

Senator Lincoln Fillmore proposes the following substitute bill:

EDUCATION ENTITY AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Stephanie Gricius

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a county and municipality to consider a home-based microschool and micro-education entity as a permitted use in all zoning districts within a county and municipality;
- ▶ identifies the occupancy requirements to which a micro-education entity is subject;
- ▶ requires a local school board to excuse a student who attends a home-based microschool or micro-education entity under certain circumstances;
- ▶ provides that an instructor of a school-age child who attends a home-based microschool or micro-education entity is solely responsible for instruction, materials, and evaluation;
- ▶ prohibits a local school board from requiring a home-based microschool or micro-education entity to provide teaching credentials, submit to inspection, and conduct testing;



- 26 ▶ prevents government entities from regulating home-based microschool and
- 27 micro-education entity food preparation and distribution under certain
- 28 circumstances;
- 29 ▶ requires a home-based microschool and micro-education entity to register as a
- 30 business;
- 31 ▶ exempts a student who attends a home-based microschool or micro-education entity
- 32 from immunization requirements; and
- 33 ▶ makes technical and conforming changes.

34 **Money Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 AMENDS:

40 **10-9a-103**, as last amended by Laws of Utah 2023, Chapters 16, 327 and 478

41 **10-9a-305**, as last amended by Laws of Utah 2023, Chapter 16

42 **10-9a-529**, as last amended by Laws of Utah 2023, Chapter 16

43 **17-27a-103**, as last amended by Laws of Utah 2023, Chapters 15, 327 and 478

44 **17-27a-305**, as last amended by Laws of Utah 2023, Chapter 15

45 **32B-1-102**, as last amended by Laws of Utah 2023, Chapters 328, 371 and 400

46 **53G-6-201**, as last amended by Laws of Utah 2021, Chapters 113, 261 and 427

47 **53G-6-706**, as last amended by Laws of Utah 2019, Chapter 293

48 **53G-9-301**, as last amended by Laws of Utah 2023, Chapter 328

49 ENACTS:

50 **53G-6-212**, Utah Code Annotated 1953



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

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

54 **10-9a-103. Definitions.**

55 As used in this chapter:

- 56 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or

57 detached from a primary single-family dwelling and contained on one lot.

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

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

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

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

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

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

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

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

76 (a) a single project;

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

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

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

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

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

87 (i) an operating charter school;

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

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

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

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

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

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

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

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

104 (11) "Development activity" means:

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

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

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

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

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

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

118 (b) "Disability" does not include current illegal use of, or addiction to, any federally

119 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
120 802.

121 (14) "Educational facility":

122 (a) means:

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

126 (ii) a structure or facility:

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

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

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

131 (b) does not include:

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

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

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

137 (ii) a therapeutic school.

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

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

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

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

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

150 (18) "Geologic hazard" means:

151 (a) a surface fault rupture;

152 (b) shallow groundwater;

153 (c) liquefaction;

154 (d) a landslide;

155 (e) a debris flow;

156 (f) unstable soil;

157 (g) a rock fall; or

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

159 (i) to life;

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

161 (iii) of substantial damage to real property.

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

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

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

167 (20) "Home-based microschool" means the same as that term is defined in Section
168 53G-6-201.

169 [~~(20)~~] (21) "Hookup fee" means a fee for the installation and inspection of any pipe,
170 line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or
171 other utility system.

172 [~~(21)~~] (22) "Identical plans" means building plans submitted to a municipality that:

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

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

176 (c) describe a building that:

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

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

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

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

184 [~~(22)~~] (23) "Impact fee" means a payment of money imposed under Title 11, Chapter
185 36a, Impact Fees Act.

186 [~~(23)~~] (24) "Improvement completion assurance" means a surety bond, letter of credit,
187 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
188 by a municipality to guaranty the proper completion of landscaping or an infrastructure
189 improvement required as a condition precedent to:

190 (a) recording a subdivision plat; or

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

192 [~~(24)~~] (25) "Improvement warranty" means an applicant's unconditional warranty that
193 the applicant's installed and accepted landscaping or infrastructure improvement:

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

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

198 [~~(25)~~] (26) "Improvement warranty period" means a period:

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

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

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

204 (ii) has substantial evidence, on record:

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

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

208 [~~(26)~~] (27) "Infrastructure improvement" means permanent infrastructure that is
209 essential for the public health and safety or that:

210 (a) is required for human occupation; and

211 (b) an applicant must install:

212 (i) in accordance with published installation and inspection specifications for public
213 improvements; and

214 (ii) whether the improvement is public or private, as a condition of:

215 (A) recording a subdivision plat;

216 (B) obtaining a building permit; or

217 (C) development of a commercial, industrial, mixed use, condominium, or multifamily
218 project.

219 ~~[(27)]~~ (28) "Internal lot restriction" means a platted note, platted demarcation, or
220 platted designation that:

221 (a) runs with the land; and

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

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

226 ~~[(28)]~~ (29) "Land use applicant" means a property owner, or the property owner's
227 designee, who submits a land use application regarding the property owner's land.

228 ~~[(29)]~~ (30) "Land use application":

229 (a) means an application that is:

230 (i) required by a municipality; and

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

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

233 ~~[(30)]~~ (31) "Land use authority" means:

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

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

238 ~~[(31)]~~ (32) "Land use decision" means an administrative decision of a land use
239 authority or appeal authority regarding:

240 (a) a land use permit; or

241 (b) a land use application.

242 ~~[(32)]~~ (33) "Land use permit" means a permit issued by a land use authority.

243 ~~[(33)]~~ (34) "Land use regulation":

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

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

248 (c) does not include:

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

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

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

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

255 ~~[(34)]~~ (35) "Legislative body" means the municipal council.

256 ~~[(35)]~~ (36) "Local historic district or area" means a geographically definable area that:

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

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

262 ~~[(36)]~~ (37) "Lot" means a tract of land, regardless of any label, that is created by and
263 shown on a subdivision plat that has been recorded in the office of the county recorder.

264 ~~[(37)]~~ (38) (a) "Lot line adjustment" means a relocation of a lot line boundary between
265 adjoining lots or between a lot and adjoining parcels in accordance with Section [10-9a-608](#):

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

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

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

269 (i) creates an additional lot; or

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

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

273 ~~[(38)]~~ (39) "Major transit investment corridor" means public transit service that uses or

274 occupies:

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

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

277 or

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

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

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

282 (40) "Micro-education entity" means the same as that term is defined in Section
283 [53G-6-201](#).

284 ~~[(39)]~~ (41) "Moderate income housing" means housing occupied or reserved for
285 occupancy by households with a gross household income equal to or less than 80% of the
286 median gross income for households of the same size in the county in which the city is located.

287 ~~[(40)]~~ (42) "Municipal utility easement" means an easement that:

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

290 (b) is not a protected utility easement or a public utility easement as defined in Section
291 [54-3-27](#);

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

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

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

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

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

301 ~~[(41)]~~ (43) "Nominal fee" means a fee that reasonably reimburses a municipality only
302 for time spent and expenses incurred in:

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

304 (b) reviewing and approving those minor aspects of identical plans that differ from the

305 previously reviewed and approved building plans.

306 [~~(42)~~] (44) "Noncomplying structure" means a structure that:

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

308 (b) because of one or more subsequent land use ordinance changes, does not conform
309 to the setback, height restrictions, or other regulations, excluding those regulations, which
310 govern the use of land.

311 [~~(43)~~] (45) "Nonconforming use" means a use of land that:

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

313 (b) has been maintained continuously since the time the land use ordinance governing
314 the land changed; and

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

317 [~~(44)~~] (46) "Official map" means a map drawn by municipal authorities and recorded in
318 a county recorder's office that:

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

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

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

325 [~~(45)~~] (47) "Parcel" means any real property that is not a lot.

326 [~~(46)~~] (48) (a) "Parcel boundary adjustment" means a recorded agreement between
327 owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary
328 line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:

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

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

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

333 (i) creates an additional parcel; or

334 (ii) constitutes a subdivision.

335 (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by

336 the Department of Transportation.

337 [~~(47)~~] (49) "Person" means an individual, corporation, partnership, organization,
338 association, trust, governmental agency, or any other legal entity.

339 [~~(48)~~] (50) "Plan for moderate income housing" means a written document adopted by
340 a municipality's legislative body that includes:

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

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

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

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

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

350 [~~(49)~~] (51) "Plat" means an instrument subdividing property into lots as depicted on a
351 map or other graphical representation of lands that a licensed professional land surveyor makes
352 and prepares in accordance with Section [10-9a-603](#) or [57-8-13](#).

353 [~~(50)~~] (52) "Potential geologic hazard area" means an area that:

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

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

360 [~~(51)~~] (53) "Public agency" means:

361 (a) the federal government;

362 (b) the state;

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

365 (d) a charter school.

366 [~~(52)~~] (54) "Public hearing" means a hearing at which members of the public are

367 provided a reasonable opportunity to comment on the subject of the hearing.

368 ~~[(53)]~~ (55) "Public meeting" means a meeting that is required to be open to the public
369 under Title 52, Chapter 4, Open and Public Meetings Act.

370 ~~[(54)]~~ (56) "Public street" means a public right-of-way, including a public highway,
371 public avenue, public boulevard, public parkway, public road, public lane, public alley, public
372 viaduct, public subway, public tunnel, public bridge, public byway, other public transportation
373 easement, or other public way.

374 ~~[(55)]~~ (57) "Receiving zone" means an area of a municipality that the municipality
375 designates, by ordinance, as an area in which an owner of land may receive a transferable
376 development right.

377 ~~[(56)]~~ (58) "Record of survey map" means a map of a survey of land prepared in
378 accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

379 ~~[(57)]~~ (59) "Residential facility for persons with a disability" means a residence:

380 (a) in which more than one person with a disability resides; and
381 (b) which is licensed or certified by the Department of Health and Human Services
382 under:

383 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or
384 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

385 ~~[(58)]~~ (60) "Residential roadway" means a public local residential road that:

386 (a) will serve primarily to provide access to adjacent primarily residential areas and
387 property;
388 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;
389 (c) is not identified as a supplementary to a collector or other higher system classified
390 street in an approved municipal street or transportation master plan;
391 (d) has a posted speed limit of 25 miles per hour or less;
392 (e) does not have higher traffic volumes resulting from connecting previously separated
393 areas of the municipal road network;
394 (f) cannot have a primary access, but can have a secondary access, and does not abut
395 lots intended for high volume traffic or community centers, including schools, recreation
396 centers, sports complexes, or libraries; and
397 (g) primarily serves traffic within a neighborhood or limited residential area and is not

398 necessarily continuous through several residential areas.

399 ~~[(59)]~~ (61) "Rules of order and procedure" means a set of rules that govern and
400 prescribe in a public meeting:

401 (a) parliamentary order and procedure;

402 (b) ethical behavior; and

403 (c) civil discourse.

404 ~~[(60)]~~ (62) "Sanitary sewer authority" means the department, agency, or public entity
405 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
406 wastewater systems.

407 ~~[(61)]~~ (63) "Sending zone" means an area of a municipality that the municipality
408 designates, by ordinance, as an area from which an owner of land may transfer a transferable
409 development right.

410 ~~[(62)]~~ (64) "Special district" means an entity under Title 17B, Limited Purpose Local
411 Government Entities - Special Districts, and any other governmental or quasi-governmental
412 entity that is not a county, municipality, school district, or the state.

413 ~~[(63)]~~ (65) "Specified public agency" means:

414 (a) the state;

415 (b) a school district; or

416 (c) a charter school.

417 ~~[(64)]~~ (66) "Specified public utility" means an electrical corporation, gas corporation,
418 or telephone corporation, as those terms are defined in Section 54-2-1.

419 ~~[(65)]~~ (67) "State" includes any department, division, or agency of the state.

420 ~~[(66)]~~ (68) (a) "Subdivision" means any land that is divided, resubdivided, or proposed
421 to be divided into two or more lots or other division of land for the purpose, whether
422 immediate or future, for offer, sale, lease, or development either on the installment plan or
423 upon any and all other plans, terms, and conditions.

424 (b) "Subdivision" includes:

425 (i) the division or development of land, whether by deed, metes and bounds

426 description, devise and testacy, map, plat, or other recorded instrument, regardless of whether
427 the division includes all or a portion of a parcel or lot; and

428 (ii) except as provided in Subsection ~~[(65)(e)]~~ (68)(c), divisions of land for residential

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

431 (c) "Subdivision" does not include:

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

436 (ii) a boundary line agreement recorded with the county recorder's office between
437 owners of adjoining parcels adjusting the mutual boundary in accordance with Section
438 [10-9a-524](#) if no new parcel is created;

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

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

442 (B) joining a lot to a parcel;

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

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

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

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

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

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

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

452 (vi) a parcel boundary adjustment;

453 (vii) a lot line adjustment;

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

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

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

457 ~~[(67)]~~ (69) (a) "Subdivision amendment" means an amendment to a recorded
458 subdivision in accordance with Section [10-9a-608](#) that:

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

460 (ii) alters the outside boundary of the subdivision;
461 (iii) changes the number of lots within the subdivision;
462 (iv) alters a public right-of-way, a public easement, or public infrastructure within the
463 subdivision; or

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

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

467 [~~(68)~~] (70) "Substantial evidence" means evidence that:

468 (a) is beyond a scintilla; and

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

470 [~~(69)~~] (71) "Suspect soil" means soil that has:

471 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
472 3% swell potential;

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

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

476 [~~(70)~~] (72) "Therapeutic school" means a residential group living facility:

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

478 (i) the owner of the facility; or

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

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

481 (i) at home;

482 (ii) in a public school; or

483 (iii) in a nonresidential private school; and

484 (c) that offers:

485 (i) room and board; and

486 (ii) an academic education integrated with:

487 (A) specialized structure and supervision; or

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

490 [~~(71)~~] (73) "Transferable development right" means a right to develop and use land that

491 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
492 land use rights from a designated sending zone to a designated receiving zone.

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

495 [~~(73)~~] (75) "Water interest" means any right to the beneficial use of water, including:

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

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

498 (i) a contract; or

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

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

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

503 **10-9a-305. Other entities required to conform to municipality's land use**
504 **ordinances -- Exceptions -- School districts, charter schools, home-based microschools,**
505 **and micro-education entities -- Submission of development plan and schedule.**

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

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

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

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

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

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

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

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

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

530 (3) A municipality may not:

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

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

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

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

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

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

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

552 (i) is not imposed on a similar land use or structure in the zone in which the land use or

553 structure is approved; or

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

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

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

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

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

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

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

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

566 (i) a municipal building inspector;

567 (ii) (A) for a school district, a school district building inspector from that school
568 district; or

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

571 (iii) an independent, certified building inspector who is ~~is~~ not an employee of the
572 contractor ~~is~~, licensed to perform the inspection that the inspector is requested to perform,

573 and approved by ~~is~~ a municipal building inspector ~~is~~ or:

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

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

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

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

581 (c) If a school district or charter school uses a school district or independent building
582 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to
583 the state superintendent of public instruction and municipal building official, on a monthly

584 basis during construction of the school building, a copy of each inspection certificate regarding
585 the school building.

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

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

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

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

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

600 (A) the state superintendent of public instruction, as provided in Subsection
601 [53E-3-706\(3\)](#), if the school district or charter school used an independent building inspector for
602 inspection of the school building; or

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

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

609 (iii) A charter school or micro-education entity may seek a certificate authorizing
610 permanent occupancy of a school building from a school district official with authority to issue
611 the certificate, if the charter school or micro-education entity used a school district building
612 inspector for inspection of the school building.

613 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
614 of public instruction under Subsection [53E-3-706\(3\)](#) or a school district official with authority

615 to issue the certificate shall be considered to satisfy any municipal requirement for an
616 inspection or a certificate of occupancy.

617 (f) (i) A micro-education entity may operate in a facility that meets Group E
618 Occupancy requirements as defined by the International Building Code, as incorporated by
619 Subsection 15A-2-103(1)(a).

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

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

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

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

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

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

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

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

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

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

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

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

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

- 646 (ii) with sufficient detail to enable the land use authority to assess:
- 647 (A) the specified public agency's compliance with applicable land use ordinances;
- 648 (B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c),
- 649 (d), (e), and (g) caused by the development;
- 650 (C) the amount of any applicable fee described in Section 10-9a-510;
- 651 (D) any credit against an impact fee; and
- 652 (E) the potential for waiving an impact fee.
- 653 (b) The land use authority shall respond to a specified public agency's submission
- 654 under Subsection (8)(a) with reasonable promptness in order to allow the specified public
- 655 agency to consider information the municipality provides under Subsection (8)(a)(ii) in the
- 656 process of preparing the budget for the development.
- 657 (9) Nothing in this section may be construed to:
- 658 (a) modify or supersede Section 10-9a-304; or
- 659 (b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance,
- 660 that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing
- 661 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of
- 662 1990, 42 U.S.C. 12102, or any other provision of federal law.
- 663 (10) Nothing in Subsection (7) prevents a political subdivision from:
- 664 (a) requiring a home-based microschool or micro-education entity to comply with
- 665 municipal zoning and land use regulations that do not conflict with this section, including:
- 666 (i) parking;
- 667 (ii) traffic; and
- 668 (iii) hours of operation;
- 669 (b) requiring a home-based microschool or micro-education entity to obtain a business
- 670 license;
- 671 (c) enacting municipal ordinances and regulations consistent with this section;
- 672 (d) subjecting a micro-education entity to standards within each zone pertaining to
- 673 setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and
- 674 construction staging; and
- 675 (e) imposing regulations on the location of a project that are necessary to avoid risks to
- 676 health or safety.

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

678 **10-9a-529. Specified public utility located in a municipal utility easement.**

679 A specified public utility may exercise each power of a public utility under Section
680 [54-3-27](#) if the specified public utility uses an easement:

681 (1) with the consent of a municipality; and

682 (2) that is located within a municipal utility easement described in Subsections

683 [~~10-9a-103(40)(a) through (e)~~] [10-9a-103\(42\)\(a\) through \(e\)](#).

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

685 **17-27a-103. Definitions.**

686 As used in this chapter:

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

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

690 (a) owns real property adjoining the property that is the subject of a land use

691 application or land use decision; or

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

694 (3) "Affected entity" means a county, municipality, special district, special service
695 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
696 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
697 property owner, property owner's association, public utility, or the Department of
698 Transportation, if:

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

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

702 or

703 (c) the entity has filed with the county a request for notice during the same calendar

704 year and before the county provides notice to an affected entity in compliance with a

705 requirement imposed under this chapter.

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

707 (a) a single project;

708 (b) the subject of a land use approval that sponsors of a referendum timely challenged
709 in accordance with Subsection 20A-7-601(6); and

710 (c) determined to be legally referable under Section 20A-7-602.8.

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

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

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

718 (i) an operating charter school;

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

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

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

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

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

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

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

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

734 (11) "County utility easement" means an easement that:

735 (a) a plat recorded in a county recorder's office described as a county utility easement
736 or otherwise as a utility easement;

737 (b) is not a protected utility easement or a public utility easement as defined in Section
738 54-3-27;

739 (c) the county or the county's affiliated governmental entity owns or creates; and

740 (d) (i) either:

741 (A) no person uses or occupies; or

742 (B) the county or the county's affiliated governmental entity uses and occupies to
743 provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or
744 communications or data lines; or

745 (ii) a person uses or occupies with or without an authorized franchise or other
746 agreement with the county.

747 (12) "Culinary water authority" means the department, agency, or public entity with
748 responsibility to review and approve the feasibility of the culinary water system and sources for
749 the subject property.

750 (13) "Development activity" means:

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

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

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

757 (14) (a) "Development agreement" means a written agreement or amendment to a
758 written agreement between a county and one or more parties that regulates or controls the use
759 or development of a specific area of land.

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

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

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

767 (16) "Educational facility":

768 (a) means:

769 (i) a school district's building at which pupils assemble to receive instruction in a

770 program for any combination of grades from preschool through grade 12, including
771 kindergarten and a program for children with disabilities;

772 (ii) a structure or facility:

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

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

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

777 (b) does not include:

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

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

781 and

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

783 (ii) a therapeutic school.

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

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

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

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

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

795 (20) "General plan" means a document that a county adopts that sets forth general
796 guidelines for proposed future development of:

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

798 (b) for a mountainous planning district, the land within the mountainous planning
799 district.

800 (21) "Geologic hazard" means:

- 801 (a) a surface fault rupture;
- 802 (b) shallow groundwater;
- 803 (c) liquefaction;
- 804 (d) a landslide;
- 805 (e) a debris flow;
- 806 (f) unstable soil;
- 807 (g) a rock fall; or
- 808 (h) any other geologic condition that presents a risk:
- 809 (i) to life;
- 810 (ii) of substantial loss of real property; or
- 811 (iii) of substantial damage to real property.
- 812 (22) "Home-based microschool" means the same as that term is defined in Section
- 813 53G-6-201.
- 814 [~~(22)~~] (23) "Hookup fee" means a fee for the installation and inspection of any pipe,
- 815 line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other
- 816 utility system.
- 817 [~~(23)~~] (24) "Identical plans" means building plans submitted to a county that:
- 818 (a) are clearly marked as "identical plans";
- 819 (b) are substantially identical building plans that were previously submitted to and
- 820 reviewed and approved by the county; and
- 821 (c) describe a building that:
- 822 (i) is located on land zoned the same as the land on which the building described in the
- 823 previously approved plans is located;
- 824 (ii) is subject to the same geological and meteorological conditions and the same law
- 825 as the building described in the previously approved plans;
- 826 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
- 827 and approved by the county; and
- 828 (iv) does not require any additional engineering or analysis.
- 829 [~~(24)~~] (25) "Impact fee" means a payment of money imposed under Title 11, Chapter
- 830 36a, Impact Fees Act.
- 831 [~~(25)~~] (26) "Improvement completion assurance" means a surety bond, letter of credit,

832 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
833 by a county to guaranty the proper completion of landscaping or an infrastructure improvement
834 required as a condition precedent to:

835 (a) recording a subdivision plat; or

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

837 [~~26~~] (27) "Improvement warranty" means an applicant's unconditional warranty that
838 the applicant's installed and accepted landscaping or infrastructure improvement:

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

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

843 [~~27~~] (28) "Improvement warranty period" means a period:

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

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

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

849 (ii) has substantial evidence, on record:

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

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

853 [~~28~~] (29) "Infrastructure improvement" means permanent infrastructure that is
854 essential for the public health and safety or that:

855 (a) is required for human consumption; and

856 (b) an applicant must install:

857 (i) in accordance with published installation and inspection specifications for public
858 improvements; and

859 (ii) as a condition of:

860 (A) recording a subdivision plat;

861 (B) obtaining a building permit; or

862 (C) developing a commercial, industrial, mixed use, condominium, or multifamily

863 project.

864 ~~[(29)]~~ (30) "Internal lot restriction" means a platted note, platted demarcation, or
865 platted designation that:

866 (a) runs with the land; and

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

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

871 ~~[(30)]~~ (31) "Interstate pipeline company" means a person or entity engaged in natural
872 gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission
873 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

874 ~~[(31)]~~ (32) "Intrastate pipeline company" means a person or entity engaged in natural
875 gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
876 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

877 ~~[(32)]~~ (33) "Land use applicant" means a property owner, or the property owner's
878 designee, who submits a land use application regarding the property owner's land.

879 ~~[(33)]~~ (34) "Land use application":

880 (a) means an application that is:

881 (i) required by a county; and

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

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

884 ~~[(34)]~~ (35) "Land use authority" means:

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

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

889 ~~[(35)]~~ (36) "Land use decision" means an administrative decision of a land use
890 authority or appeal authority regarding:

891 (a) a land use permit;

892 (b) a land use application; or

893 (c) the enforcement of a land use regulation, land use permit, or development

894 agreement.

895 [~~(36)~~] (37) "Land use permit" means a permit issued by a land use authority.

896 [~~(37)~~] (38) "Land use regulation":

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

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

901 (c) does not include:

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

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

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

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

908 [~~(38)~~] (39) "Legislative body" means the county legislative body, or for a county that
909 has adopted an alternative form of government, the body exercising legislative powers.

910 [~~(39)~~] (40) "Lot" means a tract of land, regardless of any label, that is created by and
911 shown on a subdivision plat that has been recorded in the office of the county recorder.

912 [~~(40)~~] (41) (a) "Lot line adjustment" means a relocation of a lot line boundary between
913 adjoining lots or between a lot and adjoining parcels in accordance with Section [17-27a-608](#):

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

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

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

917 (i) creates an additional lot; or

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

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

921 [~~(41)~~] (42) "Major transit investment corridor" means public transit service that uses or
922 occupies:

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

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

925 or

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

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

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

930 (43) "Micro-education entity" means that same as that term is defined in Section
931 [53G-6-201](#).

932 [~~(42)~~] (44) "Moderate income housing" means housing occupied or reserved for
933 occupancy by households with a gross household income equal to or less than 80% of the
934 median gross income for households of the same size in the county in which the housing is
935 located.

936 [~~(43)~~] (45) "Mountainous planning district" means an area designated by a county
937 legislative body in accordance with Section [17-27a-901](#).

938 [~~(44)~~] (46) "Nominal fee" means a fee that reasonably reimburses a county only for
939 time spent and expenses incurred in:

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

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

943 [~~(45)~~] (47) "Noncomplying structure" means a structure that:

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

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

948 [~~(46)~~] (48) "Nonconforming use" means a use of land that:

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

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

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

954 [~~(47)~~] (49) "Official map" means a map drawn by county authorities and recorded in
955 the county recorder's office that:

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

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

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

962 [~~(48)~~] (50) "Parcel" means any real property that is not a lot.

963 [~~(49)~~] (51) (a) "Parcel boundary adjustment" means a recorded agreement between
964 owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary
965 line agreement in accordance with Section 17-27a-523, if no additional parcel is created and:

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

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

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

970 (i) creates an additional parcel; or

971 (ii) constitutes a subdivision.

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

974 [~~(50)~~] (52) "Person" means an individual, corporation, partnership, organization,
975 association, trust, governmental agency, or any other legal entity.

976 [~~(51)~~] (53) "Plan for moderate income housing" means a written document adopted by
977 a county legislative body that includes:

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

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

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

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

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

987 [~~(52)~~] (54) "Planning advisory area" means a contiguous, geographically defined
988 portion of the unincorporated area of a county established under this part with planning and
989 zoning functions as exercised through the planning advisory area planning commission, as
990 provided in this chapter, but with no legal or political identity separate from the county and no
991 taxing authority.

992 [~~(53)~~] (55) "Plat" means an instrument subdividing property into lots as depicted on a
993 map or other graphical representation of lands that a licensed professional land surveyor makes
994 and prepares in accordance with Section 17-27a-603 or 57-8-13.

995 [~~(54)~~] (56) "Potential geologic hazard area" means an area that:

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

999 (b) has not been studied by the Utah Geological Survey or a county geologist but
1000 presents the potential of geologic hazard because the area has characteristics similar to those of
1001 a designated geologic hazard area.

1002 [~~(55)~~] (57) "Public agency" means:

1003 (a) the federal government;

1004 (b) the state;

1005 (c) a county, municipality, school district, special district, special service district, or
1006 other political subdivision of the state; or

1007 (d) a charter school.

1008 [~~(56)~~] (58) "Public hearing" means a hearing at which members of the public are
1009 provided a reasonable opportunity to comment on the subject of the hearing.

1010 [~~(57)~~] (59) "Public meeting" means a meeting that is required to be open to the public
1011 under Title 52, Chapter 4, Open and Public Meetings Act.

1012 [~~(58)~~] (60) "Public street" means a public right-of-way, including a public highway,
1013 public avenue, public boulevard, public parkway, public road, public lane, public alley, public
1014 viaduct, public subway, public tunnel, public bridge, public byway, other public transportation
1015 easement, or other public way.

1016 [~~(59)~~] (61) "Receiving zone" means an unincorporated area of a county that the county
1017 designates, by ordinance, as an area in which an owner of land may receive a transferable

1018 development right.

1019 ~~[(60)]~~ (62) "Record of survey map" means a map of a survey of land prepared in
1020 accordance with Section [10-9a-603](#), [17-23-17](#), [17-27a-603](#), or [57-8-13](#).

1021 ~~[(61)]~~ (63) "Residential facility for persons with a disability" means a residence:

1022 (a) in which more than one person with a disability resides; and

1023 (b) which is licensed or certified by the Department of Health and Human Services
1024 under:

1025 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

1026 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

1027 ~~[(62)]~~ (64) "Residential roadway" means a public local residential road that:

1028 (a) will serve primarily to provide access to adjacent primarily residential areas and
1029 property;

1030 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;

1031 (c) is not identified as a supplementary to a collector or other higher system classified
1032 street in an approved municipal street or transportation master plan;

1033 (d) has a posted speed limit of 25 miles per hour or less;

1034 (e) does not have higher traffic volumes resulting from connecting previously separated
1035 areas of the municipal road network;

1036 (f) cannot have a primary access, but can have a secondary access, and does not abut
1037 lots intended for high volume traffic or community centers, including schools, recreation
1038 centers, sports complexes, or libraries; and

1039 (g) primarily serves traffic within a neighborhood or limited residential area and is not
1040 necessarily continuous through several residential areas.

1041 ~~[(63)]~~ (65) "Rules of order and procedure" means a set of rules that govern and
1042 prescribe in a public meeting:

1043 (a) parliamentary order and procedure;

1044 (b) ethical behavior; and

1045 (c) civil discourse.

1046 ~~[(64)]~~ (66) "Sanitary sewer authority" means the department, agency, or public entity
1047 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
1048 wastewater systems.

1049 [~~(65)~~] (67) "Sending zone" means an unincorporated area of a county that the county
1050 designates, by ordinance, as an area from which an owner of land may transfer a transferable
1051 development right.

1052 [~~(66)~~] (68) "Site plan" means a document or map that may be required by a county
1053 during a preliminary review preceding the issuance of a building permit to demonstrate that an
1054 owner's or developer's proposed development activity meets a land use requirement.

1055 [~~(67)~~] (69) (a) "Special district" means an entity under Title 17B, Limited Purpose
1056 Local Government Entities - Special Districts.

1057 (b) "Special district" includes a governmental or quasi-governmental entity that is not a
1058 county, municipality, school district, or the state.

1059 [~~(68)~~] (70) "Specified public agency" means:

1060 (a) the state;

1061 (b) a school district; or

1062 (c) a charter school.

1063 [~~(69)~~] (71) "Specified public utility" means an electrical corporation, gas corporation,
1064 or telephone corporation, as those terms are defined in Section 54-2-1.

1065 [~~(70)~~] (72) "State" includes any department, division, or agency of the state.

1066 [~~(71)~~] (73) (a) "Subdivision" means any land that is divided, resubdivided, or proposed
1067 to be divided into two or more lots or other division of land for the purpose, whether
1068 immediate or future, for offer, sale, lease, or development either on the installment plan or
1069 upon any and all other plans, terms, and conditions.

1070 (b) "Subdivision" includes:

1071 (i) the division or development of land, whether by deed, metes and bounds
1072 description, devise and testacy, map, plat, or other recorded instrument, regardless of whether
1073 the division includes all or a portion of a parcel or lot; and

1074 (ii) except as provided in Subsection [~~(70)(c)~~] (73)(c), divisions of land for residential
1075 and nonresidential uses, including land used or to be used for commercial, agricultural, and
1076 industrial purposes.

1077 (c) "Subdivision" does not include:

1078 (i) a bona fide division or partition of agricultural land for agricultural purposes;

1079 (ii) a boundary line agreement recorded with the county recorder's office between

1080 owners of adjoining parcels adjusting the mutual boundary in accordance with Section
1081 [17-27a-523](#) if no new lot is created;

1082 (iii) a recorded document, executed by the owner of record:

1083 (A) revising the legal descriptions of multiple parcels into one legal description
1084 encompassing all such parcels; or

1085 (B) joining a lot to a parcel;

1086 (iv) a bona fide division or partition of land in a county other than a first class county
1087 for the purpose of siting, on one or more of the resulting separate parcels:

1088 (A) an electrical transmission line or a substation;

1089 (B) a natural gas pipeline or a regulation station; or

1090 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
1091 utility service regeneration, transformation, retransmission, or amplification facility;

1092 (v) a boundary line agreement between owners of adjoining subdivided properties
1093 adjusting the mutual lot line boundary in accordance with Sections [17-27a-523](#) and [17-27a-608](#)
1094 if:

1095 (A) no new dwelling lot or housing unit will result from the adjustment; and

1096 (B) the adjustment will not violate any applicable land use ordinance;

1097 (vi) a bona fide division of land by deed or other instrument if the deed or other
1098 instrument states in writing that the division:

1099 (A) is in anticipation of future land use approvals on the parcel or parcels;

1100 (B) does not confer any land use approvals; and

1101 (C) has not been approved by the land use authority;

1102 (vii) a parcel boundary adjustment;

1103 (viii) a lot line adjustment;

1104 (ix) a road, street, or highway dedication plat;

1105 (x) a deed or easement for a road, street, or highway purpose; or

1106 (xi) any other division of land authorized by law.

1107 [~~72~~] (74) (a) "Subdivision amendment" means an amendment to a recorded
1108 subdivision in accordance with Section [17-27a-608](#) that:

1109 (i) vacates all or a portion of the subdivision;

1110 (ii) alters the outside boundary of the subdivision;

- 1111 (iii) changes the number of lots within the subdivision;
- 1112 (iv) alters a public right-of-way, a public easement, or public infrastructure within the
- 1113 subdivision; or
- 1114 (v) alters a common area or other common amenity within the subdivision.

1115 (b) "Subdivision amendment" does not include a lot line adjustment, between a single

1116 lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.

1117 [~~(73)~~] (75) "Substantial evidence" means evidence that:

- 1118 (a) is beyond a scintilla; and
- 1119 (b) a reasonable mind would accept as adequate to support a conclusion.

1120 [~~(74)~~] (76) "Suspect soil" means soil that has:

- 1121 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
- 1122 3% swell potential;
- 1123 (b) bedrock units with high shrink or swell susceptibility; or
- 1124 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
- 1125 commonly associated with dissolution and collapse features.

1126 [~~(75)~~] (77) "Therapeutic school" means a residential group living facility:

- 1127 (a) for four or more individuals who are not related to:
 - 1128 (i) the owner of the facility; or
 - 1129 (ii) the primary service provider of the facility;
- 1130 (b) that serves students who have a history of failing to function:
 - 1131 (i) at home;
 - 1132 (ii) in a public school; or
 - 1133 (iii) in a nonresidential private school; and
 - 1134 (c) that offers:
 - 1135 (i) room and board; and
 - 1136 (ii) an academic education integrated with:
 - 1137 (A) specialized structure and supervision; or
 - 1138 (B) services or treatment related to a disability, an emotional development, a
 - 1139 behavioral development, a familial development, or a social development.

1140 [~~(76)~~] (78) "Transferable development right" means a right to develop and use land that

1141 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer

1142 land use rights from a designated sending zone to a designated receiving zone.

1143 [~~(77)~~] (79) "Unincorporated" means the area outside of the incorporated area of a
1144 municipality.

1145 [~~(78)~~] (80) "Water interest" means any right to the beneficial use of water, including:

1146 (a) each of the rights listed in Section 73-1-11; and

1147 (b) an ownership interest in the right to the beneficial use of water represented by:

1148 (i) a contract; or

1149 (ii) a share in a water company, as defined in Section 73-3-3.5.

1150 [~~(79)~~] (81) "Zoning map" means a map, adopted as part of a land use ordinance, that
1151 depicts land use zones, overlays, or districts.

1152 Section 5. Section 17-27a-305 is amended to read:

1153 **17-27a-305. Other entities required to conform to county's land use ordinances --**
1154 **Exceptions -- School districts, charter schools, home-based microschools, and**
1155 **micro-education entities -- Submission of development plan and schedule.**

1156 (1) (a) Each county, municipality, school district, charter school, special district,
1157 special service district, and political subdivision of the state shall conform to any applicable
1158 land use ordinance of any county when installing, constructing, operating, or otherwise using
1159 any area, land, or building situated within a mountainous planning district or the
1160 unincorporated portion of the county, as applicable.

1161 (b) In addition to any other remedies provided by law, when a county's land use
1162 ordinance is violated or about to be violated by another political subdivision, that county may
1163 institute an injunction, mandamus, abatement, or other appropriate action or proceeding to
1164 prevent, enjoin, abate, or remove the improper installation, improvement, or use.

1165 (2) (a) Except as provided in Subsection (3), a school district or charter school is
1166 subject to a county's land use ordinances.

1167 (b) (i) Notwithstanding Subsection (3), a county may:

1168 (A) subject a charter school to standards within each zone pertaining to setback, height,
1169 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction
1170 staging; and

1171 (B) impose regulations upon the location of a project that are necessary to avoid
1172 unreasonable risks to health or safety, as provided in Subsection (3)(f).

1173 (ii) The standards to which a county may subject a charter school under Subsection
1174 (2)(b)(i) shall be objective standards only and may not be subjective.

1175 (iii) Except as provided in Subsection (7)(d), the only basis upon which a county may
1176 deny or withhold approval of a charter school's land use application is the charter school's
1177 failure to comply with a standard imposed under Subsection (2)(b)(i).

1178 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an
1179 obligation to comply with a requirement of an applicable building or safety code to which it is
1180 otherwise obligated to comply.

1181 (3) A county may not:

1182 (a) impose requirements for landscaping, fencing, aesthetic considerations,
1183 construction methods or materials, additional building inspections, county building codes,
1184 building use for educational purposes, or the placement or use of temporary classroom facilities
1185 on school property;

1186 (b) except as otherwise provided in this section, require a school district or charter
1187 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a
1188 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
1189 children and not located on or contiguous to school property, unless the roadway or sidewalk is
1190 required to connect an otherwise isolated school site to an existing roadway;

1191 (c) require a district or charter school to pay fees not authorized by this section;

1192 (d) provide for inspection of school construction or assess a fee or other charges for
1193 inspection, unless the school district or charter school is unable to provide for inspection by an
1194 inspector, other than the project architect or contractor, who is qualified under criteria
1195 established by the state superintendent;

1196 (e) require a school district or charter school to pay any impact fee for an improvement
1197 project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

1198 (f) impose regulations upon the location of an educational facility except as necessary
1199 to avoid unreasonable risks to health or safety; or

1200 (g) for a land use or a structure owned or operated by a school district or charter school
1201 that is not an educational facility but is used in support of providing instruction to pupils,
1202 impose a regulation that:

1203 (i) is not imposed on a similar land use or structure in the zone in which the land use or

1204 structure is approved; or

1205 (ii) uses the tax exempt status of the school district or charter school as criteria for
1206 prohibiting or regulating the land use or location of the structure.

1207 (4) Subject to Section 53E-3-710, a school district or charter school shall coordinate
1208 the siting of a new school with the county in which the school is to be located, to:

1209 (a) avoid or mitigate existing and potential traffic hazards, including consideration of
1210 the impacts between the new school and future highways; and

1211 (b) maximize school, student, and site safety.

1212 (5) Notwithstanding Subsection (3)(d), a county may, at its discretion:

1213 (a) provide a walk-through of school construction at no cost and at a time convenient to
1214 the district or charter school; and

1215 (b) provide recommendations based upon the walk-through.

1216 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

1217 (i) a county building inspector;

1218 (ii) (A) for a school district, a school district building inspector from that school
1219 district; or

1220 (B) for a charter school, a school district building inspector from the school district in
1221 which the charter school is located; or

1222 (iii) an independent, certified building inspector who is~~[-(A)]~~ not an employee of the
1223 contractor~~[-(B)]~~, licensed to perform the inspection that the inspector is requested to perform,
1224 and approved by~~[-(F)]~~ a county building inspector~~[-]~~; or:

1225 ~~[(H)]~~ (A) ~~[(Aa)]~~ for a school district, a school district building inspector from that
1226 school district; or

1227 ~~[(Bb)]~~ (B) for a charter school, a school district building inspector from the school
1228 district in which the charter school is located~~[-and]~~.

1229 ~~[(C) licensed to perform the inspection that the inspector is requested to perform.]~~

1230 (b) The approval under Subsection ~~[(6)(a)(iii)(B)]~~ (6)(a)(iii) may not be unreasonably
1231 withheld.

1232 (c) If a school district or charter school uses a school district or independent building
1233 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to
1234 the state superintendent of public instruction and county building official, on a monthly basis

1235 during construction of the school building, a copy of each inspection certificate regarding the
1236 school building.

1237 (7) (a) A charter school, home-based microschool, or micro-education entity shall be
1238 considered a permitted use in all zoning districts within a county.

1239 (b) Each land use application for any approval required for a charter school,
1240 home-based microschool, or micro-education entity, including an application for a building
1241 permit, shall be processed on a first priority basis.

1242 (c) Parking requirements for a charter school or micro-education entity may not exceed
1243 the minimum parking requirements for schools or other institutional public uses throughout the
1244 county.

1245 (d) If a county has designated zones for a sexually oriented business, or a business
1246 which sells alcohol, a charter school or micro-education entity may be prohibited from a
1247 location which would otherwise defeat the purpose for the zone unless the charter school or
1248 micro-education entity provides a waiver.

1249 (e) (i) A school district [~~or~~ a], charter school, or micro-education entity may seek a
1250 certificate authorizing permanent occupancy of a school building from:

1251 (A) the state superintendent of public instruction, as provided in Subsection
1252 [53E-3-706\(3\)](#), if the school district [~~or~~], charter school, or micro-education entity used an
1253 independent building inspector for inspection of the school building; or

1254 (B) a county official with authority to issue the certificate, if the school district [~~or~~],
1255 charter school, or micro-education entity used a county building inspector for inspection of the
1256 school building.

1257 (ii) A school district may issue its own certificate authorizing permanent occupancy of
1258 a school building if it used its own building inspector for inspection of the school building,
1259 subject to the notification requirement of Subsection [53E-3-706\(3\)\(a\)\(ii\)](#).

1260 (iii) A charter school or micro-education entity may seek a certificate authorizing
1261 permanent occupancy of a school building from a school district official with authority to issue
1262 the certificate, if the charter school or micro-education entity used a school district building
1263 inspector for inspection of the school building.

1264 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
1265 of public instruction under Subsection [53E-3-706\(3\)](#) or a school district official with authority

1266 to issue the certificate shall be considered to satisfy any county requirement for an inspection or
1267 a certificate of occupancy.

1268 (f) (i) A micro-education entity may operate a facility that meets Group E Occupancy
1269 requirements as defined by the International Building Code, as incorporated by Subsection
1270 15A-2-103(1)(a).

1271 (ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i):

1272 (A) may have up to 100 students in the facility; and

1273 (B) shall have enough space for at least 20 net square feet per student;

1274 (g) A micro-education entity may operate a facility that is subject to and complies with
1275 the same occupancy requirements as a Class B Occupancy as defined by the International
1276 Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:

1277 (i) the facility has a code compliant fire alarm system and carbon monoxide detection
1278 system;

1279 (ii) (A) each classroom in the facility has an exit directly to the outside at the level of
1280 exit discharge; or

1281 (B) the structure has a code compliant fire sprinkler system;

1282 (iii) the facility has an automatic fire sprinkler system in fire areas of the facility that
1283 are greater than 12,000 square feet; and

1284 (iv) the facility has enough space for at least 20 net square feet per student.

1285 (h) (i) A home-based microschool is not subject to additional occupancy requirements
1286 beyond occupancy requirements that apply to a primary dwelling, except that the home-based
1287 microschool shall have enough space for at least 35 square feet per student.

1288 (ii) If a floor that is below grade in a home-based microschool is used for home-based
1289 microschool purposes, the below grade floor of the home-based microschool shall have at least
1290 one emergency escape or rescue window that complies with the requirements for emergency
1291 escape and rescue windows as defined by the International Residential Code, as incorporated in
1292 Section 15A-1-210.

1293 (8) (a) A specified public agency intending to develop its land shall submit to the land
1294 use authority a development plan and schedule:

1295 (i) as early as practicable in the development process, but no later than the
1296 commencement of construction; and

- 1297 (ii) with sufficient detail to enable the land use authority to assess:
- 1298 (A) the specified public agency's compliance with applicable land use ordinances;
- 1299 (B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c),
- 1300 (d), (e), and (g) caused by the development;
- 1301 (C) the amount of any applicable fee described in Section 17-27a-509;
- 1302 (D) any credit against an impact fee; and
- 1303 (E) the potential for waiving an impact fee.
- 1304 (b) The land use authority shall respond to a specified public agency's submission
- 1305 under Subsection (8)(a) with reasonable promptness in order to allow the specified public
- 1306 agency to consider information the municipality provides under Subsection (8)(a)(ii) in the
- 1307 process of preparing the budget for the development.
- 1308 (9) Nothing in this section may be construed to:
- 1309 (a) modify or supersede Section 17-27a-304; or
- 1310 (b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that
- 1311 fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing
- 1312 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of
- 1313 1990, 42 U.S.C. 12102, or any other provision of federal law.
- 1314 (10) Nothing in Subsection (7) prevents a political subdivision from:
- 1315 (a) requiring a home-based microschool or micro-education entity to comply with local
- 1316 zoning and land use regulations that do not conflict with this section, including:
- 1317 (i) parking;
- 1318 (ii) traffic; and
- 1319 (iii) hours of operation;
- 1320 (b) requiring a home-based microschool or micro-education entity to obtain a business
- 1321 license;
- 1322 (c) enacting county ordinances and regulations consistent with this section;
- 1323 (d) subjecting a micro-education entity to standards within each zone pertaining to
- 1324 setback, height, bulk and massing regulations, off-site parking, cub cut, traffic circulation, and
- 1325 construction staging; and
- 1326 (e) imposing regulations on the location of a project that are necessary to avoid risks to
- 1327 health or safety.

1328 (11) Notwithstanding any other provision of law, the proximity restrictions that apply
1329 to community locations do not apply to micro-education.

1330 Section 6. Section **32B-1-102** is amended to read:

1331 **32B-1-102. Definitions.**

1332 As used in this title:

1333 (1) "Airport lounge" means a business location:

1334 (a) at which an alcoholic product is sold at retail for consumption on the premises; and

1335 (b) that is located at an international airport or domestic airport.

1336 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,

1337 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

1338 (3) "Alcoholic beverage" means the following:

1339 (a) beer; or

1340 (b) liquor.

1341 (4) (a) "Alcoholic product" means a product that:

1342 (i) contains at least .5% of alcohol by volume; and

1343 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other

1344 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol

1345 in an amount equal to or greater than .5% of alcohol by volume.

1346 (b) "Alcoholic product" includes an alcoholic beverage.

1347 (c) "Alcoholic product" does not include any of the following common items that

1348 otherwise come within the definition of an alcoholic product:

1349 (i) except as provided in Subsection (4)(d), an extract;

1350 (ii) vinegar;

1351 (iii) preserved nonintoxicating cider;

1352 (iv) essence;

1353 (v) tincture;

1354 (vi) food preparation; or

1355 (vii) an over-the-counter medicine.

1356 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation

1357 when it is used as a flavoring in the manufacturing of an alcoholic product.

1358 (5) "Alcohol training and education seminar" means a seminar that is:

- 1359 (a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and
- 1360 (b) described in Section [26B-5-205](#).
- 1361 (6) "Arena" means an enclosed building:
 - 1362 (a) that is managed by:
 - 1363 (i) the same person who owns the enclosed building;
 - 1364 (ii) a person who has a majority interest in each person who owns or manages a space
 - 1365 in the enclosed building; or
 - 1366 (iii) a person who has authority to direct or exercise control over the management or
 - 1367 policy of each person who owns or manages a space in the enclosed building;
 - 1368 (b) that operates as a venue; and
 - 1369 (c) that has an occupancy capacity of at least 12,500.
- 1370 (7) "Arena license" means a license issued in accordance with Chapter 5, Retail
- 1371 License Act, and Chapter 8c, Arena License Act.
- 1372 (8) "Banquet" means an event:
 - 1373 (a) that is a private event or a privately sponsored event;
 - 1374 (b) that is held at one or more designated locations approved by the commission in or
 - 1375 on the premises of:
 - 1376 (i) a hotel;
 - 1377 (ii) a resort facility;
 - 1378 (iii) a sports center;
 - 1379 (iv) a convention center;
 - 1380 (v) a performing arts facility;
 - 1381 (vi) an arena; or
 - 1382 (vii) a restaurant venue;
 - 1383 (c) for which there is a contract:
 - 1384 (i) between a person operating a facility listed in Subsection (8)(b) and another person
 - 1385 that has common ownership of less than 20% with the person operating the facility; and
 - 1386 (ii) under which the person operating a facility listed in Subsection (8)(b) is required to
 - 1387 provide an alcoholic product at the event; and
 - 1388 (d) at which food and alcoholic products may be sold, offered for sale, or furnished.
 - 1389 (9) (a) "Bar establishment license" means a license issued in accordance with Chapter

- 1390 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.
- 1391 (b) "Bar establishment license" includes:
- 1392 (i) a dining club license;
- 1393 (ii) an equity license;
- 1394 (iii) a fraternal license; or
- 1395 (iv) a bar license.
- 1396 (10) "Bar license" means a license issued in accordance with Chapter 5, Retail License
- 1397 Act, and Chapter 6, Part 4, Bar Establishment License.
- 1398 (11) (a) "Beer" means a product that:
- 1399 (i) contains:
- 1400 (A) at least .5% of alcohol by volume; and
- 1401 (B) no more than 5% of alcohol by volume or 4% by weight;
- 1402 (ii) is obtained by fermentation, infusion, or decoction of:
- 1403 (A) malt; or
- 1404 (B) a malt substitute; and
- 1405 (iii) is clearly marketed, labeled, and identified as:
- 1406 (A) beer;
- 1407 (B) ale;
- 1408 (C) porter;
- 1409 (D) stout;
- 1410 (E) lager;
- 1411 (F) a malt;
- 1412 (G) a malted beverage; or
- 1413 (H) seltzer.
- 1414 (b) "Beer" may contain:
- 1415 (i) hops extract;
- 1416 (ii) caffeine, if the caffeine is a natural constituent of an added ingredient; or
- 1417 (iii) a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that:
- 1418 (A) is used in the production of beer;
- 1419 (B) is in a formula approved by the federal Alcohol and Tobacco Tax and Trade
- 1420 Bureau after the formula is filed for approval under 27 C.F.R. Sec. 25.55; and

- 1421 (C) does not contribute more than 10% of the overall alcohol content of the beer.
- 1422 (c) "Beer" does not include:
- 1423 (i) a flavored malt beverage;
- 1424 (ii) a product that contains alcohol derived from:
- 1425 (A) except as provided in Subsection (11)(b)(iii), spirituous liquor; or
- 1426 (B) wine; or
- 1427 (iii) a product that contains an additive masking or altering a physiological effect of
- 1428 alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.
- 1429 (12) "Beer-only restaurant license" means a license issued in accordance with Chapter
- 1430 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- 1431 (13) "Beer retailer" means a business that:
- 1432 (a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether
- 1433 for consumption on or off the business premises; and
- 1434 (b) is licensed as:
- 1435 (i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer
- 1436 Retailer Local Authority; or
- 1437 (ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and
- 1438 Chapter 6, Part 7, On-Premise Beer Retailer License.
- 1439 (14) "Beer wholesaling license" means a license:
- 1440 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
- 1441 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
- 1442 retail licensees or off-premise beer retailers.
- 1443 (15) "Billboard" means a public display used to advertise, including:
- 1444 (a) a light device;
- 1445 (b) a painting;
- 1446 (c) a drawing;
- 1447 (d) a poster;
- 1448 (e) a sign;
- 1449 (f) a signboard; or
- 1450 (g) a scoreboard.
- 1451 (16) "Brewer" means a person engaged in manufacturing:

- 1452 (a) beer;
- 1453 (b) heavy beer; or
- 1454 (c) a flavored malt beverage.
- 1455 (17) "Brewery manufacturing license" means a license issued in accordance with
- 1456 Chapter 11, Part 5, Brewery Manufacturing License.
- 1457 (18) "Certificate of approval" means a certificate of approval obtained from the
- 1458 department under Section [32B-11-201](#).
- 1459 (19) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
- 1460 a bus company to a group of persons pursuant to a common purpose:
- 1461 (a) under a single contract;
- 1462 (b) at a fixed charge in accordance with the bus company's tariff; and
- 1463 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
- 1464 motor vehicle, and a driver to travel together to one or more specified destinations.
- 1465 (20) "Church" means a building:
- 1466 (a) set apart for worship;
- 1467 (b) in which religious services are held;
- 1468 (c) with which clergy is associated; and
- 1469 (d) that is tax exempt under the laws of this state.
- 1470 (21) "Commission" means the Alcoholic Beverage Services Commission created in
- 1471 Section [32B-2-201](#).
- 1472 (22) "Commissioner" means a member of the commission.
- 1473 (23) "Community location" means:
- 1474 (a) a public or private school as defined in Subsection [32B-1-102\(115\)](#);
- 1475 (b) a church;
- 1476 (c) a public library;
- 1477 (d) a public playground; or
- 1478 (e) a public park.
- 1479 (24) "Community location governing authority" means:
- 1480 (a) the governing body of the community location; or
- 1481 (b) if the commission does not know who is the governing body of a community
- 1482 location, a person who appears to the commission to have been given on behalf of the

- 1483 community location the authority to prohibit an activity at the community location.
- 1484 (25) "Container" means a receptacle that contains an alcoholic product, including:
- 1485 (a) a bottle;
- 1486 (b) a vessel; or
- 1487 (c) a similar item.
- 1488 (26) "Controlled group of manufacturers" means as the commission defines by rule
- 1489 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1490 (27) "Convention center" means a facility that is:
- 1491 (a) in total at least 30,000 square feet; and
- 1492 (b) otherwise defined as a "convention center" by the commission by rule.
- 1493 (28) (a) "Counter" means a surface or structure in a dining area of a licensed premises
- 1494 where seating is provided to a patron for service of food.
- 1495 (b) "Counter" does not include a dispensing structure.
- 1496 (29) "Crime involving moral turpitude" is as defined by the commission by rule.
- 1497 (30) "Department" means the Department of Alcoholic Beverage Services created in
- 1498 Section [32B-2-203](#).
- 1499 (31) "Department compliance officer" means an individual who is:
- 1500 (a) an auditor or inspector; and
- 1501 (b) employed by the department.
- 1502 (32) "Department sample" means liquor that is placed in the possession of the
- 1503 department for testing, analysis, and sampling.
- 1504 (33) "Dining club license" means a license issued in accordance with Chapter 5, Retail
- 1505 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
- 1506 commission as a dining club license.
- 1507 (34) "Director," unless the context requires otherwise, means the director of the
- 1508 department.
- 1509 (35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
- 1510 title:
- 1511 (a) against a person subject to administrative action; and
- 1512 (b) that is brought on the basis of a violation of this title.
- 1513 (36) (a) Subject to Subsection (36)(b), "dispense" means:

- 1514 (i) drawing an alcoholic product; and
1515 (ii) using the alcoholic product at the location from which it was drawn to mix or
1516 prepare an alcoholic product to be furnished to a patron of the retail licensee.
- 1517 (b) The definition of "dispense" in this Subsection (36) applies only to:
- 1518 (i) a full-service restaurant license;
1519 (ii) a limited-service restaurant license;
1520 (iii) a reception center license;
1521 (iv) a beer-only restaurant license;
1522 (v) a bar license;
1523 (vi) an on-premise beer retailer;
1524 (vii) an airport lounge license;
1525 (viii) an on-premise banquet license; and
1526 (ix) a hospitality amenity license.
- 1527 (37) "Dispensing structure" means a surface or structure on a licensed premises:
- 1528 (a) where an alcoholic product is dispensed; or
1529 (b) from which an alcoholic product is served.
- 1530 (38) "Distillery manufacturing license" means a license issued in accordance with
1531 Chapter 11, Part 4, Distillery Manufacturing License.
- 1532 (39) "Distressed merchandise" means an alcoholic product in the possession of the
1533 department that is saleable, but for some reason is unappealing to the public.
- 1534 (40) "Domestic airport" means an airport that:
- 1535 (a) has at least 15,000 commercial airline passenger boardings in any five-year period;
1536 (b) receives scheduled commercial passenger aircraft service; and
1537 (c) is not an international airport.
- 1538 (41) "Equity license" means a license issued in accordance with Chapter 5, Retail
1539 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
1540 commission as an equity license.
- 1541 (42) "Event permit" means:
- 1542 (a) a single event permit; or
1543 (b) a temporary beer event permit.
- 1544 (43) "Exempt license" means a license exempt under Section [32B-1-201](#) from being

1545 considered in determining the total number of retail licenses that the commission may issue at
1546 any time.

1547 (44) (a) "Flavored malt beverage" means a beverage:

1548 (i) that contains at least .5% alcohol by volume;

1549 (ii) for which the producer is required to file a formula for approval with the federal
1550 Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage
1551 is treated by processing, filtration, or another method of manufacture that is not generally
1552 recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt
1553 liquor; and

1554 (iii) for which the producer is required to file a formula for approval with the federal
1555 Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage
1556 includes an ingredient containing alcohol.

1557 (b) "Flavored malt beverage" may contain a propylene glycol-, ethyl alcohol-, or
1558 ethanol-based flavoring agent that contributes to the overall alcohol content of the beverage.

1559 (c) "Flavored malt beverage" does not include beer or heavy beer.

1560 (d) "Flavored malt beverage" is considered liquor for purposes of this title.

1561 (45) "Fraternal license" means a license issued in accordance with Chapter 5, Retail
1562 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
1563 commission as a fraternal license.

1564 (46) "Full-service restaurant license" means a license issued in accordance with
1565 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

1566 (47) (a) "Furnish" means by any means to provide with, supply, or give an individual
1567 an alcoholic product, by sale or otherwise.

1568 (b) "Furnish" includes to:

1569 (i) serve;

1570 (ii) deliver; or

1571 (iii) otherwise make available.

1572 (48) "Guest" means an individual who meets the requirements of Subsection
1573 [32B-6-407\(9\)](#).

1574 (49) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

1575 (50) "Health care practitioner" means:

- 1576 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- 1577 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
- 1578 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 1579 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice
- 1580 Act;
- 1581 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,
- 1582 Nurse Practice Act;
- 1583 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy
- 1584 Practice Act;
- 1585 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
- 1586 Therapy Practice Act;
- 1587 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
- 1588 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health
- 1589 Professional Practice Act;
- 1590 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
- 1591 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical
- 1592 Practice Act;
- 1593 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental
- 1594 Hygienist Practice Act; and
- 1595 (m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
- 1596 Assistant Act.
- 1597 (51) (a) "Heavy beer" means a product that:
- 1598 (i) (A) contains more than 5% alcohol by volume;
- 1599 (B) contains at least .5% of alcohol by volume and no more than 5% of alcohol by
- 1600 volume or 4% by weight, and a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring
- 1601 agent that contributes more than 10% of the overall alcohol content of the product; or
- 1602 (C) contains at least .5% of alcohol by volume and no more than 5% of alcohol by
- 1603 volume or 4% by weight, and has a label or packaging that is rejected under Subsection
- 1604 [32B-1-606\(3\)\(b\)](#); and
- 1605 (ii) is obtained by fermentation, infusion, or decoction of:
- 1606 (A) malt; or

- 1607 (B) a malt substitute.
- 1608 (b) "Heavy beer" may, if the heavy beer contains more than 5% alcohol by volume,
- 1609 contain a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to
- 1610 the overall alcohol content of the heavy beer.
- 1611 (c) "Heavy beer" does not include:
- 1612 (i) a flavored malt beverage;
- 1613 (ii) a product that contains alcohol derived from:
- 1614 (A) except as provided in Subsections (51)(a)(i)(B) and (51)(b), spirituous liquor; or
- 1615 (B) wine; or
- 1616 (iii) a product that contains an additive masking or altering a physiological effect of
- 1617 alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.
- 1618 (d) "Heavy beer" is considered liquor for the purposes of this title.
- 1619 (52) "Hospitality amenity license" means a license issued in accordance with Chapter
- 1620 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.
- 1621 (53) (a) "Hotel" means a commercial lodging establishment that:
- 1622 (i) offers at least 40 rooms as temporary sleeping accommodations for compensation;
- 1623 (ii) is capable of hosting conventions, conferences, and food and beverage functions
- 1624 under a banquet contract; and
- 1625 (iii) (A) has adequate kitchen or culinary facilities on the premises to provide complete
- 1626 meals;
- 1627 (B) has at least 1,000 square feet of function space consisting of meeting or dining
- 1628 rooms that can be reserved for a banquet and can accommodate at least 75 individuals; or
- 1629 (C) if the establishment is located in a small or unincorporated locality, has an
- 1630 appropriate amount of function space consisting of meeting or dining rooms that can be
- 1631 reserved for private use under a banquet contract, as determined by the commission.
- 1632 (b) "Hotel" includes a commercial lodging establishment that:
- 1633 (i) meets the requirements under Subsection (53)(a); and
- 1634 (ii) has one or more privately owned dwelling units.
- 1635 (54) "Hotel license" means a license issued in accordance with Chapter 5, Retail
- 1636 License Act, and Chapter 8b, Hotel License Act.
- 1637 (55) "Identification card" means an identification card issued under Title 53, Chapter 3,

1638 Part 8, Identification Card Act.

1639 (56) "Industry representative" means an individual who is compensated by salary,
1640 commission, or other means for representing and selling an alcoholic product of a
1641 manufacturer, supplier, or importer of liquor.

1642 (57) "Industry representative sample" means liquor that is placed in the possession of
1643 the department for testing, analysis, and sampling by a local industry representative on the
1644 premises of the department to educate the local industry representative of the quality and
1645 characteristics of the product.

1646 (58) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing
1647 of an alcoholic product is prohibited by:

- 1648 (a) law; or
- 1649 (b) court order.

1650 (59) "International airport" means an airport:

- 1651 (a) with a United States Customs and Border Protection office on the premises of the
1652 airport; and
- 1653 (b) at which international flights may enter and depart.

1654 (60) "Intoxicated" or "intoxication" means that
1655 an individual exhibits plain and easily observable outward manifestations of behavior
1656 or physical signs produced by or as a result of the use of:

- 1657 (a) an alcoholic product;
- 1658 (b) a controlled substance;
- 1659 (c) a substance having the property of releasing toxic vapors; or
- 1660 (d) a combination of products or substances described in Subsections (60)(a) through
1661 (c).

1662 (61) "Investigator" means an individual who is:

- 1663 (a) a department compliance officer; or
- 1664 (b) a nondepartment enforcement officer.

1665 (62) "License" means:

- 1666 (a) a retail license;
- 1667 (b) a sublicense;
- 1668 (c) a license issued in accordance with Chapter 7, Part 4, Off-premise Beer Retailer

1669 State License;

1670 (d) a license issued in accordance with Chapter 11, Manufacturing and Related

1671 Licenses Act;

1672 (e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

1673 (f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

1674 (g) a license issued in accordance with Chapter 17, Liquor Transport License Act.

1675 (63) "Licensee" means a person who holds a license.

1676 (64) "Limited-service restaurant license" means a license issued in accordance with

1677 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

1678 (65) "Limousine" means a motor vehicle licensed by the state or a local authority, other

1679 than a bus or taxicab:

1680 (a) in which the driver and a passenger are separated by a partition, glass, or other

1681 barrier;

1682 (b) that is provided by a business entity to one or more individuals at a fixed charge in

1683 accordance with the business entity's tariff; and

1684 (c) to give the one or more individuals the exclusive use of the limousine and a driver

1685 to travel to one or more specified destinations.

1686 (66) (a) (i) "Liquor" means a liquid that:

1687 (A) is:

1688 (I) alcohol;

1689 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

1690 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

1691 (IV) other drink or drinkable liquid; and

1692 (B) (I) contains at least .5% alcohol by volume; and

1693 (II) is suitable to use for beverage purposes.

1694 (ii) "Liquor" includes:

1695 (A) heavy beer;

1696 (B) wine; and

1697 (C) a flavored malt beverage.

1698 (b) "Liquor" does not include beer.

1699 (67) "Liquor Control Fund" means the enterprise fund created by Section [32B-2-301](#).

1700 (68) "Liquor transport license" means a license issued in accordance with Chapter 17,
1701 Liquor Transport License Act.

1702 (69) "Liquor warehousing license" means a license that is issued:

1703 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and

1704 (b) to a person, other than a licensed manufacturer, who engages in the importation for
1705 storage, sale, or distribution of liquor regardless of amount.

1706 (70) "Local authority" means:

1707 (a) for premises that are located in an unincorporated area of a county, the governing
1708 body of a county;

1709 (b) for premises that are located in an incorporated city, town, or metro township, the
1710 governing body of the city, town, or metro township; or

1711 (c) for premises that are located in a project area as defined in Section [63H-1-102](#) and
1712 in a project area plan adopted by the Military Installation Development Authority under Title
1713 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation
1714 Development Authority.

1715 (71) "Lounge or bar area" is as defined by rule made by the commission.

1716 (72) "Malt substitute" means:

1717 (a) rice;

1718 (b) grain;

1719 (c) bran;

1720 (d) glucose;

1721 (e) sugar; or

1722 (f) molasses.

1723 (73) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or
1724 otherwise make an alcoholic product for personal use or for sale or distribution to others.

1725 (74) "Member" means an individual who, after paying regular dues, has full privileges
1726 in an equity licensee or fraternal licensee.

1727 (75) (a) "Military installation" means a base, air field, camp, post, station, yard, center,
1728 or homeport facility for a ship:

1729 (i) (A) under the control of the United States Department of Defense; or

1730 (B) of the National Guard;

- 1731 (ii) that is located within the state; and
- 1732 (iii) including a leased facility.
- 1733 (b) "Military installation" does not include a facility used primarily for:
- 1734 (i) civil works;
- 1735 (ii) a rivers and harbors project; or
- 1736 (iii) a flood control project.
- 1737 (76) "Minibar" means an area of a hotel guest room where one or more alcoholic
- 1738 products are kept and offered for self-service sale or consumption.
- 1739 (77) "Minor" means an individual under 21 years old.
- 1740 (78) "Nondepartment enforcement agency" means an agency that:
- 1741 (a) (i) is a state agency other than the department; or
- 1742 (ii) is an agency of a county, city, town, or metro township; and
- 1743 (b) has a responsibility to enforce one or more provisions of this title.
- 1744 (79) "Nondepartment enforcement officer" means an individual who is:
- 1745 (a) a peace officer, examiner, or investigator; and
- 1746 (b) employed by a nondepartment enforcement agency.
- 1747 (80) (a) "Off-premise beer retailer" means a beer retailer who is:
- 1748 (i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and
- 1749 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
- 1750 premises.
- 1751 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 1752 (81) "Off-premise beer retailer state license" means a state license issued in accordance
- 1753 with Chapter 7, Part 4, Off-premise Beer Retailer State License.
- 1754 (82) "On-premise banquet license" means a license issued in accordance with Chapter
- 1755 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.
- 1756 (83) "On-premise beer retailer" means a beer retailer who is:
- 1757 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
- 1758 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer
- 1759 Retailer License; and
- 1760 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
- 1761 premises:

- 1762 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
1763 premises; and
- 1764 (ii) on and after March 1, 2012, operating:
- 1765 (A) as a tavern; or
- 1766 (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).
- 1767 (84) "Opaque" means impenetrable to sight.
- 1768 (85) "Package agency" means a retail liquor location operated:
- 1769 (a) under an agreement with the department; and
- 1770 (b) by a person:
- 1771 (i) other than the state; and
- 1772 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
1773 Agency, to sell packaged liquor for consumption off the premises of the package agency.
- 1774 (86) "Package agent" means a person who holds a package agency.
- 1775 (87) "Patron" means an individual to whom food, beverages, or services are sold,
1776 offered for sale, or furnished, or who consumes an alcoholic product including:
- 1777 (a) a customer;
- 1778 (b) a member;
- 1779 (c) a guest;
- 1780 (d) an attendee of a banquet or event;
- 1781 (e) an individual who receives room service;
- 1782 (f) a resident of a resort; or
- 1783 (g) a hospitality guest, as defined in Section [32B-6-1002](#), under a hospitality amenity
1784 license.
- 1785 (88) (a) "Performing arts facility" means a multi-use performance space that:
- 1786 (i) is primarily used to present various types of performing arts, including dance,
1787 music, and theater;
- 1788 (ii) contains over 2,500 seats;
- 1789 (iii) is owned and operated by a governmental entity; and
- 1790 (iv) is located in a city of the first class.
- 1791 (b) "Performing arts facility" does not include a space that is used to present sporting
1792 events or sporting competitions.

- 1793 (89) "Permittee" means a person issued a permit under:
- 1794 (a) Chapter 9, Event Permit Act; or
- 1795 (b) Chapter 10, Special Use Permit Act.
- 1796 (90) "Person subject to administrative action" means:
- 1797 (a) a licensee;
- 1798 (b) a permittee;
- 1799 (c) a manufacturer;
- 1800 (d) a supplier;
- 1801 (e) an importer;
- 1802 (f) one of the following holding a certificate of approval:
- 1803 (i) an out-of-state brewer;
- 1804 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
- 1805 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- 1806 (g) staff of:
- 1807 (i) a person listed in Subsections (90)(a) through (f); or
- 1808 (ii) a package agent.
- 1809 (91) "Premises" means a building, enclosure, or room used in connection with the
- 1810 storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,
- 1811 unless otherwise defined in this title or rules made by the commission.
- 1812 (92) "Prescription" means an order issued by a health care practitioner when:
- 1813 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
- 1814 to prescribe a controlled substance, other drug, or device for medicinal purposes;
- 1815 (b) the order is made in the course of that health care practitioner's professional
- 1816 practice; and
- 1817 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- 1818 (93) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.
- 1819 (b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.
- 1820 (94) "Principal license" means:
- 1821 (a) a resort license;
- 1822 (b) a hotel license; or
- 1823 (c) an arena license.

1824 (95) (a) "Private event" means a specific social, business, or recreational event:
1825 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
1826 group; and
1827 (ii) that is limited in attendance to people who are specifically designated and their
1828 guests.
1829 (b) "Private event" does not include an event to which the general public is invited,
1830 whether for an admission fee or not.
1831 (96) "Privately sponsored event" means a specific social, business, or recreational
1832 event:
1833 (a) that is held in or on the premises of an on-premise banquet licensee; and
1834 (b) to which entry is restricted by an admission fee.
1835 (97) (a) "Proof of age" means:
1836 (i) an identification card;
1837 (ii) an identification that:
1838 (A) is substantially similar to an identification card;
1839 (B) is issued in accordance with the laws of a state other than Utah in which the
1840 identification is issued;
1841 (C) includes date of birth; and
1842 (D) has a picture affixed;
1843 (iii) a valid driver license certificate that:
1844 (A) includes date of birth;
1845 (B) has a picture affixed; and
1846 (C) is issued[~~;~~(~~H~~)] under Title 53, Chapter 3, Uniform Driver License Act[~~;~~(~~H~~)]₂ in
1847 accordance with the laws of the state in which it is issued[~~;~~]₂ or [~~(H)~~] in accordance with
1848 federal law by the United States Department of State;
1849 (iv) a military identification card that:
1850 (A) includes date of birth; and
1851 (B) has a picture affixed; or
1852 (v) a valid passport.
1853 (b) "Proof of age" does not include a driving privilege card issued in accordance with
1854 Section 53-3-207.

- 1855 (98) "Provisions applicable to a sublicense" means:
- 1856 (a) for a full-service restaurant sublicense, the provisions applicable to a full-service
- 1857 restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;
- 1858 (b) for a limited-service restaurant sublicense, the provisions applicable to a
- 1859 limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;
- 1860 (c) for a bar establishment sublicense, the provisions applicable to a bar establishment
- 1861 license under Chapter 6, Part 4, Bar Establishment License;
- 1862 (d) for an on-premise banquet sublicense, the provisions applicable to an on-premise
- 1863 banquet license under Chapter 6, Part 6, On-Premise Banquet License;
- 1864 (e) for an on-premise beer retailer sublicense, the provisions applicable to an
- 1865 on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;
- 1866 (f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only
- 1867 restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;
- 1868 (g) for a hospitality amenity license, the provisions applicable to a hospitality amenity
- 1869 license under Chapter 6, Part 10, Hospitality Amenity License; and
- 1870 (h) for a spa sublicense, the provisions applicable to the sublicense under Chapter 8d,
- 1871 Part 2, Resort Spa Sublicense.
- 1872 (99) (a) "Public building" means a building or permanent structure that is:
- 1873 (i) owned or leased by:
- 1874 (A) the state; or
- 1875 (B) a local government entity; and
- 1876 (ii) used for:
- 1877 (A) public education;
- 1878 (B) transacting public business; or
- 1879 (C) regularly conducting government activities.
- 1880 (b) "Public building" does not include a building owned by the state or a local
- 1881 government entity when the building is used by a person, in whole or in part, for a proprietary
- 1882 function.
- 1883 (100) "Public conveyance" means a conveyance that the public or a portion of the
- 1884 public has access to and a right to use for transportation, including an airline, railroad, bus,
- 1885 boat, or other public conveyance.

- 1886 (101) "Reception center" means a business that:
- 1887 (a) operates facilities that are at least 5,000 square feet; and
- 1888 (b) has as its primary purpose the leasing of the facilities described in Subsection
- 1889 (101)(a) to a third party for the third party's event.
- 1890 (102) "Reception center license" means a license issued in accordance with Chapter 5,
- 1891 Retail License Act, and Chapter 6, Part 8, Reception Center License.
- 1892 (103) (a) "Record" means information that is:
- 1893 (i) inscribed on a tangible medium; or
- 1894 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.
- 1895 (b) "Record" includes:
- 1896 (i) a book;
- 1897 (ii) a book of account;
- 1898 (iii) a paper;
- 1899 (iv) a contract;
- 1900 (v) an agreement;
- 1901 (vi) a document; or
- 1902 (vii) a recording in any medium.
- 1903 (104) "Residence" means a person's principal place of abode within Utah.
- 1904 (105) "Resident," in relation to a resort, means the same as that term is defined in
- 1905 Section [32B-8-102](#).
- 1906 (106) "Resort" means the same as that term is defined in Section [32B-8-102](#).
- 1907 (107) "Resort facility" is as defined by the commission by rule.
- 1908 (108) "Resort license" means a license issued in accordance with Chapter 5, Retail
- 1909 License Act, and Chapter 8, Resort License Act.
- 1910 (109) "Responsible alcohol service plan" means a written set of policies and
- 1911 procedures that outlines measures to prevent employees from:
- 1912 (a) over-serving alcoholic beverages to customers;
- 1913 (b) serving alcoholic beverages to customers who are actually, apparently, or obviously
- 1914 intoxicated; and
- 1915 (c) serving alcoholic beverages to minors.
- 1916 (110) "Restaurant" means a business location:

- 1917 (a) at which a variety of foods are prepared;
- 1918 (b) at which complete meals are served; and
- 1919 (c) that is engaged primarily in serving meals.
- 1920 (111) "Restaurant license" means one of the following licenses issued under this title:
- 1921 (a) a full-service restaurant license;
- 1922 (b) a limited-service restaurant license; or
- 1923 (c) a beer-only restaurant license.
- 1924 (112) "Restaurant venue" means a room within a restaurant that:
- 1925 (a) is located on the licensed premises of a restaurant licensee;
- 1926 (b) is separated from the area within the restaurant for a patron's consumption of food
- 1927 by a permanent, opaque, floor-to-ceiling wall such that the inside of the room is not visible to a
- 1928 patron in the area within the restaurant for a patron's consumption of food; and
- 1929 (c) (i) has at least 1,000 square feet that:
- 1930 (A) may be reserved for a banquet; and
- 1931 (B) accommodates at least 75 individuals; or
- 1932 (ii) if the restaurant is located in a small or unincorporated locality, has an appropriate
- 1933 amount of space, as determined by the commission, that may be reserved for a banquet.
- 1934 (113) "Retail license" means one of the following licenses issued under this title:
- 1935 (a) a full-service restaurant license;
- 1936 (b) a master full-service restaurant license;
- 1937 (c) a limited-service restaurant license;
- 1938 (d) a master limited-service restaurant license;
- 1939 (e) a bar establishment license;
- 1940 (f) an airport lounge license;
- 1941 (g) an on-premise banquet license;
- 1942 (h) an on-premise beer license;
- 1943 (i) a reception center license;
- 1944 (j) a beer-only restaurant license;
- 1945 (k) a hospitality amenity license;
- 1946 (l) a resort license;
- 1947 (m) a hotel license; or

- 1948 (n) an arena license.
- 1949 (114) "Room service" means furnishing an alcoholic product to a person in a guest
- 1950 room or privately owned dwelling unit of a:
- 1951 (a) hotel; or
- 1952 (b) resort facility.
- 1953 (115) (a) "School" means a building in which any part is used for more than three
- 1954 hours each weekday during a school year as a public or private:
- 1955 (i) elementary school;
- 1956 (ii) secondary school; or
- 1957 (iii) kindergarten.
- 1958 (b) "School" does not include:
- 1959 (i) a nursery school;
- 1960 (ii) a day care center;
- 1961 (iii) a trade and technical school;
- 1962 (iv) a preschool; [or]
- 1963 (v) a home school[-];
- 1964 (vi) a home-based microschool as defined in Section [53G-6-201](#); or
- 1965 (vii) a micro-education entity as defined in Section [53G-6-201](#).
- 1966 (116) "Secondary flavoring ingredient" means any spirituous liquor added to a
- 1967 beverage for additional flavoring that is different in type, flavor, or brand from the primary
- 1968 spirituous liquor in the beverage.
- 1969 (117) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for
- 1970 consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered,
- 1971 delivered for value, or by a means or under a pretext is promised or obtained, whether done by
- 1972 a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules
- 1973 made by the commission.
- 1974 (118) "Serve" means to place an alcoholic product before an individual.
- 1975 (119) "Sexually oriented entertainer" means a person who while in a state of
- 1976 seminudity appears at or performs:
- 1977 (a) for the entertainment of one or more patrons;
- 1978 (b) on the premises of:

- 1979 (i) a bar licensee; or
1980 (ii) a tavern;
1981 (c) on behalf of or at the request of the licensee described in Subsection (119)(b);
1982 (d) on a contractual or voluntary basis; and
1983 (e) whether or not the person is designated as:
1984 (i) an employee;
1985 (ii) an independent contractor;
1986 (iii) an agent of the licensee; or
1987 (iv) a different type of classification.
1988 (120) "Shared seating area" means the licensed premises of two or more restaurant
1989 licensees that the restaurant licensees share as an area for alcoholic beverage consumption in
1990 accordance with Subsection [32B-5-207\(3\)](#).
1991 (121) "Single event permit" means a permit issued in accordance with Chapter 9, Part
1992 3, Single Event Permit.
1993 (122) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
1994 beer, heavy beer, and flavored malt beverage per year, as the department calculates by:
1995 (a) if the brewer is part of a controlled group of manufacturers, including the combined
1996 volume totals of production for all breweries that constitute the controlled group of
1997 manufacturers; and
1998 (b) excluding beer, heavy beer, or flavored malt beverage the brewer:
1999 (i) manufactures that is unfit for consumption as, or in, a beverage, as the commission
2000 determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2001 Rulemaking Act; and
2002 (ii) does not sell for consumption as, or in, a beverage.
2003 (123) "Small or unincorporated locality" means:
2004 (a) a city of the third, fourth, or fifth class, as classified under Section [10-2-301](#);
2005 (b) a town, as classified under Section [10-2-301](#); or
2006 (c) an unincorporated area in a county of the third, fourth, or fifth class, as classified
2007 under Section [17-50-501](#).
2008 (124) "Spa sublicense" means a sublicense:
2009 (a) to a resort license or hotel license; and

- 2010 (b) that the commission issues in accordance with Chapter 8d, Part 2, Resort Spa
2011 Sublicense.
- 2012 (125) "Special use permit" means a permit issued in accordance with Chapter 10,
2013 Special Use Permit Act.
- 2014 (126) (a) "Spirituous liquor" means liquor that is distilled.
- 2015 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
2016 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.
- 2017 (127) "Sports center" is as defined by the commission by rule.
- 2018 (128) (a) "Staff" means an individual who engages in activity governed by this title:
- 2019 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
2020 holder;
- 2021 (ii) at the request of the business, including a package agent, licensee, permittee, or
2022 certificate holder; or
- 2023 (iii) under the authority of the business, including a package agent, licensee, permittee,
2024 or certificate holder.
- 2025 (b) "Staff" includes:
- 2026 (i) an officer;
- 2027 (ii) a director;
- 2028 (iii) an employee;
- 2029 (iv) personnel management;
- 2030 (v) an agent of the licensee, including a managing agent;
- 2031 (vi) an operator; or
- 2032 (vii) a representative.
- 2033 (129) "State of nudity" means:
- 2034 (a) the appearance of:
- 2035 (i) the nipple or areola of a female human breast;
- 2036 (ii) a human genital;
- 2037 (iii) a human pubic area; or
- 2038 (iv) a human anus; or
- 2039 (b) a state of dress that fails to opaquely cover:
- 2040 (i) the nipple or areola of a female human breast;

- 2041 (ii) a human genital;
- 2042 (iii) a human pubic area; or
- 2043 (iv) a human anus.
- 2044 (130) "State of seminudity" means a state of dress in which opaque clothing covers no
- 2045 more than:
 - 2046 (a) the nipple and areola of the female human breast in a shape and color other than the
 - 2047 natural shape and color of the nipple and areola; and
 - 2048 (b) the human genitals, pubic area, and anus:
 - 2049 (i) with no less than the following at its widest point:
 - 2050 (A) four inches coverage width in the front of the human body; and
 - 2051 (B) five inches coverage width in the back of the human body; and
 - 2052 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 2053 (131) (a) "State store" means a facility for the sale of packaged liquor:
 - 2054 (i) located on premises owned or leased by the state; and
 - 2055 (ii) operated by a state employee.
- 2056 (b) "State store" does not include:
 - 2057 (i) a package agency;
 - 2058 (ii) a licensee; or
 - 2059 (iii) a permittee.
- 2060 (132) (a) "Storage area" means an area on licensed premises where the licensee stores
- 2061 an alcoholic product.
 - 2062 (b) "Store" means to place or maintain in a location an alcoholic product.
- 2063 (133) "Sublicense" means:
 - 2064 (a) any of the following licenses issued as a subordinate license to, and contingent on
 - 2065 the issuance of, a principal license:
 - 2066 (i) a full-service restaurant license;
 - 2067 (ii) a limited-service restaurant license;
 - 2068 (iii) a bar establishment license;
 - 2069 (iv) an on-premise banquet license;
 - 2070 (v) an on-premise beer retailer license;
 - 2071 (vi) a beer-only restaurant license; or

- 2072 (vii) a hospitality amenity license; or
2073 (b) a spa sublicense.
- 2074 (134) "Supplier" means a person who sells an alcoholic product to the department.
2075 (135) "Tavern" means an on-premise beer retailer who is:
2076 (a) issued a license by the commission in accordance with Chapter 5, Retail License
2077 Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and
2078 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
2079 On-Premise Beer Retailer License.
- 2080 (136) "Temporary beer event permit" means a permit issued in accordance with
2081 Chapter 9, Part 4, Temporary Beer Event Permit.
- 2082 (137) "Temporary domicile" means the principal place of abode within Utah of a
2083 person who does not have a present intention to continue residency within Utah permanently or
2084 indefinitely.
- 2085 (138) "Translucent" means a substance that allows light to pass through, but does not
2086 allow an object or person to be seen through the substance.
- 2087 (139) "Unsaleable liquor merchandise" means a container that:
2088 (a) is unsaleable because the container is:
2089 (i) unlabeled;
2090 (ii) leaky;
2091 (iii) damaged;
2092 (iv) difficult to open; or
2093 (v) partly filled;
2094 (b) (i) has faded labels or defective caps or corks;
2095 (ii) has contents that are:
2096 (A) cloudy;
2097 (B) spoiled; or
2098 (C) chemically determined to be impure; or
2099 (iii) contains:
2100 (A) sediment; or
2101 (B) a foreign substance; or
2102 (c) is otherwise considered by the department as unfit for sale.

2103 (140) (a) "Wine" means an alcoholic product obtained by the fermentation of the
2104 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
2105 another ingredient is added.

2106 (b) "Wine" includes:

2107 (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec.
2108 4.10; and

2109 (ii) hard cider.

2110 (c) "Wine" is considered liquor for purposes of this title, except as otherwise provided
2111 in this title.

2112 (141) "Winery manufacturing license" means a license issued in accordance with
2113 Chapter 11, Part 3, Winery Manufacturing License.

2114 Section 7. Section **53G-6-201** is amended to read:

2115 **53G-6-201. Definitions.**

2116 As used in this part:

2117 (1) (a) "Absence" or "absent" means the failure of a school-age child assigned to a class
2118 or class period to attend a class or class period.

2119 (b) "Absence" or "absent" does not mean multiple tardies used to calculate an absence
2120 for the sake of a truancy.

2121 (2) "Educational neglect" means the same as that term is defined in Section [80-1-102](#).

2122 (3) (a) "Home-based microschool" means an individual or association of individuals

2123 that:

2124 (i) registers as a business entity in accordance with state and local laws; and

2125 (ii) for compensation, provides kindergarten through grade 12 education services to 16

2126 or fewer students from an individual's residential dwelling, accessory dwelling unit, or

2127 residential property.

2128 (b) "Home-based microschool" does not include a daycare.

2129 (4) "Instructor" means an individual who teaches a student as part of a home-based

2130 microschool or micro-education entity.

2131 (5) (a) "Micro-education entity" means a person or association of persons that:

2132 (i) registers as a business entity in accordance with state and local laws; and

2133 (ii) for compensation, provides kindergarten through grade 12 education services to

2134 100 students or fewer.

2135 (b) "Micro-education entity" does not include:

2136 (i) a daycare;

2137 (ii) a home-based microschool;

2138 (iii) a private school; or

2139 (iv) a school within the public education system.

2140 ~~[(3)]~~ (6) "Minor" means an individual who is under 18 years old.

2141 ~~[(4)]~~ (7) "Parent" includes:

2142 (a) a custodial parent of the minor;

2143 (b) a legally appointed guardian of a minor; or

2144 (c) any other person purporting to exercise any authority over the minor which could be

2145 exercised by a person described in Subsection ~~[(4)]~~ (7)(a) or (b).

2146 ~~[(5)]~~ (8) "School day" means the portion of a day that school is in session in which a

2147 school-age child is required to be in school for purposes of receiving instruction.

2148 ~~[(6)]~~ (9) "School year" means the period of time designated by a local school board or

2149 charter school governing board as the school year for the school where the school-age child:

2150 (a) is enrolled; or

2151 (b) should be enrolled, if the school-age child is not enrolled in school.

2152 ~~[(7)]~~ (10) "School-age child" means a minor who:

2153 (a) is at least six years old but younger than 18 years old; and

2154 (b) is not emancipated.

2155 ~~[(8)]~~ (11) (a) "Truant" means a condition in which a school-age child, without a valid

2156 excuse, and subject to Subsection ~~[(8)]~~ (11)(b), is absent for at least:

2157 (i) half of the school day; or

2158 (ii) if the school-age child is enrolled in a learner verified program, as that term is

2159 defined by the state board, the relevant amount of time under the LEA's policy regarding the

2160 LEA's continuing enrollment measure as it relates to truancy.

2161 (b) A school-age child may not be considered truant under this part more than one time

2162 during one day.

2163 ~~[(9)]~~ (12) "Truant minor" means a school-age child who:

2164 (a) is subject to the requirements of Section [53G-6-202](#) or [53G-6-203](#); and

- 2165 (b) is truant.
- 2166 ~~[(10)]~~ (13) (a) "Valid excuse" means:
- 2167 (i) an illness, which may be either mental or physical, regardless of whether the
- 2168 school-age child or parent provides documentation from a medical professional;
- 2169 (ii) mental or behavioral health of the school-age child;
- 2170 (iii) a family death;
- 2171 (iv) an approved school activity;
- 2172 (v) an absence permitted by a school-age child's:
- 2173 (A) individualized education program; or
- 2174 (B) Section 504 accommodation plan;
- 2175 (vi) an absence permitted in accordance with Subsection 53G-6-803(5); or
- 2176 (vii) any other excuse established as valid by a local school board, charter school
- 2177 governing board, or school district.
- 2178 (b) "Valid excuse" does not mean a parent acknowledgment of an absence for a reason
- 2179 other than a reason described in Subsections ~~[(10)(a)(i)]~~ (13)(a)(i) through (vi), unless
- 2180 specifically permitted by the local school board, charter school governing board, or school
- 2181 district under Subsection ~~[(10)(a)(vi)]~~ (13)(a)(vi).

2182 Section 8. Section 53G-6-212 is enacted to read:

2183 **53G-6-212. Home-based microschool and micro-education entity waivers and**
2184 **exemptions.**

2185 (1) A home-based microschool or micro-education entity:

2186 (a) may form to provide education services to school-age children; and

2187 (b) is not an LEA, a public school, or otherwise a part of the public education system.

2188 (2) A local health department may not require a home-based microschool or
2189 micro-education entity to obtain a food establishment permit or undergo an inspection in order
2190 to prepare or provide food if staff of the home-based microschool or micro-education entity
2191 does not prepare and serve food.

2192 Section 9. Section 53G-6-706 is amended to read:

2193 **53G-6-706. Placement of a student of a home school, micro-education entity, or**
2194 **home-based microschool, who transfers to a public school.**

2195 (1) For the purposes of this section~~[(a)]~~ ~~"Home school student" means a student who~~

2196 attends a home school pursuant to Section ~~53G-6-204~~. (b) "Parent", "parent" means the same
2197 as that term is defined in Section ~~53G-6-201~~.

2198 (2) [~~When a home school student transfers from a home school~~] When a home school
2199 student, a home-based microschool student, or a micro-education entity student transfers from
2200 a home school, a home-based microschool, or a micro-education entity to a public school, the
2201 public school shall place the student in the grade levels, classes, or courses that the student's
2202 parent and [~~in consultation with~~] the school administrator determine are appropriate based on
2203 the parent's assessment of the student's academic performance.

2204 (3) (a) Within 30 days of [~~a home school~~] the student's placement in a public school
2205 grade level, class, or course, either the student's teacher or the student's parent may request a
2206 conference to consider changing the student's placement.

2207 (b) If the student's teacher and the student's parent agree on a placement change, the
2208 public school shall place the student in the agreed upon grade level, class, or course.

2209 (c) If the student's teacher and the student's parent do not agree on a placement change,
2210 the public school shall evaluate the student's subject matter mastery in accordance with
2211 Subsection (3)(d).

2212 (d) The student's parent has the option of:

2213 (i) allowing the public school to administer, to the student, assessments that are:

2214 (A) regularly administered to public school students; and

2215 (B) used to measure public school students' subject matter mastery and determine
2216 placement; or

2217 (ii) having a private entity or individual administer assessments of subject matter
2218 mastery to the student at the parent's expense.

2219 (e) After an evaluation of a student's subject matter mastery, a public school may
2220 change [~~a~~] the student's placement in a grade level, class, or course.

2221 (4) [~~This~~] In accordance with Section 53G-6-702, this section does not apply to a
2222 student who is dual enrolled in a public school and a [~~home school pursuant to Section~~
2223 ~~53G-6-702~~.];

2224 (a) home school;

2225 (b) home-based microschool; or

2226 (c) micro-education entity.

2227 Section 10. Section 53G-9-301 is amended to read:

2228 **53G-9-301. Definitions.**

2229 As used in this part:

2230 (1) "Department" means the Department of Health and Human Services created in

2231 Section 26B-1-201.

2232 (2) "Health official" means an individual designated by a local health department from
2233 within the local health department to consult and counsel parents and licensed health care
2234 providers, in accordance with Subsection 53G-9-304(2)(a).

2235 (3) "Health official designee" means a licensed health care provider designated by a
2236 local health department, in accordance with Subsection 53G-9-304(2)(b), to consult with
2237 parents, licensed health care professionals, and school officials.

2238 (4) "Immunization" or "immunize" means a process through which an individual
2239 develops an immunity to a disease, through vaccination or natural exposure to the disease.

2240 (5) "Immunization record" means a record relating to a student that includes:

2241 (a) information regarding each required vaccination that the student has received,
2242 including the date each vaccine was administered, verified by:

2243 (i) a licensed health care provider;

2244 (ii) an authorized representative of a local health department;

2245 (iii) an authorized representative of the department;

2246 (iv) a registered nurse; or

2247 (v) a pharmacist;

2248 (b) information regarding each disease against which the student has been immunized
2249 by previously contracting the disease; and

2250 (c) an exemption form identifying each required vaccination from which the student is
2251 exempt, including all required supporting documentation described in Section 53G-9-303.

2252 (6) "Legally responsible individual" means:

2253 (a) a student's parent;

2254 (b) the student's legal guardian;

2255 (c) an adult brother or sister of a student who has no legal guardian; or

2256 (d) the student, if the student:

2257 (i) is an adult; or

- 2258 (ii) is a minor who may consent to treatment under Section [26B-4-321](#).
- 2259 (7) "Licensed health care provider" means a health care provider who is licensed under
- 2260 Title 58, Occupations and Professions, as:
- 2261 (a) a medical doctor;
- 2262 (b) an osteopathic doctor;
- 2263 (c) a physician assistant; or
- 2264 (d) an advanced practice registered nurse.
- 2265 (8) "Local health department" means the same as that term is defined in Section
- 2266 [26A-1-102](#).
- 2267 (9) "Required vaccines" means vaccines required by department rule described in
- 2268 Section [53G-9-305](#).
- 2269 (10) (a) "School" means any public or private:
- 2270 [~~(a)~~] (i) elementary or secondary school through grade 12;
- 2271 [~~(b)~~] (ii) preschool;
- 2272 [~~(c)~~] (iii) child care program, as that term is defined in Section [26B-2-401](#);
- 2273 [~~(d)~~] (iv) nursery school; or
- 2274 [~~(e)~~] (v) kindergarten.
- 2275 (b) "School" does not include a:
- 2276 (i) home school;
- 2277 (ii) home-based microschool; or
- 2278 (iii) micro-education entity.
- 2279 (11) "Student" means an individual who attends a school.
- 2280 (12) "Vaccinating" or "vaccination" means the administration of a vaccine.
- 2281 (13) "Vaccination exemption form" means a form, described in Section [53G-9-304](#),
- 2282 that documents and verifies that a student is exempt from the requirement to receive one or
- 2283 more required vaccines.
- 2284 (14) "Vaccine" means the substance licensed for use by the United States Food and
- 2285 Drug Administration that is injected into or otherwise administered to an individual to
- 2286 immunize the individual against a communicable disease.
- 2287 Section 11. **Effective date.**
- 2288 This bill takes effect on May 1, 2024.