriation may not be diverted from any department, agency, institution, or division to
8649 any other department, agency, institution, or division.

8650 (ii) Until July 1, 2019, the Department of Workforce Services may transfer or divert
8651 money to another department, agency, institution, or division only for the purposes of law
8652 enforcement, adjudication, corrections, and providing and addressing services for homeless
8653 individuals and families.

8654 (d) The money appropriated subject to a schedule or programs or restriction may be
8655 used only for the purposes authorized.

8656 (e) In order for a department, agency, or institution to transfer money appropriated to it
8657 from one program to another program within an item of appropriation, the following procedure
8658 shall be followed:

8659 (i) The department, agency, or institution seeking to make the transfer shall prepare:

8660 (A) a new work program for the fiscal year involved that consists of the currently
8661 approved work program and the transfer sought to be made; and

8662 (B) a written justification for the new work program that sets forth the purpose and
8663 necessity for the transfer.

8664 (ii) The Division of Finance shall process the new work program with written
8665 justification and make this information available to the Governor's Office of Management and
8666 Budget and the legislative fiscal analyst.

8667 (f) (i) Except as provided in Subsection (3)(f)(ii), money may not be transferred from
8668 one item of appropriation to any other item of appropriation.

8669 (ii) The state superintendent may transfer money appropriated for the Minimum School
8670 Program between line items of appropriation in accordance with Section [~~53A-17a-105~~]
8671 [53F-2-205](#).

8672 (g) (i) The procedures for transferring money between programs within an item of
8673 appropriation as provided by Subsection (3)(e) do not apply to money appropriated to the State
8674 Board of Education for the Minimum School Program or capital outlay programs created in
8675 [~~Title 53A, Chapter 21, Public Education Capital Outlay Act~~] Title 53F, Chapter 3, State
8676 Funding -- Capital Outlay Programs.

8677 (ii) The state superintendent may transfer money appropriated for the programs
8678 specified in Subsection (3)(g)(i) only as provided by Section [~~53A-17a-105~~] [53F-2-205](#).

8679 Section 99. Section **63J-1-220** is amended to read:

8680 **63J-1-220. Reporting related to pass through money distributed by state**
8681 **agencies.**

8682 (1) As used in this section:

8683 (a) "Local government entity" means a county, municipality, school district, local
8684 district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special
8685 service district under Title 17D, Chapter 1, Special Service District Act, or any other political
8686 subdivision of the state.

8687 (b) (i) "Pass through funding" means money appropriated by the Legislature to a state
8688 agency that is intended to be passed through the state agency to one or more:

8689 (A) local government entities;

8690 (B) private organizations, including not-for-profit organizations; or

8691 (C) persons in the form of a loan or grant.

8692 (ii) "Pass through funding" may be:

8693 (A) general funds, dedicated credits, or any combination of state funding sources; and

8694 (B) ongoing or one-time.

8695 (c) "Recipient entity" means a local government entity or private entity, including a
8696 nonprofit entity, that receives money by way of pass through funding from a state agency.

8697 (d) "State agency" means a department, commission, board, council, agency,
8698 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
8699 unit, bureau, panel, or other administrative unit of the executive branch of the state.

8700 (e) (i) "State money" means money that is owned, held, or administered by a state
8701 agency and derived from state fees or tax revenues.

8702 (ii) "State money" does not include contributions or donations received by a state
8703 agency.

8704 (2) A state agency may not provide a recipient entity state money through pass through
8705 funding unless:

8706 (a) the state agency enters into a written agreement with the recipient entity; and

8707 (b) the written agreement described in Subsection (2)(a) requires the recipient entity to
8708 provide the state agency:

8709 (i) a written description and an itemized report at least annually detailing the

8710 expenditure of the state money, or the intended expenditure of any state money that has not
8711 been spent; and

8712 (ii) a final written itemized report when all the state money is spent.

8713 (3) A state agency shall provide to the Governor's Office of Management and Budget a
8714 copy of a written description or itemized report received by the state agency under Subsection
8715 (2).

8716 (4) Notwithstanding Subsection (2), a state agency is not required to comply with this
8717 section to the extent that the pass through funding is issued:

8718 (a) under a competitive award process;

8719 (b) in accordance with a formula enacted in statute;

8720 (c) in accordance with a state program under parameters in statute or rule that guides
8721 the distribution of the pass through funding; or

8722 (d) under the authority of the minimum school program, as defined in Subsection
8723 ~~[53A-17a-103]~~ [53F-2-102](#)(7)(e).

8724 Section 100. Section **63J-1-602.3** is amended to read:

8725 **63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

8726 (1) The Utah Law Enforcement Memorial Support Restricted Account created in
8727 Section [53-1-120](#).

8728 (2) Funding for the Search and Rescue Financial Assistance Program, as provided in
8729 Section [53-2a-1102](#).

8730 (3) Appropriations made to the Division of Emergency Management from the State
8731 Disaster Recovery Restricted Account, as provided in Section [53-2a-603](#).

8732 (4) Appropriations made to the Department of Public Safety from the Department of
8733 Public Safety Restricted Account, as provided in Section [53-3-106](#).

8734 (5) Appropriations to the Motorcycle Rider Education Program, as provided in Section
8735 [53-3-905](#).

8736 (6) Appropriations from the Utah Highway Patrol Aero Bureau Restricted Account
8737 created in Section [53-8-303](#).

- 8738 (7) Appropriations from the DNA Specimen Restricted Account created in Section
 8739 [53-10-407](#).
- 8740 (8) The Canine Body Armor Restricted Account created in Section [53-16-201](#).
- 8741 (9) The School Readiness Restricted Account created in Section [~~53A-1b-104~~]
 8742 [53F-9-402](#).
- 8743 (10) Appropriations to the State Board of Education, as provided in Section
 8744 [~~53A-17a-105~~] [53F-2-205](#).
- 8745 (11) Money received by the Utah State Office of Rehabilitation for the sale of certain
 8746 products or services, as provided in Section [35A-13-202](#).
- 8747 (12) Certain funds appropriated from the General Fund to the State Board of Regents
 8748 for teacher preparation programs, as provided in Section [53B-6-104](#).
- 8749 (13) Funding for the Medical Education Program administered by the Medical
 8750 Education Council, as provided in Section [53B-24-202](#).
- 8751 (14) A certain portion of money collected for administrative costs under the School
 8752 Institutional Trust Lands Management Act, as provided under Section [53C-3-202](#).
- 8753 (15) Subject to Subsection [54-5-1.5\(4\)\(d\)](#), appropriations from the Public Utility
 8754 Regulatory Restricted Account created in Section [54-5-1.5](#).
- 8755 (16) Certain fines collected by the Division of Occupational and Professional Licensing
 8756 for violation of unlawful or unprofessional conduct that are used for education and enforcement
 8757 purposes, as provided in Section [58-17b-505](#).
- 8758 (17) Certain fines collected by the Division of Occupational and Professional Licensing
 8759 for use in education and enforcement of the Security Personnel Licensing Act, as provided in
 8760 Section [58-63-103](#).
- 8761 (18) Appropriations from the Relative Value Study Restricted Account created in
 8762 Section [59-9-105](#).
- 8763 (19) The Cigarette Tax Restricted Account created in Section [59-14-204](#).
- 8764 Section 101. Section **63J-3-102** is amended to read:
- 8765 **63J-3-102. Purpose of chapter -- Limitations on state mandated property tax,**

8766 **state appropriations, and state debt.**

8767 (1) (a) It is the purpose of this chapter to:

8768 (i) place a limitation on the state mandated property tax rate under [~~Title 53A, Chapter~~
8769 ~~17a, Minimum School Program Act~~] Title 53F, Chapter 2, State Funding -- Minimum School
8770 Program;

8771 (ii) place limitations on state government appropriations based upon the combined
8772 changes in population and inflation; and

8773 (iii) place a limitation on the state's outstanding general obligation debt.

8774 (b) The limitations imposed by this chapter are in addition to limitations on tax levies,
8775 rates, and revenues otherwise provided for by law.

8776 (2) (a) This chapter may not be construed as requiring the state to collect the full
8777 amount of tax revenues permitted to be appropriated by this chapter.

8778 (b) This chapter's purpose is to provide a ceiling, not a floor, limitation on the
8779 appropriations of state government.

8780 (3) The recommendations and budget analysis prepared by the Governor's Office of
8781 Management and Budget and the Office of the Legislative Fiscal Analyst, as required by Title
8782 36, Chapter 12, Legislative Organization, shall be in strict compliance with the limitations
8783 imposed under this chapter.

8784 Section 102. Section **63J-3-401** is amended to read:

8785 **63J-3-401. State mandated property tax limitation -- Vote requirement needed to**
8786 **exceed limitation.**

8787 The state mandated property tax rate in [~~Title 53A, Chapter 17a, Minimum School~~
8788 ~~Program Act~~] Title 53F, Chapter 2, State Funding -- Minimum School Program, as of July 1,
8789 1989, may not be increased without more than a two-thirds vote of both houses of the
8790 Legislature.

8791 Section 103. Section **63J-7-102** is amended to read:

8792 **63J-7-102. Scope and applicability of chapter.**

8793 (1) Except as provided in Subsection (2), and except as otherwise provided by a statute

8794 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
8795 this chapter apply to each agency and govern each grant received on or after May 5, 2008.

8796 (2) This chapter does not govern:

8797 (a) a grant deposited into a General Fund restricted account;

8798 (b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;

8799 (c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

8800 (d) a grant made to the state without a restriction or other designated purpose that is
8801 deposited into the General Fund as free revenue;

8802 (e) a grant made to the state that is restricted only to "education" and that is deposited
8803 into the Education Fund or Uniform School Fund as free revenue;

8804 (f) in-kind donations;

8805 (g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state
8806 when required by state law or application of state law;

8807 (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax
8808 Contribution Act;

8809 (i) a grant received by an agency from another agency or political subdivision;

8810 (j) a grant to the Utah Dairy Commission created in Section 4-22-103;

8811 (k) a grant to the Heber Valley Historic Railroad Authority created in Section
8812 63H-4-102;

8813 (l) a grant to the Utah State Railroad Museum Authority created in Section 63H-5-102;

8814 (m) a grant to the Utah Housing Corporation created in Section 63H-8-201;

8815 (n) a grant to the Utah State Fair Corporation created in Section 63H-6-103;

8816 (o) a grant to the Utah State Retirement Office created in Section 49-11-201;

8817 (p) a grant to the School and Institutional Trust Lands Administration created in
8818 Section 53C-1-201;

8819 (q) a grant to the Utah Communications Authority created in Section 63H-7a-201;

8820 (r) a grant to the Medical Education Program created in Section 53B-24-202;

8821 (s) a grant to the Utah Capital Investment Corporation created in Section 63N-6-301;

- 8822 (t) a grant to the Utah Charter School Finance Authority created in Section
8823 ~~[53A-206-103]~~ [53G-5-602](#);
- 8824 (u) a grant to the State Building Ownership Authority created in Section [63B-1-304](#); or
8825 (v) a grant to the Military Installation Development Authority created in Section
8826 [63H-1-201](#).
- 8827 (3) An agency need not seek legislative review or approval of grants under Part 2,
8828 Grant Approval Requirements, if:
- 8829 (a) the governor has declared a state of emergency; and
8830 (b) the grant is donated to the agency to assist victims of the state of emergency under
8831 Subsection [53-2a-204](#)(1).
- 8832 Section 104. Section **63N-3-110** is amended to read:
- 8833 **63N-3-110. Selection of educational technology provider to implement**
8834 **whole-school one-to-one mobile device technology deployment plan for schools.**
- 8835 The board shall select an educational technology provider to develop and implement a
8836 whole-school one-to-one mobile device technology deployment plan for schools in accordance
8837 with the requirements of this part and Section ~~[53A-1-709]~~ [53F-6-202](#).
- 8838 Section 105. Section **63N-12-202** is amended to read:
- 8839 **63N-12-202. Definitions.**
- 8840 As used in this part:
- 8841 (1) "Board" means the STEM Action Center Board created in Section [63N-12-203](#).
8842 (2) "Computing partnerships" means a set of skills, knowledge, and aptitudes used in
8843 computer science, information technology, or computer engineering courses and career options.
8844 (3) "Director" means the director appointed by the board to oversee the administration
8845 of the STEM Action Center.
8846 (4) "Educator" means the same as that term is defined in Section ~~[53A-6-103]~~
8847 [53E-6-102](#).
8848 (5) "Foundation" means a foundation established as described in Subsections
8849 [63N-12-204](#)(3) and (4).

- 8850 (6) "Fund" means the STEM Action Center Foundation Fund created in Section
8851 [63N-12-204.5](#).
- 8852 (7) "Grant program" means the Computing Partnerships Grants program created in this
8853 part.
- 8854 (8) "High quality professional development" means professional development that
8855 meets high quality standards developed by the State Board of Education.
- 8856 (9) "Institution of higher education" means an institution listed in Section [53B-1-102](#).
- 8857 (10) "K-16" means kindergarten through grade 12 and post-secondary education
8858 programs.
- 8859 (11) "Office" means the Governor's Office of Economic Development.
- 8860 (12) "Provider" means a provider selected on behalf of the board by the staff of the
8861 board and the staff of the State Board of Education:
- 8862 (a) through a request for proposals process; or
8863 (b) through a direct award or sole source procurement process for a pilot described in
8864 Section [63N-12-206](#).
- 8865 (13) "Review committee" means the committee established under Section [63N-12-214](#).
- 8866 (14) "Stacked credentials" means credentials that:
- 8867 (a) an individual can build upon to access an advanced job or higher wage;
8868 (b) are part of a career pathway system;
8869 (c) provide a pathway culminating in the equivalent of an associate's or bachelor's
8870 degree;
- 8871 (d) facilitate multiple exit and entry points; and
8872 (e) recognize sub-goals or momentum points.
- 8873 (15) "STEM" means science, technology, engineering, and mathematics.
- 8874 (16) "STEM Action Center" means the center described in Section [63N-12-205](#).
- 8875 (17) "Talent Ready Utah" means a partnership between the Governor's Office of
8876 Economic Development, the Governor's Education Advisor, the Department of Workforce
8877 Services, the Utah State Board of Education, the Utah System of Higher Education,

8878 representatives of post-secondary technical education, industry partners, and the Utah STEM
8879 Action Center.

8880 Section 106. Section **63N-12-213** is amended to read:

8881 **63N-12-213. Computer science initiative for public schools.**

8882 (1) As used in this section:

8883 (a) "Computational thinking" means the set of problem-solving skills and techniques
8884 that software engineers use to write programs that underlie computer applications, including
8885 decomposition, pattern recognition, pattern generalization, and algorithm design.

8886 (b) "Computer coding" means the process of writing script for a computer program or
8887 mobile device.

8888 (c) "Educator" means the same as that term is defined in Section [~~53A-6-103~~]
8889 [53E-6-102](#).

8890 (d) "Endorsement" means a stipulation, authorized by the State Board of Education and
8891 appended to a license, that specifies the areas of practice to which the license applies.

8892 (e) (i) "Institution of higher education" means the same as that term is defined in
8893 Section [53B-3-102](#).

8894 (ii) "Institution of higher education" includes a technical college described in Section
8895 [53B-2a-105](#).

8896 (f) "Employer" means a private employer, public employer, industry association, union,
8897 or the military.

8898 (g) "License" means the same as that term is defined in Section [~~53A-6-103~~]
8899 [53E-6-102](#).

8900 (2) Subject to legislative appropriations, on behalf of the board, the staff of the board
8901 and the staff of the State Board of Education shall collaborate to develop and implement a
8902 computer science initiative for public schools by:

8903 (a) creating an online repository that:

8904 (i) is available for school districts and charter schools to use as a resource; and

8905 (ii) includes high quality computer science instructional resources that are designed to

8906 teach students in all grade levels:

8907 (A) computational thinking skills; and

8908 (B) computer coding skills;

8909 (b) providing for professional development on teaching computer science by:

8910 (i) including resources for educators related to teaching computational thinking and

8911 computer coding in the STEM education high quality professional development application

8912 described in Section [63N-12-210](#); and

8913 (ii) providing statewide or regional professional development institutes; and

8914 (c) awarding grants to a school district or charter school, on a competitive basis, that

8915 may be used to provide incentives for an educator to earn a computer science endorsement.

8916 (3) A school district or charter school may enter into an agreement with one or more of

8917 the following entities to jointly apply for a grant under Subsection (2)(c):

8918 (a) a school district;

8919 (b) a charter school;

8920 (c) an employer;

8921 (d) an institution of higher education; or

8922 (e) a non-profit organization.

8923 (4) To apply for a grant described in Subsection (2)(c), a school district or charter

8924 school shall submit a plan to the State Board of Education for the use of the grant, including a

8925 statement of purpose that describes the methods the school district or charter school proposes

8926 to use to incentivize an educator to earn a computer science endorsement.

8927 (5) The board and the State Board of Education shall encourage schools to

8928 independently pursue computer science and coding initiatives, subject to local school board or

8929 charter school governing board approval, based on the unique needs of the school's students.

8930 (6) The board shall include information on the status of the computer science initiative

8931 in the annual report described in Section [63N-12-208](#).

8932 Section 107. Section **64-13-42** is amended to read:

8933 **64-13-42. Prison Telephone Surcharge Account -- Funding inmate and offender**

8934 **education and training programs.**

8935 (1) (a) There is created within the General Fund a restricted account known as the
8936 Prison Telephone Surcharge Account.

8937 (b) The Prison Telephone Surcharge Account consists of:

8938 (i) beginning July 1, 2006, revenue generated by the state from pay telephone services
8939 located at any correctional facility as defined in Section 64-13-1;

8940 (ii) interest on account money;

8941 (iii) (A) money paid by inmates participating in postsecondary education provided by
8942 the department; and

8943 (B) money repaid by former inmates who have a written agreement with the
8944 department to pay for a specified portion of the tuition costs under the department's deferred
8945 tuition payment program;

8946 (iv) money collected by the Office of State Debt Collection for debt described in
8947 Subsection (1)(b)(iii); and

8948 (v) money appropriated by the Legislature.

8949 (2) Upon appropriation by the Legislature, money from the Prison Telephone
8950 Surcharge Account shall be used by the department for education and training programs for
8951 offenders and inmates as defined in Section 64-13-1.

8952 [~~(3) Funds appropriated from the Prison Telephone Surcharge Account may only be~~
8953 ~~used by the department for purposes under Subsections 53A-1-403.5(3)(a)(i) and (iv).]~~

8954 Section 108. Section **67-1a-11** is amended to read:

8955 **67-1a-11. Commission on Civic and Character Education -- Duties and**
8956 **responsibilities.**

8957 The commission shall:

8958 (1) promote supportive coalitions and collaborative efforts to develop public
8959 awareness, and training regarding the provisions of Section [~~53A-13-109~~] 53G-10-204 in
8960 recognition that the cultivation of a continuing understanding and appreciation of
8961 representative democracy in Utah and the United States among succeeding generations of

8962 educated and responsible citizens is important to the nation and state; and

8963 (2) provide leadership to the state's continuous focus on civic and character education
8964 in the public schools and institutions of higher education and make recommendations to local
8965 school boards and school administrators.

8966 Section 109. Section **67-8-3** is amended to read:

8967 **67-8-3. Compensation plan for appointive officers -- Exceptions -- Legislative**
8968 **approval -- Career status attorneys.**

8969 (1) (a) The executive director of the Department of Human Resource Management,
8970 based upon recommendations of the Executive and Judicial Compensation Commission shall,
8971 before October 31 of each year, recommend to the governor a compensation plan for appointed
8972 officers of the state except those officers whose compensation is set under Section [49-11-203](#),
8973 [\[53A-1-302\]](#) [53E-3-302](#), [53B-1-105](#), or [53C-1-301](#).

8974 (b) The plan shall include salaries and wages, paid leave, group insurance plans,
8975 retirement programs, and any other benefits that may be offered to state officers.

8976 (2) The governor shall include in each annual budget proposal to the Legislature
8977 specific recommendations on compensation for those appointed state officers in Subsection (1).

8978 (3) (a) After consultation with the attorney general, the executive director of the
8979 Department of Human Resource Management shall place career status attorneys on a state
8980 salary schedule at a range comparable with salaries paid attorneys in private and other public
8981 employment.

8982 (b) The attorney general and the executive director shall take into consideration the
8983 experience of the attorney, length of service with the Office of the Attorney General, quality of
8984 performance, and responsibility involved in legal assignments.

8985 (c) The attorney general and the executive director shall periodically adjust the salary
8986 levels for attorneys in a career status to reasonably compensate them for full-time employment
8987 and the restrictions placed on the private practice of law.

8988 Section 110. Section **67-16-3** is amended to read:

8989 **67-16-3. Definitions.**

8990 As used in this chapter:

8991 (1) "Agency" means:

8992 (a) any department, division, agency, commission, board, council, committee,
8993 authority, or any other institution of the state or any of its political subdivisions; or

8994 (b) an association as defined in Section [~~53A-16-101~~] [53G-7-1101](#).

8995 (2) "Agency head" means the chief executive or administrative officer of any agency.

8996 (3) "Assist" means to act, or offer or agree to act, in such a way as to help, represent,
8997 aid, advise, furnish information to, or otherwise provide assistance to a person or business
8998 entity, believing that such action is of help, aid, advice, or assistance to such person or business
8999 entity and with the intent to assist such person or business entity.

9000 (4) "Business entity" means a sole proprietorship, partnership, association, joint
9001 venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on
9002 a business.

9003 (5) "Compensation" means anything of economic value, however designated, which is
9004 paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone
9005 other than the governmental employer for or in consideration of personal services, materials,
9006 property, or any other thing whatsoever.

9007 (6) "Controlled, private, or protected information" means information classified as
9008 controlled, private, or protected in Title 63G, Chapter 2, Government Records Access and
9009 Management Act, or other applicable provision of law.

9010 (7) "Governmental action" means any action on the part of the state, a political
9011 subdivision, or an agency, including:

9012 (a) any decision, determination, finding, ruling, or order; and

9013 (b) any grant, payment, award, license, contract, subcontract, transaction, decision,
9014 sanction, or approval, or the denial thereof, or the failure to act in respect to.

9015 (8) "Improper disclosure" means disclosure of controlled, private, or protected
9016 information to any person who does not have the right to receive the information.

9017 (9) "Legislative employee" means any officer or employee of the Legislature, or any

9018 committee of the Legislature, who is appointed or employed to serve, either with or without
9019 compensation, for an aggregate of less than 800 hours during any period of 365 days.

9020 "Legislative employee" does not include legislators.

9021 (10) "Legislator" means a member or member-elect of either house of the Legislature
9022 of the state of Utah.

9023 (11) "Political subdivision" means a district, school district, or any other political
9024 subdivision of the state that is not an agency, but does not include a municipality or a county.

9025 (12) (a) "Public employee" means a person who is not a public officer who is employed
9026 on a full-time, part-time, or contract basis by:

9027 (i) the state;

9028 (ii) a political subdivision of the state; or

9029 (iii) an association as defined in Section ~~[53A-1-1601]~~ [53G-7-1101](#).

9030 (b) "Public employee" does not include legislators or legislative employees.

9031 (13) (a) "Public officer" means an elected or appointed officer:

9032 (i) (A) of the state;

9033 (B) of a political subdivision of the state; or

9034 (C) an association as defined in Section ~~[53A-1-1601]~~ [53G-7-1101](#); and

9035 (ii) who occupies a policymaking post.

9036 (b) "Public officer" does not include legislators or legislative employees.

9037 (14) "State" means the state of Utah.

9038 (15) "Substantial interest" means the ownership, either legally or equitably, by an
9039 individual, the individual's spouse, or the individual's minor children, of at least 10% of the
9040 outstanding capital stock of a corporation or a 10% interest in any other business entity.

9041 Section 111. Section ~~67-16-4~~ is amended to read:

9042 **67-16-4. Improperly disclosing or using private, controlled, or protected**
9043 **information -- Using position to secure privileges or exemptions -- Accepting employment**
9044 **that would impair independence of judgment or ethical performance -- Exception.**

9045 (1) Except as provided in Subsection (3), it is an offense for a public officer, public

9046 employee, or legislator to:

9047 (a) accept employment or engage in any business or professional activity that he might
9048 reasonably expect would require or induce him to improperly disclose controlled information
9049 that he has gained by reason of his official position;

9050 (b) disclose or improperly use controlled, private, or protected information acquired by
9051 reason of his official position or in the course of official duties in order to further substantially
9052 the officer's or employee's personal economic interest or to secure special privileges or
9053 exemptions for himself or others;

9054 (c) use or attempt to use his official position to:

9055 (i) further substantially the officer's or employee's personal economic interest; or

9056 (ii) secure special privileges or exemptions for himself or others;

9057 (d) accept other employment that he might expect would impair his independence of
9058 judgment in the performance of his public duties; or

9059 (e) accept other employment that he might expect would interfere with the ethical
9060 performance of his public duties.

9061 (2) (a) Subsection (1) does not apply to the provision of education-related services to
9062 public school students by public education employees acting outside their regular employment.

9063 (b) The conduct referred to in Subsection (2)(a) is subject to Section [~~53A-1-402.5~~]
9064 [53E-3-512](#).

9065 (3) This section does not apply to a public officer, public employee, or legislator who
9066 engages in conduct that constitutes a violation of this section to the extent that the public
9067 officer, public employee, or legislator is chargeable, for the same conduct, under Section
9068 [63G-6a-2404](#) or Section [76-8-105](#).

9069 Section 112. Section **67-19-15** is amended to read:

9070 **67-19-15. Career service -- Exempt positions -- Schedules for civil service**
9071 **positions -- Coverage of career service provisions.**

9072 (1) Except as otherwise provided by law or by rules and regulations established for
9073 federally aided programs, the following positions are exempt from the career service provisions

- 9074 of this chapter and are designated under the following schedules:
- 9075 (a) schedule AA includes the governor, members of the Legislature, and all other
9076 elected state officers;
- 9077 (b) schedule AB includes appointed executives and board or commission executives
9078 enumerated in Section [67-22-2](#);
- 9079 (c) schedule AC includes all employees and officers in:
- 9080 (i) the office and at the residence of the governor;
- 9081 (ii) the Utah Science Technology and Research Initiative (USTAR);
- 9082 (iii) the Public Lands Policy Coordinating Council;
- 9083 (iv) the Office of the State Auditor; and
- 9084 (v) the Office of the State Treasurer;
- 9085 (d) schedule AD includes employees who:
- 9086 (i) are in a confidential relationship to an agency head or commissioner; and
- 9087 (ii) report directly to, and are supervised by, a department head, commissioner, or
9088 deputy director of an agency or its equivalent;
- 9089 (e) schedule AE includes each employee of the State Board of Education that the State
9090 Board of Education designates as exempt from the career service provisions of this chapter;
- 9091 (f) schedule AG includes employees in the Office of the Attorney General who are
9092 under their own career service pay plan under Sections [67-5-7](#) through [67-5-13](#);
- 9093 (g) schedule AH includes:
- 9094 (i) teaching staff of all state institutions; and
- 9095 (ii) employees of the Utah Schools for the Deaf and the Blind who are:
- 9096 (A) educational interpreters as classified by the department; or
- 9097 (B) educators as defined by Section [~~53A-25b-102~~] [53E-8-102](#);
- 9098 (h) schedule AN includes employees of the Legislature;
- 9099 (i) schedule AO includes employees of the judiciary;
- 9100 (j) schedule AP includes all judges in the judiciary;
- 9101 (k) schedule AQ includes:

- 9102 (i) members of state and local boards and councils appointed by the governor and
9103 governing bodies of agencies;
- 9104 (ii) a water commissioner appointed under Section 73-5-1;
- 9105 (iii) other local officials serving in an ex officio capacity; and
- 9106 (iv) officers, faculty, and other employees of state universities and other state
9107 institutions of higher education;
- 9108 (l) schedule AR includes employees in positions that involve responsibility:
9109 (i) for determining policy;
- 9110 (ii) for determining the way in which a policy is carried out; or
- 9111 (iii) of a type not appropriate for career service, as determined by the agency head with
9112 the concurrence of the executive director;
- 9113 (m) schedule AS includes any other employee:
9114 (i) whose appointment is required by statute to be career service exempt;
- 9115 (ii) whose agency is not subject to this chapter; or
- 9116 (iii) whose agency has authority to make rules regarding the performance,
9117 compensation, and bonuses for its employees;
- 9118 (n) schedule AT includes employees of the Department of Technology Services,
9119 designated as executive/professional positions by the executive director of the Department of
9120 Technology Services with the concurrence of the executive director;
- 9121 (o) schedule AU includes patients and inmates employed in state institutions;
- 9122 (p) employees of the Department of Workforce Services, designated as schedule AW:
9123 (i) who are temporary employees that are federally funded and are required to work
9124 under federally qualified merit principles as certified by the director; or
- 9125 (ii) for whom substantially all of their work is repetitive, measurable, or transaction
9126 based, and who voluntarily apply for and are accepted by the Department of Workforce
9127 Services to work in a pay for performance program designed by the Department of Workforce
9128 Services with the concurrence of the executive director; and
- 9129 (q) for employees in positions that are temporary, seasonal, time limited, funding

9130 limited, or variable hour in nature, under schedule codes and parameters established by the
9131 department by administrative rule.

9132 (2) The civil service shall consist of two schedules as follows:

9133 (a) (i) Schedule A is the schedule consisting of positions under Subsection (1).

9134 (ii) Removal from any appointive position under schedule A, unless otherwise
9135 regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

9136 (b) Schedule B is the competitive career service schedule, consisting of:

9137 (i) all positions filled through competitive selection procedures as defined by the
9138 executive director; or

9139 (ii) positions filled through a department approved on-the-job examination intended to
9140 appoint a qualified person with a disability, or a veteran in accordance with Title 71, Chapter
9141 10, Veteran's Preference.

9142 (3) (a) The executive director, after consultation with the heads of concerned executive
9143 branch departments and agencies and with the approval of the governor, shall allocate positions
9144 to the appropriate schedules under this section.

9145 (b) Agency heads shall make requests and obtain approval from the executive director
9146 before changing the schedule assignment and tenure rights of any position.

9147 (c) Unless the executive director's decision is reversed by the governor, when the
9148 executive director denies an agency's request, the executive director's decision is final.

9149 (4) (a) Compensation for employees of the Legislature shall be established by the
9150 directors of the legislative offices in accordance with Section [36-12-7](#).

9151 (b) Compensation for employees of the judiciary shall be established by the state court
9152 administrator in accordance with Section [78A-2-107](#).

9153 (c) Compensation for officers, faculty, and other employees of state universities and
9154 institutions of higher education shall be established as provided in Title 53B, Chapter 1,
9155 Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of
9156 Higher Education.

9157 (d) Unless otherwise provided by law, compensation for all other schedule A

9158 employees shall be established by their appointing authorities, within ranges approved by, and
9159 after consultation with the executive director of the Department of Human Resource
9160 Management.

9161 (5) An employee who is in a position designated schedule AC and who holds career
9162 service status on June 30, 2010, shall retain the career service status if the employee:

9163 (a) remains in the position that the employee is in on June 30, 2010; and

9164 (b) does not elect to convert to career service exempt status in accordance with a rule
9165 made by the department.

9166 Section 113. Section **75-5-201** is amended to read:

9167 **75-5-201. Status of guardian of minor -- General.**

9168 (1) (a) A person becomes a guardian of a minor by acceptance of a testamentary
9169 appointment, through appointment by a local school board under Section [~~53A-2-202~~]
9170 [53G-6-303](#), or upon appointment by the court.

9171 (b) The guardianship status continues until terminated, without regard to the location
9172 from time to time of the guardian and minor ward.

9173 (2) (a) A document issued by other than a court of law which purports to award
9174 guardianship to a person who is not a legal resident of the jurisdiction in which the
9175 guardianship is awarded is not valid in the state of Utah until reviewed and approved by a Utah
9176 court.

9177 (b) The procedure for obtaining approval of a guardianship under Subsection (2)(a)
9178 shall be identical to the procedure required under this part for obtaining a court appointment of
9179 a guardian.

9180 Section 114. Section **76-5-415** is amended to read:

9181 **76-5-415. Educator's license subject to action for violation of this part.**

9182 Commission of any offense under this Title 76, Chapter 5, Part 4, Sexual Offenses, by
9183 an educator as defined in Section [~~53A-6-103~~] [53E-6-102](#), is grounds under Section
9184 [~~53A-6-501~~] [53E-6-604](#) for disciplinary action against the educator, including revocation of the
9185 educator's license.

9186 Section 115. Section **76-10-105** is amended to read:

9187 **76-10-105. Buying or possessing a cigar, cigarette, electronic cigarette, or tobacco**
9188 **by a minor -- Penalty -- Compliance officer authority -- Juvenile court jurisdiction.**

9189 (1) Any 18 year old person who buys or attempts to buy, accepts, or has in the person's
9190 possession any cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of a class C
9191 misdemeanor and subject to:

9192 (a) a minimum fine or penalty of \$60; and

9193 (b) participation in a court-approved tobacco education program, which may include a
9194 participation fee.

9195 (2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in the
9196 person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is subject
9197 to the jurisdiction of the juvenile court and subject to Section [78A-6-602](#), unless the violation
9198 is committed on school property. If a violation under this section is adjudicated under Section
9199 [78A-6-117](#), the minor may be subject to the following:

9200 (a) a fine or penalty, in accordance with Section [78A-6-117](#); and

9201 (b) participation in a court-approved tobacco education program, which may include a
9202 participation fee.

9203 (3) A compliance officer appointed by a board of education under Section [~~53A-3-402~~]
9204 [53G-4-402](#) may not issue a citation for a violation of this section committed on school
9205 property. A cited violation committed on school property shall be addressed in accordance with
9206 Section [~~53A-11-911~~] [53G-8-211](#).

9207 Section 116. Section **77-37-4** is amended to read:

9208 **77-37-4. Additional rights -- Children.**

9209 In addition to all rights afforded to victims and witnesses under this chapter, child
9210 victims and witnesses shall be afforded these rights:

9211 (1) Children have the right to protection from physical and emotional abuse during
9212 their involvement with the criminal justice process.

9213 (2) Children are not responsible for inappropriate behavior adults commit against them

9214 and have the right not to be questioned, in any manner, nor to have allegations made, implying
9215 this responsibility. Those who interview children have the responsibility to consider the
9216 interests of the child in this regard.

9217 (3) Child victims and witnesses have the right to have interviews relating to a criminal
9218 prosecution kept to a minimum. All agencies shall coordinate interviews and ensure that they
9219 are conducted by persons sensitive to the needs of children.

9220 (4) Child victims have the right to be informed of available community resources that
9221 might assist them and how to gain access to those resources. Law enforcement and prosecutors
9222 have the duty to ensure that child victims are informed of community resources, including
9223 counseling prior to the court proceeding, and have those services available throughout the
9224 criminal justice process.

9225 (5) (a) Child victims have the right, once an investigation has been initiated by law
9226 enforcement or the Division of Child and Family Services, to keep confidential their interviews
9227 that are conducted at a Children's Justice Center, including video and audio recordings, and
9228 transcripts of those recordings. Except as provided in Subsection (6), recordings and
9229 transcripts of interviews may not be distributed, released, or displayed to anyone without a
9230 court order.

9231 (b) A court order described in Subsection (5)(a):

9232 (i) shall describe with particularity to whom the recording or transcript of the interview
9233 may be released and prohibit further distribution or viewing by anyone not named in the order;
9234 and

9235 (ii) may impose restrictions on access to the materials considered reasonable to protect
9236 the privacy of the child victim.

9237 (c) A parent or guardian of the child victim may petition a juvenile or district court for
9238 an order allowing the parent or guardian to view a recording or transcript upon a finding of
9239 good cause. The order shall designate the agency that is required to display the recording or
9240 transcript to the parent or guardian and shall prohibit viewing by anyone not named in the
9241 order.

9242 (d) Following the conclusion of any legal proceedings in which the recordings or
9243 transcripts are used, the court shall order the recordings and transcripts in the court's file sealed
9244 and preserved.

9245 (6) (a) The following offices and their designated employees may distribute and receive
9246 a recording or transcript to and from one another without a court order:

9247 (i) the Division of Child and Family Services;

9248 (ii) administrative law judges employed by the Department of Human Services;

9249 (iii) Department of Human Services investigators investigating the Division of Child
9250 and Family Services or investigators authorized to investigate under Section [62A-4a-202.6](#);

9251 (iv) an office of the city attorney, county attorney, district attorney, or attorney general;

9252 (v) a law enforcement agency;

9253 (vi) a Children's Justice Center established under Section [67-5b-102](#); or

9254 (vii) the attorney for the child who is the subject of the interview.

9255 (b) In a criminal case or in a juvenile court in which the state is a party:

9256 (i) the parties may display and enter into evidence a recording or transcript in the
9257 course of a prosecution;

9258 (ii) the state's attorney may distribute a recording or transcript to the attorney for the
9259 defendant, pro se defendant, respondent, or pro se respondent pursuant to a valid request for
9260 discovery;

9261 (iii) the attorney for the defendant or respondent may do one or both of the following:

9262 (A) release the recording or transcript to an expert retained by the attorney for the
9263 defendant or respondent if the expert agrees in writing that the expert will not distribute,
9264 release, or display the recording or transcript to anyone without prior authorization from the
9265 court; or

9266 (B) permit the defendant or respondent to view the recording or transcript, but may not
9267 distribute or release the recording or transcript to the defendant or respondent; and

9268 (iv) the court shall advise a pro se defendant or respondent that a recording or
9269 transcript received as part of discovery is confidential and may not be distributed, released, or

9270 displayed without prior authorization from the court.

9271 (c) A court's failure to advise a pro se defendant or respondent that a recording or
9272 transcript received as part of discovery is confidential and may not be used as a defense to
9273 prosecution for a violation of the disclosure rule.

9274 (d) In an administrative case, pursuant to a written request, the Division of Child and
9275 Family Services may display, but may not distribute or release, a recording or transcript to the
9276 respondent or to the respondent's designated representative.

9277 (e) (i) Within two business days of a request from a parent or guardian of a child
9278 victim, an investigative agency shall allow the parent or guardian to view a recording after the
9279 conclusion of an interview, unless:

9280 (A) the suspect is a parent or guardian of the child victim;

9281 (B) the suspect resides in the home with the child victim; or

9282 (C) the investigative agency determines that allowing the parent or guardian to view
9283 the recording would likely compromise or impede the investigation.

9284 (ii) If the investigative agency determines that allowing the parent or guardian to view
9285 the recording would likely compromise or impede the investigation, the parent or guardian may
9286 petition a juvenile or district court for an expedited hearing on whether there is good cause for
9287 the court to enter an order allowing the parent or guardian to view the recording in accordance
9288 with Subsection (5)(c).

9289 (iii) A Children's Justice Center shall coordinate the viewing of the recording described
9290 in this Subsection (6)(e).

9291 (f) A multidisciplinary team assembled by a Children's Justice Center or an
9292 interdisciplinary team assembled by the Division of Child and Family Services may view a
9293 recording or transcript, but may not receive a recording or transcript.

9294 (g) A Children's Justice Center:

9295 (i) may distribute or display a recording or transcript to an authorized trainer or
9296 evaluator for purposes of training or evaluation; and

9297 (ii) may display, but may not distribute, a recording or transcript to an authorized

9298 trainee.

9299 (h) An authorized trainer or instructor may display a recording or transcript according
9300 to the terms of the authorized trainer's or instructor's contract with the Children's Justice Center
9301 or according to the authorized trainer's or instructor's scope of employment.

9302 (i) (i) In an investigation under Section [~~53A-6-306~~] 53E-6-506, in which a child
9303 victim who is the subject of the recording or transcript has alleged criminal conduct against an
9304 educator, a law enforcement agency may distribute or release the recording or transcript to an
9305 investigator operating under State Board of Education authorization, upon the investigator's
9306 written request.

9307 (ii) If the respondent in a case investigated under Section [~~53A-6-306~~] 53E-6-506
9308 requests a hearing authorized under that section, the investigator operating under State Board
9309 of Education authorization may display, release, or distribute the recording or transcript to the
9310 prosecutor operating under State Board of Education authorization or to an expert retained by
9311 an investigator.

9312 (iii) Upon request for a hearing under Section [~~53A-6-306~~] 53E-6-506, a prosecutor
9313 operating under State Board of Education authorization may display the recording or transcript
9314 to a pro se respondent, to an attorney retained by the respondent, or to an expert retained by the
9315 respondent.

9316 (iv) The parties to a hearing authorized under Section [~~53A-6-306~~] 53E-6-506 may
9317 display and enter into evidence a recording or transcript in the course of a prosecution.

9318 (7) Except as otherwise provided in this section, it is a class B misdemeanor for any
9319 individual to distribute, release, or display any recording or transcript of an interview of a child
9320 victim conducted at a Children's Justice Center.

9321 Section 117. Section **78A-6-103 (Effective 07/01/18)** is amended to read:

9322 **78A-6-103 (Effective 07/01/18). Jurisdiction of juvenile court -- Original --**

9323 **Exclusive.**

9324 (1) Except as otherwise provided by law, the juvenile court has exclusive original
9325 jurisdiction in proceedings concerning:

9326 (a) a child who has violated any federal, state, or local law or municipal ordinance or a
9327 person younger than 21 years of age who has violated any law or ordinance before becoming
9328 18 years of age, regardless of where the violation occurred, excluding offenses:

9329 (i) in Section [~~53A-11-911~~] [53G-8-211](#) until such time that the child is referred to the
9330 courts under Section [~~53A-11-911~~] [53G-8-211](#); and

9331 (ii) in Subsection [78A-7-106](#)(2);

9332 (b) a child who is an abused child, neglected child, or dependent child, as those terms
9333 are defined in Section [78A-6-105](#);

9334 (c) a protective order for a child pursuant to Title 78B, Chapter 7, Part 2, Child
9335 Protective Orders, which the juvenile court may transfer to the district court if the juvenile
9336 court has entered an ex parte protective order and finds that:

9337 (i) the petitioner and the respondent are the natural parent, adoptive parent, or step
9338 parent of the child who is the object of the petition;

9339 (ii) the district court has a petition pending or an order related to custody or parent-time
9340 entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act,
9341 or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the
9342 respondent are parties; and

9343 (iii) the best interests of the child will be better served in the district court;

9344 (d) appointment of a guardian of the person or other guardian of a minor who comes
9345 within the court's jurisdiction under other provisions of this section;

9346 (e) the emancipation of a minor in accordance with Part 8, Emancipation;

9347 (f) the termination of the legal parent-child relationship in accordance with Part 5,
9348 Termination of Parental Rights Act, including termination of residual parental rights and
9349 duties;

9350 (g) the treatment or commitment of a minor who has an intellectual disability;

9351 (h) the judicial consent to the marriage of a child under age 16 upon a determination of
9352 voluntariness or where otherwise required by law, employment, or enlistment of a child when
9353 consent is required by law;

9354 (i) any parent or parents of a child committed to a secure youth facility, to order, at the
9355 discretion of the court and on the recommendation of a secure facility, the parent or parents of a
9356 child committed to a secure facility for a custodial term, to undergo group rehabilitation
9357 therapy under the direction of a secure facility therapist, who has supervision of that parent's or
9358 parents' child, or any other therapist the court may direct, for a period directed by the court as
9359 recommended by a secure facility;

9360 (j) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

9361 (k) subject to Subsection (8), the treatment or commitment of a child with a mental
9362 illness;

9363 (l) the commitment of a child to a secure drug or alcohol facility in accordance with
9364 Section 62A-15-301;

9365 (m) a minor found not competent to proceed pursuant to Section 78A-6-1301;

9366 (n) de novo review of final agency actions resulting from an informal adjudicative
9367 proceeding as provided in Section 63G-4-402; and

9368 (o) adoptions conducted in accordance with the procedures described in Title 78B,
9369 Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order
9370 terminating the rights of a parent and finds that adoption is in the best interest of the child.

9371 (2) (a) Notwithstanding Section 78A-7-106 and Subsection 78A-5-102(9), the juvenile
9372 court has exclusive jurisdiction over the following offenses committed by a child:

9373 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

9374 (ii) Section 73-18-12, reckless operation; and

9375 (iii) class B and C misdemeanors, infractions, or violations of ordinances that are part
9376 of a single criminal episode filed in a petition that contains an offense over which the court has
9377 jurisdiction.

9378 (b) A juvenile court may only order substance use disorder treatment or an educational
9379 series if the minor has an assessed need for the intervention on the basis of the results of a
9380 validated assessment.

9381 (3) The juvenile court has jurisdiction over an ungovernable or runaway child who is

9382 referred to it by the Division of Child and Family Services or by public or private agencies that
9383 contract with the division to provide services to that child when, despite earnest and persistent
9384 efforts by the division or agency, the child has demonstrated that the child:

9385 (a) is beyond the control of the child's parent, guardian, or lawful custodian to the
9386 extent that the child's behavior or condition endangers the child's own welfare or the welfare of
9387 others; or

9388 (b) has run away from home.

9389 (4) This section does not restrict the right of access to the juvenile court by private
9390 agencies or other persons.

9391 (5) The juvenile court has jurisdiction of all magistrate functions relative to cases
9392 arising under Section [78A-6-702](#).

9393 (6) The juvenile court has jurisdiction to make a finding of substantiated,
9394 unsubstantiated, or without merit, in accordance with Section [78A-6-323](#).

9395 (7) The juvenile court has jurisdiction of matters transferred to it by another trial court
9396 pursuant to Subsection [78A-7-106](#)(5) and subject to Section [~~53A-11-911~~] [53G-8-211](#).

9397 (8) The court may commit a child to the physical custody of a local mental health
9398 authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age
9399 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State
9400 Hospital.

9401 Section 118. Section **78A-6-105** is amended to read:

9402 **78A-6-105. Definitions.**

9403 As used in this chapter:

9404 (1) (a) "Abuse" means:

9405 (i) (A) nonaccidental harm of a child;

9406 (B) threatened harm of a child;

9407 (C) sexual exploitation;

9408 (D) sexual abuse; or

9409 (E) human trafficking of a child in violation of Section [76-5-308.5](#); or

- 9410 (ii) that a child's natural parent:
9411 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
9412 child;
9413 (B) is identified by a law enforcement agency as the primary suspect in an investigation
9414 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
9415 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
9416 recklessly causing the death of another parent of the child.
- 9417 (b) "Abuse" does not include:
9418 (i) reasonable discipline or management of a child, including withholding privileges;
9419 (ii) conduct described in Section 76-2-401; or
9420 (iii) the use of reasonable and necessary physical restraint or force on a child:
9421 (A) in self-defense;
9422 (B) in defense of others;
9423 (C) to protect the child; or
9424 (D) to remove a weapon in the possession of a child for any of the reasons described in
9425 Subsections (1)(b)(iii)(A) through (C).
- 9426 (2) "Abused child" means a child who has been subjected to abuse.
9427 (3) "Adjudication" means a finding by the court, incorporated in a decree, that the facts
9428 alleged in the petition have been proved. A finding of not competent to proceed pursuant to
9429 Section 78A-6-1302 is not an adjudication.
- 9430 (4) "Adult" means a person 18 years of age or over, except that a person 18 years or
9431 over under the continuing jurisdiction of the juvenile court pursuant to Section 78A-6-120 shall
9432 be referred to as a minor.
- 9433 (5) "Board" means the Board of Juvenile Court Judges.
9434 (6) "Child" means a person under 18 years of age.
9435 (7) "Child placement agency" means:
9436 (a) a private agency licensed to receive a child for placement or adoption under this
9437 code; or

9438 (b) a private agency that receives a child for placement or adoption in another state,
9439 which agency is licensed or approved where such license or approval is required by law.

9440 (8) "Clandestine laboratory operation" means the same as that term is defined in
9441 Section [58-37d-3](#).

9442 (9) "Commit" means, unless specified otherwise:

9443 (a) with respect to a child, to transfer legal custody; and

9444 (b) with respect to a minor who is at least 18 years of age, to transfer custody.

9445 (10) "Court" means the juvenile court.

9446 (11) "Criminogenic risk factors" means evidence-based factors that are associated with
9447 a minor's likelihood of reoffending.

9448 (12) "Delinquent act" means an act that would constitute a felony or misdemeanor if
9449 committed by an adult.

9450 (13) "Dependent child" includes a child who is homeless or without proper care
9451 through no fault of the child's parent, guardian, or custodian.

9452 (14) "Deprivation of custody" means transfer of legal custody by the court from a
9453 parent or the parents or a previous legal custodian to another person, agency, or institution.

9454 (15) "Detention" means home detention and secure detention as defined in Section
9455 [62A-7-101](#) for the temporary care of a minor who requires secure custody in a physically
9456 restricting facility:

9457 (a) pending court disposition or transfer to another jurisdiction; or

9458 (b) while under the continuing jurisdiction of the court.

9459 (16) "Detention risk assessment tool" means an evidence-based tool established under
9460 Section [78A-6-124](#), on and after July 1, 2018, that assesses a minor's risk of failing to appear in
9461 court or reoffending pre-adjudication and designed to assist in making detention
9462 determinations.

9463 (17) "Division" means the Division of Child and Family Services.

9464 (18) "Evidence-based" means a program or practice that has had multiple randomized
9465 control studies or a meta-analysis demonstrating that the program or practice is effective for a

9466 specific population or has been rated as effective by a standardized program evaluation tool.

9467 (19) "Formal probation" means a minor is under field supervision by the probation
9468 department or other agency designated by the court and subject to return to the court in
9469 accordance with Section [78A-6-123](#) on and after July 1, 2018.

9470 (20) "Formal referral" means a written report from a peace officer or other person
9471 informing the court that a minor is or appears to be within the court's jurisdiction and that a
9472 case must be reviewed.

9473 (21) "Group rehabilitation therapy" means psychological and social counseling of one
9474 or more persons in the group, depending upon the recommendation of the therapist.

9475 (22) "Guardianship of the person" includes the authority to consent to:

9476 (a) marriage;

9477 (b) enlistment in the armed forces;

9478 (c) major medical, surgical, or psychiatric treatment; or

9479 (d) legal custody, if legal custody is not vested in another person, agency, or institution.

9480 (23) "Habitual truant" means the same as that term is defined in Section [~~53A-11-101~~]
9481 [53G-6-201](#).

9482 (24) "Harm" means:

9483 (a) physical or developmental injury or damage;

9484 (b) emotional damage that results in a serious impairment in the child's growth,
9485 development, behavior, or psychological functioning;

9486 (c) sexual abuse; or

9487 (d) sexual exploitation.

9488 (25) (a) "Incest" means engaging in sexual intercourse with a person whom the
9489 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,
9490 nephew, niece, or first cousin.

9491 (b) The relationships described in Subsection (25)(a) include:

9492 (i) blood relationships of the whole or half blood, without regard to legitimacy;

9493 (ii) relationships of parent and child by adoption; and

9494 (iii) relationships of stepparent and stepchild while the marriage creating the
9495 relationship of a stepparent and stepchild exists.

9496 (26) "Intake probation" means a period of court monitoring that does not include field
9497 supervision, but is overseen by a juvenile probation officer, during which a minor is subject to
9498 return to the court in accordance with Section [78A-6-123](#) on and after July 1, 2018.

9499 (27) "Intellectual disability" means:

9500 (a) significantly subaverage intellectual functioning, an IQ of approximately 70 or
9501 below on an individually administered IQ test, for infants, a clinical judgment of significantly
9502 subaverage intellectual functioning;

9503 (b) concurrent deficits or impairments in present adaptive functioning, the person's
9504 effectiveness in meeting the standards expected for the person's age by the person's cultural
9505 group, in at least two of the following areas: communication, self-care, home living,
9506 social/interpersonal skills, use of community resources, self-direction, functional academic
9507 skills, work, leisure, health, and safety; and

9508 (c) the onset is before the person reaches the age of 18 years.

9509 (28) "Legal custody" means a relationship embodying the following rights and duties:

9510 (a) the right to physical custody of the minor;

9511 (b) the right and duty to protect, train, and discipline the minor;

9512 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
9513 medical care;

9514 (d) the right to determine where and with whom the minor shall live; and

9515 (e) the right, in an emergency, to authorize surgery or other extraordinary care.

9516 (29) "Material loss" means an uninsured:

9517 (a) property loss;

9518 (b) out-of-pocket monetary loss;

9519 (c) lost wages; or

9520 (d) medical expenses.

9521 (30) "Mental disorder" means a serious emotional and mental disturbance that severely

9522 limits a minor's development and welfare over a significant period of time.

9523 (31) "Minor" means:

9524 (a) a child; or

9525 (b) a person who is:

9526 (i) at least 18 years of age and younger than 21 years of age; and

9527 (ii) under the jurisdiction of the juvenile court.

9528 (32) "Mobile crisis outreach team" means a crisis intervention service for minors or
9529 families of minors experiencing behavioral health or psychiatric emergencies.

9530 (33) "Molestation" means that a person, with the intent to arouse or gratify the sexual
9531 desire of any person:

9532 (a) touches the anus or any part of the genitals of a child;

9533 (b) takes indecent liberties with a child; or

9534 (c) causes a child to take indecent liberties with the perpetrator or another.

9535 (34) "Natural parent" means a minor's biological or adoptive parent, and includes the
9536 minor's noncustodial parent.

9537 (35) (a) "Neglect" means action or inaction causing:

9538 (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe
9539 Relinquishment of a Newborn Child;

9540 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,
9541 guardian, or custodian;

9542 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary
9543 subsistence, education, or medical care, or any other care necessary for the child's health,
9544 safety, morals, or well-being;

9545 (iv) a child to be at risk of being neglected or abused because another child in the same
9546 home is neglected or abused; or

9547 (v) abandonment of a child through an unregulated custody transfer.

9548 (b) The aspect of neglect relating to education, described in Subsection (35)(a)(iii),
9549 means that, after receiving a notice of compulsory education violation under Section

9550 ~~[53A-11-101.5]~~ [53G-6-202](#), the parent or guardian fails to make a good faith effort to ensure
9551 that the child receives an appropriate education.

9552 (c) A parent or guardian legitimately practicing religious beliefs and who, for that
9553 reason, does not provide specified medical treatment for a child, is not guilty of neglect.

9554 (d) (i) Notwithstanding Subsection (35)(a), a health care decision made for a child by
9555 the child's parent or guardian does not constitute neglect unless the state or other party to the
9556 proceeding shows, by clear and convincing evidence, that the health care decision is not
9557 reasonable and informed.

9558 (ii) Nothing in Subsection (35)(d)(i) may prohibit a parent or guardian from exercising
9559 the right to obtain a second health care opinion and from pursuing care and treatment pursuant
9560 to the second health care opinion, as described in Section [78A-6-301.5](#).

9561 (36) "Neglected child" means a child who has been subjected to neglect.

9562 (37) "Nonjudicial adjustment" means closure of the case by the assigned probation
9563 officer without judicial determination upon the consent in writing of:

9564 (a) the assigned probation officer; and

9565 (b) (i) the minor; or

9566 (ii) the minor and the minor's parent, legal guardian, or custodian.

9567 (38) "Not competent to proceed" means that a minor, due to a mental disorder,
9568 intellectual disability, or related condition as defined, lacks the ability to:

9569 (a) understand the nature of the proceedings against them or of the potential disposition
9570 for the offense charged; or

9571 (b) consult with counsel and participate in the proceedings against them with a
9572 reasonable degree of rational understanding.

9573 (39) "Physical abuse" means abuse that results in physical injury or damage to a child.

9574 (40) "Probation" means a legal status created by court order following an adjudication
9575 on the ground of a violation of law or under Section [78A-6-103](#), whereby the minor is
9576 permitted to remain in the minor's home under prescribed conditions.

9577 (41) "Protective supervision" means a legal status created by court order following an

9578 adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to
9579 remain in the minor's home, and supervision and assistance to correct the abuse, neglect, or
9580 dependency is provided by the probation department or other agency designated by the court.

9581 (42) "Related condition" means a condition closely related to intellectual disability in
9582 accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3, Utah
9583 Administrative Code.

9584 (43) (a) "Residual parental rights and duties" means those rights and duties remaining
9585 with the parent after legal custody or guardianship, or both, have been vested in another person
9586 or agency, including:

- 9587 (i) the responsibility for support;
- 9588 (ii) the right to consent to adoption;
- 9589 (iii) the right to determine the child's religious affiliation; and
- 9590 (iv) the right to reasonable parent-time unless restricted by the court.

9591 (b) If no guardian has been appointed, "residual parental rights and duties" also include
9592 the right to consent to:

- 9593 (i) marriage;
- 9594 (ii) enlistment; and
- 9595 (iii) major medical, surgical, or psychiatric treatment.

9596 (44) "Secure facility" means any facility operated by or under contract with the
9597 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for
9598 youth offenders committed to the division for custody and rehabilitation pursuant to Subsection
9599 [78A-6-117\(2\)\(d\)](#).

9600 (45) "Severe abuse" means abuse that causes or threatens to cause serious harm to a
9601 child.

9602 (46) "Severe neglect" means neglect that causes or threatens to cause serious harm to a
9603 child.

9604 (47) "Sexual abuse" means:

9605 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an

9606 adult directed towards a child;

9607 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation

9608 committed by a child towards another child if:

9609 (i) there is an indication of force or coercion;

9610 (ii) the children are related, as described in Subsection (25);

9611 (iii) there have been repeated incidents of sexual contact between the two children,

9612 unless the children are 14 years of age or older; or

9613 (iv) there is a disparity in chronological age of four or more years between the two

9614 children; or

9615 (c) engaging in any conduct with a child that would constitute an offense under any of

9616 the following, regardless of whether the person who engages in the conduct is actually charged

9617 with, or convicted of, the offense:

9618 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the

9619 alleged perpetrator of an offense described in Section 76-5-401 is a minor;

9620 (ii) child bigamy, Section 76-7-101.5;

9621 (iii) incest, Section 76-7-102;

9622 (iv) lewdness, Section 76-9-702;

9623 (v) sexual battery, Section 76-9-702.1;

9624 (vi) lewdness involving a child, Section 76-9-702.5; or

9625 (vii) voyeurism, Section 76-9-702.7.

9626 (48) "Sexual exploitation" means knowingly:

9627 (a) employing, using, persuading, inducing, enticing, or coercing any child to:

9628 (i) pose in the nude for the purpose of sexual arousal of any person; or

9629 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,

9630 filming, recording, or displaying in any way the sexual or simulated sexual conduct;

9631 (b) displaying, distributing, possessing for the purpose of distribution, or selling

9632 material depicting a child:

9633 (i) in the nude, for the purpose of sexual arousal of any person; or

- 9634 (ii) engaging in sexual or simulated sexual conduct; or
- 9635 (c) engaging in any conduct that would constitute an offense under Section [76-5b-201](#),
- 9636 sexual exploitation of a minor, regardless of whether the person who engages in the conduct is
- 9637 actually charged with, or convicted of, the offense.
- 9638 (49) "Shelter" means the temporary care of a child in a physically unrestricted facility
- 9639 pending court disposition or transfer to another jurisdiction.
- 9640 (50) "Status offense" means a violation of the law that would not be a violation but for
- 9641 the age of the offender.
- 9642 (51) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or
- 9643 substances.
- 9644 (52) "Substantiated" means the same as that term is defined in Section [62A-4a-101](#).
- 9645 (53) "Supported" means the same as that term is defined in Section [62A-4a-101](#).
- 9646 (54) "Termination of parental rights" means the permanent elimination of all parental
- 9647 rights and duties, including residual parental rights and duties, by court order.
- 9648 (55) "Therapist" means:
- 9649 (a) a person employed by a state division or agency for the purpose of conducting
- 9650 psychological treatment and counseling of a minor in its custody; or
- 9651 (b) any other person licensed or approved by the state for the purpose of conducting
- 9652 psychological treatment and counseling.
- 9653 (56) "Unregulated custody transfer" means the placement of a child:
- 9654 (a) with a person who is not the child's parent, step-parent, grandparent, adult sibling,
- 9655 adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom
- 9656 the child is familiar, or a member of the child's federally recognized tribe;
- 9657 (b) with the intent of severing the child's existing parent-child or guardian-child
- 9658 relationship; and
- 9659 (c) without taking:
- 9660 (i) reasonable steps to ensure the safety of the child and permanency of the placement;
- 9661 and

9662 (ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or
9663 guardianship to the person taking custody of the child.

9664 (57) "Unsubstantiated" means the same as that term is defined in Section [62A-4a-101](#).

9665 (58) "Validated risk and needs assessment" means an evidence-based tool that assesses
9666 a minor's risk of reoffending and a minor's criminogenic needs.

9667 (59) "Without merit" means the same as that term is defined in Section [62A-4a-101](#).

9668 Section 119. Section **78A-6-112 (Superseded 07/01/18)** is amended to read:

9669 **78A-6-112 (Superseded 07/01/18). Minor taken into custody by peace officer,**
9670 **private citizen, or probation officer -- Grounds -- Notice requirements -- Release or**
9671 **detention -- Grounds for peace officer to take adult into custody.**

9672 (1) A minor may be taken into custody by a peace officer without order of the court if:

9673 (a) in the presence of the officer the minor has violated a state law, federal law, local
9674 law, or municipal ordinance;

9675 (b) there are reasonable grounds to believe the minor has committed an act which if
9676 committed by an adult would be a felony;

9677 (c) the minor:

9678 (i) (A) is seriously endangered in the minor's surroundings; or

9679 (B) seriously endangers others; and

9680 (ii) immediate removal appears to be necessary for the minor's protection or the
9681 protection of others;

9682 (d) there are reasonable grounds to believe the minor has run away or escaped from the
9683 minor's parents, guardian, or custodian; or

9684 (e) there is reason to believe that the minor is:

9685 (i) subject to the state's compulsory education law; and

9686 (ii) absent from school without legitimate or valid excuse, subject to Section

9687 ~~[53A-11-105]~~ [53G-6-208](#).

9688 (2) (a) A private citizen or a probation officer may take a minor into custody if under
9689 the circumstances he could make a citizen's arrest if the minor was an adult.

9690 (b) A probation officer may also take a minor into custody under Subsection (1) or if
9691 the minor has violated the conditions of probation, if the minor is under the continuing
9692 jurisdiction of the juvenile court or in emergency situations in which a peace officer is not
9693 immediately available.

9694 (3) (a) (i) If an officer or other person takes a minor into temporary custody, he shall
9695 without unnecessary delay notify the parents, guardian, or custodian.

9696 (ii) The minor shall then be released to the care of the minor's parent or other
9697 responsible adult, unless the minor's immediate welfare or the protection of the community
9698 requires the minor's detention.

9699 (b) If the minor is taken into custody or detention for a violent felony, as defined in
9700 Section [76-3-203.5](#), or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the
9701 officer or other law enforcement agent taking the minor into custody shall, as soon as
9702 practicable or as established under Subsection [~~53A-11-1001~~] [53G-8-402](#)(2), notify the school
9703 superintendent of the district in which the minor resides or attends school for the purposes of
9704 the minor's supervision and student safety.

9705 (i) The notice shall disclose only:

9706 (A) the name of the minor;

9707 (B) the offense for which the minor was taken into custody or detention; and

9708 (C) if available, the name of the victim, if the victim:

9709 (I) resides in the same school district as the minor; or

9710 (II) attends the same school as the minor.

9711 (ii) The notice shall be classified as a protected record under Section [63G-2-305](#).

9712 (iii) All other records disclosures are governed by Title 63G, Chapter 2, Government
9713 Records Access and Management Act and the Federal Family Educational Rights and Privacy
9714 Act.

9715 (c) Employees of a governmental agency are immune from any criminal liability for
9716 providing or failing to provide the information required by this section unless the person acts or
9717 fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

9718 (d) Before the minor is released, the parent or other person to whom the minor is
9719 released shall be required to sign a written promise on forms supplied by the court to bring the
9720 minor to the court at a time set or to be set by the court.

9721 (4) (a) A child may not be held in temporary custody by law enforcement any longer
9722 than is reasonably necessary to obtain the child's name, age, residence, and other necessary
9723 information and to contact the child's parents, guardian, or custodian.

9724 (b) If the minor is not released under Subsection (3), the minor shall be taken to a place
9725 of detention or shelter without unnecessary delay.

9726 (5) (a) The person who takes a minor to a detention or shelter facility shall promptly
9727 file with the detention or shelter facility a written report on a form provided by the division
9728 stating the details of the presently alleged offense, the facts which bring the minor within the
9729 jurisdiction of the juvenile court, and the reason the minor was not released by law
9730 enforcement.

9731 (b) (i) The designated youth corrections facility staff person shall immediately review
9732 the form and determine, based on the guidelines for detention admissions established by the
9733 Division of Juvenile Justice Services under Section [62A-7-202](#), whether to admit the minor to
9734 secure detention, admit the minor to home detention, place the minor in a placement other than
9735 detention, or return the minor home upon written promise to bring the minor to the court at a
9736 time set, or without restriction.

9737 (ii) If the designated youth corrections facility staff person determines to admit the
9738 minor to home detention, that staff person shall notify the juvenile court of that determination.
9739 The court shall order that notice be provided to the designated persons in the local law
9740 enforcement agency and the school or transferee school, if applicable, which the minor attends
9741 of the home detention. The designated persons may receive the information for purposes of the
9742 minor's supervision and student safety.

9743 (iii) Any employee of the local law enforcement agency and the school which the
9744 minor attends who discloses the notification of home detention is not:

9745 (A) civilly liable except when disclosure constitutes fraud or willful misconduct as

9746 provided in Section 63G-7-202; and

9747 (B) civilly or criminally liable except when disclosure constitutes a knowing violation
9748 of Section 63G-2-801.

9749 (c) A minor may not be admitted to detention unless the minor is detainable based on
9750 the guidelines or the minor has been brought to detention pursuant to a judicial order or
9751 division warrant pursuant to Section 62A-7-504.

9752 (d) If a minor taken to detention does not qualify for admission under the guidelines
9753 established by the division under Section 62A-7-104, detention staff shall arrange appropriate
9754 placement.

9755 (e) If a minor is taken into custody and admitted to a secure detention or shelter
9756 facility, facility staff shall:

9757 (i) immediately notify the minor's parents, guardian, or custodian; and

9758 (ii) promptly notify the court of the placement.

9759 (f) If the minor is admitted to a secure detention or shelter facility outside the county of
9760 the minor's residence and it is determined in the hearing held under Subsection 78A-6-113(3)
9761 that detention shall continue, the judge or commissioner shall direct the sheriff of the county of
9762 the minor's residence to transport the minor to a detention or shelter facility as provided in this
9763 section.

9764 (6) A person may be taken into custody by a peace officer without a court order if the
9765 person is in apparent violation of a protective order or if there is reason to believe that a child is
9766 being abused by the person and any of the situations outlined in Section 77-7-2 exist.

9767 Section 120. Section 78A-6-112 (Effective 07/01/18) is amended to read:

9768 **78A-6-112 (Effective 07/01/18). Minor taken into custody by peace officer, private**
9769 **citizen, or probation officer -- Grounds -- Notice requirements -- Release or detention --**
9770 **Grounds for peace officer to take adult into custody.**

9771 (1) A minor may be taken into custody by a peace officer without order of the court if:

9772 (a) in the presence of the officer the minor has violated a state law, federal law, local
9773 law, or municipal ordinance;

9774 (b) there are reasonable grounds to believe the minor has committed an act which if
9775 committed by an adult would be a felony;

9776 (c) the minor:

9777 (i) (A) is seriously endangered in the minor's surroundings; or

9778 (B) seriously endangers others; and

9779 (ii) immediate removal appears to be necessary for the minor's protection or the
9780 protection of others;

9781 (d) there are reasonable grounds to believe the minor has run away or escaped from the
9782 minor's parents, guardian, or custodian; or

9783 (e) there is reason to believe that the minor is:

9784 (i) subject to the state's compulsory education law; and

9785 (ii) absent from school without legitimate or valid excuse, subject to Section
9786 [\[53A-11-105\]](#) [53G-6-208](#).

9787 (2) (a) A private citizen or a probation officer may take a minor into custody if under
9788 the circumstances the private citizen or probation officer could make a citizen's arrest if the
9789 minor was an adult.

9790 (b) A probation officer may also take a minor into custody under Subsection (1) or if
9791 the minor has violated the conditions of probation, if the minor is under the continuing
9792 jurisdiction of the juvenile court or in emergency situations in which a peace officer is not
9793 immediately available.

9794 (3) (a) (i) If an officer or other person takes a minor into temporary custody under
9795 Subsection (1) or (2), the officer or person shall without unnecessary delay notify the parents,
9796 guardian, or custodian.

9797 (ii) The minor shall then be released to the care of the minor's parent or other
9798 responsible adult, unless the minor's immediate welfare or the protection of the community
9799 requires the minor's detention.

9800 (b) If the minor is taken into custody under Subsection (1) or (2) or placed in detention
9801 under Subsection (4) for a violent felony, as defined in Section [76-3-203.5](#), or an offense in

9802 violation of Title 76, Chapter 10, Part 5, Weapons, the officer or other law enforcement agent
9803 taking the minor into custody shall, as soon as practicable or as established under Subsection
9804 [~~53A-11-1001~~] [53G-8-402](#)(2), notify the school superintendent of the district in which the
9805 minor resides or attends school for the purposes of the minor's supervision and student safety.

9806 (i) The notice shall disclose only:

9807 (A) the name of the minor;

9808 (B) the offense for which the minor was taken into custody or detention; and

9809 (C) if available, the name of the victim, if the victim:

9810 (I) resides in the same school district as the minor; or

9811 (II) attends the same school as the minor.

9812 (ii) The notice shall be classified as a protected record under Section [63G-2-305](#).

9813 (iii) All other records disclosures are governed by Title 63G, Chapter 2, Government
9814 Records Access and Management Act, and the federal Family Educational Rights and Privacy
9815 Act.

9816 (c) Employees of a governmental agency are immune from any criminal liability for
9817 providing or failing to provide the information required by this section unless the person acts or
9818 fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

9819 (d) Before the minor is released, the parent or other person to whom the minor is
9820 released shall be required to sign a written promise on forms supplied by the court to bring the
9821 minor to the court at a time set or to be set by the court.

9822 (4) (a) A child may not be held in temporary custody by law enforcement any longer
9823 than is reasonably necessary to obtain the child's name, age, residence, and other necessary
9824 information and to contact the child's parents, guardian, or custodian.

9825 (b) If the minor is not released under Subsection (3), the minor shall be taken to a place
9826 of detention or shelter without unnecessary delay.

9827 (5) (a) The person who takes a minor to a detention or shelter facility shall promptly
9828 file with the detention or shelter facility a written report on a form provided by the division
9829 stating:

9830 (i) the details of the presently alleged offense;
9831 (ii) the facts that bring the minor within the jurisdiction of the juvenile court;
9832 (iii) the reason the minor was not released by law enforcement; and
9833 (iv) the eligibility of the minor under the division guidelines for detention admissions
9834 established by the Division of Juvenile Justice Services under Section 62A-7-202 if the minor
9835 is under consideration for detention.

9836 (b) (i) The designated facility staff person shall immediately review the form and
9837 determine, based on the guidelines for detention admissions established by the Division of
9838 Juvenile Justice Services under Section 62A-7-202, the results of the detention risk assessment,
9839 and the criteria for detention eligibility under Section 78A-6-113, whether to:

- 9840 (A) admit the minor to secure detention;
- 9841 (B) admit the minor to home detention;
- 9842 (C) place the minor in another alternative to detention; or
- 9843 (D) return the minor home upon written promise to bring the minor to the court at a
9844 time set, or without restriction.

9845 (ii) If the designated facility staff person determines to admit the minor to home
9846 detention, that staff person shall notify the juvenile court of that determination. The court shall
9847 order that notice be provided to the designated persons in the local law enforcement agency and
9848 the school or transferee school, if applicable, which the minor attends of the home detention.
9849 The designated persons may receive the information for purposes of the minor's supervision
9850 and student safety.

9851 (iii) Any employee of the local law enforcement agency and the school which the
9852 minor attends who discloses the notification of home detention is not:

9853 (A) civilly liable except when disclosure constitutes fraud or willful misconduct as
9854 provided in Section 63G-7-202; and

9855 (B) civilly or criminally liable except when disclosure constitutes a knowing violation
9856 of Section 63G-2-801.

9857 (iv) The person who takes a minor to a detention facility or the designated facility staff

9858 person may release a minor to a less restrictive alternative even if the minor is eligible for
9859 secure detention under this Subsection (5).

9860 (c) A minor may not be admitted to detention unless the minor is detainable based on
9861 the guidelines or the minor has been brought to detention pursuant to a judicial order or
9862 division warrant pursuant to Section [62A-7-504](#).

9863 (d) If a minor taken to detention does not qualify for admission under the guidelines
9864 established by the division under Section [62A-7-104](#) or the eligibility criteria under Subsection
9865 (4) and this Subsection (5), detention staff shall arrange an appropriate alternative.

9866 (e) If a minor is taken into custody and admitted to a secure detention or shelter
9867 facility, facility staff shall:

9868 (i) immediately notify the minor's parents, guardian, or custodian; and

9869 (ii) promptly notify the court of the placement.

9870 (f) If the minor is admitted to a secure detention or shelter facility outside the county of
9871 the minor's residence and it is determined in the hearing held under Subsection [78A-6-113\(3\)](#)
9872 that detention shall continue, the judge or commissioner shall direct the sheriff of the county of
9873 the minor's residence to transport the minor to a detention or shelter facility as provided in this
9874 section.

9875 (6) A person may be taken into custody by a peace officer without a court order if the
9876 person is in apparent violation of a protective order or if there is reason to believe that a child is
9877 being abused by the person and any of the situations outlined in Section [77-7-2](#) exist.

9878 Section 121. Section [78A-6-319](#) is amended to read:

9879 **[78A-6-319. Educational neglect of a child -- Procedures -- Defenses.](#)**

9880 (1) With regard to a child who is the subject of a petition under this chapter based on
9881 educational neglect:

9882 (a) if allegations include failure of a child to make adequate educational progress, the
9883 court shall permit demonstration of the child's educational skills and abilities based upon any of
9884 the criteria used in granting school credit, in accordance with Section [[53A-11-102.5](#)]
9885 [53G-6-702](#);

9886 (b) parental refusal to comply with actions taken by school authorities in violation of
9887 [~~Sections 53A-13-101.1~~] Section 53G-10-202, [~~53A-13-101.2~~] 53G-10-205, 53G-10-403, or
9888 [~~53A-13-101.3~~] 53G-10-203, does not constitute educational neglect;

9889 (c) parental refusal to support efforts by a school to encourage a child to act in
9890 accordance with any educational objective that focuses on the adoption or expression of a
9891 personal philosophy, attitude, or belief that is not reasonably necessary to maintain order and
9892 discipline in the school, prevent unreasonable endangerment of persons or property, or to
9893 maintain concepts of civility and propriety appropriate to a school setting, does not constitute
9894 educational neglect; and

9895 (d) an allegation of educational neglect may not be sustained, based solely on a child's
9896 absence from school, unless the child has been absent from school or from any given class,
9897 without good cause, for more than 10 consecutive school days or more than 1/16 of the
9898 applicable school term.

9899 (2) A child may not be considered to be educationally neglected, for purposes of this
9900 chapter:

9901 (a) unless there is clear and convincing evidence that:

9902 (i) the child has failed to make adequate educational progress, and school officials have
9903 complied with the requirements of Section [~~53A-11-103~~] 53G-6-206; and

9904 (ii) the child is two or more years behind the local public school's age group
9905 expectations in one or more basic skills, and is not receiving special educational services or
9906 systematic remediation efforts designed to correct the problem;

9907 (b) if the child's parent or guardian establishes by a preponderance of the evidence that:

9908 (i) school authorities have failed to comply with the requirements of [~~Title 53A,~~
9909 ~~Chapter 11, Students in Public Schools, or Chapter 13, Curriculum in the Public Schools~~] Title
9910 53G, Public Education System -- Local Administration;

9911 (ii) the child is being instructed at home in compliance with Section [~~53A-11-102~~]
9912 53G-6-204;

9913 (iii) there is documentation that the child has demonstrated educational progress at a

9914 level commensurate with the child's ability;

9915 (iv) the parent, guardian, or other person in control of the child has made a good faith
9916 effort to secure the child's regular attendance in school;

9917 (v) good cause or a valid excuse exists for the child's absence from school;

9918 (vi) the child is not required to attend school pursuant to court order or is exempt under
9919 other applicable state or federal law;

9920 (vii) the student has performed above the twenty-fifth percentile of the local public
9921 school's age group expectations in all basic skills, as measured by a standardized academic
9922 achievement test administered by the school district where the student resides; or

9923 (viii) the parent or guardian has proffered a reasonable alternative to required school
9924 curriculum, in accordance with Section [~~53A-13-101.2~~] [53G-10-205](#) or [53G-10-403](#), that
9925 alternative was rejected by the school district, but the parents have implemented the alternative
9926 curriculum; or

9927 (c) if the child is attending school on a regular basis.

9928 Section 122. Section **78A-6-602** is amended to read:

9929 **78A-6-602. Petition -- Preliminary inquiry -- Nonjudicial adjustments -- Formal**
9930 **referral -- Citation -- Failure to appear.**

9931 (1) A proceeding in a minor's case is commenced by petition, except as provided in
9932 Sections [78A-6-701](#), [78A-6-702](#), and [78A-6-703](#).

9933 (2) (a) A peace officer or a public official of the state, a county, city, or town charged
9934 with the enforcement of the laws of the state or local jurisdiction shall file a formal referral
9935 with the juvenile court within 10 days of a minor's arrest. If the arrested minor is taken to a
9936 detention facility, the formal referral shall be filed with the juvenile court within 72 hours,
9937 excluding weekends and holidays. A formal referral under Section [~~53A-11-911~~] [53G-8-211](#)
9938 may not be filed with the juvenile court on an offense unless the offense is subject to referral
9939 under Section [~~53A-11-911~~] [53G-8-211](#).

9940 (b) When the court is informed by a peace officer or other person that a minor is or
9941 appears to be within the court's jurisdiction, the probation department shall make a preliminary

9942 inquiry to determine whether the minor is eligible to enter into a written consent agreement
9943 with the probation department and, if the minor is a child, the minor's parent, guardian, or
9944 custodian for the nonjudicial adjustment of the case pursuant to this Subsection (2). The court's
9945 probation department shall offer a nonjudicial adjustment if the minor:

9946 (i) is referred with a misdemeanor, infraction, or status offense;

9947 (ii) has fewer than three prior adjudications; and

9948 (iii) has no more than three prior unsuccessful nonjudicial adjustment attempts.

9949 (c) (i) Notwithstanding Subsection (2)(b), the probation department may conduct a
9950 validated risk and needs assessment and may request that the prosecutor review the referral
9951 pursuant to Subsection (2)(g) to determine whether to dismiss the referral or file a petition
9952 instead of offering a nonjudicial adjustment if:

9953 (A) the results of the assessment indicate the youth is high risk; or

9954 (B) the results of the assessment indicate the youth is moderate risk and the referral is
9955 for a class A misdemeanor violation under Title 76, Chapter 5, or Title 76, Chapter 9, Part 7,
9956 Miscellaneous Provisions.

9957 (ii) The court's probation department, may offer a nonjudicial adjustment to any other
9958 minor who does not meet the criteria provided in Subsection (2)(b).

9959 (iii) Acceptance of an offer of nonjudicial adjustment may not be predicated on an
9960 admission of guilt.

9961 (iv) A minor may not be denied an offer of nonjudicial adjustment due to an inability to
9962 pay a financial penalty under Subsection (2)(d).

9963 (v) Efforts to effect a nonjudicial adjustment may not extend for a period of more than
9964 90 days without leave of a judge of the court, who may extend the period for an additional 90
9965 days.

9966 (d) The nonjudicial adjustment of a case may include conditions agreed upon as part of
9967 the nonjudicial closure:

9968 (i) payment of a financial penalty of not more than \$250 to the juvenile court subject to
9969 the terms established under Subsection (2)(e);

- 9970 (ii) payment of victim restitution;
- 9971 (iii) satisfactory completion of compensatory service;
- 9972 (iv) referral to an appropriate provider for counseling or treatment;
- 9973 (v) attendance at substance use disorder programs or counseling programs;
- 9974 (vi) compliance with specified restrictions on activities and associations; and
- 9975 (vii) other reasonable actions that are in the interest of the child or minor and the
9976 community.
- 9977 (e) A fee, fine, or restitution included in a nonjudicial closure in accordance with
9978 Subsection (2)(d) shall be based upon the ability of the minor's family to pay as determined by
9979 a statewide sliding scale developed as provided in Section [63M-7-208](#) on and after July 1,
9980 2018.
- 9981 (f) If a minor fails to substantially comply with the conditions agreed upon as part of
9982 the nonjudicial closure, or if a minor is not offered or declines a nonjudicial adjustment
9983 pursuant to Subsection (2)(b) or (2)(c)(ii), the prosecutor shall review the case and take one of
9984 the following actions:
 - 9985 (i) dismiss the case;
 - 9986 (ii) refer the case back to the probation department for a new attempt at nonjudicial
9987 adjustment; or
 - 9988 (iii) in accordance with Subsections (2)(h), file a petition with the court.
- 9989 (g) Notwithstanding Subsection (2)(f), a petition may only be filed upon reasonable
9990 belief that:
 - 9991 (i) the charges are supported by probable cause;
 - 9992 (ii) admissible evidence will be sufficient to support conviction beyond a reasonable
9993 doubt; and
 - 9994 (iii) the decision to charge is in the interests of justice.
- 9995 (h) Failure to pay a fine or fee may not serve as a basis for filing of a petition under
9996 Subsection (2)(f)(iii) if the minor has substantially complied with the other conditions agreed
9997 upon in accordance with Subsection (2)(d) or those imposed through any other court diversion

9998 program.

9999 (i) A violation of Section 76-10-105 that is subject to the jurisdiction of the juvenile
10000 court may include a fine or penalty and participation in a court-approved tobacco education
10001 program, which may include a participation fee.

10002 (j) If the prosecutor files a petition in court, the court may refer the case to the
10003 probation department for another offer of nonjudicial adjustment.

10004 (3) Except as provided in Sections 78A-6-701 and 78A-6-702, in the case of a minor
10005 14 years of age or older, the county attorney, district attorney, or attorney general may
10006 commence an action by filing a criminal information and a motion requesting the juvenile court
10007 to waive its jurisdiction and certify the minor to the district court.

10008 (4) (a) In cases of violations of wildlife laws, boating laws, class B and class C
10009 misdemeanors, other infractions or misdemeanors as designated by general order of the Board
10010 of Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction of the
10011 juvenile court, a petition is not required and the issuance of a citation as provided in Section
10012 78A-6-603 is sufficient to invoke the jurisdiction of the court. A preliminary inquiry is
10013 required.

10014 (b) Any failure to comply with the time deadline on a formal referral may not be the
10015 basis of dismissing the formal referral.

10016 Section 123. Section 78A-6-603 is amended to read:

10017 **78A-6-603. Citation procedure -- Citation -- Offenses -- Time limits -- Failure to**
10018 **appear.**

10019 (1) As used in this section, "citation" means an abbreviated referral and is sufficient to
10020 invoke the jurisdiction of the court in lieu of a petition.

10021 (2) A citation shall be submitted to the court within five days of issuance.

10022 (3) A copy of the citation shall contain:

10023 (a) the name and address of the juvenile court before which the minor may be required
10024 to appear;

10025 (b) the name of the minor cited;

- 10026 (c) the statute or local ordinance that is alleged to have been violated;
- 10027 (d) a brief description of the offense charged;
- 10028 (e) the date, time, and location at which the offense is alleged to have occurred;
- 10029 (f) the date the citation was issued;
- 10030 (g) the name and badge or identification number of the peace officer or public official
- 10031 who issued the citation;
- 10032 (h) the name of the arresting person if an arrest was made by a private party and the
- 10033 citation was issued in lieu of taking the arrested minor into custody as provided in Section
- 10034 [78A-6-112](#);
- 10035 (i) the date and time when the minor is to appear, or a statement that the minor and
- 10036 parent or legal guardian are to appear when notified by the juvenile court; and
- 10037 (j) the signature of the minor and the parent or legal guardian, if present, agreeing to
- 10038 appear at the juvenile court as designated on the citation.
- 10039 (4) A copy of the citation shall contain space for the following information to be
- 10040 entered if known:
- 10041 (a) the minor's address;
- 10042 (b) the minor's date of birth;
- 10043 (c) the name and address of the child's custodial parent or legal guardian, if different
- 10044 from the child; and
- 10045 (d) if there is a victim, the victim's name, address, and an estimate of loss, except that
- 10046 this information shall be removed from the documents the minor receives.
- 10047 (5) A citation received by the court beyond the time designated in Subsection (2) shall
- 10048 include a written explanation for the delay.
- 10049 (6) In accordance with Section [~~53A-11-911~~] [53G-8-211](#), the following offenses may
- 10050 be sent to the juvenile court as a citation:
- 10051 (a) violations of wildlife laws;
- 10052 (b) violations of boating laws;
- 10053 (c) violations of curfew laws;

10054 (d) any class B misdemeanor or less traffic violations where the person is under the age
10055 of 16;

10056 (e) any class B or class C misdemeanor or infraction;

10057 (f) any other infraction or misdemeanor as designated by general order of the Board of
10058 Juvenile Court Judges; and

10059 (g) violations of Section [76-10-105](#) subject to the jurisdiction of the juvenile court.

10060 (7) A minor offense defined under Section [78A-6-1202](#), alleged to have been
10061 committed by an enrolled child on school property or related to school attendance, may only be
10062 sent to the prosecutor or the juvenile court in accordance with Section [~~53A-11-911~~]
10063 [53G-8-211](#).

10064 (8) A preliminary inquiry by the prosecutor, and if appropriate, the court, under Section
10065 [78A-6-117](#) is required.

10066 (9) Subsection (5) may not apply to a runaway child.

10067 (10) (a) A minor receiving a citation described in this section shall appear at the
10068 juvenile court designated in the citation on the time and date specified in the citation or when
10069 notified by the juvenile court.

10070 (b) A citation may not require a minor to appear sooner than five days following its
10071 issuance.

10072 (11) A minor who receives a citation and willfully fails to appear before the juvenile
10073 court pursuant to a citation may be found in contempt of court. The court may proceed against
10074 the minor as provided in Section [78A-6-1101](#).

10075 (12) When a citation is issued under this section, bail may be posted and forfeited
10076 under Section [78A-6-113](#) with the consent of:

10077 (a) the court; and

10078 (b) if the minor is a child, the parent or legal guardian of the child cited.

10079 Section 124. Section **78A-6-1001** is amended to read:

10080 **78A-6-1001. Jurisdiction over adults for offenses against minors -- Proof of**
10081 **delinquency not required for conviction.**

10082 (1) The court shall have jurisdiction, concurrent with the district court or justice court
10083 otherwise having subject matter jurisdiction, to try adults for the following offenses committed
10084 against minors:

10085 (a) unlawful sale or furnishing of an alcoholic product to minors in violation of Section
10086 [32B-4-403](#);

10087 (b) failure to report abuse or neglect, as required by Title 62A, Chapter 4a, Part 4,
10088 Child Abuse or Neglect Reporting Requirements;

10089 (c) harboring a runaway in violation of Section [62A-4a-501](#);

10090 (d) misdemeanor custodial interference in violation of Section [76-5-303](#);

10091 (e) contributing to the delinquency of a minor in violation of Section [76-10-2301](#); and

10092 (f) failure to comply with compulsory education requirements in violation of Section
10093 [~~53A-11-101.5~~] [53G-6-202](#).

10094 (2) It is not necessary for the minor to be found to be delinquent or to have committed
10095 a delinquent act for the court to exercise jurisdiction under Subsection (1).

10096 Section 125. Section **78A-6-1203** is amended to read:

10097 **78A-6-1203. Youth court -- Authorization -- Referral.**

10098 (1) Youth court is a diversion program that provides an alternative disposition for cases
10099 involving juvenile offenders in which youth participants, under the supervision of an adult
10100 coordinator, may serve in various capacities within the courtroom, acting in the role of jurors,
10101 lawyers, bailiffs, clerks, and judges.

10102 (a) Youth who appear before youth courts have been identified by law enforcement
10103 personnel, school officials, a prosecuting attorney, or the juvenile court as having committed
10104 acts which indicate a need for intervention to prevent further development toward juvenile
10105 delinquency, but which appear to be acts that can be appropriately addressed outside the
10106 juvenile court process.

10107 (b) Youth courts may only hear cases as provided for in this part.

10108 (c) Youth court is a diversion program and not a court established under the Utah
10109 Constitution, Article VIII.

10110 (2) A youth court may not accept referrals from law enforcement, schools, prosecuting
10111 attorneys, or a juvenile court unless the youth court is certified by the Utah Youth Court Board.

10112 (3) Any person may refer youth to a youth court for minor offenses or for any other
10113 eligible offense under Section [~~53A-11-911~~] [53G-8-211](#). Once a referral is made, the case
10114 shall be screened by an adult coordinator to determine whether it qualifies as a youth court
10115 case.

10116 (4) Youth courts have authority over youth:

10117 (a) referred for one or more minor offenses or who are referred for other eligible
10118 offenses under Section [~~53A-11-911~~] [53G-8-211](#), or who are granted permission for referral
10119 under this part;

10120 (b) who, along with a parent, guardian, or legal custodian, voluntarily and in writing,
10121 request youth court involvement; and

10122 (c) who, along with a parent, guardian, or legal custodian, agree to follow the youth
10123 court disposition of the case.

10124 (5) Except with permission granted under Subsection (6), or pursuant to Section
10125 [~~53A-11-911~~] [53G-8-211](#), youth courts may not exercise authority over youth who are under
10126 the continuing jurisdiction of the juvenile court for law violations, including any youth who
10127 may have a matter pending which has not yet been adjudicated. Youth courts may, however,
10128 exercise authority over youth who are under the continuing jurisdiction of the juvenile court as
10129 set forth in this Subsection (5) if the offense before the youth court is not a law violation, and
10130 the referring agency has notified the juvenile court of the referral.

10131 (6) Youth courts may exercise authority over youth described in Subsection (5), and
10132 over any other offense with the permission of the juvenile court and the prosecuting attorney in
10133 the county or district that would have jurisdiction if the matter were referred to juvenile court.

10134 (7) Permission of the juvenile court may be granted by a probation officer of the court
10135 in the district that would have jurisdiction over the offense being referred to youth court.

10136 (8) Youth courts may decline to accept a youth for youth court disposition for any
10137 reason and may terminate a youth from youth court participation at any time.

10138 (9) A youth or the youth's parent, guardian, or legal custodian may withdraw from the
10139 youth court process at any time. The youth court shall immediately notify the referring source
10140 of the withdrawal.

10141 (10) The youth court may transfer a case back to the referring source for alternative
10142 handling at any time.

10143 (11) Referral of a case to youth court may not, if otherwise eligible, prohibit the
10144 subsequent referral of the case to any court.

10145 (12) Proceedings and dispositions of a youth court may only be shared with the
10146 referring agency, juvenile court, and victim.

10147 (13) When a person does not complete the terms ordered by a youth court, and if the
10148 case is referred to a juvenile court, the youth court shall provide the case file to the juvenile
10149 court.

10150 Section 126. **Repealer.**

10151 This bill repeals:

10152 Section **53A-1-414**, **School expenditures -- Report.**

10153 Section **53A-1-901**, **Title.**

10154 Section **53A-1-904**, **No Child Left Behind -- State implementation.**

10155 Section **53A-1-1101**, **Title.**

10156 Section **53A-1-1201**, **Title.**

10157 Section **53A-1-1301**, **Title.**

10158 Section **53A-1-1401**, **Title.**

10159 Section **53A-1-1501**, **Title.**

10160 Section **53A-1a-101**, **Short title.**

10161 Section **53A-1a-501**, **Short title.**

10162 Section **53A-1a-701**, **Title.**

10163 Section **53A-1b-101**, **Title.**

10164 Section **53A-1b-201**, **Title.**

10165 Section **53A-2-401**, **Title.**

- 10166 Section **53A-4-301**, Title.
- 10167 Section **53A-6-101**, Title.
- 10168 Section **53A-8a-101**, Title.
- 10169 Section **53A-11-1201**, Title.
- 10170 Section **53A-11-1501**, Title.
- 10171 Section **53A-11-1601**, Title.
- 10172 Section **53A-11a-101**, Title.
- 10173 Section **53A-15-1001**, Title.
- 10174 Section **53A-15-1201**, Title.
- 10175 Section **53A-15-1501**, Title.
- 10176 Section **53A-15-1701**, Title.
- 10177 Section **53A-15-1801**, Title.
- 10178 Section **53A-15-1901**, Title.
- 10179 Section **53A-15-2001**, Title.
- 10180 Section **53A-17a-101**, Title.
- 10181 Section **53A-20b-101**, Title.
- 10182 Section **53A-21-101**, Title.
- 10183 Section **53A-25a-101**, Title.
- 10184 Section **53A-25b-101**, Title.
- 10185 Section **53A-28-101**, Title.
- 10186 Section **53A-30-101**, Title.
- 10187 Section **53A-31-101**, Title.
- 10188 Section **53A-31-401**, Title.
- 10189 Section 127. **Effective date.**
- 10190 If approved by two-thirds of all the members elected to each house, this bill takes effect
- 10191 upon approval by the governor, or the day following the constitutional time limit of Utah
- 10192 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
- 10193 the date of veto override.

10194 Section 128. **Revisor instructions.**
10195 The Legislature intends that the Office of Legislative Research and General Counsel, in
10196 preparing the Utah Code database for publication, not enroll this bill if any of the following
10197 bills do not pass:
10198 (1) H.B. 10, Public Education Recodification - State System;
10199 (2) H.B. 11, Public Education Recodification - Funding; or
10200 (3) S.B. 11, Public Education Recodification - Local System.