

**HEALTH AND HUMAN SERVICES RECODIFICATION -
CROSS REFERENCES, TITLES 4-31A**

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill updates cross-references to the Utah Health and Human Services Code in Titles 4 through 31A.

Highlighted Provisions:

This bill:

- ▶ makes technical updates in Titles 4 through 31A to cross references to the Utah Health and Human Services Code that are renumbered and amended in:
 - S.B. 38, Health and Human Services Recodification - Administration, Licensing, and Recovery Services;
 - S.B. 39, Health and Human Services Recodification - Prevention, Supports, Substance Use and Mental Health;
 - S.B. 40, Health and Human Services Recodification - Health Care Assistance and Data; and
 - S.B. 41, Health and Human Services Recodification - Health Care Delivery and Repeals; and
- ▶ makes technical and corresponding changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 This bill provides a special effective date.

29 This bill provides revisor instructions.

30 **Utah Code Sections Affected:**

31 AMENDS:

- 32 **4-5-501**, as last amended by Laws of Utah 2019, Chapter 32
- 33 **4-41-103.3**, as last amended by Laws of Utah 2022, Chapter 290
- 34 **4-41-402**, as last amended by Laws of Utah 2022, Chapter 290
- 35 **4-41a-102**, as last amended by Laws of Utah 2022, Chapters 290, 452
- 36 **4-41a-103**, as last amended by Laws of Utah 2020, Chapter 12
- 37 **4-41a-201**, as last amended by Laws of Utah 2022, Chapter 290
- 38 **4-41a-204**, as last amended by Laws of Utah 2021, Chapter 350
- 39 **4-41a-403**, as last amended by Laws of Utah 2021, Chapter 350
- 40 **4-41a-404**, as last amended by Laws of Utah 2020, Chapter 12
- 41 **4-41a-406**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 42 **7-1-1006**, as last amended by Laws of Utah 2011, Chapter 344
- 43 **7-26-102**, as enacted by Laws of Utah 2020, Chapter 228
- 44 **10-2-419**, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
- 45 **10-2-425**, as last amended by Laws of Utah 2019, Chapter 159
- 46 **10-8-41.6**, as last amended by Laws of Utah 2022, Chapter 255
- 47 **10-8-84.6**, as enacted by Laws of Utah 2022, Chapter 21
- 48 **10-8-85.5**, as last amended by Laws of Utah 2012, Chapter 289
- 49 **10-8-90**, as last amended by Laws of Utah 2018, Chapter 467
- 50 **10-9a-103**, as last amended by Laws of Utah 2022, Chapters 355, 406
- 51 **10-9a-520**, as last amended by Laws of Utah 2013, Chapter 309
- 52 **10-9a-528**, as last amended by Laws of Utah 2021, Chapter 60
- 53 **11-46-102**, as enacted by Laws of Utah 2011, Chapter 130
- 54 **11-48-101.5**, as enacted by Laws of Utah 2021, Chapter 265
- 55 **11-48-103**, as enacted by Laws of Utah 2021, Chapter 265
- 56 **13-5b-103**, as enacted by Laws of Utah 2007, Chapter 172
- 57 **13-59-102**, as enacted by Laws of Utah 2021, Chapter 138
- 58 **13-61-101 (Effective 12/31/23)**, as enacted by Laws of Utah 2022, Chapter 462

- 59 [15-4-1](#), as last amended by Laws of Utah 2017, Chapter 340
- 60 [15-4-6.7](#), as last amended by Laws of Utah 2017, Chapter 340
- 61 [15A-1-208](#), as enacted by Laws of Utah 2011, Chapter 14
- 62 [15A-2-105](#), as enacted by Laws of Utah 2011, Chapter 14
- 63 [15A-3-102](#), as last amended by Laws of Utah 2019, Chapter 20
- 64 [15A-3-103](#), as last amended by Laws of Utah 2020, Chapters 243, 441
- 65 [15A-5-202](#), as last amended by Laws of Utah 2022, Chapter 28
- 66 [15A-5-203](#), as last amended by Laws of Utah 2022, Chapter 350
- 67 [17-22-2.5](#), as last amended by Laws of Utah 2018, Chapter 86
- 68 [17-27a-103](#), as last amended by Laws of Utah 2022, Chapter 406
- 69 [17-27a-519](#), as last amended by Laws of Utah 2013, Chapter 309
- 70 [17-27a-525](#), as last amended by Laws of Utah 2021, Chapter 60
- 71 [17-27a-1102](#), as enacted by Laws of Utah 2021, Chapter 244
- 72 [17-43-102](#), as last amended by Laws of Utah 2022, Chapter 255
- 73 [17-43-201](#), as last amended by Laws of Utah 2022, Chapter 255
- 74 [17-43-204](#), as last amended by Laws of Utah 2016, Chapter 113
- 75 [17-43-301](#), as last amended by Laws of Utah 2022, Chapter 255
- 76 [17-43-303](#), as last amended by Laws of Utah 2004, Chapter 80
- 77 [17-43-306](#), as enacted by Laws of Utah 2003, Chapter 100
- 78 [17-50-318](#), as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8
- 79 [17-50-333](#), as last amended by Laws of Utah 2022, Chapter 255
- 80 [17-50-339](#), as enacted by Laws of Utah 2022, Chapter 21
- 81 [17B-2a-818.5](#), as last amended by Laws of Utah 2022, Chapter 421
- 82 [17B-2a-902](#), as last amended by Laws of Utah 2014, Chapter 189
- 83 [18-1-3](#), as last amended by Laws of Utah 2007, Chapter 22
- 84 [19-1-205](#), as enacted by Laws of Utah 1991, Chapter 112
- 85 [19-1-206](#), as last amended by Laws of Utah 2022, Chapters 421, 443
- 86 [19-4-115](#), as enacted by Laws of Utah 2022, Chapter 194
- 87 [19-6-902](#), as last amended by Laws of Utah 2015, Chapter 451
- 88 [20A-2-104](#), as last amended by Laws of Utah 2021, Chapter 100
- 89 [20A-2-306](#), as last amended by Laws of Utah 2022, Chapter 121

- 90 **20A-11-1202**, as last amended by Laws of Utah 2020, Chapter 365
- 91 **23-19-5.5**, as last amended by Laws of Utah 2022, Chapter 58
- 92 **23-19-14**, as last amended by Laws of Utah 2018, Chapter 39
- 93 **26-18-413**, as last amended by Laws of Utah 2020, Chapter 225
- 94 **26-60-102**, as last amended by Laws of Utah 2020, Chapter 119
- 95 **26-60-104**, as last amended by Laws of Utah 2022, Chapters 255, 415
- 96 **26A-1-102**, as last amended by Laws of Utah 2022, Chapter 255
- 97 **26A-1-114**, as last amended by Laws of Utah 2022, Chapters 39, 415 and 430
- 98 **26A-1-116**, as last amended by Laws of Utah 1991, Chapter 112 and renumbered and
- 99 amended by Laws of Utah 1991, Chapter 269
- 100 **26A-1-121**, as last amended by Laws of Utah 2022, Chapter 255
- 101 **26A-1-126**, as last amended by Laws of Utah 2022, Chapter 415
- 102 **26A-1-128**, as last amended by Laws of Utah 2020, Chapter 347
- 103 **30-1-12**, as last amended by Laws of Utah 2022, Chapter 231
- 104 **30-2-5**, as last amended by Laws of Utah 2008, Chapter 3
- 105 **30-3-5**, as last amended by Laws of Utah 2022, Chapter 263
- 106 **30-3-5.1**, as last amended by Laws of Utah 1997, Chapter 232
- 107 **30-3-5.4**, as last amended by Laws of Utah 2022, Chapter 263
- 108 **30-3-10**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 109 **30-3-10.5**, as last amended by Laws of Utah 2008, Chapter 3
- 110 **30-3-38**, as last amended by Laws of Utah 2022, Chapter 335
- 111 **31A-1-301**, as last amended by Laws of Utah 2022, Chapter 198
- 112 **31A-4-106**, as last amended by Laws of Utah 2018, Chapter 281
- 113 **31A-4-107.5**, as last amended by Laws of Utah 2018, Chapter 443
- 114 **31A-8-104**, as last amended by Laws of Utah 2018, Chapter 319
- 115 **31A-15-103**, as last amended by Laws of Utah 2019, Chapter 341
- 116 **31A-22-305**, as last amended by Laws of Utah 2022, Chapter 163
- 117 **31A-22-305.3**, as last amended by Laws of Utah 2022, Chapters 163, 198
- 118 **31A-22-604**, as last amended by Laws of Utah 2001, Chapter 116
- 119 **31A-22-610**, as last amended by Laws of Utah 2018, Chapter 443
- 120 **31A-22-610.5**, as last amended by Laws of Utah 2020, Chapter 32

121 [31A-22-610.6](#), as last amended by Laws of Utah 2011, Chapter 284

122 [31A-22-613.5](#), as last amended by Laws of Utah 2019, Chapter 439

123

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

125 Section 1. Section **4-5-501** is amended to read:

126 **4-5-501. Cottage food operations.**

127 (1) For purposes of this chapter:

128 (a) "Cottage food operation" means a person who produces a cottage food product in a
129 home kitchen .

130 (b) "Cottage food product" means a nonpotentially hazardous baked good, jam, jelly, or
131 other nonpotentially hazardous food produced in a home kitchen.

132 (c) "Home kitchen" means a kitchen:

133 (i) designed and intended for use by the residents of a home; and

134 (ii) used by a resident of the home for the production of a cottage food product.

135 (d) "Potentially hazardous food" means:

136 (i) a food of animal origin;

137 (ii) raw seed sprouts; or

138 (iii) a food that requires time or temperature control, or both, for safety to limit
139 pathogenic microorganism growth or toxin formation, as identified by the department in rule.

140 (2) The department shall adopt rules pursuant to Title 63G, Chapter 3, Utah
141 Administrative Rulemaking Act, as necessary to protect public health and ensure a safe food
142 supply.

143 (3) Rules adopted pursuant to Subsection (2) may not require:

144 (a) the use of a commercial surface such as a stainless steel counter or cabinet;

145 (b) the use of a commercial grade:

146 (i) sink;

147 (ii) dishwasher; or

148 (iii) oven;

149 (c) a separate kitchen for the cottage food operation; or

150 (d) the submission of plans and specifications before construction of, or remodel of, a
151 cottage food production operation.

- 152 (4) The operator of a cottage food operation shall:
- 153 (a) register with the department as a cottage food operation before operating as a
- 154 cottage food operation;
- 155 (b) hold a valid food handler's permit; and
- 156 (c) package a cottage food product with a label, as specified by the department in rule.
- 157 (5) Notwithstanding the provisions of Subsections [4-5-301\(1\)\(a\)](#) and (c), the
- 158 department shall issue a registration to an applicant for a cottage food operation if the applicant
- 159 for the registration:
- 160 (a) pays the fees required by the department; and
- 161 (b) meets the requirements of this section.
- 162 (6) Notwithstanding the provisions of Section [26A-1-114](#), a local health department:
- 163 (a) does not have jurisdiction to regulate the production of food at a cottage food
- 164 operation operating in compliance with this section, as long as the products are not offered to
- 165 the public for consumption on the premises; and
- 166 (b) does have jurisdiction to investigate a cottage food operation in an investigation
- 167 into the cause of a foodborne illness outbreak.
- 168 (7) A food service establishment as defined in Section [~~26-15a-102~~] [26B-7-401](#) may
- 169 not use a product produced in a cottage food operation as an ingredient in a food that is
- 170 prepared by the food establishment and offered by the food establishment to the public for
- 171 consumption.

172 Section 2. Section **4-41-103.3** is amended to read:

173 **4-41-103.3. Industrial hemp retailer permit.**

- 174 (1) Except as provided in Subsection (4), a retailer permittee of the department may
- 175 market or sell industrial hemp products.
- 176 (2) A person seeking an industrial hemp retailer permit shall provide to the department:
- 177 (a) the name of the person that is seeking to market or sell an industrial hemp product;
- 178 (b) the address of each location where the industrial hemp product will be sold; and
- 179 (c) written consent allowing a representative of the department to enter all premises
- 180 where the person is selling an industrial hemp product for the purpose of:
- 181 (i) conducting a physical inspection; or
- 182 (ii) ensuring compliance with the requirements of this chapter.

183 (3) The department may set a fee in accordance with Subsection [4-2-103](#)(2) for the
184 application for an industrial hemp retailer permit.

185 (4) Any marketing for an industrial hemp product shall include a notice to consumers
186 that the product is hemp and is not cannabis or medical cannabis, as those terms are defined in
187 Section [~~26-61a-102~~] [26B-4-201](#).

188 Section 3. Section ~~4-41-402~~ is amended to read:

189 **4-41-402. Cannabinoid sales and use authorized.**

190 (1) The sale or use of a cannabinoid product is prohibited:

- 191 (a) except as provided in this chapter; or
- 192 (b) unless the United States Food and Drug Administration approves the product.

193 (2) The department shall keep a list of registered cannabinoid products that the
194 department has determined, in accordance with Section [4-41-403](#), are safe for human
195 consumption.

196 (3) (a) A person may sell or use a cannabinoid product that is in the list of registered
197 cannabinoid products described in Subsection (2).

198 (b) An individual may use cannabidiol or a cannabidiol product that is not in the list of
199 registered cannabinoid products described in Subsection (2) if:

- 200 (i) the individual purchased the product outside the state; and
- 201 (ii) the product's contents do not violate Title 58, Chapter 37, Utah Controlled
202 Substances Act.

203 (4) Any marketing for a cannabinoid product shall include a notice to consumers that
204 the product is hemp or CBD and is not cannabis or medical cannabis, as those terms are
205 defined in Section [~~26-61a-102~~] [26B-4-201](#).

206 Section 4. Section ~~4-41a-102~~ is amended to read:

207 **4-41a-102. Definitions.**

208 As used in this chapter:

209 (1) "Adulterant" means any poisonous or deleterious substance in a quantity that may
210 be injurious to health, including:

- 211 (a) pesticides;
- 212 (b) heavy metals;
- 213 (c) solvents;

- 214 (d) microbial life;
- 215 (e) toxins; or
- 216 (f) foreign matter.

217 (2) "Cannabis Research Review Board" means the Cannabis Research Review Board
218 created in Section [~~26-61-201~~] [26B-1-420](#).

219 (3) "Cannabis" means the same as that term is defined in Section [~~26-61a-102~~]
220 [26B-4-201](#).

221 (4) "Cannabis concentrate" means:

- 222 (a) the product of any chemical or physical process applied to naturally occurring
- 223 biomass that concentrates or isolates the cannabinoids contained in the biomass; and
- 224 (b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic
- 225 cannabinoid's purified state.

226 (5) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not
227 intended to be sold as a cannabis plant product.

228 (6) "Cannabis cultivation facility" means a person that:

- 229 (a) possesses cannabis;
- 230 (b) grows or intends to grow cannabis; and
- 231 (c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis
- 232 processing facility, or a medical cannabis research licensee.

233 (7) "Cannabis cultivation facility agent" means an individual who:

- 234 (a) is an employee of a cannabis cultivation facility; and
- 235 (b) holds a valid cannabis production establishment agent registration card.

236 (8) "Cannabis derivative product" means a product made using cannabis concentrate.

237 (9) "Cannabis plant product" means any portion of a cannabis plant intended to be sold
238 in a form that is recognizable as a portion of a cannabis plant.

239 (10) "Cannabis processing facility" means a person that:

- 240 (a) acquires or intends to acquire cannabis from a cannabis production establishment;
- 241 (b) possesses cannabis with the intent to manufacture a cannabis product;
- 242 (c) manufactures or intends to manufacture a cannabis product from unprocessed
- 243 cannabis or a cannabis extract; and

244 (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a

245 medical cannabis research licensee.

246 (11) "Cannabis processing facility agent" means an individual who:

247 (a) is an employee of a cannabis processing facility; and

248 (b) holds a valid cannabis production establishment agent registration card.

249 (12) "Cannabis product" means the same as that term is defined in Section

250 ~~[26-61a-102]~~ [26B-4-201](#).

251 (13) "Cannabis production establishment" means a cannabis cultivation facility, a
252 cannabis processing facility, or an independent cannabis testing laboratory.

253 (14) "Cannabis production establishment agent" means a cannabis cultivation facility
254 agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

255 (15) "Cannabis production establishment agent registration card" means a registration
256 card that the department issues that:

257 (a) authorizes an individual to act as a cannabis production establishment agent; and

258 (b) designates the type of cannabis production establishment for which an individual is
259 authorized to act as an agent.

260 (16) "Community location" means a public or private elementary or secondary school,
261 a church, a public library, a public playground, or a public park.

262 (17) "Cultivation space" means, quantified in square feet, the horizontal area in which
263 a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the
264 cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other
265 plants in multiple levels.

266 (18) "Department" means the Department of Agriculture and Food.

267 (19) "Derivative cannabinoid" means any cannabinoid that has been intentionally
268 created using a process to convert a naturally occurring cannabinoid into another cannabinoid.

269 (20) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling,
270 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
271 sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

272 (21) (a) "Independent cannabis testing laboratory" means a person that:

273 (i) conducts a chemical or other analysis of cannabis or a cannabis product; or

274 (ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to
275 conduct a chemical or other analysis of the cannabis or cannabis product.

276 (b) "Independent cannabis testing laboratory" includes a laboratory that the department
277 or a research university operates in accordance with Subsection [4-41a-201](#)(14).

278 (22) "Independent cannabis testing laboratory agent" means an individual who:

279 (a) is an employee of an independent cannabis testing laboratory; and

280 (b) holds a valid cannabis production establishment agent registration card.

281 (23) "Industrial hemp waste" means:

282 (a) a cannabinoid concentrate; or

283 (b) industrial hemp biomass.

284 (24) "Inventory control system" means a system described in Section [4-41a-103](#).

285 (25) "Licensing board" or "board" means the Cannabis Production Establishment
286 Licensing Advisory Board created in Section [4-41a-201.1](#).

287 (26) "Medical cannabis" means the same as that term is defined in Section

288 [\[26-61a-102\] 26B-4-201](#).

289 (27) "Medical cannabis card" means the same as that term is defined in Section

290 [\[26-61a-102\] 26B-4-201](#).

291 (28) "Medical cannabis pharmacy" means the same as that term is defined in Section

292 [\[26-61a-102\] 26B-4-201](#).

293 (29) "Medical cannabis pharmacy agent" means the same as that term is defined in

294 Section [\[26-61a-102\] 26B-4-201](#).

295 (30) "Medical cannabis research license" means a license that the department issues to

296 a research university for the purpose of obtaining and possessing medical cannabis for
297 academic research.

298 (31) "Medical cannabis research licensee" means a research university that the

299 department licenses to obtain and possess medical cannabis for academic research, in

300 accordance with Section [4-41a-901](#).

301 (32) "Medical cannabis treatment" means the same as that term is defined in Section

302 [\[26-61a-102\] 26B-4-201](#).

303 (33) "Medicinal dosage form" means the same as that term is defined in Section

304 [\[26-61a-102\] 26B-4-201](#).

305 (34) "Qualified medical provider" means the same as that term is defined in Section

306 [\[26-61a-102\] 26B-4-201](#).

307 (35) "Qualified Production Enterprise Fund" means the fund created in Section
308 4-41a-104.

309 (36) "Recommending medical provider" means the same as that term is defined in
310 Section ~~[26-61a-102]~~ 26B-4-201.

311 (37) "Research university" means the same as that term is defined in Section
312 53B-7-702 and a private, nonprofit college or university in the state that:

313 (a) is accredited by the Northwest Commission on Colleges and Universities;

314 (b) grants doctoral degrees; and

315 (c) has a laboratory containing or a program researching a schedule I controlled
316 substance described in Section 58-37-4.

317 (38) "State electronic verification system" means the system described in Section
318 ~~[26-61a-103]~~ 26B-4-202.

319 (39) "Synthetic cannabinoid" means any cannabinoid that:

320 (a) was chemically synthesized from starting materials other than a naturally occurring
321 cannabinoid; and

322 (b) is not a derivative cannabinoid.

323 (40) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in
324 Section 4-41-102.

325 (41) "THC analog" means the same as that term is defined in Section 4-41-102.

326 (42) "Total composite tetrahydrocannabinol" means all detectable forms of
327 tetrahydrocannabinol.

328 (43) "Total tetrahydrocannabinol" or "total THC" means the same as that term is
329 defined in Section 4-41-102.

330 Section 5. Section **4-41a-103** is amended to read:

331 **4-41a-103. Inventory control system.**

332 (1) Each cannabis production establishment and each medical cannabis pharmacy shall
333 maintain an inventory control system that meets the requirements of this section.

334 (2) A cannabis production establishment and a medical cannabis pharmacy shall ensure
335 that the inventory control system maintained by the establishment or pharmacy:

336 (a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis
337 plant is eight inches tall and has a root ball until the cannabis is disposed of or sold, in the form

338 of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card;

339 (b) maintains in real time a record of the amount of cannabis and cannabis products in
340 the possession of the establishment or pharmacy;

341 (c) includes a video recording system that:

342 (i) tracks all handling and processing of cannabis or a cannabis product in the
343 establishment or pharmacy;

344 (ii) is tamper proof; and

345 (iii) stores a video record for at least 45 days; and

346 (d) preserves compatibility with the state electronic verification system described in
347 Section ~~[26-61a-103]~~ [26B-4-202](#).

348 (3) A cannabis production establishment and a medical cannabis pharmacy shall allow
349 the following to access the cannabis production establishment's or the medical cannabis
350 pharmacy's inventory control system at any time:

351 (a) the department;

352 (b) the Department of Health and Human Services; and

353 (c) a financial institution that the Division of Finance validates, in accordance with
354 Subsection (6).

355 (4) The department may establish compatibility standards for an inventory control
356 system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
357 Rulemaking Act.

358 (5) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
359 Administrative Rulemaking Act, establishing requirements for aggregate or batch records
360 regarding the planting and propagation of cannabis before being tracked in an inventory control
361 system described in this section.

362 (b) The department shall ensure that the rules described in Subsection (5)(a) address
363 record-keeping for the amount of planted seed, number of cuttings taken, date and time of
364 cutting and planting, number of plants established, and number of plants culled or dead.

365 (6) (a) The Division of Finance shall, in consultation with the state treasurer:

366 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
367 make rules to:

368 (A) establish a process for validating financial institutions for access to an inventory

- 369 control system in accordance with Subsections (3)(c) and (6)(b); and
- 370 (B) establish qualifications for the validation described in Subsection (6)(a)(i)(A);
- 371 (ii) review applications the Division of Finance receives in accordance with the process
- 372 established under Subsection (6)(a)(i);
- 373 (iii) validate a financial institution that meets the qualifications described in Subsection
- 374 (6)(a)(i); and
- 375 (iv) provide a list of validated financial institutions to the department and the
- 376 Department of Health and Human Services.
- 377 (b) A financial institution that the Division of Finance validates under Subsection
- 378 (6)(a):
- 379 (i) may only access an inventory control system for the purpose of reconciling
- 380 transactions and other financial activity of cannabis production establishments, medical
- 381 cannabis pharmacies, and medical cannabis couriers that use financial services that the
- 382 financial institution provides;
- 383 (ii) may only access information related to financial transactions; and
- 384 (iii) may not access any identifying patient information.
- 385 Section 6. Section **4-41a-201** is amended to read:
- 386 **4-41a-201. Cannabis production establishment -- License.**
- 387 (1) Except as provided in Subsection (14), a person may not operate a cannabis
- 388 production establishment without a license that the department issues under this chapter.
- 389 (2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section [4-41a-205](#), for a
- 390 licensing process that the department initiates after March 17, 2021, the department, through
- 391 the licensing board, shall issue licenses in accordance with Section [4-41a-201.1](#).
- 392 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 393 department shall make rules to specify a transparent and efficient process to:
- 394 (A) solicit applications for a license under this section;
- 395 (B) allow for comments and questions in the development of applications;
- 396 (C) timely and objectively evaluate applications;
- 397 (D) hold public hearings that the department deems appropriate; and
- 398 (E) select applicants to receive a license.
- 399 (iii) The department may not issue a license to operate a cannabis production

400 establishment to an applicant who is not eligible for a license under this section.

401 (b) An applicant is eligible for a license under this section if the applicant submits to
402 the licensing board:

403 (i) subject to Subsection (2)(c), a proposed name and address or, for a cannabis
404 cultivation facility, addresses of no more than two facility locations, located in a zone described
405 in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis production
406 establishment;

407 (ii) the name and address of any individual who has:

408 (A) for a publicly traded company, a financial or voting interest of 2% or greater in the
409 proposed cannabis production establishment;

410 (B) for a privately held company, a financial or voting interest in the proposed cannabis
411 production establishment; or

412 (C) the power to direct or cause the management or control of a proposed cannabis
413 production establishment;

414 (iii) an operating plan that:

415 (A) complies with Section 4-41a-204;

416 (B) includes operating procedures that comply with this chapter and any law the
417 municipality or county in which the person is located adopts that is consistent with Section
418 4-41a-406; and

419 (C) the department or licensing board approves;

420 (iv) a statement that the applicant will obtain and maintain a performance bond that a
421 surety authorized to transact surety business in the state issues in an amount of at least:

422 (A) \$100,000 for each cannabis cultivation facility for which the applicant applies; or

423 (B) \$50,000 for each cannabis processing facility or independent cannabis testing
424 laboratory for which the applicant applies;

425 (v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the
426 department sets in accordance with Section 63J-1-504; and

427 (vi) a description of any investigation or adverse action taken by any licensing
428 jurisdiction, government agency, law enforcement agency, or court in any state for any
429 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations
430 or businesses.

- 431 (c) (i) A person may not locate a cannabis production establishment:
432 (A) within 1,000 feet of a community location; or
433 (B) in or within 600 feet of a district that the relevant municipality or county has zoned
434 as primarily residential.
- 435 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
436 from the nearest entrance to the cannabis production establishment by following the shortest
437 route of ordinary pedestrian travel to the property boundary of the community location or
438 residential area.
- 439 (iii) The licensing board may grant a waiver to reduce the proximity requirements in
440 Subsection (2)(c)(i) by up to 20% if the licensing board determines that it is not reasonably
441 feasible for the applicant to site the proposed cannabis production establishment without the
442 waiver.
- 443 (iv) An applicant for a license under this section shall provide evidence of compliance
444 with the proximity requirements described in Subsection (2)(c)(i).
- 445 (3) If the licensing board approves an application for a license under this section and
446 Section [4-41a-201.1](#):
- 447 (a) the applicant shall pay the department:
448 (i) an initial license fee in an amount that, subject to Subsection [4-41a-104\(5\)](#), the
449 department sets in accordance with Section [63J-1-504](#); or
450 (ii) a fee for a 120-day limited license to operate as a cannabis processing facility
451 described in Subsection (3)(b) that is equal to 33% of the initial license fee described in
452 Subsection (3)(a)(i); and
453 (b) the department shall notify the Department of Public Safety of the license approval
454 and the names of each individual described in Subsection (2)(b)(ii).
- 455 (4) (a) Except as provided in Subsection (4)(b), a cannabis production establishment
456 shall obtain a separate license for each type of cannabis production establishment and each
457 location of a cannabis production establishment.
458 (b) The licensing board may issue a cannabis cultivation facility license and a cannabis
459 processing facility license to a person to operate at the same physical location or at separate
460 physical locations.
- 461 (5) If the licensing board receives more than one application for a cannabis production

462 establishment within the same city or town, the licensing board shall consult with the local land
463 use authority before approving any of the applications pertaining to that city or town.

464 (6) The licensing board may not issue a license to operate an independent cannabis
465 testing laboratory to a person who:

466 (a) holds a license or has an ownership interest in a medical cannabis pharmacy, a
467 cannabis processing facility, or a cannabis cultivation facility;

468 (b) has an owner, officer, director, or employee whose family member holds a license
469 or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or
470 a cannabis cultivation facility; or

471 (c) proposes to operate the independent cannabis testing laboratory at the same physical
472 location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis
473 cultivation facility.

474 (7) The licensing board may not issue a license to operate a cannabis production
475 establishment to an applicant if any individual described in Subsection (2)(b)(ii):

476 (a) has been convicted under state or federal law of:

477 (i) a felony; or

478 (ii) after December 3, 2018, a misdemeanor for drug distribution;

479 (b) is younger than 21 years old; or

480 (c) after September 23, 2019 until January 1, 2023, is actively serving as a legislator.

481 (8) (a) If an applicant for a cannabis production establishment license under this
482 section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the licensing
483 board may not give preference to the applicant based on the applicant's status as a holder of the
484 license.

485 (b) If an applicant for a license to operate a cannabis cultivation facility under this
486 section holds a license to operate a medical cannabis pharmacy under [~~Title 26, Chapter 61a,~~
487 ~~Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical
488 Cannabis, the licensing board:

489 (i) shall consult with the Department of Health and Human Services regarding the
490 applicant; and

491 (ii) may give consideration to the applicant based on the applicant's status as a holder
492 of a medical cannabis pharmacy license if:

493 (A) the applicant demonstrates that a decrease in costs to patients is more likely to
494 result from the applicant's vertical integration than from a more competitive marketplace; and

495 (B) the licensing board finds multiple other factors, in addition to the existing license,
496 that support granting the new license.

497 (9) The licensing board may revoke a license under this part:

498 (a) if the cannabis production establishment does not begin cannabis production
499 operations within one year after the day on which the licensing board issues the initial license;

500 (b) after the third of the same violation of this chapter in any of the licensee's licensed
501 cannabis production establishments or medical cannabis pharmacies;

502 (c) if any individual described in Subsection (2)(b) is convicted, while the license is
503 active, under state or federal law of:

504 (i) a felony; or

505 (ii) after December 3, 2018, a misdemeanor for drug distribution;

506 (d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at
507 the time of application, or fails to supplement the information described in Subsection
508 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the
509 application within 14 calendar days after the licensee receives notice of the investigation or
510 adverse action;

511 (e) if the cannabis production establishment demonstrates a willful or reckless
512 disregard for the requirements of this chapter or the rules the department makes in accordance
513 with this chapter;

514 (f) if, after a change of ownership described in Subsection (15)(b), the board
515 determines that the cannabis production establishment no longer meets the minimum standards
516 for licensure and operation of the cannabis production establishment described in this chapter;
517 or

518 (g) for an independent cannabis testing laboratory, if the independent cannabis testing
519 laboratory fails to substantially meet the performance standards described in Subsection
520 (14)(b).

521 (10) (a) A person who receives a cannabis production establishment license under this
522 chapter, if the municipality or county where the licensed cannabis production establishment
523 will be located requires a local land use permit, shall submit to the licensing board a copy of

524 the licensee's approved application for the land use permit within 120 days after the day on
525 which the licensing board issues the license.

526 (b) If a licensee fails to submit to the licensing board a copy of the licensee's approved
527 land use permit application in accordance with Subsection (10)(a), the licensing board may
528 revoke the licensee's license.

529 (11) The department shall deposit the proceeds of a fee that the department imposes
530 under this section into the Qualified Production Enterprise Fund.

531 (12) The department shall begin accepting applications under this part on or before
532 January 1, 2020.

533 (13) (a) The department's authority, and consequently the licensing board's authority, to
534 issue a license under this section is plenary and is not subject to review.

535 (b) Notwithstanding Subsection (2)(a)(ii)(A), the decision of the department to award a
536 license to an applicant is not subject to:

537 (i) Title 63G, Chapter 6a, Part 16, Protests; or

538 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

539 (14) (a) Notwithstanding this section, the department:

540 (i) may not issue more than four licenses to operate an independent cannabis testing
541 laboratory;

542 (ii) may operate or partner with a research university to operate an independent
543 cannabis testing laboratory;

544 (iii) if the department operates or partners with a research university to operate an
545 independent cannabis testing laboratory, may not cease operating or partnering with a research
546 university to operate the independent cannabis testing laboratory unless:

547 (A) the department issues at least two licenses to independent cannabis testing
548 laboratories; and

549 (B) the department has ensured that the licensed independent cannabis testing
550 laboratories have sufficient capacity to provide the testing necessary to support the state's
551 medical cannabis market; and

552 (iv) after ceasing department or research university operations under Subsection
553 (14)(a)(ii) shall resume independent cannabis testing laboratory operations at any time if:

554 (A) fewer than two licensed independent cannabis testing laboratories are operating; or

555 (B) the licensed independent cannabis testing laboratories become, in the department's
556 determination, unable to fully meet the market demand for testing.

557 (b) (i) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
558 Administrative Rulemaking Act, to establish performance standards for the operation of an
559 independent cannabis testing laboratory, including deadlines for testing completion.

560 (ii) A license that the department issues to an independent cannabis testing laboratory
561 is contingent upon substantial satisfaction of the performance standards described in
562 Subsection (14)(b)(i), as determined by the board.

563 (15) (a) A cannabis production establishment license is not transferrable or assignable.

564 (b) If the ownership of a cannabis production establishment changes by 50% or more:

565 (i) the cannabis production establishment shall submit a new application described in
566 Subsection (2)(b), subject to Subsection (2)(c);

567 (ii) within 30 days of the submission of the application, the board shall:

568 (A) conduct the application review described in Section 4-41a-201.1; and

569 (B) award a license to the cannabis production establishment for the remainder of the
570 term of the cannabis production establishment's license before the ownership change if the
571 cannabis production establishment meets the minimum standards for licensure and operation of
572 the cannabis production establishment described in this chapter; and

573 (iii) if the board approves the license application, notwithstanding Subsection (3), the
574 cannabis production establishment shall pay a license fee that the department sets in
575 accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the
576 application review.

577 Section 7. Section 4-41a-204 is amended to read:

578 **4-41a-204. Operating plan.**

579 (1) A person applying for a cannabis production establishment license or license
580 renewal shall submit to the department for the department's review a proposed operating plan
581 that complies with this section and that includes:

582 (a) a description of the physical characteristics of the proposed facility or, for a
583 cannabis cultivation facility, no more than two facility locations, including a floor plan and an
584 architectural elevation;

585 (b) a description of the credentials and experience of:

- 586 (i) each officer, director, and owner of the proposed cannabis production
587 establishment; and
- 588 (ii) any highly skilled or experienced prospective employee;
- 589 (c) the cannabis production establishment's employee training standards;
- 590 (d) a security plan;
- 591 (e) a description of the cannabis production establishment's inventory control system,
592 including a description of how the inventory control system is compatible with the state
593 electronic verification system described in Section [~~26-61a-103~~] [26B-4-202](#);
- 594 (f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a
595 manner that is sanitary and preserves the integrity of the cannabis;
- 596 (g) for a cannabis cultivation facility, the information described in Subsection (2);
- 597 (h) for a cannabis processing facility, the information described in Subsection (3); and
- 598 (i) for an independent cannabis testing laboratory, the information described in
599 Subsection (4).
- 600 (2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan
601 includes the facility's intended:
- 602 (i) cannabis cultivation practices, including the facility's intended pesticide use and
603 fertilizer use; and
- 604 (ii) subject to Subsection (2)(b), acreage or square footage under cultivation and
605 anticipated cannabis yield.
- 606 (b) Except as provided in Subsection (2)(c)(i) or (c)(ii), a cannabis cultivation facility
607 may not:
- 608 (i) for a facility that cultivates cannabis only indoors, use more than 100,000 total
609 square feet of cultivation space;
- 610 (ii) for a facility that cultivates cannabis only outdoors, use more than four acres for
611 cultivation; and
- 612 (iii) for a facility that cultivates cannabis through a combination of indoor and outdoor
613 cultivation, use more combined indoor square footage and outdoor acreage than allowed under
614 the department's formula described in Subsection (2)(e).
- 615 (c) (i) Each licensee may apply to the department for:
- 616 (A) a one-time, permanent increase of up to 20% of the limitation on the cannabis

617 cultivation facility's cultivation space; or

618 (B) a short-term increase, not to exceed 12 months, of up to 40% of the limitation on
619 the cannabis cultivation facility's cultivation space.

620 (ii) After conducting a review equivalent to the review described in Subsection
621 4-41a-205(2)(a), if the department determines that additional cultivation is needed, the
622 department may:

623 (A) grant the one-time, permanent increase described in Subsection (2)(c)(i)(A); or

624 (B) grant the short-term increase described in Subsection (2)(c)(i)(B).

625 (d) If a licensee describes an intended acreage or square footage under cultivation
626 under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b), the
627 licensee may not cultivate more than the licensee's identified intended acreage or square
628 footage under cultivation.

629 (e) The department shall, in accordance with Title 63G, Chapter 3, Utah
630 Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor
631 cultivation that:

632 (i) does not exceed, in estimated cultivation yield, the aggregate limitations described
633 in Subsection (2)(b)(i) or (ii); and

634 (ii) allows a cannabis cultivation facility to operate both indoors and outdoors.

635 (f) (i) The department may authorize a cannabis cultivation facility to operate at no
636 more than two separate locations.

637 (ii) If the department authorizes multiple locations under Subsection (2)(f)(i), the two
638 cannabis cultivation facility locations combined may not exceed the cultivation limitations
639 described in this Subsection (2).

640 (3) A cannabis processing facility's operating plan shall include the facility's intended
641 cannabis processing practices, including the cannabis processing facility's intended:

642 (a) offered variety of cannabis product;

643 (b) cannabinoid extraction method;

644 (c) cannabinoid extraction equipment;

645 (d) processing equipment;

646 (e) processing techniques; and

647 (f) sanitation and manufacturing safety procedures for items for human consumption.

648 (4) An independent cannabis testing laboratory's operating plan shall include the
649 laboratory's intended:

- 650 (a) cannabis and cannabis product testing capability;
- 651 (b) cannabis and cannabis product testing equipment; and
- 652 (c) testing methods, standards, practices, and procedures for testing cannabis and
653 cannabis products.

654 (5) Notwithstanding an applicant's proposed operating plan, a cannabis production
655 establishment is subject to land use regulations, as defined in Sections 10-9a-103 and
656 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.

657 Section 8. Section 4-41a-403 is amended to read:

658 **4-41a-403. Advertising.**

659 (1) Except as provided in this section, a cannabis production establishment may not
660 advertise to the general public in any medium.

661 (2) A cannabis production establishment may advertise an employment opportunity at
662 the cannabis production establishment.

663 (3) A cannabis production establishment may maintain a website that:

- 664 (a) contains information about the establishment and employees; and
- 665 (b) does not advertise any medical cannabis, cannabis products, or medical cannabis
666 devices.

667 (4) (a) Notwithstanding any municipal or county ordinance prohibiting signage, a
668 cannabis production establishment may use signage on the outside of the cannabis production
669 establishment that:

670 (i) includes only:

671 (A) in accordance with Subsection (4)(b), the cannabis production establishment's
672 name, logo, and hours of operation; and

673 (B) a green cross; and

674 (ii) complies with local ordinances regulating signage.

675 (b) The department shall define standards for a cannabis production establishment's
676 name and logo to ensure a medical rather than recreational disposition.

677 (5) (a) A cannabis production establishment may hold an educational event for the
678 public or medical providers in accordance with this Subsection (5) and the rules described in

679 Subsection (5)(c).

680 (b) A cannabis production establishment may not include in an educational event
681 described in Subsection (5)(a):

682 (i) any topic that conflicts with this chapter or [~~Title 26, Chapter 61a, Utah Medical~~
683 ~~Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;

684 (ii) any gift items or merchandise other than educational materials, as those terms are
685 defined by the department;

686 (iii) any marketing for a specific product from the cannabis production establishment
687 or any other statement, claim, or information that would violate the federal Food, Drug, and
688 Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

689 (iv) a presenter other than the following:

690 (A) a cannabis production establishment agent;

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

692 (C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
693 Practice Act;

694 (D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
695 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

696 (E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
697 Act; or

698 (F) a state employee.

699 (c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
700 Administrative Rulemaking Act, to define the elements of and restrictions on the educational
701 event described in Subsection (5)(a), including a minimum age of 21 years old for attendees.

702 Section 9. Section ~~4-41a-404~~ is amended to read:

703 **4-41a-404. Medical cannabis transportation.**

704 (1) (a) Only the following individuals may transport cannabis or a cannabis product
705 under this chapter:

706 (i) a registered cannabis production establishment agent; or

707 (ii) a medical cannabis cardholder who is transporting a medical cannabis treatment
708 that the cardholder is authorized to possess under this chapter.

709 (b) Only an agent of a cannabis cultivation facility, when the agent is transporting

710 cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory,
711 may transport unprocessed cannabis outside of a medicinal dosage form.

712 (2) Except for an individual with a valid medical cannabis card under [~~Title 26,~~
713 ~~Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research
714 and Medical Cannabis, who is transporting a medical cannabis treatment shall possess a
715 transportation manifest that:

716 (a) includes a unique identifier that links the cannabis or cannabis product to a relevant
717 inventory control system;

718 (b) includes origin and destination information for any cannabis or cannabis product
719 that the individual is transporting; and

720 (c) identifies the departure and arrival times and locations of the individual
721 transporting the cannabis or cannabis product.

722 (3) (a) In addition to the requirements in Subsections (1) and (2), the department may
723 establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
724 Act, requirements for transporting cannabis or cannabis product to ensure that the cannabis or
725 cannabis product remains safe for human consumption.

726 (b) The transportation described in Subsection (3)(a) is limited to transportation:

727 (i) between a cannabis production establishment and another cannabis production
728 establishment; and

729 (ii) between a cannabis processing facility and a medical cannabis pharmacy.

730 (4) (a) It is unlawful for a registered cannabis production establishment agent to make a
731 transport described in this section with a manifest that does not meet the requirements of this
732 section.

733 (b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:

734 (i) guilty of an infraction; and

735 (ii) subject to a \$100 fine.

736 (c) An individual who is guilty of a violation described in Subsection (4)(b) is not
737 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
738 underlying the violation described in Subsection (4)(b).

739 (d) If the agent described in Subsection (4)(a) is transporting more cannabis or
740 cannabis product than the manifest identifies, except for a de minimis administrative error:

- 741 (i) the penalty described in Subsection (4)(b) does not apply; and
- 742 (ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled
- 743 Substances Act.

744 (5) Nothing in this section prevents the department from taking administrative

745 enforcement action against a cannabis production establishment or another person for failing to

746 make a transport in compliance with the requirements of this section.

747 (6) An individual other than an individual described in Subsection (1) may transport a

748 medical cannabis device within the state if the transport does not also contain medical

749 cannabis.

750 Section 10. Section **4-41a-406** is amended to read:

751 **4-41a-406. Local control.**

752 (1) As used in this section:

753 (a) "Land use decision" means the same as that term is defined in Sections [10-9a-103](#)

754 and [17-27a-103](#).

755 (b) "Land use permit" means the same as that term is defined in Sections [10-9a-103](#)

756 and [17-27a-103](#).

757 (c) "Land use regulation" means the same as that term is defined in Sections [10-9a-103](#)

758 and [17-27a-103](#).

759 (2) (a) If a municipality's or county's zoning ordinances provide for an industrial zone,

760 the operation of a cannabis production establishment shall be a permitted industrial use in any

761 industrial zone unless the municipality or county has designated by ordinance, before an

762 individual submits a land use permit application for a cannabis production establishment, at

763 least one industrial zone in which the operation of a cannabis production establishment is a

764 permitted use.

765 (b) If a municipality's or county's zoning ordinances provide for an agricultural zone,

766 the operation of a cannabis production establishment shall be a permitted agricultural use in

767 any agricultural zone unless the municipality or county has designated by ordinance, before an

768 individual submits a land use permit application for a cannabis production establishment, at

769 least one agricultural zone in which the operation of a cannabis production establishment is a

770 permitted use.

771 (c) The operation of a cannabis production establishment shall be a permitted use on

772 land that the municipality or county has not zoned.

773 (3) A municipality or county may not:

774 (a) on the sole basis that the applicant or cannabis production establishment violates
775 federal law regarding the legal status of cannabis, deny or revoke:

776 (i) a land use permit to operate a cannabis production facility; or

777 (ii) a business license to operate a cannabis production facility;

778 (b) require a certain distance between a cannabis production establishment and:

779 (i) another cannabis production establishment;

780 (ii) a medical cannabis pharmacy;

781 (iii) a retail tobacco specialty business, as that term is defined in Section [~~26-62-103~~]

782 [26B-4-202](#); or

783 (iv) an outlet, as that term is defined in Section [32B-1-202](#); or

784 (c) in accordance with Subsections [10-9a-509\(1\)](#) and [17-27a-508\(1\)](#), enforce a land use
785 regulation against a cannabis production establishment that was not in effect on the day on
786 which the cannabis production establishment submitted a complete land use application.

787 (4) An applicant for a land use permit to operate a cannabis production establishment
788 shall comply with the land use requirements and application process described in:

789 (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act,
790 including Section [10-9a-528](#); and

791 (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act,
792 including Section [17-27a-525](#).

793 Section 11. Section **7-1-1006** is amended to read:

794 **7-1-1006. Inapplicable to certain official investigations.**

795 (1) Sections [7-1-1002](#) and [7-1-1003](#) do not apply if an examination of a record is a part
796 of an official investigation by:

797 (a) local police;

798 (b) a sheriff;

799 (c) a peace officer;

800 (d) a city attorney;

801 (e) a county attorney;

802 (f) a district attorney;

- 803 (g) the attorney general;
- 804 (h) the Department of Public Safety;
- 805 (i) the Office of Recovery Services of the Department of Health and Human Services;
- 806 (j) the Insurance Department;
- 807 (k) the Department of Commerce;
- 808 (l) the Benefit Payment Control Unit or the Payment Error Prevention Unit of the
- 809 Department of Workforce Services;
- 810 (m) the state auditor;
- 811 (n) the State Tax Commission; or
- 812 (o) the Department of Health and Human Services or its designee, when undertaking an
- 813 official investigation to determine whether an individual qualifies for certain assistance
- 814 programs as provided in Section [~~26-18-2.5~~] 26B-3-106.
- 815 (2) Except for the Office of Recovery Services, if a governmental entity listed in
- 816 Subsection (1) seeks a record, the entity shall obtain the record as follows:
- 817 (a) if the record is a nonprotected record, by request in writing that:
- 818 (i) certifies that an official investigation is being conducted; and
- 819 (ii) is signed by a representative of the governmental entity that is conducting the
- 820 official investigation; or
- 821 (b) if the record is a protected record, by obtaining:
- 822 (i) a subpoena authorized by statute;
- 823 (ii) other legal process:
- 824 (A) ordered by a court of competent jurisdiction; and
- 825 (B) served upon the financial institution; or
- 826 (iii) written permission from all account holders of the account referenced in the record
- 827 to be examined.
- 828 (3) If the Office of Recovery Services seeks a record, the Office of Recovery Services
- 829 shall obtain the record pursuant to:
- 830 (a) Subsection [~~62A-11-104(1)(g)~~] 26B-9-104(1)(g);
- 831 (b) Section [~~62A-11-304.1~~] 26B-9-205;
- 832 (c) Section [~~62A-11-304.5~~] 26B-9-208; or
- 833 (d) Title IV, Part D of the Social Security Act as codified in 42 U.S.C. 651 et seq.

834 (4) A financial institution may not give notice to an account holder or person named or
835 referenced within the record disclosed pursuant to Subsection (2)(a).

836 (5) In accordance with Section [7-1-1004](#), the governmental entity conducting the
837 official investigation that obtains a record from a financial institution under this section shall
838 reimburse the financial institution for costs reasonably and directly incurred by the financial
839 institution.

840 Section 12. Section **7-26-102** is amended to read:

841 **7-26-102. Definitions.**

842 As used in this chapter:

843 (1) "Adult Protective Services" means the same as that term is defined in Section
844 ~~[62A-3-301]~~ [26B-6-201](#).

845 (2) "Covered financial institution" means any of the following that operate in the state:

846 (a) a state or federally chartered:

847 (i) bank;

848 (ii) savings and loan association;

849 (iii) savings bank;

850 (iv) industrial bank;

851 (v) credit union;

852 (vi) trust company; or

853 (vii) depository institution; or

854 (b) a financial institution.

855 (3) "Financial exploitation" means:

856 (a) the wrongful or unauthorized taking, withholding, appropriation, or use of money,
857 assets, or other property of an individual; or

858 (b) an act or omission, including through a power of attorney, guardianship, or
859 conservatorship of an individual, to:

860 (i) obtain control, through deception, intimidation, or undue influence, over the
861 individual's money, assets, or other property to deprive the individual of the ownership, use,
862 benefit, or possession of the individual's money, assets, or other property; or

863 (ii) convert the individual's money, assets, or other property to deprive the individual of
864 the ownership, use, benefit, or possession of the individual's money, assets, or other property.

865 (4) "Law enforcement agency" means the same as that term is defined in Section
866 [53-1-102](#).

867 (5) "Qualified individual" means:

868 (a) a branch manager of a covered financial institution; or

869 (b) a director, officer, employee, agent, or other representative that a covered financial
870 institution designates.

871 (6) "Third party associated with a vulnerable adult" means an individual:

872 (a) who is a parent, spouse, adult child, sibling, or other known family member of a
873 vulnerable adult;

874 (b) whom a vulnerable adult authorizes the financial institution to contact;

875 (c) who is a co-owner, additional authorized signatory, or beneficiary on a vulnerable
876 adult's account; or

877 (d) who is an attorney, trustee, conservator, guardian or other fiduciary whom a court
878 or a government agency selects to manage some or all of the financial affairs of the vulnerable
879 adult.

880 (7) "Transaction" means any of the following services that a covered financial
881 institution provides:

882 (a) a transfer or request to transfer or disburse funds or assets in an account;

883 (b) a request to initiate a wire transfer, initiate an automated clearinghouse transfer, or
884 issue a money order, cashier's check, or official check;

885 (c) a request to negotiate a check or other negotiable instrument;

886 (d) a request to change the ownership of, or access to, an account;

887 (e) a request to sell or transfer a security or other asset, or a request to affix a medallion
888 stamp or provide any form of guarantee or endorsement in connection with an attempt to sell or
889 transfer a security or other asset, if the person selling or transferring the security or asset is not
890 required to obtain a license under Section [61-1-3](#);

891 (f) a request for a loan, extension of credit, or draw on a line of credit;

892 (g) a request to encumber any movable or immovable property; or

893 (h) a request to designate or change the designation of beneficiaries to receive any
894 property, benefit, or contract right.

895 (8) "Vulnerable adult" means:

896 (a) an individual who is 65 years of age or older; or

897 (b) the same as that term is defined in Section [~~62A-3-301~~] [26B-6-201](#).

898 Section 13. Section **10-2-419** is amended to read:

899 **10-2-419. Boundary adjustment -- Notice and hearing -- Protest.**

900 (1) The legislative bodies of two or more municipalities having common boundaries
901 may adjust their common boundaries as provided in this section.

902 (2) The legislative body of each municipality intending to adjust a boundary that is
903 common with another municipality shall:

904 (a) adopt a resolution indicating the intent of the municipal legislative body to adjust a
905 common boundary; and

906 (b) hold a public hearing on the proposed adjustment no less than 60 days after the
907 adoption of the resolution under Subsection (2)(a).

908 (3) A legislative body described in Subsection (2) shall provide notice of a public
909 hearing described in Subsection (2)(b):

910 (a) (i) at least three weeks before the day of the public hearing, by posting one notice,
911 and at least one additional notice per 2,000 population of the municipality, in places within the
912 municipality that are most likely to give notice to residents of the municipality, subject to a
913 maximum of 10 notices; or

914 (ii) at least three weeks before the day of the public hearing, by mailing notice to each
915 residence in the municipality;

916 (b) by posting notice on the Utah Public Notice Website, created in Section
917 [63A-16-601](#), for three weeks before the day of the public hearing;

918 (c) if the proposed boundary adjustment may cause any part of real property owned by
919 the state to be within the geographic boundary of a different local governmental entity than
920 before the adjustment, by providing written notice, at least 50 days before the day of the public
921 hearing, to:

922 (i) the title holder of any state-owned real property described in this Subsection (3)(d);
923 and

924 (ii) the Utah State Developmental Center Board, created under Section [~~62A-5-202.5~~]
925 [26B-1-429](#), if any state-owned real property described in this Subsection (3)(d) is associated
926 with the Utah State Developmental Center; and

927 (d) if the municipality has a website, by posting notice on the municipality's website for
928 three weeks before the day of the public hearing.

929 (4) The notice described in Subsection (3) shall:

930 (a) state that the municipal legislative body has adopted a resolution indicating the
931 municipal legislative body's intent to adjust a boundary that the municipality has in common
932 with another municipality;

933 (b) describe the area proposed to be adjusted;

934 (c) state the date, time, and place of the public hearing described in Subsection (2)(b);

935 (d) state in conspicuous and plain terms that the municipal legislative body will adjust
936 the boundaries unless, at or before the public hearing described in Subsection (2)(b), a written
937 protest to the adjustment is filed by:

938 (i) an owner of private real property that:

939 (A) is located within the area proposed for adjustment;

940 (B) covers at least 25% of the total private land area within the area proposed for
941 adjustment; and

942 (C) is equal in value to at least 15% of the value of all private real property within the
943 area proposed for adjustment; or

944 (ii) a title holder of state-owned real property described in Subsection (3)(d);

945 (e) state that the area that is the subject of the boundary adjustment will, because of the
946 boundary adjustment, be automatically annexed to a local district providing fire protection,
947 paramedic, and emergency services or a local district providing law enforcement service, as the
948 case may be, as provided in Section [17B-1-416](#), if:

949 (i) the municipality to which the area is being added because of the boundary
950 adjustment is entirely within the boundaries of a local district:

951 (A) that provides fire protection, paramedic, and emergency services or law
952 enforcement service, respectively; and

953 (B) in the creation of which an election was not required because of Subsection
954 [17B-1-214\(3\)\(c\)](#); and

955 (ii) the municipality from which the area is being taken because of the boundary
956 adjustment is not within the boundaries of the local district; and

957 (f) state that the area proposed for annexation to the municipality will be automatically

958 withdrawn from a local district providing fire protection, paramedic, and emergency services,
959 as provided in Subsection 17B-1-502(2), if:

960 (i) the municipality to which the area is being added because of the boundary
961 adjustment is not within the boundaries of a local district:

962 (A) that provides fire protection, paramedic, and emergency services; and

963 (B) in the creation of which an election was not required because of Subsection
964 17B-1-214(3)(c); and

965 (ii) the municipality from which the area is being taken because of the boundary
966 adjustment is entirely within the boundaries of the local district.

967 (5) Upon conclusion of the public hearing described in Subsection (2)(b), the
968 municipal legislative body may adopt an ordinance approving the adjustment of the common
969 boundary unless, at or before the hearing described in Subsection (2)(b), a written protest to the
970 adjustment is filed with the city recorder or town clerk by a person described in Subsection
971 (3)(c)(i) or (ii).

972 (6) The municipal legislative body shall comply with the requirements of Section
973 10-2-425 as if the boundary adjustment were an annexation.

974 (7) (a) An ordinance adopted under Subsection (5) becomes effective when each
975 municipality involved in the boundary adjustment has adopted an ordinance under Subsection
976 (5).

977 (b) The effective date of a boundary adjustment under this section is governed by
978 Section 10-2-425.

979 Section 14. Section 10-2-425 is amended to read:

980 **10-2-425. Filing of notice and plat -- Recording and notice requirements --**
981 **Effective date of annexation or boundary adjustment.**

982 (1) The legislative body of each municipality that enacts an ordinance under this part
983 approving the annexation of an unincorporated area or the adjustment of a boundary, or the
984 legislative body of an eligible city, as defined in Section 10-2a-403, that annexes an
985 unincorporated island upon the results of an election held in accordance with Section
986 10-2a-404, shall:

987 (a) within 60 days after enacting the ordinance or the day of the election or, in the case
988 of a boundary adjustment, within 60 days after each of the municipalities involved in the

989 boundary adjustment has enacted an ordinance, file with the lieutenant governor:

990 (i) a notice of an impending boundary action, as defined in Section [67-1a-6.5](#), that
991 meets the requirements of Subsection [67-1a-6.5\(3\)](#); and

992 (ii) a copy of an approved final local entity plat, as defined in Section [67-1a-6.5](#);

993 (b) upon the lieutenant governor's issuance of a certificate of annexation or boundary
994 adjustment, as the case may be, under Section [67-1a-6.5](#):

995 (i) if the annexed area or area subject to the boundary adjustment is located within the
996 boundary of a single county, submit to the recorder of that county the original notice of an
997 impending boundary action, the original certificate of annexation or boundary adjustment, the
998 original approved final local entity plat, and a certified copy of the ordinance approving the
999 annexation or boundary adjustment; or

1000 (ii) if the annexed area or area subject to the boundary adjustment is located within the
1001 boundaries of more than a single county:

1002 (A) submit to the recorder of one of those counties the original notice of impending
1003 boundary action, the original certificate of annexation or boundary adjustment, and the original
1004 approved final local entity plat;

1005 (B) submit to the recorder of each other county a certified copy of the documents listed
1006 in Subsection (1)(b)(ii)(A); and

1007 (C) submit a certified copy of the ordinance approving the annexation or boundary
1008 adjustment to each county described in Subsections (1)(b)(ii)(A) and (B); and

1009 (c) concurrently with Subsection (1)(b):

1010 (i) send notice of the annexation or boundary adjustment to each affected entity; and

1011 (ii) in accordance with Section [~~26-8a-414~~] [26B-4-168](#), file with the Department of
1012 Health and Humans Services:

1013 (A) a certified copy of the ordinance approving the annexation of an unincorporated
1014 area or the adjustment of a boundary; and

1015 (B) a copy of the approved final local entity plat.

1016 (2) If an annexation or boundary adjustment under this part or Chapter 2a, Part 4,
1017 Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class
1018 on and after May 12, 2015, also causes an automatic annexation to a local district under
1019 Section [17B-1-416](#) or an automatic withdrawal from a local district under Subsection

1020 17B-1-502(2), the municipal legislative body shall, as soon as practicable after the lieutenant
1021 governor issues a certificate of annexation or boundary adjustment under Section 67-1a-6.5,
1022 send notice of the annexation or boundary adjustment to the local district to which the annexed
1023 area is automatically annexed or from which the annexed area is automatically withdrawn.

1024 (3) Each notice required under Subsection (1) relating to an annexation or boundary
1025 adjustment shall state the effective date of the annexation or boundary adjustment, as
1026 determined under Subsection (4).

1027 (4) An annexation or boundary adjustment under this part is completed and takes
1028 effect:

1029 (a) for the annexation of or boundary adjustment affecting an area located in a county
1030 of the first class, except for an annexation under Section 10-2-418:

1031 (i) July 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a
1032 certificate of annexation or boundary adjustment if:

1033 (A) the certificate is issued during the preceding November 1 through April 30; and

1034 (B) the requirements of Subsection (1) are met before that July 1; or

1035 (ii) January 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a
1036 certificate of annexation or boundary adjustment if:

1037 (A) the certificate is issued during the preceding May 1 through October 31; and

1038 (B) the requirements of Subsection (1) are met before that January 1; and

1039 (b) subject to Subsection (5), for all other annexations and boundary adjustments, the
1040 date of the lieutenant governor's issuance, under Section 67-1a-6.5, of a certificate of
1041 annexation or boundary adjustment.

1042 (5) If an annexation of an unincorporated island is based upon the results of an election
1043 held in accordance with Section 10-2a-404:

1044 (a) the county and the annexing municipality may agree to a date on which the
1045 annexation is complete and takes effect; and

1046 (b) the lieutenant governor shall issue, under Section 67-1a-6.5, a certification of
1047 annexation on the date agreed to under Subsection (5)(a).

1048 (6) (a) As used in this Subsection (6):

1049 (i) "Affected area" means:

1050 (A) in the case of an annexation, the annexed area; and

1051 (B) in the case of a boundary adjustment, any area that, as a result of the boundary
1052 adjustment, is moved from within the boundary of one municipality to within the boundary of
1053 another municipality.

1054 (ii) "Annexing municipality" means:

1055 (A) in the case of an annexation, the municipality that annexes an unincorporated area;
1056 and

1057 (B) in the case of a boundary adjustment, a municipality whose boundary includes an
1058 affected area as a result of a boundary adjustment.

1059 (b) The effective date of an annexation or boundary adjustment for purposes of
1060 assessing property within an affected area is governed by Section [59-2-305.5](#).

1061 (c) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the
1062 recorder of each county in which the property is located, a municipality may not:

1063 (i) levy or collect a property tax on property within an affected area;

1064 (ii) levy or collect an assessment on property within an affected area; or

1065 (iii) charge or collect a fee for service provided to property within an affected area,
1066 unless the municipality was charging and collecting the fee within that area immediately before
1067 annexation.

1068 Section 15. Section **10-8-41.6** is amended to read:

1069 **10-8-41.6. Regulation of retail tobacco specialty business.**

1070 (1) As used in this section:

1071 (a) "Community location" means:

1072 (i) a public or private kindergarten, elementary, middle, junior high, or high school;

1073 (ii) a licensed child-care facility or preschool;

1074 (iii) a trade or technical school;

1075 (iv) a church;

1076 (v) a public library;

1077 (vi) a public playground;

1078 (vii) a public park;

1079 (viii) a youth center or other space used primarily for youth oriented activities;

1080 (ix) a public recreational facility;

1081 (x) a public arcade; or

- 1082 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.
- 1083 (b) "Department" means the Department of Health and Human Services created in
- 1084 Section [26B-1-201](#).
- 1085 (c) "Electronic cigarette product" means the same as that term is defined in Section
- 1086 [76-10-101](#).
- 1087 (d) "Flavored electronic cigarette product" means the same as that term is defined in
- 1088 Section [76-10-101](#).
- 1089 (e) "Licensee" means a person licensed under this section to conduct business as a
- 1090 retail tobacco specialty business.
- 1091 (f) "Local health department" means the same as that term is defined in Section
- 1092 [26A-1-102](#).
- 1093 (g) "Nicotine product" means the same as that term is defined in Section [76-10-101](#).
- 1094 (h) "Retail tobacco specialty business" means a commercial establishment in which:
- 1095 (i) sales of tobacco products, electronic cigarette products, and nicotine products
- 1096 account for more than 35% of the total quarterly gross receipts for the establishment;
- 1097 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
- 1098 storage of tobacco products, electronic cigarette products, or nicotine products;
- 1099 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of
- 1100 tobacco products, electronic cigarette products, or nicotine products;
- 1101 (iv) the commercial establishment:
- 1102 (A) holds itself out as a retail tobacco specialty business; and
- 1103 (B) causes a reasonable person to believe the commercial establishment is a retail
- 1104 tobacco specialty business;
- 1105 (v) any flavored electronic cigarette product is sold; or
- 1106 (vi) the retail space features a self-service display for tobacco products, electronic
- 1107 cigarette products, or nicotine products.
- 1108 (i) "Self-service display" means the same as that term is defined in Section
- 1109 [76-10-105.1](#).
- 1110 (j) "Tobacco product" means:
- 1111 (i) a tobacco product as defined in Section [76-10-101](#); or
- 1112 (ii) tobacco paraphernalia as defined in Section [76-10-101](#).

1113 (2) The regulation of a retail tobacco specialty business is an exercise of the police
1114 powers of the state by the state or by delegation of the state's police powers to other
1115 governmental entities.

1116 (3) (a) A person may not operate a retail tobacco specialty business in a municipality
1117 unless the person obtains a license from the municipality in which the retail tobacco specialty
1118 business is located.

1119 (b) A municipality may only issue a retail tobacco specialty business license to a
1120 person if the person complies with the provisions of Subsections (4) and (5).

1121 (4) (a) Except as provided in Subsection (7), a municipality may not issue a license for
1122 a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty
1123 business is located within:

1124 (i) 1,000 feet of a community location;

1125 (ii) 600 feet of another retail tobacco specialty business; or

1126 (iii) 600 feet from property used or zoned for:

1127 (A) agriculture use; or

1128 (B) residential use.

1129 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in
1130 a straight line from the nearest entrance of the retail tobacco specialty business to the nearest
1131 property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard
1132 to intervening structures or zoning districts.

1133 (5) A municipality may not issue or renew a license for a person to conduct business as
1134 a retail tobacco specialty business until the person provides the municipality with proof that the
1135 retail tobacco specialty business has:

1136 (a) a valid permit for a retail tobacco specialty business issued under [~~Title 26, Chapter~~
1137 ~~62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7,
1138 Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health
1139 department having jurisdiction over the area in which the retail tobacco specialty business is
1140 located; and

1141 (b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax
1142 Commission in accordance with Section [59-14-201](#) or [59-14-301](#) to sell a tobacco product; and

1143 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid

1144 license issued by the State Tax Commission in accordance with Section [59-14-803](#) to sell an
1145 electronic cigarette product or a nicotine product.

1146 (6) (a) Nothing in this section:

1147 (i) requires a municipality to issue a retail tobacco specialty business license; or

1148 (ii) prohibits a municipality from adopting more restrictive requirements on a person
1149 seeking a license or renewal of a license to conduct business as a retail tobacco specialty
1150 business.

1151 (b) A municipality may suspend or revoke a retail tobacco specialty business license
1152 issued under this section:

1153 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10,
1154 Part 16, Pattern of Unlawful Activity Act;

1155 (ii) if a licensee violates federal law or federal regulations restricting the sale and
1156 distribution of tobacco products or electronic cigarette products to protect children and
1157 adolescents;

1158 (iii) upon the recommendation of the department or a local health department under
1159 [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title
1160 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products; or

1161 (iv) under any other provision of state law or local ordinance.

1162 (7) (a) A retail tobacco specialty business is exempt from Subsection (4) if:

1163 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
1164 license to conduct business as a retail tobacco specialty business;

1165 (ii) the retail tobacco specialty business is operating in a municipality in accordance
1166 with all applicable laws except for the requirement in Subsection (4); and

1167 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
1168 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

1169 (b) A retail tobacco specialty business may maintain an exemption under Subsection
1170 (7)(a) if:

1171 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse
1172 or permanent revocation;

1173 (ii) the retail tobacco specialty business does not close for business or otherwise
1174 suspend the sale of tobacco products, electronic cigarette products, or nicotine products for

1175 more than 60 consecutive days;

1176 (iii) the retail tobacco specialty business does not substantially change the business
1177 premises or business operation; and

1178 (iv) the retail tobacco specialty business maintains the right to operate under the terms
1179 of other applicable laws, including:

1180 (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

1181 (B) zoning ordinances;

1182 (C) building codes; and

1183 (D) the requirements of the license described in Subsection (7)(a)(i).

1184 (c) A retail tobacco specialty business that does not qualify for an exemption under
1185 Subsection (7)(a) is exempt from Subsection (4) if:

1186 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
1187 general tobacco retailer permit or a retail tobacco specialty business permit under [~~Title 26,~~
1188 ~~Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B,
1189 Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the
1190 local health department having jurisdiction over the area in which the retail tobacco specialty
1191 business is located;

1192 (ii) the retail tobacco specialty business is operating in the municipality in accordance
1193 with all applicable laws except for the requirement in Subsection (4); and

1194 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
1195 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

1196 (d) Except as provided in Subsection (7)(e), a retail tobacco specialty business may
1197 maintain an exemption under Subsection (7)(c) if:

1198 (i) on or before December 31, 2020, the retail tobacco specialty business receives a
1199 retail tobacco specialty business permit from the local health department having jurisdiction
1200 over the area in which the retail tobacco specialty business is located;

1201 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse
1202 or permanent revocation;

1203 (iii) the retail tobacco specialty business does not close for business or otherwise
1204 suspend the sale of tobacco products, electronic cigarette products, or nicotine products for
1205 more than 60 consecutive days;

1206 (iv) the retail tobacco specialty business does not substantially change the business
1207 premises or business operation as the business existed when the retail tobacco specialty
1208 business received a permit under Subsection (7)(d)(i); and

1209 (v) the retail tobacco specialty business maintains the right to operate under the terms
1210 of other applicable laws, including:

1211 (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

1212 (B) zoning ordinances;

1213 (C) building codes; and

1214 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

1215 (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is
1216 located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high,
1217 or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco
1218 specialty business:

1219 (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use
1220 and located within a group of architecturally unified commercial establishments built on a site
1221 that is planned, developed, owned, and managed as an operating unit; and

1222 (ii) continues to meet the requirements described in Subsection (7)(b) that are not
1223 directly related to the relocation described in this Subsection (7)(e).

1224 Section 16. Section **10-8-84.6** is amended to read:

1225 **10-8-84.6. Prohibition on licensing or certification of child care programs.**

1226 (1) (a) As used in this section, "child care program" means a child care facility or
1227 program operated by a person who holds a license or certificate from the Department of Health
1228 and Human Services under [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B,
1229 Chapter 2, Part 4, Child Care Licensing.

1230 (b) "Child care program" does not include a child care program for which a
1231 municipality provides oversight, as described in Subsection [~~26-39-403(2)(c)~~] 26B-2-405(2)(e).

1232 (2) A municipality may not enact or enforce an ordinance that:

1233 (a) imposes licensing or certification requirements for a child care program; or

1234 (b) governs the manner in which child care is provided in a child care program.

1235 (3) This section does not prohibit a municipality from:

1236 (a) requiring a business license to operate a business within the municipality; or

1237 (b) imposing requirements related to building, health, and fire codes.

1238 Section 17. Section **10-8-85.5** is amended to read:

1239 **10-8-85.5. "Rental dwelling" defined -- Municipality may require a business**
1240 **license or a regulatory business license and inspections -- Exception.**

1241 (1) As used in this section, "rental dwelling" means a building or portion of a building
1242 that is:

1243 (a) used or designated for use as a residence by one or more persons; and

1244 (b) (i) available to be rented, loaned, leased, or hired out for a period of one month or
1245 longer; or

1246 (ii) arranged, designed, or built to be rented, loaned, leased, or hired out for a period of
1247 one month or longer.

1248 (2) (a) The legislative body of a municipality may by ordinance require the owner of a
1249 rental dwelling located within the municipality:

1250 (i) to obtain a business license pursuant to Section [10-1-203](#); or

1251 (ii) (A) to obtain a regulatory business license to operate and maintain the rental
1252 dwelling in accordance with Section [10-1-203.5](#); and

1253 (B) to allow inspections of the rental dwelling as a condition of obtaining a regulatory
1254 business license.

1255 (b) A municipality may not require an owner of multiple rental dwellings or multiple
1256 buildings containing rental dwellings to obtain more than one regulatory business license for
1257 the operation and maintenance of those rental dwellings.

1258 (c) A municipality may not charge a fee for the inspection of a rental dwelling.

1259 (d) If a municipality's inspection of a rental dwelling, allowed under Subsection
1260 (2)(a)(ii)(B), approves the rental dwelling for purposes of a regulatory business license, a
1261 municipality may not inspect that rental dwelling except as provided for in Section [10-1-203.5](#).

1262 (3) A municipality may not:

1263 (a) interfere with the ability of an owner of a rental dwelling to contract with a tenant
1264 concerning the payment of the cost of a utility or municipal service provided to the rental
1265 dwelling; or

1266 (b) except as required under the State Construction Code or an approved code under
1267 Title 15A, State Construction and Fire Codes Act, for a structural change to the rental dwelling,

1268 or as required in an ordinance adopted before January 1, 2008, require the owner of a rental
1269 dwelling to retrofit the rental dwelling with or install in the rental dwelling a safety feature that
1270 was not required when the rental dwelling was constructed.

1271 (4) Nothing in this section shall be construed to affect the rights and duties established
1272 under Title 57, Chapter 22, Utah Fit Premises Act, or to restrict a municipality's ability to
1273 enforce its generally applicable health ordinances or building code, a local health department's
1274 authority under Title 26A, Chapter 1, Local Health Departments, or the Utah Department of
1275 Health's Health and Human Service's authority under [~~Title 26, Utah Health Code~~] Title 26B,
1276 Utah Health and Human Services Code.

1277 Section 18. Section **10-8-90** is amended to read:

1278 **10-8-90. Ownership and operation of hospitals.**

1279 (1) Each city of the third, fourth, or fifth class and each town of the state is authorized
1280 to construct, own, and operate hospitals and to join with other cities, towns, and counties in the
1281 construction, ownership, and operation of hospitals.

1282 (2) (a) Beginning July 1, 2017, a hospital under Subsection (1) that owns a nursing care
1283 facility regulated under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection~~
1284 ~~Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, and uses an
1285 intergovernmental transfer as that term is defined in Section [~~26-18-21~~] 26B-3-130 may not
1286 enter into a new agreement or arrangement to operate a nursing care facility in another city,
1287 town, or county without first entering into an agreement under Title 11, Chapter 13, Interlocal
1288 Cooperation Act, or other contract with the other city, town, or county to operate the nursing
1289 care facility.

1290 (b) Subsection (2)(a) only applies to a city or town described in Subsection (1).

1291 Section 19. Section **10-9a-103** is amended to read:

1292 **10-9a-103. Definitions.**

1293 As used in this chapter:

1294 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
1295 detached from a primary single-family dwelling and contained on one lot.

1296 (2) "Adversely affected party" means a person other than a land use applicant who:

1297 (a) owns real property adjoining the property that is the subject of a land use
1298 application or land use decision; or

1299 (b) will suffer a damage different in kind than, or an injury distinct from, that of the
1300 general community as a result of the land use decision.

1301 (3) "Affected entity" means a county, municipality, local district, special service
1302 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
1303 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
1304 public utility, property owner, property owners association, or the Utah Department of
1305 Transportation, if:

1306 (a) the entity's services or facilities are likely to require expansion or significant
1307 modification because of an intended use of land;

1308 (b) the entity has filed with the municipality a copy of the entity's general or long-range
1309 plan; or

1310 (c) the entity has filed with the municipality a request for notice during the same
1311 calendar year and before the municipality provides notice to an affected entity in compliance
1312 with a requirement imposed under this chapter.

1313 (4) "Affected owner" means the owner of real property that is:

1314 (a) a single project;

1315 (b) the subject of a land use approval that sponsors of a referendum timely challenged
1316 in accordance with Subsection [20A-7-601\(6\)](#); and

1317 (c) determined to be legally referable under Section [20A-7-602.8](#).

1318 (5) "Appeal authority" means the person, board, commission, agency, or other body
1319 designated by ordinance to decide an appeal of a decision of a land use application or a
1320 variance.

1321 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or
1322 residential property if the sign is designed or intended to direct attention to a business, product,
1323 or service that is not sold, offered, or existing on the property where the sign is located.

1324 (7) (a) "Charter school" means:

1325 (i) an operating charter school;

1326 (ii) a charter school applicant that a charter school authorizer approves in accordance
1327 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

1328 (iii) an entity that is working on behalf of a charter school or approved charter
1329 applicant to develop or construct a charter school building.

1330 (b) "Charter school" does not include a therapeutic school.

1331 (8) "Conditional use" means a land use that, because of the unique characteristics or
1332 potential impact of the land use on the municipality, surrounding neighbors, or adjacent land
1333 uses, may not be compatible in some areas or may be compatible only if certain conditions are
1334 required that mitigate or eliminate the detrimental impacts.

1335 (9) "Constitutional taking" means a governmental action that results in a taking of
1336 private property so that compensation to the owner of the property is required by the:

1337 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

1338 (b) Utah Constitution Article I, Section 22.

1339 (10) "Culinary water authority" means the department, agency, or public entity with
1340 responsibility to review and approve the feasibility of the culinary water system and sources for
1341 the subject property.

1342 (11) "Development activity" means:

1343 (a) any construction or expansion of a building, structure, or use that creates additional
1344 demand and need for public facilities;

1345 (b) any change in use of a building or structure that creates additional demand and need
1346 for public facilities; or

1347 (c) any change in the use of land that creates additional demand and need for public
1348 facilities.

1349 (12) (a) "Development agreement" means a written agreement or amendment to a
1350 written agreement between a municipality and one or more parties that regulates or controls the
1351 use or development of a specific area of land.

1352 (b) "Development agreement" does not include an improvement completion assurance.

1353 (13) (a) "Disability" means a physical or mental impairment that substantially limits
1354 one or more of a person's major life activities, including a person having a record of such an
1355 impairment or being regarded as having such an impairment.

1356 (b) "Disability" does not include current illegal use of, or addiction to, any federally
1357 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
1358 802.

1359 (14) "Educational facility":

1360 (a) means:

1361 (i) a school district's building at which pupils assemble to receive instruction in a
1362 program for any combination of grades from preschool through grade 12, including
1363 kindergarten and a program for children with disabilities;

1364 (ii) a structure or facility:

1365 (A) located on the same property as a building described in Subsection (14)(a)(i); and

1366 (B) used in support of the use of that building; and

1367 (iii) a building to provide office and related space to a school district's administrative
1368 personnel; and

1369 (b) does not include:

1370 (i) land or a structure, including land or a structure for inventory storage, equipment
1371 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

1372 (A) not located on the same property as a building described in Subsection (14)(a)(i);

1373 and

1374 (B) used in support of the purposes of a building described in Subsection (14)(a)(i); or

1375 (ii) a therapeutic school.

1376 (15) "Fire authority" means the department, agency, or public entity with responsibility
1377 to review and approve the feasibility of fire protection and suppression services for the subject
1378 property.

1379 (16) "Flood plain" means land that:

1380 (a) is within the 100-year flood plain designated by the Federal Emergency

1381 Management Agency; or

1382 (b) has not been studied or designated by the Federal Emergency Management Agency
1383 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
1384 the land has characteristics that are similar to those of a 100-year flood plain designated by the
1385 Federal Emergency Management Agency.

1386 (17) "General plan" means a document that a municipality adopts that sets forth general
1387 guidelines for proposed future development of the land within the municipality.

1388 (18) "Geologic hazard" means:

1389 (a) a surface fault rupture;

1390 (b) shallow groundwater;

1391 (c) liquefaction;

- 1392 (d) a landslide;
- 1393 (e) a debris flow;
- 1394 (f) unstable soil;
- 1395 (g) a rock fall; or
- 1396 (h) any other geologic condition that presents a risk:
- 1397 (i) to life;
- 1398 (ii) of substantial loss of real property; or
- 1399 (iii) of substantial damage to real property.
- 1400 (19) "Historic preservation authority" means a person, board, commission, or other
- 1401 body designated by a legislative body to:
- 1402 (a) recommend land use regulations to preserve local historic districts or areas; and
- 1403 (b) administer local historic preservation land use regulations within a local historic
- 1404 district or area.
- 1405 (20) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 1406 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other
- 1407 utility system.
- 1408 (21) "Identical plans" means building plans submitted to a municipality that:
- 1409 (a) are clearly marked as "identical plans";
- 1410 (b) are substantially identical to building plans that were previously submitted to and
- 1411 reviewed and approved by the municipality; and
- 1412 (c) describe a building that:
- 1413 (i) is located on land zoned the same as the land on which the building described in the
- 1414 previously approved plans is located;
- 1415 (ii) is subject to the same geological and meteorological conditions and the same law
- 1416 as the building described in the previously approved plans;
- 1417 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
- 1418 and approved by the municipality; and
- 1419 (iv) does not require any additional engineering or analysis.
- 1420 (22) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
- 1421 Impact Fees Act.
- 1422 (23) "Improvement completion assurance" means a surety bond, letter of credit,

1423 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
1424 by a municipality to guaranty the proper completion of landscaping or an infrastructure
1425 improvement required as a condition precedent to:

- 1426 (a) recording a subdivision plat; or
- 1427 (b) development of a commercial, industrial, mixed use, or multifamily project.

1428 (24) "Improvement warranty" means an applicant's unconditional warranty that the
1429 applicant's installed and accepted landscaping or infrastructure improvement:

- 1430 (a) complies with the municipality's written standards for design, materials, and
1431 workmanship; and

- 1432 (b) will not fail in any material respect, as a result of poor workmanship or materials,
1433 within the improvement warranty period.

1434 (25) "Improvement warranty period" means a period:

- 1435 (a) no later than one year after a municipality's acceptance of required landscaping; or
- 1436 (b) no later than one year after a municipality's acceptance of required infrastructure,

1437 unless the municipality:

- 1438 (i) determines for good cause that a one-year period would be inadequate to protect the
1439 public health, safety, and welfare; and

- 1440 (ii) has substantial evidence, on record:

- 1441 (A) of prior poor performance by the applicant; or

- 1442 (B) that the area upon which the infrastructure will be constructed contains suspect soil
1443 and the municipality has not otherwise required the applicant to mitigate the suspect soil.

1444 (26) "Infrastructure improvement" means permanent infrastructure that is essential for
1445 the public health and safety or that:

- 1446 (a) is required for human occupation; and

- 1447 (b) an applicant must install:

- 1448 (i) in accordance with published installation and inspection specifications for public
1449 improvements; and

- 1450 (ii) whether the improvement is public or private, as a condition of:

- 1451 (A) recording a subdivision plat;

- 1452 (B) obtaining a building permit; or

- 1453 (C) development of a commercial, industrial, mixed use, condominium, or multifamily

1454 project.

1455 (27) "Internal lot restriction" means a platted note, platted demarcation, or platted
1456 designation that:

1457 (a) runs with the land; and

1458 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
1459 the plat; or

1460 (ii) designates a development condition that is enclosed within the perimeter of a lot
1461 described on the plat.

1462 (28) "Land use applicant" means a property owner, or the property owner's designee,
1463 who submits a land use application regarding the property owner's land.

1464 (29) "Land use application":

1465 (a) means an application that is:

1466 (i) required by a municipality; and

1467 (ii) submitted by a land use applicant to obtain a land use decision; and

1468 (b) does not mean an application to enact, amend, or repeal a land use regulation.

1469 (30) "Land use authority" means:

1470 (a) a person, board, commission, agency, or body, including the local legislative body,
1471 designated by the local legislative body to act upon a land use application; or

1472 (b) if the local legislative body has not designated a person, board, commission,
1473 agency, or body, the local legislative body.

1474 (31) "Land use decision" means an administrative decision of a land use authority or
1475 appeal authority regarding:

1476 (a) a land use permit; or

1477 (b) a land use application.

1478 (32) "Land use permit" means a permit issued by a land use authority.

1479 (33) "Land use regulation":

1480 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
1481 specification, fee, or rule that governs the use or development of land;

1482 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
1483 and

1484 (c) does not include:

1485 (i) a land use decision of the legislative body acting as the land use authority, even if
1486 the decision is expressed in a resolution or ordinance; or

1487 (ii) a temporary revision to an engineering specification that does not materially:

1488 (A) increase a land use applicant's cost of development compared to the existing
1489 specification; or

1490 (B) impact a land use applicant's use of land.

1491 (34) "Legislative body" means the municipal council.

1492 (35) "Local district" means an entity under Title 17B, Limited Purpose Local
1493 Government Entities - Local Districts, and any other governmental or quasi-governmental
1494 entity that is not a county, municipality, school district, or the state.

1495 (36) "Local historic district or area" means a geographically definable area that:

1496 (a) contains any combination of buildings, structures, sites, objects, landscape features,
1497 archeological sites, or works of art that contribute to the historic preservation goals of a
1498 legislative body; and

1499 (b) is subject to land use regulations to preserve the historic significance of the local
1500 historic district or area.

1501 (37) "Lot" means a tract of land, regardless of any label, that is created by and shown
1502 on a subdivision plat that has been recorded in the office of the county recorder.

1503 (38) (a) "Lot line adjustment" means a relocation of a lot line boundary between
1504 adjoining lots or between a lot and adjoining parcels in accordance with Section [10-9a-608](#):

1505 (i) whether or not the lots are located in the same subdivision; and

1506 (ii) with the consent of the owners of record.

1507 (b) "Lot line adjustment" does not mean a new boundary line that:

1508 (i) creates an additional lot; or

1509 (ii) constitutes a subdivision.

1510 (c) "Lot line adjustment" does not include a boundary line adjustment made by the
1511 Department of Transportation.

1512 (39) "Major transit investment corridor" means public transit service that uses or
1513 occupies:

1514 (a) public transit rail right-of-way;

1515 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit;

1516 or

1517 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
1518 municipality or county and:

1519 (i) a public transit district as defined in Section 17B-2a-802; or

1520 (ii) an eligible political subdivision as defined in Section 59-12-2219.

1521 (40) "Moderate income housing" means housing occupied or reserved for occupancy
1522 by households with a gross household income equal to or less than 80% of the median gross
1523 income for households of the same size in the county in which the city is located.

1524 (41) "Municipal utility easement" means an easement that:

1525 (a) is created or depicted on a plat recorded in a county recorder's office and is
1526 described as a municipal utility easement granted for public use;

1527 (b) is not a protected utility easement or a public utility easement as defined in Section
1528 54-3-27;

1529 (c) the municipality or the municipality's affiliated governmental entity uses and
1530 occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm
1531 water, or communications or data lines;

1532 (d) is used or occupied with the consent of the municipality in accordance with an
1533 authorized franchise or other agreement;

1534 (e) (i) is used or occupied by a specified public utility in accordance with an authorized
1535 franchise or other agreement; and

1536 (ii) is located in a utility easement granted for public use; or

1537 (f) is described in Section 10-9a-529 and is used by a specified public utility.

1538 (42) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
1539 spent and expenses incurred in:

1540 (a) verifying that building plans are identical plans; and

1541 (b) reviewing and approving those minor aspects of identical plans that differ from the
1542 previously reviewed and approved building plans.

1543 (43) "Noncomplying structure" means a structure that:

1544 (a) legally existed before the structure's current land use designation; and

1545 (b) because of one or more subsequent land use ordinance changes, does not conform
1546 to the setback, height restrictions, or other regulations, excluding those regulations, which

1547 govern the use of land.

1548 (44) "Nonconforming use" means a use of land that:

1549 (a) legally existed before its current land use designation;

1550 (b) has been maintained continuously since the time the land use ordinance governing

1551 the land changed; and

1552 (c) because of one or more subsequent land use ordinance changes, does not conform

1553 to the regulations that now govern the use of the land.

1554 (45) "Official map" means a map drawn by municipal authorities and recorded in a

1555 county recorder's office that:

1556 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for

1557 highways and other transportation facilities;

1558 (b) provides a basis for restricting development in designated rights-of-way or between

1559 designated setbacks to allow the government authorities time to purchase or otherwise reserve

1560 the land; and

1561 (c) has been adopted as an element of the municipality's general plan.

1562 (46) "Parcel" means any real property that is not a lot.

1563 (47) (a) "Parcel boundary adjustment" means a recorded agreement between owners of

1564 adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line

1565 agreement in accordance with Section [10-9a-524](#), if no additional parcel is created and:

1566 (i) none of the property identified in the agreement is a lot; or

1567 (ii) the adjustment is to the boundaries of a single person's parcels.

1568 (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary

1569 line that:

1570 (i) creates an additional parcel; or

1571 (ii) constitutes a subdivision.

1572 (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by

1573 the Department of Transportation.

1574 (48) "Person" means an individual, corporation, partnership, organization, association,

1575 trust, governmental agency, or any other legal entity.

1576 (49) "Plan for moderate income housing" means a written document adopted by a

1577 municipality's legislative body that includes:

1578 (a) an estimate of the existing supply of moderate income housing located within the
1579 municipality;

1580 (b) an estimate of the need for moderate income housing in the municipality for the
1581 next five years;

1582 (c) a survey of total residential land use;

1583 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
1584 income housing; and

1585 (e) a description of the municipality's program to encourage an adequate supply of
1586 moderate income housing.

1587 (50) "Plat" means an instrument subdividing property into lots as depicted on a map or
1588 other graphical representation of lands that a licensed professional land surveyor makes and
1589 prepares in accordance with Section [10-9a-603](#) or [57-8-13](#).

1590 (51) "Potential geologic hazard area" means an area that:

1591 (a) is designated by a Utah Geological Survey map, county geologist map, or other
1592 relevant map or report as needing further study to determine the area's potential for geologic
1593 hazard; or

1594 (b) has not been studied by the Utah Geological Survey or a county geologist but
1595 presents the potential of geologic hazard because the area has characteristics similar to those of
1596 a designated geologic hazard area.

1597 (52) "Public agency" means:

1598 (a) the federal government;

1599 (b) the state;

1600 (c) a county, municipality, school district, local district, special service district, or other
1601 political subdivision of the state; or

1602 (d) a charter school.

1603 (53) "Public hearing" means a hearing at which members of the public are provided a
1604 reasonable opportunity to comment on the subject of the hearing.

1605 (54) "Public meeting" means a meeting that is required to be open to the public under
1606 Title 52, Chapter 4, Open and Public Meetings Act.

1607 (55) "Public street" means a public right-of-way, including a public highway, public
1608 avenue, public boulevard, public parkway, public road, public lane, public alley, public

1609 viaduct, public subway, public tunnel, public bridge, public byway, other public transportation
1610 easement, or other public way.

1611 (56) "Receiving zone" means an area of a municipality that the municipality
1612 designates, by ordinance, as an area in which an owner of land may receive a transferable
1613 development right.

1614 (57) "Record of survey map" means a map of a survey of land prepared in accordance
1615 with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

1616 (58) "Residential facility for persons with a disability" means a residence:

1617 (a) in which more than one person with a disability resides; and

1618 ~~[(b) (i) which is licensed or certified by the Department of Human Services under Title~~
1619 ~~62A, Chapter 2, Licensure of Programs and Facilities; or]~~

1620 ~~[(ii) which is licensed or certified by the Department of Health under Title 26, Chapter~~
1621 ~~21, Health Care Facility Licensing and Inspection Act.]~~

1622 (b) which is licensed or certified by the Department of Health and Human Services
1623 under:

1624 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

1625 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

1626 (59) "Rules of order and procedure" means a set of rules that govern and prescribe in a
1627 public meeting:

1628 (a) parliamentary order and procedure;

1629 (b) ethical behavior; and

1630 (c) civil discourse.

1631 (60) "Sanitary sewer authority" means the department, agency, or public entity with
1632 responsibility to review and approve the feasibility of sanitary sewer services or onsite
1633 wastewater systems.

1634 (61) "Sending zone" means an area of a municipality that the municipality designates,
1635 by ordinance, as an area from which an owner of land may transfer a transferable development
1636 right.

1637 (62) "Specified public agency" means:

1638 (a) the state;

1639 (b) a school district; or

1640 (c) a charter school.

1641 (63) "Specified public utility" means an electrical corporation, gas corporation, or
1642 telephone corporation, as those terms are defined in Section 54-2-1.

1643 (64) "State" includes any department, division, or agency of the state.

1644 (65) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be
1645 divided into two or more lots or other division of land for the purpose, whether immediate or
1646 future, for offer, sale, lease, or development either on the installment plan or upon any and all
1647 other plans, terms, and conditions.

1648 (b) "Subdivision" includes:

1649 (i) the division or development of land, whether by deed, metes and bounds
1650 description, devise and testacy, map, plat, or other recorded instrument, regardless of whether
1651 the division includes all or a portion of a parcel or lot; and

1652 (ii) except as provided in Subsection (65)(c), divisions of land for residential and
1653 nonresidential uses, including land used or to be used for commercial, agricultural, and
1654 industrial purposes.

1655 (c) "Subdivision" does not include:

1656 (i) a bona fide division or partition of agricultural land for the purpose of joining one of
1657 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
1658 neither the resulting combined parcel nor the parcel remaining from the division or partition
1659 violates an applicable land use ordinance;

1660 (ii) a boundary line agreement recorded with the county recorder's office between
1661 owners of adjoining parcels adjusting the mutual boundary in accordance with Section
1662 10-9a-524 if no new parcel is created;

1663 (iii) a recorded document, executed by the owner of record:

1664 (A) revising the legal descriptions of multiple parcels into one legal description
1665 encompassing all such parcels; or

1666 (B) joining a lot to a parcel;

1667 (iv) a boundary line agreement between owners of adjoining subdivided properties
1668 adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:

1669 (A) no new dwelling lot or housing unit will result from the adjustment; and

1670 (B) the adjustment will not violate any applicable land use ordinance;

- 1671 (v) a bona fide division of land by deed or other instrument if the deed or other
- 1672 instrument states in writing that the division:
 - 1673 (A) is in anticipation of future land use approvals on the parcel or parcels;
 - 1674 (B) does not confer any land use approvals; and
 - 1675 (C) has not been approved by the land use authority;
- 1676 (vi) a parcel boundary adjustment;
- 1677 (vii) a lot line adjustment;
- 1678 (viii) a road, street, or highway dedication plat;
- 1679 (ix) a deed or easement for a road, street, or highway purpose; or
- 1680 (x) any other division of land authorized by law.
- 1681 (66) "Subdivision amendment" means an amendment to a recorded subdivision in
- 1682 accordance with Section 10-9a-608 that:
 - 1683 (a) vacates all or a portion of the subdivision;
 - 1684 (b) alters the outside boundary of the subdivision;
 - 1685 (c) changes the number of lots within the subdivision;
 - 1686 (d) alters a public right-of-way, a public easement, or public infrastructure within the
 - 1687 subdivision; or
 - 1688 (e) alters a common area or other common amenity within the subdivision.
- 1689 (67) "Substantial evidence" means evidence that:
 - 1690 (a) is beyond a scintilla; and
 - 1691 (b) a reasonable mind would accept as adequate to support a conclusion.
- 1692 (68) "Suspect soil" means soil that has:
 - 1693 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
 - 1694 3% swell potential;
 - 1695 (b) bedrock units with high shrink or swell susceptibility; or
 - 1696 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
 - 1697 commonly associated with dissolution and collapse features.
- 1698 (69) "Therapeutic school" means a residential group living facility:
 - 1699 (a) for four or more individuals who are not related to:
 - 1700 (i) the owner of the facility; or
 - 1701 (ii) the primary service provider of the facility;

1702 (b) that serves students who have a history of failing to function:

1703 (i) at home;

1704 (ii) in a public school; or

1705 (iii) in a nonresidential private school; and

1706 (c) that offers:

1707 (i) room and board; and

1708 (ii) an academic education integrated with:

1709 (A) specialized structure and supervision; or

1710 (B) services or treatment related to a disability, an emotional development, a
1711 behavioral development, a familial development, or a social development.

1712 (70) "Transferable development right" means a right to develop and use land that
1713 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
1714 land use rights from a designated sending zone to a designated receiving zone.

1715 (71) "Unincorporated" means the area outside of the incorporated area of a city or
1716 town.

1717 (72) "Water interest" means any right to the beneficial use of water, including:

1718 (a) each of the rights listed in Section 73-1-11; and

1719 (b) an ownership interest in the right to the beneficial use of water represented by:

1720 (i) a contract; or

1721 (ii) a share in a water company, as defined in Section 73-3-3.5.

1722 (73) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
1723 land use zones, overlays, or districts.

1724 Section 20. Section 10-9a-520 is amended to read:

1725 **10-9a-520. Licensing of residences for persons with a disability.**

1726 The responsibility to license programs or entities that operate facilities for persons with
1727 a disability, as well as to require and monitor the provision of adequate services to persons
1728 residing in those facilities, shall rest with the Department of Health and Human Services as
1729 provided in:

1730 [~~(1) for programs or entities licensed or certified by the Department of Human~~
1731 ~~Services, the Department of Human Services as provided in Title 62A, Chapter 5, Services for~~
1732 ~~People with Disabilities; and]~~

1733 ~~[(2) for programs or entities licensed or certified by the Department of Health, the~~
 1734 ~~Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and~~
 1735 ~~Inspection Act.]~~

1736 (1) Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities; and

1737 (2) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

1738 Section 21. Section **10-9a-528** is amended to read:

1739 **10-9a-528. Cannabis production establishments, medical cannabis pharmacies,**
 1740 **and industrial hemp producer licensee.**

1741 (1) As used in this section:

1742 (a) "Cannabis production establishment" means the same as that term is defined in
 1743 Section [4-41a-102](#).

1744 (b) "Industrial hemp producer licensee" means the same as the term "licensee" is
 1745 defined in Section [4-41-102](#).

1746 (c) "Medical cannabis pharmacy" means the same as that term is defined in Section
 1747 ~~[26-61a-102]~~ [26B-4-201](#).

1748 (2) (a) (i) A municipality may not regulate a cannabis production establishment in
 1749 conflict with:

1750 (A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable
 1751 jurisprudence; and

1752 (B) this chapter.

1753 (ii) A municipality may not regulate a medical cannabis pharmacy in conflict with:

1754 (A) ~~[Title 26, Chapter 61a, Utah Medical Cannabis Act]~~ Title 26B, Chapter 4, Part 2,
 1755 Cannabinoid Research and Medical Cannabis, and applicable jurisprudence; and

1756 (B) this chapter.

1757 (iii) A municipality may not regulate an industrial hemp producer licensee in conflict
 1758 with:

1759 (A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and

1760 (B) this chapter.

1761 (b) The Department of Agriculture and Food has plenary authority to license programs
 1762 or entities that operate a cannabis production establishment.

1763 (c) The Department of Health and Human Services has plenary authority to license

1764 programs or entities that operate a medical cannabis pharmacy.

1765 (3) (a) Within the time period described in Subsection (3)(b), a municipality shall
1766 prepare and adopt a land use regulation, development agreement, or land use decision in
1767 accordance with this title and:

1768 (i) regarding a cannabis production establishment, Section [4-41a-406](#); or

1769 (ii) regarding a medical cannabis pharmacy, Section [\[26-61a-507\] 26B-4-235](#).

1770 (b) A municipality shall take the action described in Subsection (3)(a):

1771 (i) before January 1, 2021, within 45 days after the day on which the municipality
1772 receives a petition for the action; and

1773 (ii) after January 1, 2021, in accordance with Subsection [10-9a-509.5\(2\)](#).

1774 Section 22. Section **11-46-102** is amended to read:

1775 **11-46-102. Definitions.**

1776 As used in this chapter:

1777 (1) "Animal" means a cat or dog.

1778 (2) "Animal control officer" means any person employed or appointed by a county or a
1779 municipality who is authorized to investigate violations of laws and ordinances concerning
1780 animals, to issue citations in accordance with Utah law, and take custody of animals as
1781 appropriate in the enforcement of the laws and ordinances.

1782 (3) "Animal shelter" means a facility or program:

1783 (a) providing services for stray, lost, or unwanted animals, including holding and
1784 placing the animals for adoption, but does not include an institution conducting research on
1785 animals, as defined in Section [\[26-26-1\] 26B-1-236](#); or

1786 (b) a private humane society or private animal welfare organization.

1787 (4) "Person" means an individual, an entity, or a representative of an entity.

1788 Section 23. Section **11-48-101.5** is amended to read:

1789 **11-48-101.5. Definitions.**

1790 As used in this chapter:

1791 (1) (a) "911 ambulance services" means ambulance services rendered in response to a
1792 911 call received by a designated dispatch center that receives 911 or E911 calls.

1793 (b) "911 ambulance services" does not mean a seven or ten digit telephone call
1794 received directly by an ambulance provider licensed under ~~[Title 26, Chapter 8a, Utah~~

1795 ~~Emergency Medical Services System Act]~~ Title 26B, Chapter 4, Part 1, Utah Emergency
 1796 Medical Services System.

1797 (2) "Municipality" means a city, town, or metro township.

1798 (3) "Political subdivision" means a county, city, town, local district, or special district.

1799 Section 24. Section **11-48-103** is amended to read:

1800 **11-48-103. Provision of 911 ambulance services in municipalities and counties.**

1801 (1) The governing body of each municipality and county shall, subject to [~~Title 26,~~
 1802 ~~Chapter 8a, Part 4, Ambulance and Paramedic Providers]~~ Title 26B, Chapter 4, Part 1, Utah
 1803 Emergency Medical Services System, ensure at least a minimum level of 911 ambulance
 1804 services are provided:

1805 (a) within the territorial limits of the municipality or county;

1806 (b) by a ground ambulance provider, licensed by the Department of Health and Human
 1807 Services under [~~Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers]~~ Title 26B,
 1808 Chapter 4, Part 1, Utah Emergency Medical Services System; and

1809 (c) in accordance with rules established by the State Emergency Medical Services
 1810 Committee under [~~Subsection 26-8a-104(8)]~~ Section 26B-1-404.

1811 (2) A municipality or county may:

1812 (a) subject to Subsection (3), maintain and support 911 ambulance services for the
 1813 municipality's or county's own jurisdiction; or

1814 (b) contract to:

1815 (i) provide 911 ambulance services to any county, municipal corporation, local district,
 1816 special service district, interlocal entity, private corporation, nonprofit corporation, state
 1817 agency, or federal agency;

1818 (ii) receive 911 ambulance services from any county, municipal corporation, local
 1819 district, special service district, interlocal entity, private corporation, nonprofit corporation,
 1820 state agency, or federal agency;

1821 (iii) jointly provide 911 ambulance services with any county, municipal corporation,
 1822 local district, special service district, interlocal entity, private corporation, nonprofit
 1823 corporation, state agency, or federal agency; or

1824 (iv) contribute toward the support of 911 ambulance services in any county, municipal
 1825 corporation, local district, special service district, interlocal entity, private corporation,

1826 nonprofit corporation, state agency, or federal agency in return for 911 ambulance services.

1827 (3) (a) A municipality or county that maintains and supports 911 ambulance services
1828 for the municipality's or county's own jurisdiction under Subsection (2)(a) shall obtain a license
1829 as a ground ambulance provider from the Department of Health and Human Services under
1830 [~~Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers~~] Title 26B, Chapter 4, Part
1831 1, Utah Emergency Medical Services System.

1832 (b) Subsections [~~26-8a-405~~] 26B-4-154 through [~~26-8a-405.3~~] 26B-4-157 do not apply
1833 to a license described in Subsection (3)(a).

1834 Section 25. Section **13-5b-103** is amended to read:

1835 **13-5b-103. Contract negotiation standards.**

1836 (1) An integrated health system shall prohibit any employee or independent contractor
1837 of any division, subsidiary, or affiliate engaged in the business of health insurance from
1838 negotiating contracts on behalf of the integrated health care system's health care facilities,
1839 subject to licensing under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection~~
1840 ~~Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, with any other
1841 licensed health insurer in the state.

1842 (2) An integrated health system shall prohibit the disclosure of contract pricing terms
1843 between the integrated health care system's health care facilities and other health insurers with
1844 the integrated health care system's divisions, subsidiaries, or affiliates which are engaged in the
1845 business of health insurance.

1846 Section 26. Section **13-59-102** is amended to read:

1847 **13-59-102. Definitions.**

1848 As used in this chapter:

1849 (1) "Enrollee" means the same as that term is defined in Section 31A-1-301.

1850 (2) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

1851 (3) "Health care provider" means a person licensed to provide health care under:

1852 (a) [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B,
1853 Chapter 2, Part 2, Health Care Facility Licensing and Inspection; or

1854 (b) Title 58, Occupations and Professions.

1855 Section 27. Section **13-61-101 (Effective 12/31/23)** is amended to read:

1856 **13-61-101 (Effective 12/31/23). Definitions.**

1857 As used in this chapter:

1858 (1) "Account" means the Consumer Privacy Restricted Account established in Section
1859 13-61-403.

1860 (2) "Affiliate" means an entity that:

1861 (a) controls, is controlled by, or is under common control with another entity; or

1862 (b) shares common branding with another entity.

1863 (3) "Aggregated data" means information that relates to a group or category of
1864 consumers:

1865 (a) from which individual consumer identities have been removed; and

1866 (b) that is not linked or reasonably linkable to any consumer.

1867 (4) "Air carrier" means the same as that term is defined in 49 U.S.C. Sec. 40102.

1868 (5) "Authenticate" means to use reasonable means to determine that a consumer's
1869 request to exercise the rights described in Section 13-61-201 is made by the consumer who is
1870 entitled to exercise those rights.

1871 (6) (a) "Biometric data" means data generated by automatic measurements of an
1872 individual's unique biological characteristics.

1873 (b) "Biometric data" includes data described in Subsection (6)(a) that are generated by
1874 automatic measurements of an individual's fingerprint, voiceprint, eye retinas, irises, or any
1875 other unique biological pattern or characteristic that is used to identify a specific individual.

1876 (c) "Biometric data" does not include:

1877 (i) a physical or digital photograph;

1878 (ii) a video or audio recording;

1879 (iii) data generated from an item described in Subsection (6)(c)(i) or (ii);

1880 (iv) information captured from a patient in a health care setting; or

1881 (v) information collected, used, or stored for treatment, payment, or health care
1882 operations as those terms are defined in 45 C.F.R. Parts 160, 162, and 164.

1883 (7) "Business associate" means the same as that term is defined in 45 C.F.R. Sec.
1884 160.103.

1885 (8) "Child" means an individual younger than 13 years old.

1886 (9) "Consent" means an affirmative act by a consumer that unambiguously indicates
1887 the consumer's voluntary and informed agreement to allow a person to process personal data

1888 related to the consumer.

1889 (10) (a) "Consumer" means an individual who is a resident of the state acting in an
1890 individual or household context.

1891 (b) "Consumer" does not include an individual acting in an employment or commercial
1892 context.

1893 (11) "Control" or "controlled" as used in Subsection (2) means:

1894 (a) ownership of, or the power to vote, more than 50% of the outstanding shares of any
1895 class of voting securities of an entity;

1896 (b) control in any manner over the election of a majority of the directors or of the
1897 individuals exercising similar functions; or

1898 (c) the power to exercise controlling influence of the management of an entity.

1899 (12) "Controller" means a person doing business in the state who determines the
1900 purposes for which and the means by which personal data are processed, regardless of whether
1901 the person makes the determination alone or with others.

1902 (13) "Covered entity" means the same as that term is defined in 45 C.F.R. Sec.
1903 160.103.

1904 (14) "Deidentified data" means data that:

1905 (a) cannot reasonably be linked to an identified individual or an identifiable individual;
1906 and

1907 (b) are possessed by a controller who:

1908 (i) takes reasonable measures to ensure that a person cannot associate the data with an
1909 individual;

1910 (ii) publicly commits to maintain and use the data only in deidentified form and not
1911 attempt to reidentify the data; and

1912 (iii) contractually obligates any recipients of the data to comply with the requirements
1913 described in Subsections (14)(b)(i) and (ii).

1914 (15) "Director" means the director of the Division of Consumer Protection.

1915 (16) "Division" means the Division of Consumer Protection created in Section [13-2-1](#).

1916 (17) "Governmental entity" means the same as that term is defined in Section
1917 [63G-2-103](#).

1918 (18) "Health care facility" means the same as that term is defined in Section [\[26-21-2\]](#)

- 1919 [26B-2-201](#).
- 1920 (19) "Health care provider" means the same as that term is defined in Section [~~26-21-2~~]
- 1921 [26B-2-201](#).
- 1922 (20) "Identifiable individual" means an individual who can be readily identified,
1923 directly or indirectly.
- 1924 (21) "Institution of higher education" means a public or private institution of higher
1925 education.
- 1926 (22) "Local political subdivision" means the same as that term is defined in Section
1927 [11-14-102](#).
- 1928 (23) "Nonprofit corporation" means:
- 1929 (a) the same as that term is defined in Section [16-6a-102](#); or
- 1930 (b) a foreign nonprofit corporation as defined in Section [16-6a-102](#).
- 1931 (24) (a) "Personal data" means information that is linked or reasonably linkable to an
1932 identified individual or an identifiable individual.
- 1933 (b) "Personal data" does not include deidentified data, aggregated data, or publicly
1934 available information.
- 1935 (25) "Process" means an operation or set of operations performed on personal data,
1936 including collection, use, storage, disclosure, analysis, deletion, or modification of personal
1937 data.
- 1938 (26) "Processor" means a person who processes personal data on behalf of a controller.
- 1939 (27) "Protected health information" means the same as that term is defined in 45 C.F.R.
1940 Sec. 160.103.
- 1941 (28) "Pseudonymous data" means personal data that cannot be attributed to a specific
1942 individual without the use of additional information, if the additional information is:
- 1943 (a) kept separate from the consumer's personal data; and
- 1944 (b) subject to appropriate technical and organizational measures to ensure that the
1945 personal data are not attributable to an identified individual or an identifiable individual.
- 1946 (29) "Publicly available information" means information that a person:
- 1947 (a) lawfully obtains from a record of a governmental entity;
- 1948 (b) reasonably believes a consumer or widely distributed media has lawfully made
1949 available to the general public; or

1950 (c) if the consumer has not restricted the information to a specific audience, obtains
1951 from a person to whom the consumer disclosed the information.

1952 (30) "Right" means a consumer right described in Section [13-61-201](#).

1953 (31) (a) "Sale," "sell," or "sold" means the exchange of personal data for monetary
1954 consideration by a controller to a third party.

1955 (b) "Sale," "sell," or "sold" does not include:

1956 (i) a controller's disclosure of personal data to a processor who processes the personal
1957 data on behalf of the controller;

1958 (ii) a controller's disclosure of personal data to an affiliate of the controller;

1959 (iii) considering the context in which the consumer provided the personal data to the
1960 controller, a controller's disclosure of personal data to a third party if the purpose is consistent
1961 with a consumer's reasonable expectations;

1962 (iv) the disclosure or transfer of personal data when a consumer directs a controller to:

1963 (A) disclose the personal data; or

1964 (B) interact with one or more third parties;

1965 (v) a consumer's disclosure of personal data to a third party for the purpose of
1966 providing a product or service requested by the consumer or a parent or legal guardian of a
1967 child;

1968 (vi) the disclosure of information that the consumer:

1969 (A) intentionally makes available to the general public via a channel of mass media;

1970 and

1971 (B) does not restrict to a specific audience; or

1972 (vii) a controller's transfer of personal data to a third party as an asset that is part of a
1973 proposed or actual merger, an acquisition, or a bankruptcy in which the third party assumes
1974 control of all or part of the controller's assets.

1975 (32) (a) "Sensitive data" means:

1976 (i) personal data that reveals:

1977 (A) an individual's racial or ethnic origin;

1978 (B) an individual's religious beliefs;

1979 (C) an individual's sexual orientation;

1980 (D) an individual's citizenship or immigration status; or

1981 (E) information regarding an individual's medical history, mental or physical health
1982 condition, or medical treatment or diagnosis by a health care professional;

1983 (ii) the processing of genetic personal data or biometric data, if the processing is for the
1984 purpose of identifying a specific individual; or

1985 (iii) specific geolocation data.

1986 (b) "Sensitive data" does not include personal data that reveals an individual's:

1987 (i) racial or ethnic origin, if the personal data are processed by a video communication
1988 service; or

1989 (ii) if the personal data are processed by a person licensed to provide health care under
1990 [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2,
1991 Part 2, Health Care Facility Licensing and Inspection, or Title 58, Occupations and Professions,
1992 information regarding an individual's medical history, mental or physical health condition, or
1993 medical treatment or diagnosis by a health care professional.

1994 (33) (a) "Specific geolocation data" means information derived from technology,
1995 including global position system level latitude and longitude coordinates, that directly
1996 identifies an individual's specific location, accurate within a radius of 1,750 feet or less.

1997 (b) "Specific geolocation data" does not include:

1998 (i) the content of a communication; or

1999 (ii) any data generated by or connected to advanced utility metering infrastructure
2000 systems or equipment for use by a utility.

2001 (34) (a) "Targeted advertising" means displaying an advertisement to a consumer
2002 where the advertisement is selected based on personal data obtained from the consumer's
2003 activities over time and across nonaffiliated websites or online applications to predict the
2004 consumer's preferences or interests.

2005 (b) "Targeted advertising" does not include advertising:

2006 (i) based on a consumer's activities within a controller's website or online application
2007 or any affiliated website or online application;

2008 (ii) based on the context of a consumer's current search query or visit to a website or
2009 online application;

2010 (iii) directed to a consumer in response to the consumer's request for information,
2011 product, a service, or feedback; or

- 2012 (iv) processing personal data solely to measure or report advertising:
- 2013 (A) performance;
- 2014 (B) reach; or
- 2015 (C) frequency.
- 2016 (35) "Third party" means a person other than:
- 2017 (a) the consumer, controller, or processor; or
- 2018 (b) an affiliate or contractor of the controller or the processor.
- 2019 (36) "Trade secret" means information, including a formula, pattern, compilation,
- 2020 program, device, method, technique, or process, that:
- 2021 (a) derives independent economic value, actual or potential, from not being generally
- 2022 known to, and not being readily ascertainable by proper means by, other persons who can
- 2023 obtain economic value from the information's disclosure or use; and
- 2024 (b) is the subject of efforts that are reasonable under the circumstances to maintain the
- 2025 information's secrecy.
- 2026 Section 28. Section **15-4-1** is amended to read:
- 2027 **15-4-1. Definitions.**
- 2028 As used in this chapter:
- 2029 (1) "Obligation" includes a liability in tort and contractual obligations;
- 2030 (2) "Obligee" includes a creditor and a person having a right based on a tort;
- 2031 (3) "Obligor" includes a debtor and a person liable for a tort;
- 2032 (4) (a) "School fee" means a charge, deposit, rent, or other mandatory payment
- 2033 imposed by:
- 2034 (i) a public school as defined in Section [~~26-39-102~~] [26B-2-401](#); or
- 2035 (ii) a private school that provides education to students in any grade from kindergarten
- 2036 through grade 12.
- 2037 (b) "School fee" includes:
- 2038 (i) an admission fee;
- 2039 (ii) a transportation charge; or
- 2040 (iii) a charge, deposit, rent, or other mandatory payment imposed by a third party in
- 2041 connection with an activity or function sponsored by a school described in Subsection (4)(a).
- 2042 (5) "Several obligors" means obligors severally bound for the same performance.

2043 (6) "Waiver" means the act of not requiring an individual to pay an amount that the
2044 individual otherwise owes.

2045 Section 29. Section 15-4-6.7 is amended to read:

2046 **15-4-6.7. Medical and miscellaneous expenses of minor children -- Collection and**
2047 **billing pursuant to court or administrative order of child support.**

2048 (1) When a court enters an order that provides for the payment of medical and dental
2049 expenses of a minor child under Section 30-3-5, 30-4-3, or 78B-12-111, or an administrative
2050 order under Section [~~62A-11-326~~] 26B-9-224, a provider who receives a copy of the order:

2051 (a) at or before the time the provider renders medical or dental services to the minor
2052 child shall, upon request from either parent, separately bill each parent for the share of the
2053 medical and dental expenses that the parent is required to pay under the order; or

2054 (b) within 30 days after the day on which the provider renders the medical or dental
2055 service, may not:

2056 (i) make a claim for unpaid medical and dental expenses against a parent who has paid
2057 in full the share of the medical and dental expenses that the parent is required to pay under the
2058 order; or

2059 (ii) make a negative credit report under Section 70C-7-107, or report of the debtor's
2060 repayment practices or credit history under Title 7, Chapter 14, Credit Information Exchange,
2061 regarding a parent who has paid in full the share of the medical and dental expenses that the
2062 parent is required to pay under the order.

2063 (2) (a) When a court enters an order that provides for the payment of school fees of a
2064 minor child under Section 30-3-5 or 30-4-3:

2065 (i) a provider who receives a copy of the order before the day on which the provider
2066 first issues a bill for a school fee shall, upon request from either parent, separately bill each
2067 parent for the share of the school fee that the parent is required to pay under the order;

2068 (ii) a provider who receives a copy of the order, regardless of whether the provider
2069 receives the copy before, on, or after the day on which the provider first issues a bill for the
2070 school fee may not make a negative credit report under Section 70C-7-107, or report of the
2071 debtor's repayment practices or credit history under Title 7, Chapter 14, Credit Information
2072 Exchange, regarding a parent who has paid in full the share of the school fee that the parent is
2073 required to pay under the order; and

2074 (iii) each parent is liable only for the share of the school fee that the parent is required
2075 to pay under the order.

2076 (b) A provider may bill a parent for the parent's share of a minor child's school fee
2077 under an order described in Subsection (2)(a) regardless of whether the provider grants the
2078 other parent a waiver for all or a portion of the other parent's share of the minor child's school
2079 fee.

2080 Section 30. Section **15A-1-208** is amended to read:

2081 **15A-1-208. Standards for specialized buildings.**

2082 (1) This chapter may not be implied to repeal or otherwise affect the authority granted
2083 to a state agency to make or administer standards for specialized buildings, as provided in:

2084 (a) [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B,
2085 Chapter 2, Part 2, Health Care Facility Licensing and Inspection;

2086 (b) [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2, Part 4,
2087 Child Care Licensing;

2088 (c) [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2,
2089 Part 1, Human Services Programs and Facilities;

2090 (d) Title 64, Chapter 13, Department of Corrections - State Prison; or

2091 (e) another statute that grants a state agency authority to make or administer other
2092 special standards.

2093 (2) If a special standard conflicts with a code, the special standard prevails.

2094 (3) This chapter does not apply to the administration of the statutes described in
2095 Subsection (1).

2096 Section 31. Section **15A-2-105** is amended to read:

2097 **15A-2-105. Scope of application.**

2098 (1) To the extent that a construction code adopted under Section **15A-2-103** establishes
2099 a local administrative function or establishes a method of appeal which pursuant to Section
2100 **15A-1-207** is designated to be established by the compliance agency:

2101 (a) that provision of the construction code is not included in the State Construction
2102 Code; and

2103 (b) a compliance agency may establish provisions to establish a local administrative
2104 function or a method of appeal.

2105 (2) (a) To the extent that a construction code adopted under Subsection (1) establishes
2106 a provision, standard, or reference to another code that by state statute is designated to be
2107 established or administered by another state agency, or a local city, town, or county
2108 jurisdiction:

2109 (i) that provision of the construction code is not included in the State Construction
2110 Code; and

2111 (ii) the state agency or local government has authority over that provision of the
2112 construction code.

2113 (b) Provisions excluded under this Subsection (2) include:

2114 (i) the International Property Maintenance Code;

2115 (ii) the International Private Sewage Disposal Code, authority over which is reserved to
2116 the Department of Health and Human Services and the Department of Environmental Quality;

2117 (iii) the International Fire Code, authority over which is reserved to the board, pursuant
2118 to Section [15A-1-403](#);

2119 (iv) a day care provision that is in conflict with [~~Title 26, Chapter 39, Utah Child Care~~
2120 ~~Licensing Act~~] Title 26B, Chapter 2, Part 4, Child Care Licensing, authority over which is
2121 designated to the Utah Department of Health and Human Services; and

2122 (v) a wildland urban interface provision that goes beyond the authority under Section
2123 [15A-1-204](#), for the State Construction Code, authority over which is designated to the Utah
2124 Division of Forestry or to a local compliance agency.

2125 (3) If a construction code adopted under Subsection [15A-2-103](#)(1) establishes a
2126 provision that exceeds the scope described in Chapter 1, Part 2, State Construction Code
2127 Administration Act, to the extent the scope is exceeded, the provision is not included in the
2128 State Construction Code.

2129 Section 32. Section [15A-3-102](#) is amended to read:

2130 **[15A-3-102. Amendments to Chapters 1 through 3 of IBC.](#)**

2131 (1) IBC, Section 106, is deleted.

2132 (2) In IBC, Section 110, a new section is added as follows: " 110.3.5.1,
2133 Weather-resistant exterior wall envelope. An inspection shall be made of the weather-resistant
2134 exterior wall envelope as required by Section 1404.2, and flashing as required by Section
2135 1404.4 to prevent water from entering the weather-resistive barrier."

2136 (3) IBC, Section 115.1, is deleted and replaced with the following: "115.1 Authority.
2137 Whenever the building official finds any work regulated by this code being performed in a
2138 manner either contrary to the provisions of this code or other pertinent laws or ordinances or is
2139 dangerous or unsafe, the building official is authorized to stop work."

2140 (4) In IBC, Section 202, the following definition is added for Ambulatory Surgical
2141 Center: "AMBULATORY SURGICAL CENTER. A building or portion of a building licensed
2142 by the Utah Department of Health and Human Services where procedures are performed that
2143 may render patients incapable of self preservation where care is less than 24 hours. See Utah
2144 Administrative Code R432-13."

2145 (5) In IBC, Section 202, the following definition is added for Assisted Living Facility:
2146 "ASSISTED LIVING FACILITY. See Residential Treatment/Support Assisted Living Facility,
2147 Type I Assisted Living Facility, and Type II Assisted Living Facility."

2148 (6) In IBC, Section 202, the definition for Foster Care Facilities is modified by deleting
2149 the word "Foster" and replacing it with the word "Child."

2150 (7) In IBC, Section 202, the definition for "[F]Record Drawings" is modified by
2151 deleting the words "a fire alarm system" and replacing them with "any fire protection system."

2152 (8) In IBC, Section 202, the following definition is added for Residential
2153 Treatment/Support Assisted Living Facility: "RESIDENTIAL TREATMENT/SUPPORT
2154 ASSISTED LIVING FACILITY. A residential facility that provides a group living
2155 environment for four or more residents licensed by the Department of Health and Human
2156 Services, and provides a protected living arrangement for ambulatory, non-restrained persons
2157 who are capable of achieving mobility sufficient to exit the facility without the physical
2158 assistance of another person."

2159 (9) In IBC, Section 202, the following definition is added for Type I Assisted Living
2160 Facility: "TYPE I ASSISTED LIVING FACILITY. A residential facility licensed by the
2161 Department of Health and Human Services that provides a protected living arrangement,
2162 assistance with activities of daily living and social care to two or more ambulatory,
2163 non-restrained persons who are capable of mobility sufficient to exit the facility without the
2164 assistance of another person. Subcategories are:

2165 Limited Capacity: two to five residents;

2166 Small: six to sixteen residents; and

2167 Large: over sixteen residents."

2168 (10) In IBC, Section 202, the following definition is added for Type II Assisted Living

2169 Facility: "TYPE II ASSISTED LIVING FACILITY. A residential facility licensed by the

2170 Department of Health and Human Services that provides an array of coordinated supportive

2171 personal and health care services to two or more residents who are:

2172 A. Physically disabled but able to direct his or her own care; or

2173 B. Cognitively impaired or physically disabled but able to evacuate from the facility, or

2174 to a zone or area of safety, with the physical assistance of one person. Subcategories are:

2175 Limited Capacity: two to five residents;

2176 Small: six to sixteen residents; and

2177 Large: over sixteen residents."

2178 (11) In IBC, Section 305.2, the following changes are made:

2179 (a) delete the words "more than five children older than 2 1/2 years of age" and replace
2180 with the words "five or more children 2 years of age or older";

2181 (b) after the word "supervision" insert the words "child care services"; and

2182 (c) add the following sentence at the end of the paragraph: "See Section 429, Day Care,
2183 for special requirements for day care."

2184 (12) In IBC, Section 305.2.2 and 305.2.3, the word "five" is deleted and replaced with
2185 the word "four" in all places.

2186 (13) A new IBC Section 305.2.4 is added as follows: "305.2.4 Child day care --

2187 residential child care certificate or a license. Areas used for child day care purposes with a

2188 residential child care certificate, as described in Utah Administrative Code, R430-50,

2189 Residential Certificate Child Care, or a residential child care license, as described in Utah

2190 Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or

2191 R-3 occupancy as provided in Sections 310.3 and 310.4 comply with the International

2192 Residential Code in accordance with Section R101.2."

2193 (14) A new IBC Section 305.2.5 is added as follows: "305.2.5 Child care centers. Each

2194 of the following areas may be classified as accessory occupancies, if the area complies with

2195 Section 508.2:

2196 1. Hourly child care centers, as described in Utah Administrative Code, R381-60,

2197 Hourly Child Care Centers;

2198 2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care
2199 Centers; and

2200 3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70,
2201 Out of School Time Child Care Programs."

2202 (15) In IBC, Table 307.1(1), footnote "d" is added to the row for Explosives, Division
2203 1.4G in the column titled STORAGE - Solid Pounds (cubic feet).

2204 (16) In IBC, Section 308.2, in the list of items under "This group shall include," the
2205 words "Type-I Large and Type-II Small, see Section 308.2.5" are added after "Assisted living
2206 facilities."

2207 (17) In IBC, Section 308.2.4, all of the words after the first International Residential
2208 Code are deleted.

2209 (18) A new IBC, Section 308.2.5 is added as follows:

2210 "308.2.5 Group I-1 assisted living facility occupancy groups. The following occupancy
2211 groups shall apply to assisted living facilities:

2212 Type I assisted living facilities with seventeen or more residents are Large Facilities
2213 classified as an Institutional Group I-1, Condition 1 occupancy.

2214 Type II assisted living facilities with six to sixteen residents are Small Facilities
2215 classified as an Institutional Group I-1, Condition 2 occupancy. See Section 202 for
2216 definitions."

2217 (19) In IBC, Section 308.3 Institutional Group I-2, the following changes are made:

2218 (a) The words "more than five" are deleted and replaced with "four or more";

2219 (b) The group "Assisted living facilities, Type-II Large" is added to the list of groups;

2220 (c) The words "Foster care facilities" are deleted and replaced with the words "Child
2221 care facilities"; and

2222 (d) The words "(both intermediate care facilities and skilled nursing facilities)" are
2223 added after "Nursing homes."

2224 (20) In IBC, Section 308.3.2, the number "five" is deleted and replaced with the
2225 number "four" in each location.

2226 (21) A new IBC, Section 308.3.3 is added as follows:

2227 "308.3.3 Group I-2 assisted living facilities. Type II assisted living facilities with
2228 seventeen or more residents are Large Facilities classified as an Institutional Group I-2,

2229 Condition 1 occupancy. See Section 202 for definitions."

2230 (22) In IBC, Section 308.5, the words "more than five" are deleted and replaced with
2231 the words "five or more."

2232 (23) In IBC, Section 308.5.1, the following changes are made:

2233 (a) The words "more than five" are deleted and replaced with the words "five or more."

2234 (b) The words "2-1/2 years or less of age" are deleted and replaced with "under the age
2235 of two."

2236 (c) The following sentence is added at the end: "See Section 429 for special
2237 requirements for Day Care."

2238 (24) In IBC, Sections 308.5.3 and 308.5.4, the words "five or fewer" are deleted and
2239 replaced with the words "four or fewer" in both places and the following sentence is added at
2240 the end: "See Section 429 for special requirements for Day Care."

2241 (25) In IBC, Section 310.4, the following changes are made:

2242 (a) The words "and single family dwellings complying with the IRC" are added after
2243 "Residential Group-3 occupancies."

2244 (b) The words "Assisted Living Facilities, limited capacity" are added to the list of
2245 occupancies.

2246 (26) In IBC, Section 310.4.1, the following changes are made:

2247 (a) The words "other than Child Care" are inserted after the words "Care facilities" in
2248 the first sentence.

2249 (b) All of the words after the first "International Residential Code" are deleted.

2250 (c) The following sentence is added at the end of the last sentence: "See Section 429
2251 for special requirements for Child Day Care."

2252 (27) A new IBC Section 310.4.3 is added as follows: "310.4.3 Child Care. Areas used
2253 for child care purposes may be located in a residential dwelling unit under all of the following
2254 conditions and Section 429:

2255 1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted
2256 under the authority of the Utah Fire Prevention Board.

2257 2. Use is approved by the Utah Department of Health and Human Services, as enacted
2258 under the authority of the Utah Code, [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~]

2259 Title 26B, Chapter 2, Part 4, Child Care Licensing, and in any of the following categories:

2260 a. Utah Administrative Code, R430-50, Residential Certificate Child Care.

2261 b. Utah Administrative Code, R430-90, Licensed Family Child Care.

2262 3. Compliance with all zoning regulations of the local regulator."

2263 (28) A new IBC, Section 310.4.4 is added as follows: "310.4.4 Assisted living
2264 facilities. Type I assisted living facilities with two to five residents are Limited Capacity
2265 facilities classified as a Residential Group R-3 occupancy or are permitted to comply with the
2266 International Residential Code. See Section 202 for definitions."

2267 (29) In IBC, Section 310.5, the words "Type II Limited Capacity and Type I Small, see
2268 Section 310.5.3" are added after the words "assisted living facilities."

2269 (30) A new IBC, Section 310.5.3, is added as follows: "310.5.3 Group R-4 Assisted
2270 living facility occupancy groups. The following occupancy groups shall apply to Assisted
2271 Living Facilities: Type II Assisted Living Facilities with two to five residents are Limited
2272 Capacity Facilities classified as a Residential Group R-4, Condition 2 occupancy. Type I
2273 assisted living facilities with six to sixteen residents are Small Facilities classified as
2274 Residential Group R-4, Condition 1 occupancies. See Section 202 for definitions."

2275 Section 33. Section **15A-3-103** is amended to read:

2276 **15A-3-103. Amendments to Chapters 4 through 6 of IBC.**

2277 (1) IBC Section 403.5.5 is deleted.

2278 (2) In IBC, Section 407.2.5, the words "and assisted living facility" are added in the
2279 title and first sentence after the words "nursing home."

2280 (3) In IBC, Section 407.2.6, the words "and assisted living facility" are added in the
2281 title after the words "nursing home."

2282 (4) In IBC, Section 407.11, a new exception is added as follows: "Exception: An
2283 essential electrical system is not required in assisted living facilities."

2284 (5) In IBC, Section 412.3.1, a new exception is added as follows: "Exception: Aircraft
2285 hangars of Type I or II construction that are less than 5,000 square feet (464.5m²) in area."

2286 (6) A new IBC, Section 422.2.1 is added as follows: "422.2.1 Separations: Ambulatory
2287 care facilities licensed by the Department of Health and Human Services shall be separated
2288 from adjacent tenants with a fire partition having a minimum one hour fire-resistance rating.
2289 Any level below the level of exit discharge shall be separated from the level of exit discharge
2290 by a horizontal assembly having a minimum one hour fire-resistance rating.

2291 Exception: A fire barrier is not required to separate the level of exit discharge when:
2292 1. Such levels are under the control of the Ambulatory Care Facility.
2293 2. Any hazardous spaces are separated by horizontal assembly having a minimum one
2294 hour fire-resistance rating."
2295 (7) A new IBC Section 429, Day Care, is added as follows:
2296 "429.1 Detailed Requirements. In addition to the occupancy and construction
2297 requirements in this code, the additional provisions of this section shall apply to all Day Care in
2298 accordance with Utah Administrative Code R710-8 Day Care Rules.
2299 429.2 Definitions.
2300 429.2.1 Authority Having Jurisdiction (AHJ): State Fire Marshal, his duly authorized
2301 deputies, or the local fire enforcement authority code official.
2302 429.2.2 Day Care Facility: Any building or structure occupied by clients of any age who
2303 receive custodial care for less than 24 hours by individuals other than parents, guardians,
2304 relatives by blood, marriage or adoption.
2305 429.2.3 Day Care Center: Providing care for five or more clients in a place other than
2306 the home of the person cared for. This would also include Child Care Centers, Out of School
2307 Time or Hourly Child Care Centers licensed by the Department of Health and Human Services.
2308 429.2.4 Family Day Care: Providing care for clients listed in the following two groups:
2309 429.2.4.1 Type 1: Services provided for five to eight clients in a home. This would also
2310 include a home that is certified by the Department of Health and Human Services as
2311 Residential Certificate Child Care or licensed as Family Child Care.
2312 429.2.4.2 Type 2: Services provided for nine to sixteen clients in a home with sufficient
2313 staffing. This would also include a home that is licensed by the Department of Health and
2314 Human Services as Family Child Care.
2315 429.2.5 R710-8: Utah Administrative Code, R710-8, Day Care Rules, as enacted under
2316 the authority of the Utah Fire Prevention Board.
2317 429.3 Family Day Care.
2318 429.3.1 Family Day Care units shall have on each floor occupied by clients, two
2319 separate means of egress, arranged so that if one is blocked the other will be available.
2320 429.3.2 Family Day Care units that are located in the basement or on the second story
2321 shall be provided with two means of egress, one of which shall discharge directly to the

2322 outside.

2323 429.3.2.1 Residential Certificate Child Care and Licensed Family Child Care with five
2324 to eight clients in a home, located on the ground level or in a basement, may use an emergency
2325 escape or rescue window as allowed in IFC, Chapter 10, Section 1030.

2326 429.3.3 Family Day Care units shall not be located above the second story.

2327 429.3.4 In Family Day Care units, clients under the age of two shall not be located
2328 above or below the first story.

2329 429.3.4.1 Clients under the age of two may be housed above or below the first story
2330 where there is at least one exit that leads directly to the outside and complies with IFC, Section
2331 1011 or Section 1012 or Section 1027.

2332 429.3.5 Family Day Care units located in split entry/split level type homes in which
2333 stairs to the lower level and upper level are equal or nearly equal, may have clients housed on
2334 both levels when approved by the AHJ.

2335 429.3.6 Family Day Care units shall have a portable fire extinguisher on each level
2336 occupied by clients, which shall have a classification of not less than 2A:10BC, and shall be
2337 serviced in accordance with NFPA, Standard 10, Standard for Portable Fire Extinguishers.

2338 429.3.7 Family Day Care units shall have single station smoke detectors in good
2339 operating condition on each level occupied by clients. Battery operated smoke detectors shall
2340 be permitted if the facility demonstrates testing, maintenance, and battery replacement to insure
2341 continued operation of the smoke detectors.

2342 429.3.8 Rooms in Family Day Care units that are provided for clients to sleep or nap,
2343 shall have at least one window or door approved for emergency escape.

2344 429.3.9 Fire drills shall be conducted in Family Day Care units quarterly and shall
2345 include the complete evacuation from the building of all clients and staff. At least annually, in
2346 Type I Family Day Care units, the fire drill shall include the actual evacuation using the escape
2347 or rescue window, if one is used as a substitute for one of the required means of egress.

2348 429.4 Day Care Centers.

2349 429.4.1 Day Care Centers shall comply with either I-4 requirements or E requirements
2350 of the IBC, whichever is applicable for the type of Day Care Center.

2351 429.4.2 Emergency Evacuation Drills shall be completed as required in IFC, Chapter 4,
2352 Section 405.

2353 429.4.3 Location at grade. Group E child day care centers shall be located at the level
2354 of exit discharge.

2355 429.4.3.1 Child day care spaces for children over the age of 24 months may be located
2356 on the second floor of buildings equipped with automatic fire protection throughout and an
2357 automatic fire alarm system.

2358 429.4.4 Egress. All Group E child day care spaces with an occupant load of more than
2359 10 shall have a second means of egress. If the second means of egress is not an exit door
2360 leading directly to the exterior, the room shall have an emergency escape and rescue window
2361 complying with Section 1030.

2362 429.4.5 All Group E Child Day Care Centers shall comply with Utah Administrative
2363 Code, R430-100 Child Care Centers, R430-60 Hourly Child Care Centers, and R430-70 Out of
2364 School Time.

2365 429.5 Requirements for all Day Care.

2366 429.5.1 Heating equipment in spaces occupied by children shall be provided with
2367 partitions, screens, or other means to protect children from hot surfaces and open flames.

2368 429.5.2 A fire escape plan shall be completed and posted in a conspicuous place. All
2369 staff shall be trained on the fire escape plan and procedure."

2370 (8) In IBC, Section 504.4, a new section is added as follows: "504.4.1 Group I-2
2371 Assisted Living Facilities. Notwithstanding the allowable number of stories permitted by Table
2372 504.4 Group I-2 Assisted Living Facilities of type VA, construction shall be allowed on each
2373 level of a two-story building when all of the following apply:

2374 1. The total combined area of both stories does not exceed the total allowable area for a
2375 one-story, above grade plane building equipped throughout with an automatic sprinkler system
2376 installed in accordance with Section 903.3.1.1.

2377 2. All other provisions that apply in Section 407 have been provided."

2378 (9) A new IBC, Section 504.5, is added as follows: "504.5 Group 1-2 Secured areas in
2379 Assisted Living Facilities. In Type IIIB, IV, and V construction, all areas for the use and care of
2380 residents required to be secured shall be located on the level of exit discharge with door
2381 operations in compliance with Section 1010.1.9.7, as amended."

2382 Section 34. Section **15A-5-202** is amended to read:

2383 **15A-5-202. Amendments and additions to IFC related to administration, permits,**

2384 **definitions, and general and emergency planning.**

2385 (1) For IFC, Chapter 1, Scope and Administration:

2386 (a) IFC, Chapter 1, Section 102.5, is deleted and rewritten as follows:

2387 "102.5 Application of residential code.

2388 If a structure is designed and constructed in accordance with the International
2389 Residential Code, the provisions of this code apply only as follows:

2390 1. The construction and design provisions of this code apply only to premises
2391 identification, fire apparatus access, fire hydrants and water supplies, and construction permits
2392 required by Section 105.7.

2393 2. This code does not supercede the land use, subdivision, or development standards
2394 established by a local jurisdiction.

2395 3. The administrative, operational, and maintenance provisions of this code apply."

2396 (b) IFC, Chapter 1, Section 102.9, is deleted and rewritten as follows:

2397 "102.9 Matters not provided for.

2398 Requirements that are essential for the public safety of an existing or proposed activity,
2399 building or structure, or for the safety of the occupants thereof, which are not specifically
2400 provided for by this code, shall be determined by the fire code official on an emergency basis
2401 if:

2402 (a) the facts known to the fire code official show that an immediate and significant
2403 danger to the public health, safety, or welfare exists; and

2404 (b) the threat requires immediate action by the fire code official.

2405 102.9.1 Limitation of emergency order.

2406 In issuing its emergency order, the fire code official shall:

2407 (a) limit the order to require only the action necessary to prevent or avoid the danger to
2408 the public health, safety, or welfare; and

2409 (b) give immediate notice to the persons who are required to comply with the order,
2410 that includes a brief statement of the reasons for the fire code official's order.

2411 101.9.2 Right to appeal emergency order.

2412 If the emergency order issued under this section will result in the continued
2413 infringement or impairment of any legal right or interest of any party, the party shall have a
2414 right to appeal the fire code official's order in accordance with IFC, Chapter 1, Section 109."

2415 (c) IFC, Chapter 1, Section 105.4.1, Submittals, is amended to add the following after
2416 the last sentence:

2417 "Fire sprinkler system layout may be prepared and submitted by a person certified by
2418 the National Institute for Certification in Engineering Technologies at level III or IV in
2419 Water-Based System Layout. Fire alarm system layout may be prepared and submitted by a
2420 person certified by the National Institute for Certification in Engineering Technologies at level
2421 III or IV in Fire Alarm Systems."

2422 (d) IFC, Chapter 1, Section 105.6.16, Flammable and combustible liquids, is amended
2423 to add the following section: "12. The owner of an underground tank that is out of service for
2424 longer than one year shall receive a Temporary Closure Notice from the Department of
2425 Environmental Quality and a copy shall be given to the AHJ."

2426 (e) A new IFC, Chapter 1, Section 109.1.1, Application of residential code, is added as
2427 follows:

2428 "109.1.1 Application of residential code.

2429 For development regulated by a local jurisdiction's land use authority, the fire code
2430 official's interpretation of this code is subject to the advisory opinion process described in Utah
2431 Code, Section [13-43-205](#), and to a land use appeal authority appointed under Utah Code,
2432 Section [10-9a-701](#) or [17-27a-701](#)."

2433 (f) In IFC, Chapter 1, Section 109, a new Section 109.4, Notice of right to appeal, is
2434 added as follows: "At the time a fire code official makes an order, decision, or determination
2435 that relates to the application or interpretation of this chapter, the fire code official shall inform
2436 the person affected by the order, decision, or determination of the person's right to appeal under
2437 this section. Upon request, the fire code official shall provide a person affected by an order,
2438 decision, or determination that relates to the application or interpretation of this chapter a
2439 written notice that describes the person's right to appeal under this section."

2440 (g) IFC, Chapter 1, Section 110.3, Notice of violation, is deleted and rewritten as
2441 follows:

2442 "110.3 Notice of violation.

2443 If the fire code official determines that a building, premises, vehicle, storage facility, or
2444 outdoor area is in violation of this code or other pertinent laws or ordinances, the fire code
2445 official is authorized to prepare a written notice of violation that describes the conditions

2446 deemed unsafe and, absent immediate compliance, specifies a time for reinspection."
2447 (2) For IFC, Chapter 2, Definitions:
2448 (a) IFC, Chapter 2, Section 202, General Definitions, the following definition is added
2449 for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or
2450 portion of a building licensed by the Department of Health and Human Services where
2451 procedures are performed that may render patients incapable of self preservation where care is
2452 less than 24 hours. See Utah Administrative Code, R432-13, Freestanding Ambulatory Surgical
2453 Center Construction Rule."
2454 (b) IFC, Chapter 2, Section 202, General Definitions, the following definition is added
2455 for Assisted Living Facility. "ASSISTED LIVING FACILITY. See Residential
2456 Treatment/Support Assisted Living Facility, Type I Assisted Living Facility, and Type II
2457 Assisted Living Facility."
2458 (c) IFC, Chapter 2, Section 202, General Definitions, FOSTER CARE FACILITIES is
2459 amended as follows: The word "Foster" is changed to the word "Child."
2460 (d) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2461 CLASSIFICATION, Educational Group E, Group E, day care facilities, is amended as follows:
2462 (i) On line three delete the word "five" and replace it with the word "four"; and
2463 (ii) On line four after the word "supervision" add the words "child care centers."
2464 (e) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2465 CLASSIFICATION, Educational Group E, Five or fewer children, is amended as follows: The
2466 word "five" is deleted and replaced with the word "four" in both places.
2467 (f) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2468 CLASSIFICATION, Educational Group E, Five or fewer children in a dwelling unit, is
2469 amended as follows: The word "five" is deleted and replaced with the word "four" in both
2470 places.
2471 (g) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2472 CLASSIFICATION, Educational Group E, a new section is added as follows: "Child day care
2473 -- residential child care certificate or a license. Areas used for child day care purposes with a
2474 residential child care certificate, as described in Utah Administrative Code, R430-50,
2475 Residential Certificate Child Care, or a residential child care license, as described in Utah
2476 Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or

2477 R-3 occupancy as provided in Residential Group R-3, or shall comply with the International
2478 Residential Code in accordance with Section R101.2."

2479 (h) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2480 CLASSIFICATION, Educational Group E, a new section is added as follows: "Child care
2481 centers. Each of the following areas may be classified as accessory occupancies:

2482 1. Hourly child care centers, as described in Utah Administrative Code, R381-60,
2483 Hourly Child Care Centers;

2484 2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care
2485 Centers; and

2486 3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70,
2487 Out of School Time Child Care Programs."

2488 (i) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2489 CLASSIFICATION, Institutional Group I-1, is amended as follows: Insert "Type I" in front of
2490 the words "Assisted living facilities".

2491 (j) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2492 CLASSIFICATION, Institutional Group I-1, Five or fewer persons receiving custodial care is
2493 amended as follows: On line four after "International Residential Code" the rest of the section
2494 is deleted.

2495 (k) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2496 CLASSIFICATION, Institutional Group I-2, is amended as follows:

2497 (i) On line three delete the word "five" and insert the word "three";

2498 (ii) On line six the word "foster" is deleted and replaced with the word "child"; and

2499 (iii) On line 10, after the words "Psychiatric hospitals", add the following to the list:

2500 "both intermediate nursing care and skilled nursing care facilities, ambulatory surgical centers
2501 with five or more operating rooms, and Type II assisted living facilities. Type II assisted living
2502 facilities with five or fewer persons shall be classified as a Group R-4. Type II assisted living
2503 facilities with at least six and not more than 16 residents shall be classified as a Group I-1
2504 facility".

2505 (l) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY

2506 CLASSIFICATION, Institutional Group I-4, day care facilities, Classification as Group E, is
2507 amended as follows:

2508 (i) On line two delete the word "five" and replace it with the word "four"; and
2509 (ii) On line three delete the words "2 1/2 years or less of age" and replace with the
2510 words "under the age of two".

2511 (m) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2512 CLASSIFICATION, Institutional Group I-4, day care facilities, Five or fewer occupants
2513 receiving care in a dwelling unit, is amended as follows: On lines one and three the word "five"
2514 is deleted and replaced with the word "four".

2515 (n) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2516 CLASSIFICATION, Residential Group R-3, the words "and single family dwellings complying
2517 with the IRC" are added after the word "Residential Group R-3 occupancies".

2518 (o) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2519 CLASSIFICATION, Residential Group R-3, Care facilities within a dwelling, is amended as
2520 follows: On line three after the word "dwelling" insert "other than child care".

2521 (p) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2522 CLASSIFICATION, Residential Group R-3, a new section is added as follows: "Child Care.
2523 Areas used for child care purposes may be located in a residential dwelling unit when all of the
2524 following conditions are met:

2525 1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted
2526 under the authority of the Utah Fire Prevention Board;

2527 2. Use is approved by the Department of Health and Human Services under the
2528 authority of Utah Code, [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B,
2529 Chapter 2, Part 4, Child Care Licensing, and in any of the following categories:

- 2530 1.1. Utah Administrative Code, R430-50, Residential Certificate Child Care; or
2531 1.2. Utah Administrative Code, R430-90, Licensed Family Child Care; and
2532 1.3 Compliance with all zoning regulations of the local regulator."

2533 (q) IFC, Chapter 2, Section 202, General Definitions, RECORD DRAWINGS, is
2534 amended as follows: Delete the words "a fire alarm system" and replace them with "any fire
2535 protection system".

2536 (r) IFC, Chapter 2, Section 202, General Definitions, the following definition is added
2537 for Residential Treatment/Support Assisted Living Facility. "RESIDENTIAL
2538 TREATMENT/SUPPORT ASSISTED LIVING FACILITY. A residential facility that provides

2539 a group living environment for four or more residents licensed by the Department of Health
 2540 and Human Services, and provides a protected living arrangement for ambulatory,
 2541 non-restrained persons who are capable of achieving mobility sufficient to exit the facility
 2542 without the physical assistance of another person."

2543 (s) IFC, Chapter 2, Section 202, General Definitions, the following definition is added
 2544 for Type I Assisted Living Facility. "TYPE I ASSISTED LIVING FACILITY. A residential
 2545 facility licensed by the Department of Health and Human Services that provides a protected
 2546 living arrangement, assistance with activities of daily living and social care to two or more
 2547 ambulatory, non-restrained persons who are capable of mobility sufficient to exit the facility
 2548 without the assistance of another person. Subcategories are:

2549 Limited Capacity: two to five residents;

2550 Small: six to sixteen residents; and

2551 Large: over sixteen residents."

2552 (t) IFC, Chapter 2, Section 202, General Definitions, the following definition is added
 2553 for Type II Assisted Living Facility. "TYPE II ASSISTED LIVING FACILITY. A residential
 2554 facility licensed by the Department of Health and Human Services that provides an array of
 2555 coordinated supportive personal and health care services to two or more residents who are:

2556 A. Physically disabled but able to direct his or her own care; or

2557 B. Cognitively impaired or physically disabled but able to evacuate from the facility, or
 2558 to a zone or area of safety, with the physical assistance of one person. Subcategories are:

2559 Limited Capacity: two to five residents;

2560 Small: six to sixteen residents; and

2561 Large: over sixteen residents."

2562 Section 35. Section **15A-5-203** is amended to read:

2563 **15A-5-203. Amendments and additions to IFC related to fire safety, building, and**
 2564 **site requirements.**

2565 (1) For IFC, Chapter 5, Fire Service Features:

2566 (a) In IFC, Chapter 5, a new Section 501.5, Access grade and fire flow, is added as
 2567 follows: "An authority having jurisdiction over a structure built in accordance with the
 2568 requirements of the International Residential Code as adopted in the State Construction Code,
 2569 may require an automatic fire sprinkler system for the structure only by ordinance and only if

2570 any of the following conditions exist:

2571 (i) the structure:

2572 (A) is located in an urban-wildland interface area as provided in the Utah Wildland
2573 Urban Interface Code adopted as a construction code under the State Construction Code; and

2574 (B) does not meet the requirements described in Utah Code, Subsection
2575 [65A-8-203](#)(4)(a) and Utah Administrative Code, R652-122-1300, Minimum Standards for
2576 County Wildland Fire Ordinance;

2577 (ii) the structure is in an area where a public water distribution system with fire
2578 hydrants does not exist as required in Utah Administrative Code, R309-550-5, Water Main
2579 Design;

2580 (iii) the only fire apparatus access road has a grade greater than 10% for more than 500
2581 continual feet;

2582 (iv) the total floor area of all floor levels within the exterior walls of the dwelling unit
2583 exceeds 10,000 square feet; or

2584 (v) the total floor area of all floor levels within the exterior walls of the dwelling unit is
2585 double the average of the total floor area of all floor levels of unsprinkled homes in the
2586 subdivision that are no larger than 10,000 square feet.

2587 (vi) Exception: A single family dwelling does not require a fire sprinkler system if the
2588 dwelling:

2589 (A) is located outside the wildland urban interface;

2590 (B) is built in a one-lot subdivision; and

2591 (C) has 50 feet of defensible space on all sides that limits the propensity of fire
2592 spreading from the dwelling to another property."

2593 (b) In IFC, Chapter 5, Section 506.1, Where Required, is deleted and rewritten as
2594 follows: "Where access to or within a structure or an area is restricted because of secured
2595 openings or where immediate access is necessary for life-saving or fire-fighting purposes, the
2596 fire code official, after consultation with the building owner, may require a key box to be
2597 installed in an approved location. The key box shall contain keys to gain necessary access as
2598 required by the fire code official. For each fire jurisdiction that has at least one building with a
2599 required key box, the fire jurisdiction shall adopt an ordinance, resolution, or other operating
2600 rule or policy that creates a process to ensure that each key to each key box is properly

2601 accounted for and secure."

2602 (c) In IFC, Chapter 5, a new Section 507.1.1, Isolated one- and two-family dwellings,
2603 is added as follows: "Fire flow may be reduced for an isolated one- and two-family dwelling
2604 when the authority having jurisdiction over the dwelling determines that the development of a
2605 full fire-flow requirement is impractical."

2606 (d) In IFC, Chapter 5, a new Section 507.1.2, Pre-existing subdivision lots, is added as
2607 follows:

2608 "507.1.2 Pre-existing subdivision lots.

2609 The requirements for a pre-existing subdivision lot shall not exceed the requirements
2610 described in Section 501.5."

2611 (e) In IFC, Chapter 5, Section 510.1, Emergency responder radio coverage in new
2612 buildings, is amended by adding: "When required by the fire code official," at the beginning of
2613 the first paragraph.

2614 (2) For IFC, Chapter 6, Building Services and Systems:

2615 (a) In IFC, Chapter 6, Section 606.7, Elevator key location, is deleted and rewritten as
2616 follows: "Firefighter service keys shall be kept in a "Supra-Stor-a-key" elevator key box or
2617 similar box with corresponding key system that is adjacent to the elevator for immediate use by
2618 the fire department. The key box shall contain one key for each elevator, one key for lobby
2619 control, and any other keys necessary for emergency service. The elevator key box shall be
2620 accessed using a 6049 numbered key."

2621 (b) In IFC, Chapter 6, Section 607.1, General, is amended as follows: On line three,
2622 after the word "Code", add the words "and NFPA 96".

2623 (c) In IFC, Chapter 6, Section 607.2, a new exception 5 is added as follows: "5. A
2624 Type 1 hood is not required for a cooking appliance in a microenterprise home kitchen, as that
2625 term is defined in Utah Code, Section [~~26-15c-102~~] [26B-7-401](#), for which the operator obtains
2626 a permit in accordance with Utah Code, Title 26, Chapter 15c, Microenterprise Home Kitchen
2627 Act."

2628 (3) For IFC, Chapter 7, Fire and Smoke Protection Features, IFC, Chapter 7, Section
2629 705.2, is amended to add the following: "Exception: In Group E Occupancies, where the
2630 corridor serves an occupant load greater than 30 and the building does not have an automatic
2631 fire sprinkler system installed, the door closers may be of the friction hold-open type on

2632 classrooms' doors with a rating of 20 minutes or less only."

2633 Section 36. Section 17-22-2.5 is amended to read:

2634 **17-22-2.5. Fees of sheriff.**

2635 (1) (a) The legislative body of a county may set a fee for a service described in this
2636 section and charged by the county sheriff:

2637 (i) in an ordinance adopted under Section 17-53-223; and

2638 (ii) in an amount reasonably related to, but not exceeding, the actual cost of providing
2639 the service.

2640 (b) If the legislative body of a county does not under Subsection (1)(a) set a fee
2641 charged by the county sheriff, the sheriff shall charge a fee in accordance with Subsections (2)
2642 through (7).

2643 (2) Unless under Subsection (1) the legislative body of a county sets a fee amount for a
2644 fee described in this Subsection (2), the sheriff shall charge the following fees:

2645 (a) for serving a notice, rule, order, subpoena, garnishment, summons, or summons and
2646 complaint, or garnishee execution, or other process by which an action or proceeding is
2647 commenced, on each defendant, including copies when furnished by plaintiff, \$20;

2648 (b) for taking or approving a bond or undertaking in any case in which he is authorized
2649 to take or approve a bond or undertaking, including justification, \$5;

2650 (c) for a copy of any writ, process or other paper when demanded or required by law,
2651 for each folio, 50 cents;

2652 (d) for serving an attachment on property, or levying an execution, or executing an
2653 order of arrest or an order for the delivery of personal property, including copies when
2654 furnished by plaintiff, \$50;

2655 (e) for taking and keeping possession of and preserving property under attachment or
2656 execution or other process, the amount the court orders to a maximum of \$15 per day;

2657 (f) for advertising property for sale on execution, or any judgment, or order of sale,
2658 exclusive of the cost of publication, \$15;

2659 (g) for drawing and executing a sheriff's deed or a certificate of redemption, exclusive
2660 of acknowledgment, \$15, to be paid by the grantee;

2661 (h) for recording each deed, conveyance, or other instrument affecting real estate,
2662 exclusive of the cost of recording, \$10, to be paid by the grantee;

- 2663 (i) for serving a writ of possession or restitution, and putting any person entitled to
2664 possession into possession of premises, and removing occupant, \$50;
- 2665 (j) for holding each trial of right of property, to include all services in the matter,
2666 except mileage, \$35;
- 2667 (k) for conducting, postponing, or canceling a sale of property, \$15;
- 2668 (l) for taking a prisoner in civil cases from prison before a court or magistrate, for each
2669 mile necessarily traveled, in going only, to a maximum of 100 miles, \$2.50;
- 2670 (m) for taking a prisoner from the place of arrest to prison, in civil cases, or before a
2671 court or magistrate, for each mile necessarily traveled, in going only, to a maximum of 100
2672 miles, \$2.50;
- 2673 (n) for receiving and paying over money on execution or other process, as follows:
- 2674 (i) if the amount collected does not exceed \$1,000, 2% of this amount, with a
2675 minimum of \$1; and
- 2676 (ii) if the amount collected exceeds \$1,000, 2% on the first \$1,000 and 1-1/2% on the
2677 balance; and
- 2678 (o) for executing in duplicate a certificate of sale, exclusive of filing it, \$10.
- 2679 (3) The fees allowed by Subsection (2)(f) for the levy of execution and for advertising
2680 shall be collected from the judgment debtor as part of the execution in the same manner as the
2681 sum directed to be made.
- 2682 (4) When serving an attachment on property, an order of arrest, or an order for the
2683 delivery of personal property, the sheriff may only collect traveling fees for the distance
2684 actually traveled beyond the distance required to serve the summons if the attachment or those
2685 orders:
- 2686 (a) accompany the summons in the action; and
- 2687 (b) may be executed at the time of the service of the summons.
- 2688 (5) (a) (i) When traveling generally to serve notices, orders, process, or other papers,
2689 the sheriff may receive, except as otherwise provided under Subsection (1)(a), \$2.50 for each
2690 mile necessarily traveled, in going only, computed from the courthouse for each person served,
2691 to a maximum of 100 miles.
- 2692 (ii) When transmitting notices, orders, process, or other papers by mail, the sheriff may
2693 receive, except as otherwise provided under Subsection (1)(a), \$2.50 for each mile necessarily

2694 traveled, in going only, computed from the post office where received for each person served,
2695 to a maximum of 100 miles.

2696 (b) The sheriff may only charge one mileage fee if any two or more papers are required
2697 to be served in the same action or proceeding at the same time and at the same address.

2698 (c) If it is necessary to make more than one trip to serve any notice, order, process, or
2699 other paper, the sheriff may not collect more than two additional mileage charges.

2700 (6) (a) For transporting a patient to the Utah State Hospital or to or from a hospital or a
2701 mental health facility, as defined in Section [~~62A-15-602~~] [26B-5-301](#), when the cost of
2702 transportation is payable by private individuals, the sheriff may collect, except as otherwise
2703 provided under Subsection (1)(a), \$2.50 for each mile necessarily traveled, in going only, to a
2704 maximum of 100 miles.

2705 (b) If the sheriff requires assistance to transport the person, the sheriff may also charge
2706 the actual and necessary cost of that assistance.

2707 (7) (a) Subject to Subsection (7)(b), for obtaining a saliva DNA specimen under
2708 Section [53-10-404](#), the sheriff shall collect the fee of \$150 in accordance with Section
2709 [53-10-404](#).

2710 (b) The fee amount described in Subsection (7)(a) may not be changed by a county
2711 legislative body under Subsection (1).

2712 Section 37. Section **17-27a-103** is amended to read:

2713 **17-27a-103. Definitions.**

2714 As used in this chapter:

2715 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
2716 detached from a primary single-family dwelling and contained on one lot.

2717 (2) "Adversely affected party" means a person other than a land use applicant who:

2718 (a) owns real property adjoining the property that is the subject of a land use
2719 application or land use decision; or

2720 (b) will suffer a damage different in kind than, or an injury distinct from, that of the
2721 general community as a result of the land use decision.

2722 (3) "Affected entity" means a county, municipality, local district, special service
2723 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
2724 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified

2725 property owner, property owner's association, public utility, or the Utah Department of
2726 Transportation, if:

2727 (a) the entity's services or facilities are likely to require expansion or significant
2728 modification because of an intended use of land;

2729 (b) the entity has filed with the county a copy of the entity's general or long-range plan;
2730 or

2731 (c) the entity has filed with the county a request for notice during the same calendar
2732 year and before the county provides notice to an affected entity in compliance with a
2733 requirement imposed under this chapter.

2734 (4) "Affected owner" means the owner of real property that is:

2735 (a) a single project;

2736 (b) the subject of a land use approval that sponsors of a referendum timely challenged
2737 in accordance with Subsection 20A-7-601(6); and

2738 (c) determined to be legally referable under Section 20A-7-602.8.

2739 (5) "Appeal authority" means the person, board, commission, agency, or other body
2740 designated by ordinance to decide an appeal of a decision of a land use application or a
2741 variance.

2742 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or
2743 residential property if the sign is designed or intended to direct attention to a business, product,
2744 or service that is not sold, offered, or existing on the property where the sign is located.

2745 (7) (a) "Charter school" means:

2746 (i) an operating charter school;

2747 (ii) a charter school applicant that a charter school authorizer approves in accordance
2748 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

2749 (iii) an entity that is working on behalf of a charter school or approved charter
2750 applicant to develop or construct a charter school building.

2751 (b) "Charter school" does not include a therapeutic school.

2752 (8) "Chief executive officer" means the person or body that exercises the executive
2753 powers of the county.

2754 (9) "Conditional use" means a land use that, because of the unique characteristics or
2755 potential impact of the land use on the county, surrounding neighbors, or adjacent land uses,

2756 may not be compatible in some areas or may be compatible only if certain conditions are
2757 required that mitigate or eliminate the detrimental impacts.

2758 (10) "Constitutional taking" means a governmental action that results in a taking of
2759 private property so that compensation to the owner of the property is required by the:

2760 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

2761 (b) Utah Constitution, Article I, Section 22.

2762 (11) "County utility easement" means an easement that:

2763 (a) a plat recorded in a county recorder's office described as a county utility easement
2764 or otherwise as a utility easement;

2765 (b) is not a protected utility easement or a public utility easement as defined in Section
2766 [54-3-27](#);

2767 (c) the county or the county's affiliated governmental entity owns or creates; and

2768 (d) (i) either:

2769 (A) no person uses or occupies; or

2770 (B) the county or the county's affiliated governmental entity uses and occupies to
2771 provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or
2772 communications or data lines; or

2773 (ii) a person uses or occupies with or without an authorized franchise or other
2774 agreement with the county.

2775 (12) "Culinary water authority" means the department, agency, or public entity with
2776 responsibility to review and approve the feasibility of the culinary water system and sources for
2777 the subject property.

2778 (13) "Development activity" means:

2779 (a) any construction or expansion of a building, structure, or use that creates additional
2780 demand and need for public facilities;

2781 (b) any change in use of a building or structure that creates additional demand and need
2782 for public facilities; or

2783 (c) any change in the use of land that creates additional demand and need for public
2784 facilities.

2785 (14) (a) "Development agreement" means a written agreement or amendment to a
2786 written agreement between a county and one or more parties that regulates or controls the use

2787 or development of a specific area of land.

2788 (b) "Development agreement" does not include an improvement completion assurance.

2789 (15) (a) "Disability" means a physical or mental impairment that substantially limits
2790 one or more of a person's major life activities, including a person having a record of such an
2791 impairment or being regarded as having such an impairment.

2792 (b) "Disability" does not include current illegal use of, or addiction to, any federally
2793 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
2794 Sec. 802.

2795 (16) "Educational facility":

2796 (a) means:

2797 (i) a school district's building at which pupils assemble to receive instruction in a
2798 program for any combination of grades from preschool through grade 12, including
2799 kindergarten and a program for children with disabilities;

2800 (ii) a structure or facility:

2801 (A) located on the same property as a building described in Subsection (16)(a)(i); and

2802 (B) used in support of the use of that building; and

2803 (iii) a building to provide office and related space to a school district's administrative
2804 personnel; and

2805 (b) does not include:

2806 (i) land or a structure, including land or a structure for inventory storage, equipment
2807 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

2808 (A) not located on the same property as a building described in Subsection (16)(a)(i);

2809 and

2810 (B) used in support of the purposes of a building described in Subsection (16)(a)(i); or

2811 (ii) a therapeutic school.

2812 (17) "Fire authority" means the department, agency, or public entity with responsibility
2813 to review and approve the feasibility of fire protection and suppression services for the subject
2814 property.

2815 (18) "Flood plain" means land that:

2816 (a) is within the 100-year flood plain designated by the Federal Emergency

2817 Management Agency; or

2818 (b) has not been studied or designated by the Federal Emergency Management Agency
2819 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
2820 the land has characteristics that are similar to those of a 100-year flood plain designated by the
2821 Federal Emergency Management Agency.

2822 (19) "Gas corporation" has the same meaning as defined in Section 54-2-1.

2823 (20) "General plan" means a document that a county adopts that sets forth general
2824 guidelines for proposed future development of:

2825 (a) the unincorporated land within the county; or

2826 (b) for a mountainous planning district, the land within the mountainous planning
2827 district.

2828 (21) "Geologic hazard" means:

2829 (a) a surface fault rupture;

2830 (b) shallow groundwater;

2831 (c) liquefaction;

2832 (d) a landslide;

2833 (e) a debris flow;

2834 (f) unstable soil;

2835 (g) a rock fall; or

2836 (h) any other geologic condition that presents a risk:

2837 (i) to life;

2838 (ii) of substantial loss of real property; or

2839 (iii) of substantial damage to real property.

2840 (22) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
2841 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility
2842 system.

2843 (23) "Identical plans" means building plans submitted to a county that:

2844 (a) are clearly marked as "identical plans";

2845 (b) are substantially identical building plans that were previously submitted to and
2846 reviewed and approved by the county; and

2847 (c) describe a building that:

2848 (i) is located on land zoned the same as the land on which the building described in the

2849 previously approved plans is located;

2850 (ii) is subject to the same geological and meteorological conditions and the same law
2851 as the building described in the previously approved plans;

2852 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
2853 and approved by the county; and

2854 (iv) does not require any additional engineering or analysis.

2855 (24) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
2856 Impact Fees Act.

2857 (25) "Improvement completion assurance" means a surety bond, letter of credit,
2858 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
2859 by a county to guaranty the proper completion of landscaping or an infrastructure improvement
2860 required as a condition precedent to:

2861 (a) recording a subdivision plat; or

2862 (b) development of a commercial, industrial, mixed use, or multifamily project.

2863 (26) "Improvement warranty" means an applicant's unconditional warranty that the
2864 applicant's installed and accepted landscaping or infrastructure improvement:

2865 (a) complies with the county's written standards for design, materials, and
2866 workmanship; and

2867 (b) will not fail in any material respect, as a result of poor workmanship or materials,
2868 within the improvement warranty period.

2869 (27) "Improvement warranty period" means a period:

2870 (a) no later than one year after a county's acceptance of required landscaping; or

2871 (b) no later than one year after a county's acceptance of required infrastructure, unless
2872 the county:

2873 (i) determines for good cause that a one-year period would be inadequate to protect the
2874 public health, safety, and welfare; and

2875 (ii) has substantial evidence, on record:

2876 (A) of prior poor performance by the applicant; or

2877 (B) that the area upon which the infrastructure will be constructed contains suspect soil
2878 and the county has not otherwise required the applicant to mitigate the suspect soil.

2879 (28) "Infrastructure improvement" means permanent infrastructure that is essential for

2880 the public health and safety or that:

2881 (a) is required for human consumption; and

2882 (b) an applicant must install:

2883 (i) in accordance with published installation and inspection specifications for public

2884 improvements; and

2885 (ii) as a condition of:

2886 (A) recording a subdivision plat;

2887 (B) obtaining a building permit; or

2888 (C) developing a commercial, industrial, mixed use, condominium, or multifamily

2889 project.

2890 (29) "Internal lot restriction" means a platted note, platted demarcation, or platted

2891 designation that:

2892 (a) runs with the land; and

2893 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on

2894 the plat; or

2895 (ii) designates a development condition that is enclosed within the perimeter of a lot

2896 described on the plat.

2897 (30) "Interstate pipeline company" means a person or entity engaged in natural gas

2898 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under

2899 the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

2900 (31) "Intrastate pipeline company" means a person or entity engaged in natural gas

2901 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory

2902 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

2903 (32) "Land use applicant" means a property owner, or the property owner's designee,

2904 who submits a land use application regarding the property owner's land.

2905 (33) "Land use application":

2906 (a) means an application that is:

2907 (i) required by a county; and

2908 (ii) submitted by a land use applicant to obtain a land use decision; and

2909 (b) does not mean an application to enact, amend, or repeal a land use regulation.

2910 (34) "Land use authority" means:

2911 (a) a person, board, commission, agency, or body, including the local legislative body,
2912 designated by the local legislative body to act upon a land use application; or

2913 (b) if the local legislative body has not designated a person, board, commission,
2914 agency, or body, the local legislative body.

2915 (35) "Land use decision" means an administrative decision of a land use authority or
2916 appeal authority regarding:

2917 (a) a land use permit;

2918 (b) a land use application; or

2919 (c) the enforcement of a land use regulation, land use permit, or development
2920 agreement.

2921 (36) "Land use permit" means a permit issued by a land use authority.

2922 (37) "Land use regulation":

2923 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
2924 specification, fee, or rule that governs the use or development of land;

2925 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
2926 and

2927 (c) does not include:

2928 (i) a land use decision of the legislative body acting as the land use authority, even if
2929 the decision is expressed in a resolution or ordinance; or

2930 (ii) a temporary revision to an engineering specification that does not materially:

2931 (A) increase a land use applicant's cost of development compared to the existing
2932 specification; or

2933 (B) impact a land use applicant's use of land.

2934 (38) "Legislative body" means the county legislative body, or for a county that has
2935 adopted an alternative form of government, the body exercising legislative powers.

2936 (39) "Local district" means any entity under Title 17B, Limited Purpose Local
2937 Government Entities - Local Districts, and any other governmental or quasi-governmental
2938 entity that is not a county, municipality, school district, or the state.

2939 (40) "Lot" means a tract of land, regardless of any label, that is created by and shown
2940 on a subdivision plat that has been recorded in the office of the county recorder.

2941 (41) (a) "Lot line adjustment" means a relocation of a lot line boundary between

2942 adjoining lots or between a lot and adjoining parcels in accordance with Section [17-27a-608](#):

2943 (i) whether or not the lots are located in the same subdivision; and

2944 (ii) with the consent of the owners of record.

2945 (b) "Lot line adjustment" does not mean a new boundary line that:

2946 (i) creates an additional lot; or

2947 (ii) constitutes a subdivision.

2948 (c) "Lot line adjustment" does not include a boundary line adjustment made by the

2949 Department of Transportation.

2950 (42) "Major transit investment corridor" means public transit service that uses or

2951 occupies:

2952 (a) public transit rail right-of-way;

2953 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit;

2954 or

2955 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a

2956 municipality or county and:

2957 (i) a public transit district as defined in Section [17B-2a-802](#); or

2958 (ii) an eligible political subdivision as defined in Section [59-12-2219](#).

2959 (43) "Moderate income housing" means housing occupied or reserved for occupancy

2960 by households with a gross household income equal to or less than 80% of the median gross

2961 income for households of the same size in the county in which the housing is located.

2962 (44) "Mountainous planning district" means an area designated by a county legislative

2963 body in accordance with Section [17-27a-901](#).

2964 (45) "Nominal fee" means a fee that reasonably reimburses a county only for time spent

2965 and expenses incurred in:

2966 (a) verifying that building plans are identical plans; and

2967 (b) reviewing and approving those minor aspects of identical plans that differ from the

2968 previously reviewed and approved building plans.

2969 (46) "Noncomplying structure" means a structure that:

2970 (a) legally existed before the structure's current land use designation; and

2971 (b) because of one or more subsequent land use ordinance changes, does not conform

2972 to the setback, height restrictions, or other regulations, excluding those regulations that govern

2973 the use of land.

2974 (47) "Nonconforming use" means a use of land that:

2975 (a) legally existed before the current land use designation;

2976 (b) has been maintained continuously since the time the land use ordinance regulation
2977 governing the land changed; and

2978 (c) because of one or more subsequent land use ordinance changes, does not conform
2979 to the regulations that now govern the use of the land.

2980 (48) "Official map" means a map drawn by county authorities and recorded in the
2981 county recorder's office that:

2982 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
2983 highways and other transportation facilities;

2984 (b) provides a basis for restricting development in designated rights-of-way or between
2985 designated setbacks to allow the government authorities time to purchase or otherwise reserve
2986 the land; and

2987 (c) has been adopted as an element of the county's general plan.

2988 (49) "Parcel" means any real property that is not a lot.

2989 (50) (a) "Parcel boundary adjustment" means a recorded agreement between owners of
2990 adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line
2991 agreement in accordance with Section [17-27a-523](#), if no additional parcel is created and:

2992 (i) none of the property identified in the agreement is a lot; or

2993 (ii) the adjustment is to the boundaries of a single person's parcels.

2994 (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary
2995 line that:

2996 (i) creates an additional parcel; or

2997 (ii) constitutes a subdivision.

2998 (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by
2999 the Department of Transportation.

3000 (51) "Person" means an individual, corporation, partnership, organization, association,
3001 trust, governmental agency, or any other legal entity.

3002 (52) "Plan for moderate income housing" means a written document adopted by a
3003 county legislative body that includes:

3004 (a) an estimate of the existing supply of moderate income housing located within the
3005 county;

3006 (b) an estimate of the need for moderate income housing in the county for the next five
3007 years;

3008 (c) a survey of total residential land use;

3009 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
3010 income housing; and

3011 (e) a description of the county's program to encourage an adequate supply of moderate
3012 income housing.

3013 (53) "Planning advisory area" means a contiguous, geographically defined portion of
3014 the unincorporated area of a county established under this part with planning and zoning
3015 functions as exercised through the planning advisory area planning commission, as provided in
3016 this chapter, but with no legal or political identity separate from the county and no taxing
3017 authority.

3018 (54) "Plat" means an instrument subdividing property into lots as depicted on a map or
3019 other graphical representation of lands that a licensed professional land surveyor makes and
3020 prepares in accordance with Section [17-27a-603](#) or [57-8-13](#).

3021 (55) "Potential geologic hazard area" means an area that:

3022 (a) is designated by a Utah Geological Survey map, county geologist map, or other
3023 relevant map or report as needing further study to determine the area's potential for geologic
3024 hazard; or

3025 (b) has not been studied by the Utah Geological Survey or a county geologist but
3026 presents the potential of geologic hazard because the area has characteristics similar to those of
3027 a designated geologic hazard area.

3028 (56) "Public agency" means:

3029 (a) the federal government;

3030 (b) the state;

3031 (c) a county, municipality, school district, local district, special service district, or other
3032 political subdivision of the state; or

3033 (d) a charter school.

3034 (57) "Public hearing" means a hearing at which members of the public are provided a

3035 reasonable opportunity to comment on the subject of the hearing.

3036 (58) "Public meeting" means a meeting that is required to be open to the public under
3037 Title 52, Chapter 4, Open and Public Meetings Act.

3038 (59) "Public street" means a public right-of-way, including a public highway, public
3039 avenue, public boulevard, public parkway, public road, public lane, public alley, public
3040 viaduct, public subway, public tunnel, public bridge, public byway, other public transportation
3041 easement, or other public way.

3042 (60) "Receiving zone" means an unincorporated area of a county that the county
3043 designates, by ordinance, as an area in which an owner of land may receive a transferable
3044 development right.

3045 (61) "Record of survey map" means a map of a survey of land prepared in accordance
3046 with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

3047 (62) "Residential facility for persons with a disability" means a residence:

3048 (a) in which more than one person with a disability resides; and

3049 ~~[(b) (i) which is licensed or certified by the Department of Human Services under Title~~
3050 ~~62A, Chapter 2, Licensure of Programs and Facilities; or]~~

3051 ~~[(ii) which is licensed or certified by the Department of Health under Title 26, Chapter~~
3052 ~~21, Health Care Facility Licensing and Inspection Act.]~~

3053 (b) which is licensed or certified by the Department of Health and Human Services
3054 under:

3055 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

3056 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

3057 (63) "Rules of order and procedure" means a set of rules that govern and prescribe in a
3058 public meeting:

3059 (a) parliamentary order and procedure;

3060 (b) ethical behavior; and

3061 (c) civil discourse.

3062 (64) "Sanitary sewer authority" means the department, agency, or public entity with
3063 responsibility to review and approve the feasibility of sanitary sewer services or onsite
3064 wastewater systems.

3065 (65) "Sending zone" means an unincorporated area of a county that the county

3066 designates, by ordinance, as an area from which an owner of land may transfer a transferable
3067 development right.

3068 (66) "Site plan" means a document or map that may be required by a county during a
3069 preliminary review preceding the issuance of a building permit to demonstrate that an owner's
3070 or developer's proposed development activity meets a land use requirement.

3071 (67) "Specified public agency" means:

3072 (a) the state;

3073 (b) a school district; or

3074 (c) a charter school.

3075 (68) "Specified public utility" means an electrical corporation, gas corporation, or
3076 telephone corporation, as those terms are defined in Section [54-2-1](#).

3077 (69) "State" includes any department, division, or agency of the state.

3078 (70) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be
3079 divided into two or more lots or other division of land for the purpose, whether immediate or
3080 future, for offer, sale, lease, or development either on the installment plan or upon any and all
3081 other plans, terms, and conditions.

3082 (b) "Subdivision" includes:

3083 (i) the division or development of land, whether by deed, metes and bounds
3084 description, devise and testacy, map, plat, or other recorded instrument, regardless of whether
3085 the division includes all or a portion of a parcel or lot; and

3086 (ii) except as provided in Subsection (70)(c), divisions of land for residential and
3087 nonresidential uses, including land used or to be used for commercial, agricultural, and
3088 industrial purposes.

3089 (c) "Subdivision" does not include:

3090 (i) a bona fide division or partition of agricultural land for agricultural purposes;

3091 (ii) a boundary line agreement recorded with the county recorder's office between
3092 owners of adjoining parcels adjusting the mutual boundary in accordance with Section
3093 [17-27a-523](#) if no new lot is created;

3094 (iii) a recorded document, executed by the owner of record:

3095 (A) revising the legal descriptions of multiple parcels into one legal description
3096 encompassing all such parcels; or

- 3097 (B) joining a lot to a parcel;
- 3098 (iv) a bona fide division or partition of land in a county other than a first class county
- 3099 for the purpose of siting, on one or more of the resulting separate parcels:
- 3100 (A) an electrical transmission line or a substation;
- 3101 (B) a natural gas pipeline or a regulation station; or
- 3102 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
- 3103 utility service regeneration, transformation, retransmission, or amplification facility;
- 3104 (v) a boundary line agreement between owners of adjoining subdivided properties
- 3105 adjusting the mutual lot line boundary in accordance with Sections [17-27a-523](#) and [17-27a-608](#)
- 3106 if:
- 3107 (A) no new dwelling lot or housing unit will result from the adjustment; and
- 3108 (B) the adjustment will not violate any applicable land use ordinance;
- 3109 (vi) a bona fide division of land by deed or other instrument if the deed or other
- 3110 instrument states in writing that the division:
- 3111 (A) is in anticipation of future land use approvals on the parcel or parcels;
- 3112 (B) does not confer any land use approvals; and
- 3113 (C) has not been approved by the land use authority;
- 3114 (vii) a parcel boundary adjustment;
- 3115 (viii) a lot line adjustment;
- 3116 (ix) a road, street, or highway dedication plat;
- 3117 (x) a deed or easement for a road, street, or highway purpose; or
- 3118 (xi) any other division of land authorized by law.
- 3119 (71) "Subdivision amendment" means an amendment to a recorded subdivision in
- 3120 accordance with Section [17-27a-608](#) that:
- 3121 (a) vacates all or a portion of the subdivision;
- 3122 (b) alters the outside boundary of the subdivision;
- 3123 (c) changes the number of lots within the subdivision;
- 3124 (d) alters a public right-of-way, a public easement, or public infrastructure within the
- 3125 subdivision; or
- 3126 (e) alters a common area or other common amenity within the subdivision.
- 3127 (72) "Substantial evidence" means evidence that:

- 3128 (a) is beyond a scintilla; and
- 3129 (b) a reasonable mind would accept as adequate to support a conclusion.
- 3130 (73) "Suspect soil" means soil that has:
- 3131 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
- 3132 3% swell potential;
- 3133 (b) bedrock units with high shrink or swell susceptibility; or
- 3134 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
- 3135 commonly associated with dissolution and collapse features.
- 3136 (74) "Therapeutic school" means a residential group living facility:
- 3137 (a) for four or more individuals who are not related to:
- 3138 (i) the owner of the facility; or
- 3139 (ii) the primary service provider of the facility;
- 3140 (b) that serves students who have a history of failing to function:
- 3141 (i) at home;
- 3142 (ii) in a public school; or
- 3143 (iii) in a nonresidential private school; and
- 3144 (c) that offers:
- 3145 (i) room and board; and
- 3146 (ii) an academic education integrated with:
- 3147 (A) specialized structure and supervision; or
- 3148 (B) services or treatment related to a disability, an emotional development, a
- 3149 behavioral development, a familial development, or a social development.
- 3150 (75) "Transferable development right" means a right to develop and use land that
- 3151 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
- 3152 land use rights from a designated sending zone to a designated receiving zone.
- 3153 (76) "Unincorporated" means the area outside of the incorporated area of a
- 3154 municipality.
- 3155 (77) "Water interest" means any right to the beneficial use of water, including:
- 3156 (a) each of the rights listed in Section 73-1-11; and
- 3157 (b) an ownership interest in the right to the beneficial use of water represented by:
- 3158 (i) a contract; or

3159 (ii) a share in a water company, as defined in Section [73-3-3.5](#).

3160 (78) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
3161 land use zones, overlays, or districts.

3162 Section 38. Section **17-27a-519** is amended to read:

3163 **17-27a-519. Licensing of residences for persons with a disability.**

3164 The responsibility to license programs or entities that operate facilities for persons with
3165 a disability, as well as to require and monitor the provision of adequate services to persons
3166 residing in those facilities, shall rest with the Department of Health and Human Services as
3167 provided in:

3168 [~~(1) for programs or entities licensed or certified by the Department of Human~~
3169 ~~Services, the Department of Human Services as provided in Title 62A, Chapter 5, Services for~~
3170 ~~People with Disabilities; and]~~

3171 [~~(2) for programs or entities licensed or certified by the Department of Health, the~~
3172 ~~Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and~~
3173 ~~Inspection Act.]~~

3174 (1) Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities; and

3175 (2) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

3176 Section 39. Section **17-27a-525** is amended to read:

3177 **17-27a-525. Cannabis production establishments and medical cannabis**
3178 **pharmacies.**

3179 (1) As used in this section:

3180 (a) "Cannabis production establishment" means the same as that term is defined in
3181 Section [4-41a-102](#).

3182 (b) "Industrial hemp producer licensee" means the same as the term "licensee" is
3183 defined in Section [4-41-102](#).

3184 (c) "Medical cannabis pharmacy" means the same as that term is defined in Section
3185 [~~26-61a-102~~] [26B-4-201](#).

3186 (2) (a) (i) A county may not regulate a cannabis production establishment in conflict
3187 with:

3188 (A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable
3189 jurisprudence; and

- 3190 (B) this chapter.
- 3191 (ii) A county may not regulate a medical cannabis pharmacy in conflict with:
- 3192 (A) [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2,
- 3193 Cannabinoid Research and Medical Cannabis, and applicable jurisprudence; and
- 3194 (B) this chapter.
- 3195 (iii) A county may not regulate an industrial hemp producer licensee in conflict with:
- 3196 (A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and
- 3197 (B) this chapter.
- 3198 (b) The Department of Agriculture and Food has plenary authority to license programs
- 3199 or entities that operate a cannabis production establishment.
- 3200 (c) The Department of Health and Human Services has plenary authority to license
- 3201 programs or entities that operate a medical cannabis pharmacy.
- 3202 (3) (a) Within the time period described in Subsection (3)(b), a county shall prepare
- 3203 and adopt a land use regulation, development agreement, or land use decision in accordance
- 3204 with this title and:
- 3205 (i) regarding a cannabis production establishment, Section [4-41a-406](#); or
- 3206 (ii) regarding a medical cannabis pharmacy, Section [~~26-61a-507~~] [26B-4-235](#).
- 3207 (b) A county shall take the action described in Subsection (3)(a):
- 3208 (i) before January 1, 2021, within 45 days after the day on which the county receives a
- 3209 petition for the action; and
- 3210 (ii) after January 1, 2021, in accordance with Subsection [17-27a-509.5\(2\)](#).
- 3211 Section 40. Section **17-27a-1102** is amended to read:
- 3212 **17-27a-1102. Definitions.**
- 3213 (1) "Animal feeding operation" means a lot or facility where the following conditions
- 3214 are met:
- 3215 (a) animals have been, are, or will be stabled or confined and fed or maintained for a
- 3216 total of 45 days or more in any 12-month period; and
- 3217 (b) crops, vegetation, forage growth, or post-harvest residues are not sustained in the
- 3218 normal growing season over any portion of the lot or facility.
- 3219 (2) (a) "Commercial enterprise" means a building:
- 3220 (i) used as a part of a business that manufactures goods, delivers services, or sells

- 3221 goods or services;
- 3222 (ii) customarily and regularly used by the general public during the entire calendar
3223 year; and
- 3224 (iii) connected to electric or water systems.
- 3225 (b) "Commercial enterprise" does not include an agriculture operation.
- 3226 (3) "County large concentrated animal feeding operation land use ordinance" means an
3227 ordinance adopted in accordance with Section [17-27a-1103](#).
- 3228 (4) "Education institution" means a building in which any part is used:
- 3229 (a) for more than three hours each weekday during a school year as a public or private:
- 3230 (i) elementary school;
- 3231 (ii) secondary school; or
- 3232 (iii) kindergarten;
- 3233 (b) a state institution of higher education as defined in Section [53B-3-102](#); or
- 3234 (c) a private institution of higher education in the state accredited by a regional or
3235 national accrediting agency recognized by the United States Department of Education.
- 3236 (5) "Health care facility" means the same as that term is defined in Section [[26-21-2](#)]
3237 [26B-2-201](#).
- 3238 (6) "Large concentrated animal feeding operation" means an animal feeding operation
3239 that stables or confines as many as or more than the numbers of animals specified in any of the
3240 following categories:
- 3241 (a) 700 mature dairy cows, whether milked or dry;
- 3242 (b) 1,000 veal calves;
- 3243 (c) 1,000 cattle other than mature dairy cows or veal calves, with "cattle" including
3244 heifers, steers, bulls, and cow calf pairs;
- 3245 (d) 2,500 swine each weighing 55 pounds or more;
- 3246 (e) 10,000 swine each weighing less than 55 pounds;
- 3247 (f) 500 horses;
- 3248 (g) 10,000 sheep or lambs;
- 3249 (h) 55,000 turkeys;
- 3250 (i) 30,000 laying hens or broilers, if the animal feeding operation uses a liquid manure
3251 handling system;

3252 (j) 125,000 chickens, other than laying hens, if the animal feeding operation uses other
3253 than a liquid manure handling system;

3254 (k) 82,000 laying hens, if the animal feeding operation uses other than a liquid manure
3255 handling system;

3256 (l) 30,000 ducks, if the animal feeding operation uses other than a liquid manure
3257 handling system; or

3258 (m) 5,000 ducks, if the animal feeding operation uses a liquid manure handling system.

3259 (7) "Manure" includes manure, bedding, compost, a raw material, or other material
3260 commingled with manure or set aside for disposal.

3261 (8) "Public area" means land that:

3262 (a) is owned by the federal government, the state, or a political subdivision with
3263 facilities that attract the public to congregate and remain in the area for significant periods of
3264 time;

3265 (b) (i) is part of a public park, preserve, or recreation area that is owned or managed by
3266 the federal government, the state, a political subdivision, or a nongovernmental entity; and

3267 (ii) has a cultural, archaeological, scientific, or historic significance or contains a rare
3268 or valuable ecological system, including a site recognized as a National Historic Landmark or
3269 Site; or

3270 (c) is a cemetery.

3271 (9) "Religious institution" means a building and grounds used at least monthly for
3272 religious services or ceremonies.

3273 Section 41. Section **17-43-102** is amended to read:

3274 **17-43-102. Definitions.**

3275 As used in this chapter:

3276 (1) "Department" means the Department of Health and Human Services created in
3277 Section [26B-1-201](#).

3278 (2) "Division" means the Division of Integrated Healthcare within the department.

3279 Section 42. Section **17-43-201** is amended to read:

3280 **17-43-201. Local substance abuse authorities -- Responsibilities.**

3281 (1) (a) (i) In each county operating under a county executive-council form of
3282 government under Section [17-52a-203](#), the county legislative body is the local substance abuse

3283 authority, provided however that any contract for plan services shall be administered by the
3284 county executive.

3285 (ii) In each county operating under a council-manager form of government under
3286 Section [17-52a-204](#), the county manager is the local substance abuse authority.

3287 (iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the
3288 county legislative body is the local substance abuse authority.

3289 (b) Within legislative appropriations and county matching funds required by this
3290 section, and under the direction of the division, each local substance abuse authority shall:

3291 (i) develop substance abuse prevention and treatment services plans;

3292 (ii) provide substance abuse services to residents of the county; and

3293 (iii) cooperate with efforts of the division to promote integrated programs that address
3294 an individual's substance abuse, mental health, and physical healthcare needs, as described in
3295 Section [~~62A-15-103~~] [26B-5-102](#).

3296 (c) Within legislative appropriations and county matching funds required by this
3297 section, each local substance abuse authority shall cooperate with the efforts of the department
3298 to promote a system of care, as defined in Section [26B-1-102](#), for minors with or at risk for
3299 complex emotional and behavioral needs, as described in Section [26B-1-202](#).

3300 (2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal
3301 Cooperation Act, two or more counties may join to:

3302 (i) provide substance abuse prevention and treatment services; or

3303 (ii) create a united local health department that provides substance abuse treatment
3304 services, mental health services, and local health department services in accordance with
3305 Subsection (3).

3306 (b) The legislative bodies of counties joining to provide services may establish
3307 acceptable ways of apportioning the cost of substance abuse services.

3308 (c) Each agreement for joint substance abuse services shall:

3309 (i) (A) designate the treasurer of one of the participating counties or another person as
3310 the treasurer for the combined substance abuse authorities and as the custodian of money
3311 available for the joint services; and

3312 (B) provide that the designated treasurer, or other disbursing officer authorized by the
3313 treasurer, may make payments from the money for the joint services upon audit of the

3314 appropriate auditing officer or officers representing the participating counties;

3315 (ii) provide for the appointment of an independent auditor or a county auditor of one of

3316 the participating counties as the designated auditing officer for the combined substance abuse

3317 authorities;

3318 (iii) (A) provide for the appointment of the county or district attorney of one of the

3319 participating counties as the designated legal officer for the combined substance abuse

3320 authorities; and

3321 (B) authorize the designated legal officer to request and receive the assistance of the

3322 county or district attorneys of the other participating counties in defending or prosecuting

3323 actions within their counties relating to the combined substance abuse authorities; and

3324 (iv) provide for the adoption of management, clinical, financial, procurement,

3325 personnel, and administrative policies as already established by one of the participating

3326 counties or as approved by the legislative body of each participating county or interlocal board.

3327 (d) An agreement for joint substance abuse services may provide for joint operation of

3328 services and facilities or for operation of services and facilities under contract by one

3329 participating local substance abuse authority for other participating local substance abuse

3330 authorities.

3331 (3) A county governing body may elect to combine the local substance abuse authority

3332 with the local mental health authority created in Part 3, Local Mental Health Authorities, and

3333 the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department

3334 Act, to create a united local health department under Section [26A-1-105.5](#). A local substance

3335 abuse authority that joins a united local health department shall comply with this part.

3336 (4) (a) Each local substance abuse authority is accountable to the department and the

3337 state with regard to the use of state and federal funds received from those departments for

3338 substance abuse services, regardless of whether the services are provided by a private contract

3339 provider.

3340 (b) Each local substance abuse authority shall comply, and require compliance by its

3341 contract provider, with all directives issued by the department regarding the use and

3342 expenditure of state and federal funds received from those departments for the purpose of

3343 providing substance abuse programs and services. The department shall ensure that those

3344 directives are not duplicative or conflicting, and shall consult and coordinate with local

3345 substance abuse authorities with regard to programs and services.

3346 (5) Each local substance abuse authority shall:

3347 (a) review and evaluate substance abuse prevention and treatment needs and services,
3348 including substance abuse needs and services for individuals incarcerated in a county jail or
3349 other county correctional facility;

3350 (b) annually prepare and submit to the division a plan approved by the county
3351 legislative body for funding and service delivery that includes:

3352 (i) provisions for services, either directly by the substance abuse authority or by
3353 contract, for adults, youth, and children, including those incarcerated in a county jail or other
3354 county correctional facility; and

3355 (ii) primary prevention, targeted prevention, early intervention, and treatment services;

3356 (c) establish and maintain, either directly or by contract, programs licensed under [~~Title~~
3357 ~~62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human
3358 Services Programs and Facilities;

3359 (d) appoint directly or by contract a full or part time director for substance abuse
3360 programs, and prescribe the director's duties;

3361 (e) provide input and comment on new and revised rules established by the division;

3362 (f) establish and require contract providers to establish administrative, clinical,
3363 procurement, personnel, financial, and management policies regarding substance abuse services
3364 and facilities, in accordance with the rules of the division, and state and federal law;

3365 (g) establish mechanisms allowing for direct citizen input;

3366 (h) annually contract with the division to provide substance abuse programs and
3367 services in accordance with the provisions of [~~Title 62A, Chapter 15, Substance Abuse and~~
3368 ~~Mental Health Act~~] Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;

3369 (i) comply with all applicable state and federal statutes, policies, audit requirements,
3370 contract requirements, and any directives resulting from those audits and contract requirements;

3371 (j) promote or establish programs for the prevention of substance abuse within the
3372 community setting through community-based prevention programs;

3373 (k) provide funding equal to at least 20% of the state funds that it receives to fund
3374 services described in the plan;

3375 (l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal

3376 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title
3377 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
3378 Other Local Entities Act;

3379 (m) for persons convicted of driving under the influence in violation of Section
3380 [41-6a-502](#) or [41-6a-517](#), conduct the following as defined in Section [41-6a-501](#):

- 3381 (i) a screening;
- 3382 (ii) an assessment;
- 3383 (iii) an educational series; and
- 3384 (iv) substance abuse treatment; and

3385 (n) utilize proceeds of the accounts described in Subsection [~~[62A-15-503](#)~~]
3386 [26B-5-209](#)(1) to supplement the cost of providing the services described in Subsection (5)(m).

3387 (6) Before disbursing any public funds, each local substance abuse authority shall
3388 require that each entity that receives any public funds from the local substance abuse authority
3389 agrees in writing that:

3390 (a) the entity's financial records and other records relevant to the entity's performance
3391 of the services provided to the local substance abuse authority shall be subject to examination
3392 by:

- 3393 (i) the division;
- 3394 (ii) the local substance abuse authority director;
- 3395 (iii) (A) the county treasurer and county or district attorney; or
- 3396 (B) if two or more counties jointly provide substance abuse services under an
3397 agreement under Subsection (2), the designated treasurer and the designated legal officer;
- 3398 (iv) the county legislative body; and
- 3399 (v) in a county with a county executive that is separate from the county legislative
3400 body, the county executive;

3401 (b) the county auditor may examine and audit the entity's financial and other records
3402 relevant to the entity's performance of the services provided to the local substance abuse
3403 authority; and

3404 (c) the entity will comply with the provisions of Subsection (4)(b).

3405 (7) A local substance abuse authority may receive property, grants, gifts, supplies,
3406 materials, contributions, and any benefit derived therefrom, for substance abuse services. If

3407 those gifts are conditioned upon their use for a specified service or program, they shall be so
3408 used.

3409 (8) (a) As used in this section, "public funds" means the same as that term is defined in
3410 Section 17-43-203.

3411 (b) Public funds received for the provision of services pursuant to the local substance
3412 abuse plan may not be used for any other purpose except those authorized in the contract
3413 between the local substance abuse authority and the provider for the provision of plan services.

3414 (9) Subject to the requirements of the federal Substance Abuse Prevention and
3415 Treatment Block Grant, Pub. L. No. 102-321, a local substance abuse authority shall ensure
3416 that all substance abuse treatment programs that receive public funds:

3417 (a) accept and provide priority for admission to a pregnant woman or a pregnant minor;
3418 and

3419 (b) if admission of a pregnant woman or a pregnant minor is not possible within 24
3420 hours of the time that a request for admission is made, provide a comprehensive referral for
3421 interim services that:

3422 (i) are accessible to the pregnant woman or pregnant minor;

3423 (ii) are best suited to provide services to the pregnant woman or pregnant minor;

3424 (iii) may include:

3425 (A) counseling;

3426 (B) case management; or

3427 (C) a support group; and

3428 (iv) shall include a referral for:

3429 (A) prenatal care; and

3430 (B) counseling on the effects of alcohol and drug use during pregnancy.

3431 (10) If a substance abuse treatment program described in Subsection (9) is not able to
3432 accept and admit a pregnant woman or pregnant minor under Subsection (9) within 48 hours of
3433 the time that request for admission is made, the local substance abuse authority shall contact
3434 the Division of Integrated Healthcare for assistance in providing services to the pregnant
3435 woman or pregnant minor.

3436 Section 43. Section 17-43-204 is amended to read:

3437 **17-43-204. Fees for substance abuse services -- Responsibility for cost of service if**

3438 **rendered by authority to nonresident -- Authority may receive funds from other sources.**

3439 (1) Each local substance abuse authority shall charge a fee for substance abuse
3440 services, except that substance abuse services may not be refused to any person because of
3441 inability to pay.

3442 (2) If a local substance abuse authority, through its designated provider, provides a
3443 service described in Subsection [17-43-201\(5\)](#) to a person who resides within the jurisdiction of
3444 another local substance abuse authority, the local substance abuse authority in whose
3445 jurisdiction the person resides is responsible for the cost of that service if its designated
3446 provider has authorized the provision of that service.

3447 (3) A local substance abuse authority and entities that contract with a local substance
3448 abuse authority to provide substance abuse services may receive funds made available by
3449 federal, state, or local health, substance abuse, mental health, education, welfare, or other
3450 agencies, in accordance with the provisions of this part and [~~Title 62A, Chapter 15, Substance~~
3451 ~~Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health Care - Substance Use and Mental
3452 Health.

3453 Section 44. Section **17-43-301** is amended to read:

3454 **17-43-301. Local mental health authorities -- Responsibilities.**

3455 (1) As used in this section:

3456 (a) "Assisted outpatient treatment" means the same as that term is defined in Section
3457 [~~62A-15-602~~] [26B-5-301](#).

3458 (b) "Crisis worker" means the same as that term is defined in Section [~~62A-15-1301~~]
3459 [26B-5-610](#).

3460 (c) "Local mental health crisis line" means the same as that term is defined in Section
3461 [~~62A-15-1301~~] [26B-5-610](#).

3462 (d) "Mental health therapist" means the same as that term is defined in Section
3463 [58-60-102](#).

3464 (e) "Public funds" means the same as that term is defined in Section [17-43-303](#).

3465 (f) "Statewide mental health crisis line" means the same as that term is defined in
3466 Section [~~62A-15-1301~~] [26B-5-610](#).

3467 (2) (a) (i) In each county operating under a county executive-council form of
3468 government under Section [17-52a-203](#), the county legislative body is the local mental health

3469 authority, provided however that any contract for plan services shall be administered by the
3470 county executive.

3471 (ii) In each county operating under a council-manager form of government under
3472 Section [17-52a-204](#), the county manager is the local mental health authority.

3473 (iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the
3474 county legislative body is the local mental health authority.

3475 (b) Within legislative appropriations and county matching funds required by this
3476 section, under the direction of the division, each local mental health authority shall:

3477 (i) provide mental health services to individuals within the county; and

3478 (ii) cooperate with efforts of the division to promote integrated programs that address
3479 an individual's substance abuse, mental health, and physical healthcare needs, as described in
3480 Section [~~62A-15-103~~] [26B-5-102](#).

3481 (c) Within legislative appropriations and county matching funds required by this
3482 section, each local mental health authority shall cooperate with the efforts of the department to
3483 promote a system of care, as defined in Section [26B-1-102](#), for minors with or at risk for
3484 complex emotional and behavioral needs, as described in Section [26B-1-202](#).

3485 (3) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal
3486 Cooperation Act, two or more counties may join to:

3487 (i) provide mental health prevention and treatment services; or

3488 (ii) create a united local health department that combines substance abuse treatment
3489 services, mental health services, and local health department services in accordance with
3490 Subsection (4).

3491 (b) The legislative bodies of counties joining to provide services may establish
3492 acceptable ways of apportioning the cost of mental health services.

3493 (c) Each agreement for joint mental health services shall:

3494 (i) (A) designate the treasurer of one of the participating counties or another person as
3495 the treasurer for the combined mental health authorities and as the custodian of money
3496 available for the joint services; and

3497 (B) provide that the designated treasurer, or other disbursing officer authorized by the
3498 treasurer, may make payments from the money available for the joint services upon audit of the
3499 appropriate auditing officer or officers representing the participating counties;

3500 (ii) provide for the appointment of an independent auditor or a county auditor of one of
3501 the participating counties as the designated auditing officer for the combined mental health
3502 authorities;

3503 (iii) (A) provide for the appointment of the county or district attorney of one of the
3504 participating counties as the designated legal officer for the combined mental health
3505 authorities; and

3506 (B) authorize the designated legal officer to request and receive the assistance of the
3507 county or district attorneys of the other participating counties in defending or prosecuting
3508 actions within their counties relating to the combined mental health authorities; and

3509 (iv) provide for the adoption of management, clinical, financial, procurement,
3510 personnel, and administrative policies as already established by one of the participating
3511 counties or as approved by the legislative body of each participating county or interlocal board.

3512 (d) An agreement for joint mental health services may provide for:

3513 (i) joint operation of services and facilities or for operation of services and facilities
3514 under contract by one participating local mental health authority for other participating local
3515 mental health authorities; and

3516 (ii) allocation of appointments of members of the mental health advisory council
3517 between or among participating counties.

3518 (4) A county governing body may elect to combine the local mental health authority
3519 with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities,
3520 and the local health department created in Title 26A, Chapter 1, Part 1, Local Health
3521 Department Act, to create a united local health department under Section [26A-1-105.5](#). A local
3522 mental health authority that joins with a united local health department shall comply with this
3523 part.

3524 (5) (a) Each local mental health authority is accountable to the department and the state
3525 with regard to the use of state and federal funds received from those departments for mental
3526 health services, regardless of whether the services are provided by a private contract provider.

3527 (b) Each local mental health authority shall comply, and require compliance by its
3528 contract provider, with all directives issued by the department regarding the use and
3529 expenditure of state and federal funds received from those departments for the purpose of
3530 providing mental health programs and services. The department shall ensure that those

3531 directives are not duplicative or conflicting, and shall consult and coordinate with local mental
3532 health authorities with regard to programs and services.

3533 (6) (a) Each local mental health authority shall:

3534 (i) review and evaluate mental health needs and services, including mental health needs
3535 and services for:

3536 (A) an individual incarcerated in a county jail or other county correctional facility; and

3537 (B) an individual who is a resident of the county and who is court ordered to receive
3538 assisted outpatient treatment under Section [~~62A-15-630.5~~] 26B-5-351;

3539 (ii) in accordance with Subsection (6)(b), annually prepare and submit to the division a
3540 plan approved by the county legislative body for mental health funding and service delivery,
3541 either directly by the local mental health authority or by contract;

3542 (iii) establish and maintain, either directly or by contract, programs licensed under
3543 [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1,
3544 Human Services Programs and Facilities;

3545 (iv) appoint, directly or by contract, a full-time or part-time director for mental health
3546 programs and prescribe the director's duties;

3547 (v) provide input and comment on new and revised rules established by the division;

3548 (vi) establish and require contract providers to establish administrative, clinical,
3549 personnel, financial, procurement, and management policies regarding mental health services
3550 and facilities, in accordance with the rules of the division, and state and federal law;

3551 (vii) establish mechanisms allowing for direct citizen input;

3552 (viii) annually contract with the division to provide mental health programs and
3553 services in accordance with the provisions of [~~Title 62A, Chapter 15, Substance Abuse and~~
3554 ~~Mental Health Act~~] Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;

3555 (ix) comply with all applicable state and federal statutes, policies, audit requirements,
3556 contract requirements, and any directives resulting from those audits and contract requirements;

3557 (x) provide funding equal to at least 20% of the state funds that it receives to fund
3558 services described in the plan;

3559 (xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
3560 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title
3561 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and

3562 Other Local Entities Act; and
3563 (xii) take and retain physical custody of minors committed to the physical custody of
3564 local mental health authorities by a judicial proceeding under [~~Title 62A, Chapter 15, Part 7,~~
3565 ~~Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health]~~
3566 Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.

3567 (b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and
3568 children, which shall include:

- 3569 (i) inpatient care and services;
- 3570 (ii) residential care and services;
- 3571 (iii) outpatient care and services;
- 3572 (iv) 24-hour crisis care and services;
- 3573 (v) psychotropic medication management;
- 3574 (vi) psychosocial rehabilitation, including vocational training and skills development;
- 3575 (vii) case management;
- 3576 (viii) community supports, including in-home services, housing, family support
3577 services, and respite services;
- 3578 (ix) consultation and education services, including case consultation, collaboration
3579 with other county service agencies, public education, and public information; and
- 3580 (x) services to persons incarcerated in a county jail or other county correctional facility.

3581 (7) (a) If a local mental health authority provides for a local mental health crisis line
3582 under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local
3583 mental health authority shall:

- 3584 (i) collaborate with the statewide mental health crisis line described in Section
3585 [~~62A-15-1302~~] [26B-5-610](#);
- 3586 (ii) ensure that each individual who answers calls to the local mental health crisis line:
3587 (A) is a mental health therapist or a crisis worker; and
3588 (B) meets the standards of care and practice established by the Division of Integrated
3589 Healthcare, in accordance with Section [~~62A-15-1302~~] [26B-5-610](#); and
- 3590 (iii) ensure that when necessary, based on the local mental health crisis line's capacity,
3591 calls are immediately routed to the statewide mental health crisis line to ensure that when an
3592 individual calls the local mental health crisis line, regardless of the time, date, or number of

3593 individuals trying to simultaneously access the local mental health crisis line, a mental health
3594 therapist or a crisis worker answers the call without the caller first:

3595 (A) waiting on hold; or

3596 (B) being screened by an individual other than a mental health therapist or crisis
3597 worker.

3598 (b) If a local mental health authority does not provide for a local mental health crisis
3599 line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the
3600 local mental health authority shall use the statewide mental health crisis line as a local crisis
3601 line resource.

3602 (8) Before disbursing any public funds, each local mental health authority shall require
3603 that each entity that receives any public funds from a local mental health authority agrees in
3604 writing that:

3605 (a) the entity's financial records and other records relevant to the entity's performance
3606 of the services provided to the mental health authority shall be subject to examination by:

3607 (i) the division;

3608 (ii) the local mental health authority director;

3609 (iii) (A) the county treasurer and county or district attorney; or

3610 (B) if two or more counties jointly provide mental health services under an agreement
3611 under Subsection (3), the designated treasurer and the designated legal officer;

3612 (iv) the county legislative body; and

3613 (v) in a county with a county executive that is separate from the county legislative
3614 body, the county executive;

3615 (b) the county auditor may examine and audit the entity's financial and other records
3616 relevant to the entity's performance of the services provided to the local mental health
3617 authority; and

3618 (c) the entity will comply with the provisions of Subsection (5)(b).

3619 (9) A local mental health authority may receive property, grants, gifts, supplies,
3620 materials, contributions, and any benefit derived therefrom, for mental health services. If those
3621 gifts are conditioned upon their use for a specified service or program, they shall be so used.

3622 (10) Public funds received for the provision of services pursuant to the local mental
3623 health plan may not be used for any other purpose except those authorized in the contract

3624 between the local mental health authority and the provider for the provision of plan services.

3625 (11) A local mental health authority shall provide assisted outpatient treatment
3626 services, as described in Section [~~62A-15-630.4~~] 26B-5-350, to a resident of the county who
3627 has been ordered under Section [~~62A-15-630.5~~] 26B-5-351 to receive assisted outpatient
3628 treatment.

3629 Section 45. Section ~~17-43-303~~ is amended to read:

3630 **17-43-303. Definition of "public funds" -- Responsibility for oversight of public**
3631 **funds -- Mental health programs and services.**

3632 (1) As used in this section, "public funds":

3633 (a) means:

3634 (i) federal money received from the department or the Department of Health and
3635 Human Services; and

3636 (ii) state money appropriated by the Legislature to the department, the Department of
3637 Health and Human Services, a county governing body, or a local mental health authority for the
3638 purposes of providing mental health programs or services; and

3639 (b) includes that federal and state money:

3640 (i) even after the money has been transferred by a local mental health authority to a
3641 private provider under an annual or otherwise ongoing contract to provide comprehensive
3642 mental health programs or services for the local mental health authority; and

3643 (ii) while in the possession of the private provider.

3644 (2) Each local mental health authority is responsible for oversight of all public funds
3645 received by it, to determine that those public funds are utilized in accordance with federal and
3646 state law, the rules and policies of the department and the Department of Health and Human
3647 Services, and the provisions of any contract between the local mental health authority and the
3648 department, the Department of Health and Human Services, or a private provider. That
3649 oversight includes requiring that neither the contract provider, as described in Subsection (1),
3650 nor any of its employees:

3651 (a) violate any applicable federal or state criminal law;

3652 (b) knowingly violate any applicable rule or policy of the department or Department of
3653 Health and Human Services, or any provision of contract between the local mental health
3654 authority and the department, the Department of Health and Human Services, or the private

3655 provider;

3656 (c) knowingly keep any false account or make any false entry or erasure in any account
3657 of or relating to the public funds;

3658 (d) fraudulently alter, falsify, conceal, destroy, or obliterate any account of or relating
3659 to public funds;

3660 (e) fail to ensure competent oversight for lawful disbursement of public funds;

3661 (f) appropriate public funds for an unlawful use or for a use that is not in compliance
3662 with contract provisions; or

3663 (g) knowingly or intentionally use public funds unlawfully or in violation of a
3664 governmental contract provision, or in violation of state policy.

3665 (3) A local mental health authority that knew or reasonably should have known of any
3666 of the circumstances described in Subsection (2), and that fails or refuses to take timely
3667 corrective action in good faith shall, in addition to any other penalties provided by law, be
3668 required to make full and complete repayment to the state of all public funds improperly used
3669 or expended.

3670 (4) Any public funds required to be repaid to the state by a local mental health
3671 authority pursuant to Subsection (3), based upon the actions or failure of the contract provider,
3672 may be recovered by the local mental health authority from its contract provider, in addition to
3673 the local mental health authority's costs and attorney's fees.

3674 Section 46. Section **17-43-306** is amended to read:

3675 **17-43-306. Fees for mental health services -- Responsibility for cost of service if**
3676 **rendered by authority to nonresident -- Authority may receive funds from other sources.**

3677 (1) Each local mental health authority shall charge a fee for mental health services,
3678 except that mental health services may not be refused to any person because of inability to pay.

3679 (2) If a local mental health authority, through its designated provider, provides a
3680 service described in Section **17-43-301** to a person who resides within the jurisdiction of
3681 another local mental health authority, the local mental health authority in whose jurisdiction the
3682 person resides is responsible for the cost of that service if its designated provider has
3683 authorized the provision of that service.

3684 (3) A local mental health authority and entities that contract with a local mental health
3685 authority to provide mental health services may receive funds made available by federal, state,

3686 or local health, substance abuse, mental health, education, welfare, or other agencies, in
3687 accordance with the provisions of this part and [~~Title 62A, Chapter 15, Substance Abuse and~~
3688 ~~Mental Health Act~~] Title 26B, Chapter 5, Health Care - Substance Use and Mental Health.

3689 Section 47. Section **17-50-318** is amended to read:

3690 **17-50-318. Mental health and substance abuse services.**

3691 Each county shall provide mental health and substance abuse services in accordance
3692 with [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5,
3693 Health Care - Substance Use and Mental Health.

3694 Section 48. Section **17-50-333** is amended to read:

3695 **17-50-333. Regulation of retail tobacco specialty business.**

3696 (1) As used in this section:

3697 (a) "Community location" means:

3698 (i) a public or private kindergarten, elementary, middle, junior high, or high school;

3699 (ii) a licensed child-care facility or preschool;

3700 (iii) a trade or technical school;

3701 (iv) a church;

3702 (v) a public library;

3703 (vi) a public playground;

3704 (vii) a public park;

3705 (viii) a youth center or other space used primarily for youth oriented activities;

3706 (ix) a public recreational facility;

3707 (x) a public arcade; or

3708 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.

3709 (b) "Department" means the Department of Health and Human Services created in

3710 Section [26B-1-201](#).

3711 (c) "Electronic cigarette product" means the same as that term is defined in Section
3712 [76-10-101](#).

3713 (d) "Flavored electronic cigarette product" means the same as that term is defined in
3714 Section [76-10-101](#).

3715 (e) "Licensee" means a person licensed under this section to conduct business as a
3716 retail tobacco specialty business.

- 3717 (f) "Local health department" means the same as that term is defined in Section
3718 26A-1-102.
- 3719 (g) "Nicotine product" means the same as that term is defined in Section 76-10-101.
- 3720 (h) "Retail tobacco specialty business" means a commercial establishment in which:
- 3721 (i) sales of tobacco products, electronic cigarette products, and nicotine products
3722 account for more than 35% of the total quarterly gross receipts for the establishment;
- 3723 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
3724 storage of tobacco products, electronic cigarette products, or nicotine products;
- 3725 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of
3726 tobacco products, electronic cigarette products, or nicotine products;
- 3727 (iv) the commercial establishment:
- 3728 (A) holds itself out as a retail tobacco specialty business; and
- 3729 (B) causes a reasonable person to believe the commercial establishment is a retail
3730 tobacco specialty business;
- 3731 (v) any flavored electronic cigarette product is sold; or
- 3732 (vi) the retail space features a self-service display for tobacco products, electronic
3733 cigarette products, or nicotine products.
- 3734 (i) "Self-service display" means the same as that term is defined in Section
3735 76-10-105.1.
- 3736 (j) "Tobacco product" means:
- 3737 (i) the same as that term is defined in Section 76-10-101; or
- 3738 (ii) tobacco paraphernalia as defined in Section 76-10-101.
- 3739 (2) The regulation of a retail tobacco specialty business is an exercise of the police
3740 powers of the state by the state or by the delegation of the state's police power to other
3741 governmental entities.
- 3742 (3) (a) A person may not operate a retail tobacco specialty business in a county unless
3743 the person obtains a license from the county in which the retail tobacco specialty business is
3744 located.
- 3745 (b) A county may only issue a retail tobacco specialty business license to a person if
3746 the person complies with the provisions of Subsections (4) and (5).
- 3747 (4) (a) Except as provided in Subsection (7), a county may not issue a license for a

3748 person to conduct business as a retail tobacco specialty business if the retail tobacco specialty
3749 business is located within:

- 3750 (i) 1,000 feet of a community location;
- 3751 (ii) 600 feet of another retail tobacco specialty business; or
- 3752 (iii) 600 feet from property used or zoned for:
 - 3753 (A) agriculture use; or
 - 3754 (B) residential use.

3755 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in
3756 a straight line from the nearest entrance of the retail tobacco specialty business to the nearest
3757 property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard
3758 to intervening structures or zoning districts.

3759 (5) A county may not issue or renew a license for a person to conduct business as a
3760 retail tobacco specialty business until the person provides the county with proof that the retail
3761 tobacco specialty business has:

3762 (a) a valid permit for a retail tobacco specialty business issued under [~~Title 26, Chapter~~
3763 ~~62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7,
3764 Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health
3765 department having jurisdiction over the area in which the retail tobacco specialty business is
3766 located; and

3767 (b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax
3768 Commission in accordance with Section [59-14-201](#) or [59-14-301](#) to sell a tobacco product; or
3769 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid
3770 license issued by the State Tax Commission in accordance with Section [59-14-803](#) to sell an
3771 electronic cigarette product or a nicotine product.

3772 (6) (a) Nothing in this section:

- 3773 (i) requires a county to issue a retail tobacco specialty business license; or
- 3774 (ii) prohibits a county from adopting more restrictive requirements on a person seeking
3775 a license or renewal of a license to conduct business as a retail tobacco specialty business.

3776 (b) A county may suspend or revoke a retail tobacco specialty business license issued
3777 under this section:

- 3778 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10,

3779 Part 16, Pattern of Unlawful Activity Act;

3780 (ii) if a licensee violates federal law or federal regulations restricting the sale and
3781 distribution of tobacco products or electronic cigarette products to protect children and
3782 adolescents;

3783 (iii) upon the recommendation of the department or a local health department under
3784 [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title
3785 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products; or

3786 (iv) under any other provision of state law or local ordinance.

3787 (7) (a) Except as provided in Subsection (7)(e), a retail tobacco specialty business is
3788 exempt from Subsection (4) if:

3789 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
3790 license to conduct business as a retail tobacco specialty business;

3791 (ii) the retail tobacco specialty business is operating in a county in accordance with all
3792 applicable laws except for the requirement in Subsection (4); and

3793 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
3794 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

3795 (b) A retail tobacco specialty business may maintain an exemption under Subsection
3796 (7)(a) if:

3797 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse
3798 or permanent revocation;

3799 (ii) the retail tobacco specialty business does not close for business or otherwise
3800 suspend the sale of tobacco products, electronic cigarette products, or nicotine products for
3801 more than 60 consecutive days;

3802 (iii) the retail tobacco specialty business does not substantially change the business
3803 premises or business operation; and

3804 (iv) the retail tobacco specialty business maintains the right to operate under the terms
3805 of other applicable laws, including:

3806 (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

3807 (B) zoning ordinances;

3808 (C) building codes; and

3809 (D) the requirements of the license described in Subsection (7)(a)(i).

3810 (c) A retail tobacco specialty business that does not qualify for an exemption under
3811 Subsection (7)(a) is exempt from Subsection (4) if:

3812 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
3813 general tobacco retailer permit or a retail tobacco specialty business permit under Title 26,
3814 Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local
3815 health department having jurisdiction over the area in which the retail tobacco specialty
3816 business is located;

3817 (ii) the retail tobacco specialty business is operating in the county in accordance with
3818 all applicable laws except for the requirement in Subsection (4); and

3819 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
3820 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

3821 (d) A retail tobacco specialty business may maintain an exemption under Subsection
3822 (7)(c) if:

3823 (i) on or before December 31, 2020, the retail tobacco specialty business receives a
3824 retail tobacco specialty business permit from the local health department having jurisdiction
3825 over the area in which the retail tobacco specialty business is located;

3826 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse
3827 or permanent revocation;

3828 (iii) the retail tobacco specialty business does not close for business or otherwise
3829 suspend the sale of tobacco products, electronic cigarette products, or nicotine products for
3830 more than 60 consecutive days;

3831 (iv) the retail tobacco specialty business does not substantially change the business
3832 premises or business operation as the business existed when the retail tobacco specialty
3833 business received a permit under Subsection (7)(d)(i); and

3834 (v) the retail tobacco specialty business maintains the right to operate under the terms
3835 of other applicable laws, including:

3836 (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

3837 (B) zoning ordinances;

3838 (C) building codes; and

3839 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

3840 (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is

3841 located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high,
3842 or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco
3843 specialty business:

3844 (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use
3845 and located within a group of architecturally unified commercial establishments built on a site
3846 that is planned, developed, owned, and managed as an operating unit; and

3847 (ii) continues to meet the requirements described in Subsection (7)(b) that are not
3848 directly related to the relocation described in this Subsection (7)(e).

3849 Section 49. Section **17-50-339** is amended to read:

3850 **17-50-339. Prohibition on licensing or certification of child care programs.**

3851 (1) (a) As used in this section, "child care program" means a child care facility or
3852 program operated by a person who holds a license or certificate from the Department of Health
3853 and Human Services under [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B,
3854 Chapter 2, Part 4, Child Care Licensing.

3855 (b) "Child care program" does not include a child care program for which a county
3856 provides oversight, as described in Subsection [~~26-39-403(2)(e)~~] 26B-2-405(2)(e).

3857 (2) A county may not enact or enforce an ordinance that:

3858 (a) imposes licensing or certification requirements for a child care program; or

3859 (b) governs the manner in which care is provided in a child care program.

3860 (3) This section does not prohibit a county from:

3861 (a) requiring a business license to operate a business within the county; or

3862 (b) imposing requirements related to building, health, and fire codes.

3863 Section 50. Section **17B-2a-818.5** is amended to read:

3864 **17B-2a-818.5. Contracting powers of public transit districts -- Health insurance**
3865 **coverage.**

3866 (1) As used in this section:

3867 (a) "Aggregate" means the sum of all contracts, change orders, and modifications
3868 related to a single project.

3869 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.

3870 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or
3871 "operative" who:

3872 (i) works at least 30 hours per calendar week; and
3873 (ii) meets employer eligibility waiting requirements for health care insurance, which
3874 may not exceed the first day of the calendar month following 60 days after the day on which
3875 the individual is hired.

3876 (d) "Health benefit plan" means:

3877 (i) the same as that term is defined in Section [31A-1-301](#); or

3878 (ii) an employee welfare benefit plan:

3879 (A) established under the Employee Retirement Income Security Act of 1974, 29

3880 U.S.C. Sec. 1001 et seq.;

3881 (B) for an employer with 100 or more employees; and

3882 (C) in which the employer establishes a self-funded or partially self-funded group

3883 health plan to provide medical care for the employer's employees and dependents of the

3884 employees.

3885 (e) "Qualified health coverage" means the same as that term is defined in Section

3886 ~~[26-40-115]~~ [26B-3-909](#).

3887 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).

3888 (g) "Third party administrator" or "administrator" means the same as that term is

3889 defined in Section [31A-1-301](#).

3890 (2) Except as provided in Subsection (3), the requirements of this section apply to:

3891 (a) a contractor of a design or construction contract entered into by the public transit

3892 district on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or

3893 greater than \$2,000,000; and

3894 (b) a subcontractor of a contractor of a design or construction contract entered into by

3895 the public transit district on or after July 1, 2009, if the subcontract is in an aggregate amount

3896 equal to or greater than \$1,000,000.

3897 (3) The requirements of this section do not apply to a contractor or subcontractor

3898 described in Subsection (2) if:

3899 (a) the application of this section jeopardizes the receipt of federal funds;

3900 (b) the contract is a sole source contract; or

3901 (c) the contract is an emergency procurement.

3902 (4) A person that intentionally uses change orders, contract modifications, or multiple

3903 contracts to circumvent the requirements of this section is guilty of an infraction.

3904 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
3905 public transit district that the contractor has and will maintain an offer of qualified health
3906 coverage for the contractor's employees and the employee's dependents during the duration of
3907 the contract by submitting to the public transit district a written statement that:

3908 (i) the contractor offers qualified health coverage that complies with Section
3909 ~~[26-40-115]~~ [26B-3-909](#);

3910 (ii) is from:

3911 (A) an actuary selected by the contractor or the contractor's insurer;

3912 (B) an underwriter who is responsible for developing the employer group's premium
3913 rates; or

3914 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),
3915 an actuary or underwriter selected by a third party administrator; and

3916 (iii) was created within one year before the day on which the statement is submitted.

3917 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)
3918 shall provide the actuary or underwriter selected by an administrator, as described in
3919 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's
3920 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the
3921 requirements of qualified health coverage.

3922 (ii) A contractor may not make a change to the contractor's contribution to the health
3923 benefit plan, unless the contractor provides notice to:

3924 (A) the actuary or underwriter selected by an administrator as described in Subsection
3925 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in
3926 Subsection (5)(a) in compliance with this section; and

3927 (B) the public transit district.

3928 (c) A contractor that is subject to the requirements of this section shall:

3929 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
3930 is subject to the requirements of this section shall obtain and maintain an offer of qualified
3931 health coverage for the subcontractor's employees and the employees' dependents during the
3932 duration of the subcontract; and

3933 (ii) obtain from a subcontractor that is subject to the requirements of this section a

3934 written statement that:

3935 (A) the subcontractor offers qualified health coverage that complies with Section
3936 ~~[26-40-115]~~ [26B-3-909](#);

3937 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an
3938 underwriter who is responsible for developing the employer group's premium rates, or if the
3939 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or
3940 underwriter selected by an administrator; and

3941 (C) was created within one year before the day on which the contractor obtains the
3942 statement.

3943 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage as
3944 described in Subsection (5)(a) during the duration of the contract is subject to penalties in
3945 accordance with an ordinance adopted by the public transit district under Subsection (6).

3946 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain
3947 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

3948 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health
3949 coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to
3950 penalties in accordance with an ordinance adopted by the public transit district under
3951 Subsection (6).

3952 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain
3953 an offer of qualified health coverage described in Subsection (5)(a).

3954 (6) The public transit district shall adopt ordinances:

3955 (a) in coordination with:

3956 (i) the Department of Environmental Quality in accordance with Section [19-1-206](#);

3957 (ii) the Department of Natural Resources in accordance with Section [79-2-404](#);

3958 (iii) the Division of Facilities Construction and Management in accordance with
3959 Section [63A-5b-607](#);

3960 (iv) the State Capitol Preservation Board in accordance with Section [63C-9-403](#); and

3961 (v) the Department of Transportation in accordance with Section [72-6-107.5](#); and

3962 (b) that establish:

3963 (i) the requirements and procedures a contractor and a subcontractor shall follow to
3964 demonstrate compliance with this section, including:

- 3965 (A) that a contractor or subcontractor's compliance with this section is subject to an
3966 audit by the public transit district or the Office of the Legislative Auditor General;
- 3967 (B) that a contractor that is subject to the requirements of this section shall obtain a
3968 written statement described in Subsection (5)(a); and
- 3969 (C) that a subcontractor that is subject to the requirements of this section shall obtain a
3970 written statement described in Subsection (5)(c)(ii);
- 3971 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
3972 violates the provisions of this section, which may include:
- 3973 (A) a three-month suspension of the contractor or subcontractor from entering into
3974 future contracts with the public transit district upon the first violation;
- 3975 (B) a six-month suspension of the contractor or subcontractor from entering into future
3976 contracts with the public transit district upon the second violation;
- 3977 (C) an action for debarment of the contractor or subcontractor in accordance with
3978 Section [63G-6a-904](#) upon the third or subsequent violation; and
- 3979 (D) monetary penalties which may not exceed 50% of the amount necessary to
3980 purchase qualified health coverage for employees and dependents of employees of the
3981 contractor or subcontractor who were not offered qualified health coverage during the duration
3982 of the contract; and
- 3983 (iii) a website on which the district shall post the commercially equivalent benchmark,
3984 for the qualified health coverage identified in Subsection (1)(e), that is provided by the
3985 Department of Health and Human Services, in accordance with Subsection [~~26-40-115~~(2)]
3986 [26B-3-909](#)(2).
- 3987 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor
3988 or subcontractor who intentionally violates the provisions of this section is liable to the
3989 employee for health care costs that would have been covered by qualified health coverage.
- 3990 (ii) An employer has an affirmative defense to a cause of action under Subsection
3991 (7)(a)(i) if:
- 3992 (A) the employer relied in good faith on a written statement described in Subsection
3993 (5)(a) or (5)(c)(ii); or
- 3994 (B) a department or division determines that compliance with this section is not
3995 required under the provisions of Subsection (3).

3996 (b) An employee has a private right of action only against the employee's employer to
3997 enforce the provisions of this Subsection (7).

3998 (8) Any penalties imposed and collected under this section shall be deposited into the
3999 Medicaid Restricted Account created in Section [~~26-18-402~~] 26B-1-309.

4000 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
4001 required by this section:

4002 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
4003 or contractor under:

4004 (i) Section 63G-6a-1602; or

4005 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

4006 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
4007 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
4008 or construction.

4009 (10) An administrator, including an administrator's actuary or underwriter, who
4010 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health
4011 coverage of a contractor or subcontractor who provides a health benefit plan described in
4012 Subsection (1)(d)(ii):

4013 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,
4014 unless the administrator commits gross negligence in preparing the written statement;

4015 (b) is not liable for any error in the written statement if the administrator relied in good
4016 faith on information from the contractor or subcontractor; and

4017 (c) may require as a condition of providing the written statement that a contractor or
4018 subcontractor hold the administrator harmless for an action arising under this section.

4019 Section 51. Section **17B-2a-902** is amended to read:

4020 **17B-2a-902. Provisions applicable to service areas.**

4021 (1) Each service area is governed by and has the powers stated in:

4022 (a) this part; and

4023 (b) except as provided in Subsection (5), Chapter 1, Provisions Applicable to All Local
4024 Districts.

4025 (2) This part applies only to service areas.

4026 (3) A service area is not subject to the provisions of any other part of this chapter.

4027 (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All
4028 Local Districts, and a provision in this part, the provision in this part governs.

4029 (5) (a) Except as provided in Subsection (5)(b), on or after December 31, 2012, a
4030 service area may not charge or collect a fee under Section [17B-1-643](#) for:

4031 (i) law enforcement services;

4032 (ii) fire protection services;

4033 (iii) 911 ambulance or paramedic services as defined in Section [\[26-8a-102\]](#) [26B-4-101](#)

4034 that are provided under a contract in accordance with Section [\[26-8a-405.2\]](#) [26B-4-156](#); or

4035 (iv) emergency services.

4036 (b) Subsection (5)(a) does not apply to:

4037 (i) a fee charged or collected on an individual basis rather than a general basis;

4038 (ii) a non-911 service as defined in Section [\[26-8a-102\]](#) [26B-4-101](#) that is provided

4039 under a contract in accordance with Section [\[26-8a-405.2\]](#) [26B-4-156](#);

4040 (iii) an impact fee charged or collected for a public safety facility as defined in Section
4041 [11-36a-102](#); or

4042 (iv) a service area that includes within the boundary of the service area a county of the
4043 fifth or sixth class.

4044 Section 52. Section **18-1-3** is amended to read:

4045 **18-1-3. Dogs attacking domestic animals, service animals, hoofed protected**
4046 **wildlife, or domestic fowls.**

4047 Any person may injure or kill a dog while:

4048 (1) the dog is attacking, chasing, or worrying:

4049 (a) a domestic animal having a commercial value;

4050 (b) a service animal, as defined in Section [\[62A-5b-102\]](#) [26B-6-801](#); or

4051 (c) any species of hoofed protected wildlife;

4052 (2) the dog is attacking domestic fowls; or

4053 (3) the dog is being pursued for committing an act described in Subsection (1) or (2).

4054 Section 53. Section **19-1-205** is amended to read:

4055 **19-1-205. Assumption of responsibilities.**

4056 The department assumes all the policymaking functions, regulatory and enforcement
4057 powers, rights, duties, and responsibilities of the Division of Environmental Health, the Air

4058 Conservation Committee, the Solid and Hazardous Waste Committee, the Utah Safe Drinking
4059 Water Committee, and the Water Pollution Control Committee previously vested in the
4060 Department of Health and Human Services and its executive director:

4061 (1) including programs for individual wastewater disposal systems, liquid scavenger
4062 operations, and vault and earthen pit privies; but

4063 (2) excluding all other sanitation programs, which shall be administered by the
4064 Department of Health and Human Services.

4065 Section 54. Section **19-1-206** is amended to read:

4066 **19-1-206. Contracting powers of department -- Health insurance coverage.**

4067 (1) As used in this section:

4068 (a) "Aggregate" means the sum of all contracts, change orders, and modifications
4069 related to a single project.

4070 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

4071 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or
4072 "operative" who:

4073 (i) works at least 30 hours per calendar week; and

4074 (ii) meets employer eligibility waiting requirements for health care insurance, which
4075 may not exceed the first day of the calendar month following 60 days after the day on which
4076 the individual is hired.

4077 (d) "Health benefit plan" means:

4078 (i) the same as that term is defined in Section [31A-1-301](#); or

4079 (ii) an employee welfare benefit plan:

4080 (A) established under the Employee Retirement Income Security Act of 1974, 29
4081 U.S.C. Sec. 1001 et seq.;

4082 (B) for an employer with 100 or more employees; and

4083 (C) in which the employer establishes a self-funded or partially self-funded group
4084 health plan to provide medical care for the employer's employees and dependents of the
4085 employees.

4086 (e) "Qualified health coverage" means the same as that term is defined in Section
4087 [~~26-40-115~~] [26B-3-909](#).

4088 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).

4089 (g) "Third party administrator" or "administrator" means the same as that term is
4090 defined in Section 31A-1-301.

4091 (2) Except as provided in Subsection (3), the requirements of this section apply to:

4092 (a) a contractor of a design or construction contract entered into by, or delegated to, the
4093 department, or a division or board of the department, on or after July 1, 2009, if the prime
4094 contract is in an aggregate amount equal to or greater than \$2,000,000; and

4095 (b) a subcontractor of a contractor of a design or construction contract entered into by,
4096 or delegated to, the department, or a division or board of the department, on or after July 1,
4097 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

4098 (3) This section does not apply to contracts entered into by the department or a division
4099 or board of the department if:

4100 (a) the application of this section jeopardizes the receipt of federal funds;

4101 (b) the contract or agreement is between:

4102 (i) the department or a division or board of the department; and

4103 (ii) (A) another agency of the state;

4104 (B) the federal government;

4105 (C) another state;

4106 (D) an interstate agency;

4107 (E) a political subdivision of this state; or

4108 (F) a political subdivision of another state;

4109 (c) the executive director determines that applying the requirements of this section to a
4110 particular contract interferes with the effective response to an immediate health and safety
4111 threat from the environment; or

4112 (d) the contract is:

4113 (i) a sole source contract; or

4114 (ii) an emergency procurement.

4115 (4) A person that intentionally uses change orders, contract modifications, or multiple
4116 contracts to circumvent the requirements of this section is guilty of an infraction.

4117 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
4118 executive director that the contractor has and will maintain an offer of qualified health
4119 coverage for the contractor's employees and the employees' dependents during the duration of

4120 the contract by submitting to the executive director a written statement that:

4121 (i) the contractor offers qualified health coverage that complies with Section

4122 [~~26-40-115~~] [26B-3-909](#);

4123 (ii) is from:

4124 (A) an actuary selected by the contractor or the contractor's insurer;

4125 (B) an underwriter who is responsible for developing the employer group's premium
4126 rates; or

4127 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),
4128 an actuary or underwriter selected by a third party administrator; and

4129 (iii) was created within one year before the day on which the statement is submitted.

4130 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)
4131 shall provide the actuary or underwriter selected by an administrator, as described in
4132 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's
4133 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the
4134 requirements of qualified health coverage.

4135 (ii) A contractor may not make a change to the contractor's contribution to the health
4136 benefit plan, unless the contractor provides notice to:

4137 (A) the actuary or underwriter selected by an administrator, as described in Subsection
4138 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in
4139 Subsection (5)(a) in compliance with this section; and

4140 (B) the department.

4141 (c) A contractor that is subject to the requirements of this section shall:

4142 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
4143 is subject to the requirements of this section shall obtain and maintain an offer of qualified
4144 health coverage for the subcontractor's employees and the employees' dependents during the
4145 duration of the subcontract; and

4146 (ii) obtain from a subcontractor that is subject to the requirements of this section a
4147 written statement that:

4148 (A) the subcontractor offers qualified health coverage that complies with Section
4149 [~~26-40-115~~] [26B-3-909](#);

4150 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an

4151 underwriter who is responsible for developing the employer group's premium rates, or if the
4152 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or
4153 underwriter selected by an administrator; and

4154 (C) was created within one year before the day on which the contractor obtains the
4155 statement.

4156 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage
4157 described in Subsection (5)(a) during the duration of the contract is subject to penalties in
4158 accordance with administrative rules adopted by the department under Subsection (6).

4159 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain
4160 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

4161 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health
4162 coverage described in Subsection (5)(c) during the duration of the subcontract is subject to
4163 penalties in accordance with administrative rules adopted by the department under Subsection
4164 (6).

4165 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain
4166 an offer of qualified health coverage described in Subsection (5)(a).

4167 (6) The department shall adopt administrative rules:

4168 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

4169 (b) in coordination with:

4170 (i) a public transit district in accordance with Section 17B-2a-818.5;

4171 (ii) the Department of Natural Resources in accordance with Section 79-2-404;

4172 (iii) the Division of Facilities Construction and Management in accordance with
4173 Section 63A-5b-607;

4174 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

4175 (v) the Department of Transportation in accordance with Section 72-6-107.5; and

4176 (vi) the Legislature's Administrative Rules Review and General Oversight Committee;

4177 and

4178 (c) that establish:

4179 (i) the requirements and procedures a contractor and a subcontractor shall follow to
4180 demonstrate compliance with this section, including:

4181 (A) that a contractor or subcontractor's compliance with this section is subject to an

4182 audit by the department or the Office of the Legislative Auditor General;

4183 (B) that a contractor that is subject to the requirements of this section shall obtain a
4184 written statement described in Subsection (5)(a); and

4185 (C) that a subcontractor that is subject to the requirements of this section shall obtain a
4186 written statement described in Subsection (5)(c)(ii);

4187 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
4188 violates the provisions of this section, which may include:

4189 (A) a three-month suspension of the contractor or subcontractor from entering into
4190 future contracts with the state upon the first violation;

4191 (B) a six-month suspension of the contractor or subcontractor from entering into future
4192 contracts with the state upon the second violation;

4193 (C) an action for debarment of the contractor or subcontractor in accordance with
4194 Section [63G-6a-904](#) upon the third or subsequent violation; and

4195 (D) notwithstanding Section [19-1-303](#), monetary penalties which may not exceed 50%
4196 of the amount necessary to purchase qualified health coverage for an employee and the
4197 dependents of an employee of the contractor or subcontractor who was not offered qualified
4198 health coverage during the duration of the contract; and

4199 (iii) a website on which the department shall post the commercially equivalent
4200 benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by
4201 the Department of Health and Human Services, in accordance with Subsection [~~26-40-115(2)~~
4202 [26B-3-909\(2\)](#)].

4203 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor
4204 or subcontractor who intentionally violates the provisions of this section is liable to the
4205 employee for health care costs that would have been covered by qualified health coverage.

4206 (ii) An employer has an affirmative defense to a cause of action under Subsection
4207 (7)(a)(i) if:

4208 (A) the employer relied in good faith on a written statement described in Subsection
4209 (5)(a) or (5)(c)(ii); or

4210 (B) the department determines that compliance with this section is not required under
4211 the provisions of Subsection (3).

4212 (b) An employee has a private right of action only against the employee's employer to

4213 enforce the provisions of this Subsection (7).

4214 (8) Any penalties imposed and collected under this section shall be deposited into the
4215 Medicaid Restricted Account created in Section [~~26-18-402~~] [26B-1-309](#).

4216 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
4217 required by this section:

4218 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
4219 or contractor under:

4220 (i) Section [63G-6a-1602](#); or

4221 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

4222 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
4223 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
4224 or construction.

4225 (10) An administrator, including an administrator's actuary or underwriter, who
4226 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health
4227 coverage of a contractor or subcontractor who provides a health benefit plan described in
4228 Subsection (1)(d)(ii):

4229 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,
4230 unless the administrator commits gross negligence in preparing the written statement;

4231 (b) is not liable for any error in the written statement if the administrator relied in good
4232 faith on information from the contractor or subcontractor; and

4233 (c) may require as a condition of providing the written statement that a contractor or
4234 subcontractor hold the administrator harmless for an action arising under this section.

4235 Section 55. Section **19-4-115** is amended to read:

4236 **19-4-115. Drinking water quality in schools and child care centers.**

4237 (1) As used in this section:

4238 (a) "Action level" means a lead concentration equal to five parts per billion.

4239 (b) "Certified laboratory" means a laboratory certified by the Department of Health and
4240 Human Services that analyzes drinking water for lead.

4241 (c) "Child care center" means:

4242 (i) a center based child care, as defined in Section [~~26-39-102~~] [26B-2-401](#); or

4243 (ii) an exempt provider, as defined in Section [~~26-39-102~~] [26B-2-401](#).

4244 (d) "Consumable tap" means a sink or fountain used for consumption of water or food
4245 preparation.

4246 (e) "School" means a public or private:

4247 (i) elementary school or secondary school;

4248 (ii) preschool; or

4249 (iii) kindergarten.

4250 (2) (a) A school shall, and a child care center may test the school's or child care center's
4251 consumable taps for lead by no later than December 31, 2023.

4252 (b) In conducting a test under this Subsection (2), a school or child care center shall:

4253 (i) comply with current state testing guidelines for reducing lead in drinking water in
4254 schools and child care centers; and

4255 (ii) submit a sample to a certified laboratory that has entered into a memorandum of
4256 understanding with the division as described in Subsection (3).

4257 (c) Notwithstanding Subsection (2)(a), if a school or child care center has conducted a
4258 test for lead in drinking water in a consumable tap of the school or child care center on or after
4259 January 1, 2016, but before May 4, 2022, the school or child care center:

4260 (i) is not required to conduct a test under Subsection (2)(a) on the previously sampled
4261 consumable tap;

4262 (ii) if the test described in this Subsection (2)(c) finds a lead level for a consumable tap
4263 equals or exceeds the action level, shall take steps to stop the use of the consumable tap or to
4264 reduce the lead level below the action level as described in Subsection (5); and

4265 (iii) by no later than the end of the time period established under Subsection (4)(c),
4266 shall report to the division:

4267 (A) the findings of the test described in this Subsection (2)(c); and

4268 (B) any steps taken under Subsection (2)(c)(ii).

4269 (3) (a) The division shall enter into a memorandum of understanding with one or more
4270 certified laboratories under which the division pays the costs of testing a sample submitted by a
4271 school or child care center in accordance with Subsection (2).

4272 (b) Subject to appropriations, the division shall pay the costs of testing in the order that
4273 a sample is submitted to the certified laboratory.

4274 (c) A certified laboratory shall report test results for a sample submitted in accordance

4275 with Subsection (2) to:

4276 (i) the school or child care center that submitted the sample; and

4277 (ii) the division.

4278 (4) (a) If after paying the costs of testing under Subsection (3) there remains money
4279 appropriated under this section, the division may issue grants to schools and child care centers
4280 for costs associated with taking action under Subsection (5).

4281 (b) The board may make rules, in accordance with Title 63G, Chapter 3, Utah
4282 Administrative Rulemaking Act:

4283 (i) to establish a procedure for a school or child care center applying for a grant under
4284 Subsection (4)(a); and

4285 (ii) for what constitutes steps to reduce the lead level below the action level as
4286 described in Subsection (5).

4287 (c) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah
4288 Administrative Rulemaking Act, to establish the time period to take steps to reduce the lead
4289 level below the action level as described in Subsection (5).

4290 (5) If a test result of a consumable tap under Subsection (2) results in a lead level that
4291 equals or exceeds the action level, the school or child care center shall:

4292 (a) within the time period established under Subsection (4)(c) take steps to stop the use
4293 of the consumable tap or to reduce the lead level below the action level; and

4294 (b) report the steps taken under Subsection (5)(a) to the division within 30 days after
4295 taking the steps.

4296 (6) After the time period established under Subsection (4)(c) has ended, the division
4297 shall post on a public website for at least five years from the day on which the division receives
4298 the information:

4299 (a) the test results for a test taken under Subsection (2); and

4300 (b) the steps taken as required under Subsection (5).

4301 Section 56. Section **19-6-902** is amended to read:

4302 **19-6-902. Definitions.**

4303 As used in this part:

4304 (1) "Board" means the Waste Management and Radiation Control Board, as defined in
4305 Section [19-1-106](#), within the Department of Environmental Quality.

4306 (2) "Certified decontamination specialist" means an individual who has met the
4307 standards for certification as a decontamination specialist and has been certified by the board
4308 under Subsection [19-6-906\(2\)](#).

4309 (3) "Contaminated" or "contamination" means:

4310 (a) polluted by hazardous materials that cause property to be unfit for human habitation
4311 or use due to immediate or long-term health hazards; or

4312 (b) that a property is polluted by hazardous materials as a result of the use, production,
4313 or presence of methamphetamine in excess of decontamination standards adopted by the
4314 Department of Health and Human Services under Section [~~26-51-201~~] [26B-7-409](#).

4315 (4) "Contamination list" means a list maintained by the local health department of
4316 properties:

4317 (a) reported to the local health department under Section [19-6-903](#); and

4318 (b) determined by the local health department to be contaminated.

4319 (5) (a) "Decontaminated" means property that at one time was contaminated, but the
4320 contaminants have been removed.

4321 (b) "Decontaminated" for a property that was contaminated by the use, production, or
4322 presence of methamphetamine means that the property satisfies decontamination standards
4323 adopted by the Department of Health and Human Services under Section [~~26-51-201~~]
4324 [26B-7-409](#).

4325 (6) "Hazardous materials":

4326 (a) has the same meaning as "hazardous or dangerous material" as defined in Section
4327 [58-37d-3](#); and

4328 (b) includes any illegally manufactured controlled substances.

4329 (7) "Health department" means a local health department under Title 26A, Local
4330 Health Authorities.

4331 (8) "Owner of record":

4332 (a) means the owner of real property as shown on the records of the county recorder in
4333 the county where the property is located; and

4334 (b) may include an individual, financial institution, company, corporation, or other
4335 entity.

4336 (9) "Property":

4337 (a) means any real property, site, structure, part of a structure, or the grounds
4338 surrounding a structure; and

4339 (b) includes single-family residences, outbuildings, garages, units of multiplexes,
4340 condominiums, apartment buildings, warehouses, hotels, motels, boats, motor vehicles, trailers,
4341 manufactured housing, shops, or booths.

4342 (10) "Reported property" means property that is the subject of a law enforcement report
4343 under Section 19-6-903.

4344 Section 57. Section 20A-2-104 is amended to read:

4345 **20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.**

4346 (1) (a) As used in this section:

4347 (i) "Candidate for public office" means an individual:

4348 (A) who files a declaration of candidacy for a public office;

4349 (B) who files a notice of intent to gather signatures under Section 20A-9-408; or

4350 (C) employed by, under contract with, or a volunteer of, an individual described in
4351 Subsection (1)(a)(i)(A) or (B) for political campaign purposes.

4352 (ii) "Dating violence" means the same as that term is defined in Section 78B-7-402 and
4353 the federal Violence Against Women Act of 1994, as amended.

4354 (iii) "Domestic violence" means the same as that term is defined in Section 77-36-1
4355 and the federal Violence Against Women Act of 1994, as amended.

4356 (b) An individual applying for voter registration, or an individual preregistering to
4357 vote, shall complete a voter registration form in substantially the following form:

4358 -----

4359 UTAH ELECTION REGISTRATION FORM

4360 Are you a citizen of the United States of America? Yes No

4361 If you checked "no" to the above question, do not complete this form.

4362 Will you be 18 years of age on or before election day? Yes No

4363 If you checked "no" to the above question, are you 16 or 17 years of age and preregistering to
4364 vote? Yes No

4365 If you checked "no" to both of the prior two questions, do not complete this form.

4366 Name of Voter

4367 _____

4368 First Middle Last
4369 Utah Driver License or Utah Identification Card Number _____

4370 Date of Birth _____

4371 Street Address of Principal Place of Residence
4372 _____

4373 City County State Zip Code

4374 Telephone Number (optional) _____

4375 Email Address (optional) _____

4376 Last four digits of Social Security Number _____

4377 Last former address at which I was registered to vote (if
4378 known) _____
4379 _____

4380 City County State Zip Code

4381 Political Party
4382 (a listing of each registered political party, as defined in Section 20A-8-101 and maintained by
4383 the lieutenant governor under Section 67-1a-2, with each party's name preceded by a checkbox)
4384 Unaffiliated (no political party preference) Other (Please specify) _____

4385 I do swear (or affirm), subject to penalty of law for false statements, that the
4386 information contained in this form is true, and that I am a citizen of the United States and a
4387 resident of the state of Utah, residing at the above address. Unless I have indicated above that I
4388 am preregistering to vote in a later election, I will be at least 18 years of age and will have
4389 resided in Utah for 30 days immediately before the next election. I am not a convicted felon
4390 currently incarcerated for commission of a felony.

4391 Signed and sworn
4392 _____

4393 Voter's Signature

4394 _____(month/day/year).

4395 PRIVACY INFORMATION

4396 Voter registration records contain some information that is available to the public, such
4397 as your name and address, some information that is available only to government entities, and
4398 some information that is available only to certain third parties in accordance with the

4399 requirements of law.

4400 Your driver license number, identification card number, social security number, email
4401 address, full date of birth, and phone number are available only to government entities. Your
4402 year of birth is available to political parties, candidates for public office, certain third parties,
4403 and their contractors, employees, and volunteers, in accordance with the requirements of law.

4404 You may request that all information on your voter registration records be withheld
4405 from all persons other than government entities, political parties, candidates for public office,
4406 and their contractors, employees, and volunteers, by indicating here:

4407 _____ Yes, I request that all information on my voter registration records be withheld
4408 from all persons other than government entities, political parties, candidates for public office,
4409 and their contractors, employees, and volunteers.

4410 REQUEST FOR ADDITIONAL PRIVACY PROTECTION

4411 In addition to the protections provided above, you may request that all information on
4412 your voter registration records be withheld from all political parties, candidates for public
4413 office, and their contractors, employees, and volunteers, by submitting a withholding request
4414 form, and any required verification, as described in the following paragraphs.

4415 A person may request that all information on the person's voter registration records be
4416 withheld from all political parties, candidates for public office, and their contractors,
4417 employees, and volunteers, by submitting a withholding request form with this registration
4418 record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or
4419 resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

4420 A person may request that all information on the person's voter registration records be
4421 withheld from all political parties, candidates for public office, and their contractors,
4422 employees, and volunteers, by submitting a withholding request form and any required
4423 verification with this registration form, or to the lieutenant governor or a county clerk, if the
4424 person is, or resides with a person who is, a law enforcement officer, a member of the armed
4425 forces, a public figure, or protected by a protective order or a protection order.

4426 CITIZENSHIP AFFIDAVIT

4427 Name:

4428 Name at birth, if different:

4429 Place of birth:

4430 Date of birth:

4431 Date and place of naturalization (if applicable):

4432 I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a
4433 citizen and that to the best of my knowledge and belief the information above is true and
4434 correct.

4435 _____

4436 Signature of Applicant

4437 In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or
4438 allowing yourself to be registered or preregistered to vote if you know you are not entitled to
4439 register or preregister to vote is up to one year in jail and a fine of up to \$2,500.

4440 NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID
4441 VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST
4442 BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND
4443 PHOTOGRAPH; OR
4444 TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND
4445 CURRENT ADDRESS.

4446 FOR OFFICIAL USE ONLY

4447 Type of I.D. _____

4448 Voting Precinct _____

4449 Voting I.D. Number _____

4450 -----

4451 (c) Beginning May 1, 2022, the voter registration form described in Subsection (1)(b)
4452 shall include a section in substantially the following form:

4453 -----

4454 **BALLOT NOTIFICATIONS**

4455 If you have provided a phone number or email address, you can receive notifications by
4456 text message or email regarding the status of a ballot that is mailed to you or a ballot that you
4457 deposit in the mail or in a ballot drop box, by indicating here:

4458 _____ Yes, I would like to receive electronic notifications regarding the status of my
4459 ballot.

4460 -----

4461 (2) (a) Except as provided under Subsection (2)(b), the county clerk shall retain a copy
4462 of each voter registration form in a permanent countywide alphabetical file, which may be
4463 electronic or some other recognized system.

4464 (b) The county clerk may transfer a superseded voter registration form to the Division
4465 of Archives and Records Service created under Section [63A-12-101](#).

4466 (3) (a) Each county clerk shall retain lists of currently registered voters.

4467 (b) The lieutenant governor shall maintain a list of registered voters in electronic form.

4468 (c) If there are any discrepancies between the two lists, the county clerk's list is the
4469 official list.

4470 (d) The lieutenant governor and the county clerks may charge the fees established
4471 under the authority of Subsection [63G-2-203](#)(10) to individuals who wish to obtain a copy of
4472 the list of registered voters.

4473 (4) (a) As used in this Subsection (4), "qualified person" means:

4474 (i) a government official or government employee acting in the government official's or
4475 government employee's capacity as a government official or a government employee;

4476 (ii) a health care provider, as defined in Section [~~26-33a-102~~] [26B-8-501](#), or an agent,
4477 employee, or independent contractor of a health care provider;

4478 (iii) an insurance company, as defined in Section [67-4a-102](#), or an agent, employee, or
4479 independent contractor of an insurance company;

4480 (iv) a financial institution, as defined in Section [7-1-103](#), or an agent, employee, or
4481 independent contractor of a financial institution;

4482 (v) a political party, or an agent, employee, or independent contractor of a political
4483 party;

4484 (vi) a candidate for public office, or an employee, independent contractor, or volunteer
4485 of a candidate for public office; or

4486 (vii) a person, or an agent, employee, or independent contractor of the person, who:

4487 (A) provides the year of birth of a registered voter that is obtained from the list of
4488 registered voters only to a person who is a qualified person;

4489 (B) verifies that a person, described in Subsection (4)(a)(vii)(A), to whom a year of
4490 birth that is obtained from the list of registered voters is provided, is a qualified person;

4491 (C) ensures, using industry standard security measures, that the year of birth of a

4492 registered voter that is obtained from the list of registered voters may not be accessed by a
4493 person other than a qualified person;

4494 (D) verifies that each qualified person, other than a qualified person described in
4495 Subsection (4)(a)(i), (v), or (vi), to whom the person provides the year of birth of a registered
4496 voter that is obtained from the list of registered voters, will only use the year of birth to verify
4497 the accuracy of personal information submitted by an individual or to confirm the identity of a
4498 person in order to prevent fraud, waste, or abuse;

4499 (E) verifies that each qualified person described in Subsection (4)(a)(i), to whom the
4500 person provides the year of birth of a registered voter that is obtained from the list of registered
4501 voters, will only use the year of birth in the qualified person's capacity as a government official
4502 or government employee; and

4503 (F) verifies that each qualified person described in Subsection (4)(a)(v) or (vi), to
4504 whom the person provides the year of birth of a registered voter that is obtained from the list of
4505 registered voters, will only use the year of birth for a political purpose of the political party or
4506 candidate for public office.

4507 (b) Notwithstanding Subsection 63G-2-302(1)(j)(iv), and except as provided in
4508 Subsection 63G-2-302(1)(k) or (l), the lieutenant governor or a county clerk shall, when
4509 providing the list of registered voters to a qualified person under this section, include, with the
4510 list, the years of birth of the registered voters, if:

4511 (i) the lieutenant governor or a county clerk verifies the identity of the person and that
4512 the person is a qualified person; and

4513 (ii) the qualified person signs a document that includes the following:

4514 (A) the name, address, and telephone number of the person requesting the list of
4515 registered voters;

4516 (B) an indication of the type of qualified person that the person requesting the list
4517 claims to be;

4518 (C) a statement regarding the purpose for which the person desires to obtain the years
4519 of birth;

4520 (D) a list of the purposes for which the qualified person may use the year of birth of a
4521 registered voter that is obtained from the list of registered voters;

4522 (E) a statement that the year of birth of a registered voter that is obtained from the list

4523 of registered voters may not be provided or used for a purpose other than a purpose described
4524 under Subsection (4)(b)(ii)(D);

4525 (F) a statement that if the person obtains the year of birth of a registered voter from the
4526 list of registered voters under false pretenses, or provides or uses the year of birth of a
4527 registered voter that is obtained from the list of registered voters in a manner that is prohibited
4528 by law, is guilty of a class A misdemeanor and is subject to a civil fine;

4529 (G) an assertion from the person that the person will not provide or use the year of
4530 birth of a registered voter that is obtained from the list of registered voters in a manner that is
4531 prohibited by law; and

4532 (H) notice that if the person makes a false statement in the document, the person is
4533 punishable by law under Section 76-8-504.

4534 (c) The lieutenant governor or a county clerk may not disclose the year of birth of a
4535 registered voter to a person that the lieutenant governor or county clerk reasonably believes:

4536 (i) is not a qualified person or a person described in Subsection (4)(l); or

4537 (ii) will provide or use the year of birth in a manner prohibited by law.

4538 (d) The lieutenant governor or a county clerk may not disclose the voter registration
4539 form of a person, or information included in the person's voter registration form, whose voter
4540 registration form is classified as private under Subsection (4)(h) to a person other than:

4541 (i) a government official or government employee acting in the government official's or
4542 government employee's capacity as a government official or government employee; or

4543 (ii) except as provided in Subsection (7) and subject to Subsection (4)(e), a person
4544 described in Subsection (4)(a)(v) or (vi) for a political purpose.

4545 (e) When disclosing a record or information under Subsection (4)(d)(ii), the lieutenant
4546 governor or county clerk shall exclude the information described in Subsection
4547 63G-2-302(1)(j), other than the year of birth.

4548 (f) The lieutenant governor or a county clerk may not disclose a withholding request
4549 form, described in Subsections (7) and (8), submitted by an individual, or information obtained
4550 from that form, to a person other than a government official or government employee acting in
4551 the government official's or government employee's capacity as a government official or
4552 government employee.

4553 (g) A person is guilty of a class A misdemeanor if the person:

4554 (i) obtains the year of birth of a registered voter from the list of registered voters under
4555 false pretenses;

4556 (ii) uses or provides the year of birth of a registered voter that is obtained from the list
4557 of registered voters in a manner that is not permitted by law;

4558 (iii) obtains a voter registration record described in Subsection 63G-2-302(1)(k) under
4559 false pretenses;

4560 (iv) uses or provides information obtained from a voter registration record described in
4561 Subsection 63G-2-302(1)(k) in a manner that is not permitted by law;

4562 (v) unlawfully discloses or obtains a voter registration record withheld under
4563 Subsection (7) or a withholding request form described in Subsections (7) and (8); or

4564 (vi) unlawfully discloses or obtains information from a voter registration record
4565 withheld under Subsection (7) or a withholding request form described in Subsections (7) and
4566 (8).

4567 (h) The lieutenant governor or a county clerk shall classify the voter registration record
4568 of a voter as a private record if the voter:

4569 (i) submits a written application, created by the lieutenant governor, requesting that the
4570 voter's voter registration record be classified as private;

4571 (ii) requests on the voter's voter registration form that the voter's voter registration
4572 record be classified as a private record; or

4573 (iii) submits a withholding request form described in Subsection (7) and any required
4574 verification.

4575 (i) The lieutenant governor or a county clerk may not disclose to a person described in
4576 Subsection (4)(a)(v) or (vi) a voter registration record, or information obtained from a voter
4577 registration record, if the record is withheld under Subsection (7).

4578 (j) In addition to any criminal penalty that may be imposed under this section, the
4579 lieutenant governor may impose a civil fine against a person who violates a provision of this
4580 section, in an amount equal to the greater of:

4581 (i) the product of 30 and the square root of the total number of:

4582 (A) records obtained, provided, or used unlawfully, rounded to the nearest whole
4583 dollar; or

4584 (B) records from which information is obtained, provided, or used unlawfully, rounded

4585 to the nearest whole dollar; or

4586 (ii) \$200.

4587 (k) A qualified person may not obtain, provide, or use the year of birth of a registered
4588 voter, if the year of birth is obtained from the list of registered voters or from a voter
4589 registration record, unless the person:

4590 (i) is a government official or government employee who obtains, provides, or uses the
4591 year of birth in the government official's or government employee's capacity as a government
4592 official or government employee;

4593 (ii) is a qualified person described in Subsection (4)(a)(ii), (iii), or (iv) and obtains or
4594 uses the year of birth only to verify the accuracy of personal information submitted by an
4595 individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

4596 (iii) is a qualified person described in Subsection (4)(a)(v) or (vi) and obtains,
4597 provides, or uses the year of birth for a political purpose of the political party or candidate for
4598 public office; or

4599 (iv) is a qualified person described in Subsection (4)(a)(vii) and obtains, provides, or
4600 uses the year of birth to provide the year of birth to another qualified person to verify the
4601 accuracy of personal information submitted by an individual or to confirm the identity of a
4602 person in order to prevent fraud, waste, or abuse.

4603 (l) The lieutenant governor or a county clerk may provide a year of birth to a member
4604 of the media, in relation to an individual designated by the member of the media, in order for
4605 the member of the media to verify the identity of the individual.

4606 (m) A person described in Subsection (4)(a)(v) or (vi) may not use or disclose
4607 information from a voter registration record for a purpose other than a political purpose.

4608 (5) When political parties not listed on the voter registration form qualify as registered
4609 political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the
4610 lieutenant governor shall inform the county clerks of the name of the new political party and
4611 direct the county clerks to ensure that the voter registration form is modified to include that
4612 political party.

4613 (6) Upon receipt of a voter registration form from an applicant, the county clerk or the
4614 clerk's designee shall:

4615 (a) review each voter registration form for completeness and accuracy; and

4616 (b) if the county clerk believes, based upon a review of the form, that an individual
4617 may be seeking to register or preregister to vote who is not legally entitled to register or
4618 preregister to vote, refer the form to the county attorney for investigation and possible
4619 prosecution.

4620 (7) The lieutenant governor or a county clerk shall withhold from a person, other than a
4621 person described in Subsection (4)(a)(i), the voter registration record, and information obtained
4622 from the voter registration record, of an individual:

4623 (a) who submits a withholding request form, with the voter registration record or to the
4624 lieutenant governor or a county clerk, if:

4625 (i) the individual indicates on the form that the individual, or an individual who resides
4626 with the individual, is a victim of domestic violence or dating violence or is likely to be a
4627 victim of domestic violence or dating violence; or

4628 (ii) the individual indicates on the form and provides verification that the individual, or
4629 an individual who resides with the individual, is:

4630 (A) a law enforcement officer;

4631 (B) a member of the armed forces, as defined in Section [20A-1-513](#);

4632 (C) a public figure; or

4633 (D) protected by a protective order or protection order; or

4634 (b) whose voter registration record was classified as a private record at the request of
4635 the individual before May 12, 2020.

4636 (8) (a) The lieutenant governor shall design and distribute the withholding request form
4637 described in Subsection (7) to each election officer and to each agency that provides a voter
4638 registration form.

4639 (b) An individual described in Subsection (7)(a)(i) is not required to provide
4640 verification, other than the individual's attestation and signature on the withholding request
4641 form, that the individual, or an individual who resides with the individual, is a victim of
4642 domestic violence or dating violence or is likely to be a victim of domestic violence or dating
4643 violence.

4644 (c) The director of elections within the Office of the Lieutenant Governor shall make
4645 rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
4646 establishing requirements for providing the verification described in Subsection (7)(a)(ii).

4647 (9) An election officer or an employee of an election officer may not encourage an
4648 individual to submit, or discourage an individual from submitting, a withholding request form.

4649 Section 58. Section 20A-2-306 is amended to read:

4650 **20A-2-306. Removing names from the official register -- Determining and**
4651 **confirming change of residence.**

4652 (1) A county clerk may not remove a voter's name from the official register on the
4653 grounds that the voter has changed residence unless the voter:

4654 (a) confirms in writing that the voter has changed residence to a place outside the
4655 county; or

4656 (b) (i) has not voted in an election during the period beginning on the date of the notice
4657 required by Subsection (3), and ending on the day after the date of the second regular general
4658 election occurring after the date of the notice; and

4659 (ii) has failed to respond to the notice required by Subsection (3).

4660 (2) (a) When a county clerk obtains information that a voter's address has changed and
4661 it appears that the voter still resides within the same county, the county clerk shall:

4662 (i) change the official register to show the voter's new address; and

4663 (ii) send to the voter, by forwardable mail, the notice required by Subsection (3)
4664 printed on a postage prepaid, preaddressed return form.

4665 (b) When a county clerk obtains information that a voter's address has changed and it
4666 appears that the voter now resides in a different county, the county clerk shall verify the
4667 changed residence by sending to the voter, by forwardable mail, the notice required by
4668 Subsection (3) printed on a postage prepaid, preaddressed return form.

4669 (3) (a) Each county clerk shall use substantially the following form to notify voters
4670 whose addresses have changed:

4671 "VOTER REGISTRATION NOTICE

4672 We have been notified that your residence has changed. Please read, complete, and
4673 return this form so that we can update our voter registration records. What is your current
4674 street address?

4675 _____
4676 Street City County State Zip
4677 What is your current phone number (optional)? _____

4678 What is your current email address (optional)? _____

4679 If you have not changed your residence or have moved but stayed within the same
4680 county, you must complete and return this form to the county clerk so that it is received by the
4681 county clerk before 5 p.m. no later than 30 days before the date of the election. If you fail to
4682 return this form within that time:

4683 - you may be required to show evidence of your address to the poll worker before being
4684 allowed to vote in either of the next two regular general elections; or

4685 - if you fail to vote at least once from the date this notice was mailed until the passing
4686 of two regular general elections, you will no longer be registered to vote. If you have changed
4687 your residence and have moved to a different county in Utah, you may register to vote by
4688 contacting the county clerk in your county.

4689 _____

4690 Signature of Voter

4691 **PRIVACY INFORMATION**

4692 Voter registration records contain some information that is available to the public, such
4693 as your name and address, some information that is available only to government entities, and
4694 some information that is available only to certain third parties in accordance with the
4695 requirements of law.

4696 Your driver license number, identification card number, social security number, email
4697 address, full date of birth, and phone number are available only to government entities. Your
4698 year of birth is available to political parties, candidates for public office, certain third parties,
4699 and their contractors, employees, and volunteers, in accordance with the requirements of law.

4700 You may request that all information on your voter registration records be withheld
4701 from all persons other than government entities, political parties, candidates for public office,
4702 and their contractors, employees, and volunteers, by indicating here:

4703 _____ Yes, I request that all information on my voter registration records be withheld
4704 from all persons other than government entities, political parties, candidates for public office,
4705 and their contractors, employees, and volunteers.

4706 **REQUEST FOR ADDITIONAL PRIVACY PROTECTION**

4707 In addition to the protections provided above, you may request that all information on
4708 your voter registration records be withheld from all political parties, candidates for public

4709 office, and their contractors, employees, and volunteers, by submitting a withholding request
4710 form, and any required verification, as described in the following paragraphs.

4711 A person may request that all information on the person's voter registration records be
4712 withheld from all political parties, candidates for public office, and their contractors,
4713 employees, and volunteers, by submitting a withholding request form with this registration
4714 record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or
4715 resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

4716 A person may request that all information on the person's voter registration records be
4717 withheld from all political parties, candidates for public office, and their contractors,
4718 employees, and volunteers, by submitting a withholding request form and any required
4719 verification with this registration form, or to the lieutenant governor or a county clerk, if the
4720 person is, or resides with a person who is, a law enforcement officer, a member of the armed
4721 forces, a public figure, or protected by a protective order or a protection order."

4722 (b) Beginning May 1, 2022, the form described in Subsection (3)(a) shall also include a
4723 section in substantially the following form:

4724 -----

BALLOT NOTIFICATIONS

4726 If you have provided a phone number or email address, you can receive notifications by
4727 text message or email regarding the status of a ballot that is mailed to you or a ballot that you
4728 deposit in the mail or in a ballot drop box, by indicating here:

4729 _____ Yes, I would like to receive electronic notifications regarding the status of my
4730 ballot.

4731 -----

4732 (4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the
4733 names of any voters from the official register during the 90 days before a regular primary
4734 election and the 90 days before a regular general election.

4735 (b) The county clerk may remove the names of voters from the official register during
4736 the 90 days before a regular primary election and the 90 days before a regular general election
4737 if:

4738 (i) the voter requests, in writing, that the voter's name be removed; or

4739 (ii) the voter has died.

4740 (c) (i) After a county clerk mails a notice as required in this section, the county clerk
4741 may list that voter as inactive.

4742 (ii) If a county clerk receives a returned voter identification card, determines that there
4743 was no clerical error causing the card to be returned, and has no further information to contact
4744 the voter, the county clerk may list that voter as inactive.

4745 (iii) An inactive voter shall be allowed to vote, sign petitions, and have all other
4746 privileges of a registered voter.

4747 (iv) A county is not required to send routine mailings to an inactive voter and is not
4748 required to count inactive voters when dividing precincts and preparing supplies.

4749 (5) Beginning on or before January 1, 2022, the lieutenant governor shall make
4750 available to a county clerk United States Social Security Administration data received by the
4751 lieutenant governor regarding deceased individuals.

4752 (6) A county clerk shall, within ten business days after the day on which the county
4753 clerk receives the information described in Subsection (5) or Subsections ~~[26-2-13(11) and~~
4754 ~~(12)]~~ 26B-8-114(11) and (12) relating to a decedent whose name appears on the official
4755 register, remove the decedent's name from the official register.

4756 (7) Ninety days before each primary and general election the lieutenant governor shall
4757 compare the information the lieutenant governor has received under Subsection ~~[26-2-13(11)]~~
4758 26B-8-114(11) with the official register of voters to ensure that all deceased voters have been
4759 removed from the official register.

4760 Section 59. Section **20A-11-1202** is amended to read:

4761 **20A-11-1202. Definitions.**

4762 As used in this part:

4763 (1) "Applicable election officer" means:

4764 (a) a county clerk, if the email relates only to a local election; or

4765 (b) the lieutenant governor, if the email relates to an election other than a local
4766 election.

4767 (2) "Ballot proposition" means constitutional amendments, initiatives, referenda,
4768 judicial retention questions, opinion questions, bond approvals, or other questions submitted to
4769 the voters for their approval or rejection.

4770 (3) "Campaign contribution" means any of the following when done for a political

4771 purpose or to advocate for or against a ballot proposition:

4772 (a) a gift, subscription, donation, loan, advance, deposit of money, or anything of value
4773 given to a filing entity;

4774 (b) an express, legally enforceable contract, promise, or agreement to make a gift,
4775 subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything
4776 of value to a filing entity;

4777 (c) any transfer of funds from another reporting entity to a filing entity;

4778 (d) compensation paid by any person or reporting entity other than the filing entity for
4779 personal services provided without charge to the filing entity;

4780 (e) remuneration from:

4781 (i) any organization or the organization's directly affiliated organization that has a
4782 registered lobbyist; or

4783 (ii) any agency or subdivision of the state, including a school district; or

4784 (f) an in-kind contribution.

4785 (4) (a) "Commercial interlocal cooperation agency" means an interlocal cooperation
4786 agency that receives its revenues from conduct of its commercial operations.

4787 (b) "Commercial interlocal cooperation agency" does not mean an interlocal
4788 cooperation agency that receives some or all of its revenues from:

4789 (i) government appropriations;

4790 (ii) taxes;

4791 (iii) government fees imposed for regulatory or revenue raising purposes; or

4792 (iv) interest earned on public funds or other returns on investment of public funds.

4793 (5) "Expenditure" means:

4794 (a) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,
4795 or anything of value;

4796 (b) an express, legally enforceable contract, promise, or agreement to make any
4797 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of
4798 value;

4799 (c) a transfer of funds between a public entity and a candidate's personal campaign
4800 committee;

4801 (d) a transfer of funds between a public entity and a political issues committee; or

4802 (e) goods or services provided to or for the benefit of a candidate, a candidate's
4803 personal campaign committee, or a political issues committee for political purposes at less than
4804 fair market value.

4805 (6) "Filing entity" means the same as that term is defined in Section [20A-11-101](#).

4806 (7) "Governmental interlocal cooperation agency" means an interlocal cooperation
4807 agency that receives some or all of its revenues from:

4808 (a) government appropriations;

4809 (b) taxes;

4810 (c) government fees imposed for regulatory or revenue raising purposes; or

4811 (d) interest earned on public funds or other returns on investment of public funds.

4812 (8) "Influence" means to campaign or advocate for or against a ballot proposition.

4813 (9) "Interlocal cooperation agency" means an entity created by interlocal agreement
4814 under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.

4815 (10) "Local district" means an entity under Title 17B, Limited Purpose Local
4816 Government Entities - Local Districts, and includes a special service district under Title 17D,
4817 Chapter 1, Special Service District Act.

4818 (11) "Political purposes" means an act done with the intent or in a way to influence or
4819 intend to influence, directly or indirectly, any person to refrain from voting or to vote for or
4820 against any:

4821 (a) candidate for public office at any caucus, political convention, primary, or election;

4822 or

4823 (b) judge standing for retention at any election.

4824 (12) "Proposed initiative" means an initiative proposed in an application filed under
4825 Section [20A-7-202](#) or [20A-7-502](#).

4826 (13) "Proposed referendum" means a referendum proposed in an application filed
4827 under Section [20A-7-302](#) or [20A-7-602](#).

4828 (14) (a) "Public entity" includes the state, each state agency, each county, municipality,
4829 school district, local district, governmental interlocal cooperation agency, and each
4830 administrative subunit of each of them.

4831 (b) "Public entity" does not include a commercial interlocal cooperation agency.

4832 (c) "Public entity" includes local health departments created under Title 26, Chapter 1,

4833 Department of Health Organization.

4834 (15) (a) "Public funds" means any money received by a public entity from
4835 appropriations, taxes, fees, interest, or other returns on investment.

4836 (b) "Public funds" does not include money donated to a public entity by a person or
4837 entity.

4838 (16) (a) "Public official" means an elected or appointed member of government with
4839 authority to make or determine public policy.

4840 (b) "Public official" includes the person or group that:

4841 (i) has supervisory authority over the personnel and affairs of a public entity; and

4842 (ii) approves the expenditure of funds for the public entity.

4843 (17) "Reporting entity" means the same as that term is defined in Section [20A-11-101](#).

4844 (18) (a) "State agency" means each department, commission, board, council, agency,
4845 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
4846 unit, bureau, panel, or other administrative unit of the state.

4847 (b) "State agency" includes the legislative branch, the Utah Board of Higher Education,
4848 each institution of higher education board of trustees, and each higher education institution.

4849 Section 60. Section **23-19-5.5** is amended to read:

4850 **23-19-5.5. Issuance of license, permit, or tag prohibited for failure to pay child**
4851 **support.**

4852 (1) As used in this section:

4853 (a) "Child support" means the same as that term is defined in Section [~~62A-11-401~~]
4854 [26B-9-301](#).

4855 (b) "Delinquent on a child support obligation" means that:

4856 (i) an individual owes at least \$2,500 on an arrearage obligation of child support based
4857 on an administrative or judicial order;

4858 (ii) the individual has not obtained a judicial order staying enforcement of the
4859 individual's obligation on the amount in arrears; and

4860 (iii) the office has obtained a statutory judgment lien pursuant to Section

4861 [~~62A-11-312.5~~] [26B-9-214](#).

4862 (c) "Office" means the Office of Recovery Services created in Section [~~62A-11-102~~]

4863 [26B-9-103](#).

4864 (d) "Wildlife license agent" means a person authorized under Section [23-19-15](#) to sell a
4865 license, permit, or tag in accordance with this chapter.

4866 (2) (a) An individual who is delinquent on a child support obligation may not apply for,
4867 obtain, or attempt to obtain a license, permit, or tag required under this title, by rule made by
4868 the Wildlife Board under this title, or by an order or proclamation issued in accordance with a
4869 rule made by the Wildlife Board under this title.

4870 (b) (i) An individual who applies for, obtains, or attempts to obtain a license, permit, or
4871 tag in violation of Subsection (2)(a) violates Section [23-19-5](#).

4872 (ii) A license, permit, or tag obtained in violation of Subsection (2)(a) is invalid.

4873 (iii) An individual who takes protected wildlife with an invalid license, permit, or tag
4874 violates Section [23-20-3](#).

4875 (3) (a) The license, permit, and tag restrictions in Subsection (2)(a) remain effective
4876 until the office notifies the division that the individual who is delinquent on a child support
4877 obligation has:

4878 (i) paid the delinquency in full; or

4879 (ii) except as provided in Subsection (3)(d), complied for at least 12 consecutive
4880 months with a payment schedule entered into with the office.

4881 (b) A payment schedule under Subsection (3)(a) shall provide that the individual:

4882 (i) pay the current child support obligation in full each month; and

4883 (ii) pays an additional amount as assessed by the office pursuant to Section

4884 [~~62A-11-320~~] [26B-9-219](#) towards the child support arrears.

4885 (c) Except as provided in Subsection (3)(d), if an individual fails to comply with the
4886 payment schedule described in Subsection (3)(b), the office may notify the division and the
4887 individual is considered to be an individual who is delinquent on a child support obligation and
4888 cannot obtain a new license, permit, or tag without complying with this Subsection (3).

4889 (d) If an individual fails to comply with the payment schedule described in Subsection
4890 (3)(b) for one month of the 12-month period because of a transition to new employment, the
4891 individual may obtain a license, permit, or tag and is considered in compliance with this
4892 Subsection (3) if the individual:

4893 (i) provides the office with information regarding the individual's new employer within
4894 30 days from the day on which the missed payment was due;

4895 (ii) pays the missed payment within 30 days from the day on which the missed payment
4896 was due; and

4897 (iii) complies with the payment schedule for all other payments owed for child support
4898 within the 12-month period.

4899 (4) (a) The division or a wildlife license agent may not knowingly issue a license,
4900 permit, or tag under this title to an individual identified by the office as delinquent on a child
4901 support obligation until notified by the office that the individual has complied with Subsection
4902 (3).

4903 (b) The division is not required to hold or reserve a license, permit, or tag opportunity
4904 withheld from an individual pursuant to Subsection (4)(a) for purposes of reissuance to that
4905 individual upon compliance with Subsection (3).

4906 (c) The division may immediately reissue to another qualified person a license, permit,
4907 or tag opportunity withheld from an individual identified by the office as delinquent on a child
4908 support obligation pursuant to Subsection (4)(a).

4909 (5) The office and division shall automate the process for the division or a wildlife
4910 license agent to be notified whether an individual is delinquent on a child support obligation or
4911 has complied with Subsection (3).

4912 (6) The office is responsible to provide any administrative or judicial review required
4913 incident to the division issuing or denying a license, permit, or tag to an individual under
4914 Subsection (4).

4915 (7) The denial or withholding of a license, permit, or tag under this section is not a
4916 suspension or revocation of license and permit privileges for purposes of:

4917 (a) Section [23-19-9](#);

4918 (b) Subsection [23-20-4\(1\)](#); and

4919 (c) Section [23-25-6](#).

4920 (8) This section does not modify a court action to withhold, suspend, or revoke a
4921 recreational license under Sections [~~62A-11-107~~] [26B-9-108](#) and [78B-6-315](#).

4922 Section 61. Section **23-19-14** is amended to read:

4923 **23-19-14. Persons residing in certain institutions authorized to fish without**
4924 **license.**

4925 (1) The Division of Wildlife Resources shall permit a person to fish without a license

4926 if:

4927 (a) (i) the person resides in:

4928 (A) the Utah State Developmental Center in American Fork;

4929 (B) the state hospital;

4930 (C) a veterans hospital;

4931 (D) a veterans nursing home;

4932 (E) a mental health center;

4933 (F) an intermediate care facility for people with an intellectual disability;

4934 (G) a group home licensed by the Department of Health and Human Services and
4935 operated under contract with the Division of Services for People with Disabilities;

4936 (H) a group home or other community-based placement licensed by the Department of
4937 Health and Human Services and operated under contract with the Division of Juvenile Justice
4938 Services;

4939 (I) a private residential facility for at-risk youth licensed by the Department of Health
4940 and Human Services; or

4941 (J) another similar institution approved by the division; or

4942 (ii) the person is a youth who participates in a work camp operated by the Division of
4943 Juvenile Justice Services;

4944 (b) the person is properly supervised by a representative of the institution; and

4945 (c) the institution obtains from the division a certificate of registration that specifies:

4946 (i) the date and place where the person will fish; and

4947 (ii) the name of the institution's representative who will supervise the person fishing.

4948 (2) The institution shall apply for the certificate of registration at least 10 days before
4949 the fishing outing.

4950 (3) (a) An institution that receives a certificate of registration authorizing at-risk youth
4951 to fish shall provide instruction to the youth on fishing laws and regulations.

4952 (b) The division shall provide educational materials to the institution to assist it in
4953 complying with Subsection (3)(a).

4954 Section 62. Section **26-18-413** is amended to read:

4955 **26-18-413. Medicaid waiver for delivery of adult dental services.**

4956 (1) (a) Before June 30, 2016, the department shall ask CMS to grant waivers from

4957 federal statutory and regulatory law necessary for the Medicaid program to provide dental
4958 services in the manner described in Subsection (2)(a).

4959 (b) Before June 30, 2018, the department shall submit to CMS a request for waivers, or
4960 an amendment of existing waivers, from federal law necessary for the state to provide dental
4961 services, in accordance with Subsections (2)(b)(i) and (d) through (g), to an individual
4962 described in Subsection (2)(b)(i).

4963 (c) Before June 30, 2019, the department shall submit to the Centers for Medicare and
4964 Medicaid Services a request for waivers, or an amendment to existing waivers, from federal
4965 law necessary for the state to:

4966 (i) provide dental services, in accordance with Subsections (2)(b)(ii) and (d) through
4967 (g) to an individual described in Subsection (2)(b)(ii); and

4968 (ii) provide the services described in Subsection (2)(h).

4969 (2) (a) To the extent funded, the department shall provide services to only blind or
4970 disabled individuals, as defined in 42 U.S.C. Sec. 1382c(a)(1), who are 18 years old or older
4971 and eligible for the program.

4972 (b) Notwithstanding Subsection (2)(a):

4973 (i) if a waiver is approved under Subsection (1)(b), the department shall provide dental
4974 services to an individual who:

4975 (A) qualifies for the health coverage improvement program described in Section
4976 ~~[26-18-411]~~ [26B-3-207](#); and

4977 (B) is receiving treatment in a substance abuse treatment program, as defined in
4978 Section ~~[62A-2-101]~~ [26B-2-101](#), licensed under ~~[Title 62A, Chapter 2, Licensure of Programs~~
4979 ~~and Facilities]~~ [Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities](#); and

4980 (ii) if a waiver is approved under Subsection (1)(c)(i), the department shall provide
4981 dental services to an individual who is an aged individual as defined in 42 U.S.C. Sec.
4982 1382c(a)(1).

4983 (c) To the extent possible, services to individuals described in Subsection (2)(a) shall
4984 be provided through the University of Utah School of Dentistry and the University of Utah
4985 School of Dentistry's associated statewide network.

4986 (d) The department shall provide the services to individuals described in Subsection
4987 (2)(b):

4988 (i) by contracting with an entity that:
4989 (A) has demonstrated experience working with individuals who are being treated for
4990 both a substance use disorder and a major oral health disease;
4991 (B) operates a program, targeted at the individuals described in Subsection (2)(b), that
4992 has demonstrated, through a peer-reviewed evaluation, the effectiveness of providing dental
4993 treatment to those individuals described in Subsection (2)(b);
4994 (C) is willing to pay for an amount equal to the program's non-federal share of the cost
4995 of providing dental services to the population described in Subsection (2)(b); and
4996 (D) is willing to pay all state costs associated with applying for the waiver described in
4997 Subsection (1)(b) and administering the program described in Subsection (2)(b); and
4998 (ii) through a fee-for-service payment model.
4999 (e) The entity that receives the contract under Subsection (2)(d)(i) shall cover all state
5000 costs of the program described in Subsection (2)(b).
5001 (f) Each fiscal year, the University of Utah School of Dentistry shall, in compliance
5002 with state and federal regulations regarding intergovernmental transfers, transfer funds to the
5003 program in an amount equal to the program's non-federal share of the cost of providing services
5004 under this section through the school during the fiscal year.
5005 (g) If a waiver is approved under Subsection (1)(c)(ii), the department shall provide
5006 coverage for porcelain and porcelain-to-metal crowns if the services are provided:
5007 (i) to an individual who qualifies for dental services under Subsection (2)(b); and
5008 (ii) by an entity that covers all state costs of:
5009 (A) providing the coverage described in this Subsection (2)(h); and
5010 (B) applying for the waiver described in Subsection (1)(c).
5011 (h) Where possible, the department shall ensure that services described in Subsection
5012 (2)(a) that are not provided by the University of Utah School of Dentistry or the University of
5013 Utah School of Dentistry's associated network are provided:
5014 (i) through fee for service reimbursement until July 1, 2018; and
5015 (ii) after July 1, 2018, through the method of reimbursement used by the division for
5016 Medicaid dental benefits.
5017 (i) Subject to appropriations by the Legislature, and as determined by the department,
5018 the scope, amount, duration, and frequency of services may be limited.

5019 (3) (a) If the waivers requested under Subsection (1)(a) are granted, the Medicaid
5020 program shall begin providing dental services in the manner described in Subsection (2) no
5021 later than July 1, 2017.

5022 (b) If the waivers requested under Subsection (1)(b) are granted, the Medicaid program
5023 shall begin providing dental services to the population described in Subsection (2)(b) within 90
5024 days from the day on which the waivers are granted.

5025 (c) If the waivers requested under Subsection (1)(c)(i) are granted, the Medicaid
5026 program shall begin providing dental services to the population described in Subsection
5027 (2)(b)(ii) within 90 days after the day on which the waivers are granted.

5028 (4) If the federal share of the cost of providing dental services under this section will be
5029 less than 65% during any portion of the next fiscal year, the Medicaid program shall cease
5030 providing dental services under this section no later than the end of the current fiscal year.

5031 Section 63. Section **26-60-102** is amended to read:

5032 **26-60-102. Definitions.**

5033 As used in this chapter:

5034 (1) "Asynchronous store and forward transfer" means the transmission of a patient's
5035 health care information from an originating site to a provider at a distant site.

5036 (2) "Distant site" means the physical location of a provider delivering telemedicine
5037 services.

5038 (3) "Originating site" means the physical location of a patient receiving telemedicine
5039 services.

5040 (4) "Patient" means an individual seeking telemedicine services.

5041 (5) (a) "Patient-generated medical history" means medical data about a patient that the
5042 patient creates, records, or gathers.

5043 (b) "Patient-generated medical history" does not include a patient's medical record that
5044 a healthcare professional creates and the patient personally delivers to a different healthcare
5045 professional.

5046 (6) "Provider" means an individual who is:

5047 (a) licensed under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection~~
5048 ~~Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection;

5049 (b) licensed under Title 58, Occupations and Professions, to provide health care; or

5050 (c) licensed under [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title
5051 26B, Chapter 2, Part 1, Human Services Programs and Facilities.

5052 (7) "Synchronous interaction" means real-time communication through interactive
5053 technology that enables a provider at a distant site and a patient at an originating site to interact
5054 simultaneously through two-way audio and video transmission.

5055 (8) "Telehealth services" means the transmission of health-related services or
5056 information through the use of electronic communication or information technology.

5057 (9) "Telemedicine services" means telehealth services:

5058 (a) including:

5059 (i) clinical care;

5060 (ii) health education;

5061 (iii) health administration;

5062 (iv) home health;

5063 (v) facilitation of self-managed care and caregiver support; or

5064 (vi) remote patient monitoring occurring incidentally to general supervision; and

5065 (b) provided by a provider to a patient through a method of communication that:

5066 (i) (A) uses asynchronous store and forward transfer; or

5067 (B) uses synchronous interaction; and

5068 (ii) meets industry security and privacy standards, including compliance with:

5069 (A) the federal Health Insurance Portability and Accountability Act of 1996, Pub. L.

5070 No. 104-191, 110 Stat. 1936, as amended; and

5071 (B) the federal Health Information Technology for Economic and Clinical Health Act,

5072 Pub. L. No. 111-5, 123 Stat. 226, 467, as amended.

5073 Section 64. Section ~~26-60-104~~ is amended to read:

5074 **26-60-104. Enforcement.**

5075 (1) The Division of Professional Licensing created in Section ~~58-1-103~~ is authorized to
5076 enforce the provisions of Section [~~26-60-103~~] 26B-4-704 as it relates to providers licensed
5077 under Title 58, Occupations and Professions.

5078 (2) The department is authorized to enforce the provisions of:

5079 (a) Section [~~26-60-103~~] 26B-4-704 as it relates to providers licensed under this title;

5080 and

5081 (b) Section [~~26-60-103~~] [26B-4-704](#) as it relates to providers licensed under [~~Title 62A,~~
5082 ~~Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human Services
5083 Programs and Facilities.

5084 Section 65. Section **26A-1-102** is amended to read:

5085 **26A-1-102. Definitions.**

5086 As used in this part:

5087 (1) "Board" means a local board of health established under Section [26A-1-109](#).

5088 (2) "County governing body" means one of the types of county government provided
5089 for in Title 17, Chapter 52a, Part 2, Forms of County Government.

5090 (3) "County health department" means a local health department that serves a county
5091 and municipalities located within that county.

5092 (4) "Department" means the Department of Health and Human Services created in
5093 Section [26B-1-201](#).

5094 (5) "Local health department" means:

5095 (a) a single county local health department;

5096 (b) a multicounty local health department;

5097 (c) a united local health department; or

5098 (d) a multicounty united local health department.

5099 (6) "Mental health authority" means a local mental health authority created in Section
5100 [17-43-301](#).

5101 (7) "Multicounty local health department" means a local health department that is
5102 formed under Section [26A-1-105](#) and that serves two or more contiguous counties and
5103 municipalities within those counties.

5104 (8) "Multicounty united local health department" means a united local health
5105 department that is formed under Section [26A-1-105.5](#) and that serves two or more contiguous
5106 counties and municipalities within those counties.

5107 (9) (a) "Order of constraint" means an order, rule, or regulation issued by a local health
5108 department in response to a declared public health emergency under this chapter that:

5109 (i) applies to all or substantially all:

5110 (A) individuals or a certain group of individuals; or

5111 (B) public places or certain types of public places; and

5112 (ii) for the protection of the public health and in response to the declared public health
5113 emergency:

5114 (A) establishes, maintains, or enforces isolation or quarantine;

5115 (B) establishes, maintains, or enforces a stay-at-home order;

5116 (C) exercises physical control over property or individuals;

5117 (D) requires an individual to perform a certain action or engage in a certain behavior;

5118 or

5119 (E) closes theaters, schools, or other public places or prohibits gatherings of people to
5120 protect the public health.

5121 (b) "Order of constraint" includes a stay-at-home order.

5122 (10) "Public health emergency" means the same as that term is defined in Section
5123 ~~[26-23b-102]~~ [26B-7-301](#).

5124 (11) "Single county local health department" means a local health department that is
5125 created by the governing body of one county to provide services to the county and the
5126 municipalities within that county.

5127 (12) "Stay-at-home order" means an order of constraint that:

5128 (a) restricts movement of the general population to suppress or mitigate an epidemic or
5129 pandemic disease by directing individuals within a defined geographic area to remain in their
5130 respective residences; and

5131 (b) may include exceptions for certain essential tasks.

5132 (13) "Substance abuse authority" means a local substance abuse authority created in
5133 Section [17-43-201](#).

5134 (14) "United local health department":

5135 (a) means a substance abuse authority, a mental health authority, and a local health
5136 department that join together under Section [26A-1-105.5](#); and

5137 (b) includes a multicounty united local health department.

5138 Section 66. Section **26A-1-114** is amended to read:

5139 **26A-1-114. Powers and duties of departments.**

5140 (1) Subject to Subsections (7), (8), and (11), a local health department may:

5141 (a) subject to the provisions in Section [26A-1-108](#), enforce state laws, local ordinances,
5142 department rules, and local health department standards and regulations relating to public

5143 health and sanitation, including the plumbing code administered by the Division of
5144 Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code
5145 Administration Act, and under [~~Title 26, Chapter 15a, Food Safety Manager Certification Act~~]
5146 Title 26B, Chapter 7, Part 4, General Sanitation and Food Safety, in all incorporated and
5147 unincorporated areas served by the local health department;

5148 (b) establish, maintain, and enforce isolation and quarantine, and exercise physical
5149 control over property and over individuals as the local health department finds necessary for
5150 the protection of the public health;

5151 (c) establish and maintain medical, environmental, occupational, and other laboratory
5152 services considered necessary or proper for the protection of the public health;

5153 (d) establish and operate reasonable health programs or measures not in conflict with
5154 state law which:

5155 (i) are necessary or desirable for the promotion or protection of the public health and
5156 the control of disease; or

5157 (ii) may be necessary to ameliorate the major risk factors associated with the major
5158 causes of injury, sickness, death, and disability in the state;

5159 (e) close theaters, schools, and other public places and prohibit gatherings of people
5160 when necessary to protect the public health;

5161 (f) abate nuisances or eliminate sources of filth and infectious and communicable
5162 diseases affecting the public health and bill the owner or other person in charge of the premises
5163 upon which this nuisance occurs for the cost of abatement;

5164 (g) make necessary sanitary and health investigations and inspections on the local
5165 health department's own initiative or in cooperation with the Department of Health and Human
5166 Services or Environmental Quality, or both, as to any matters affecting the public health;

5167 (h) pursuant to county ordinance or interlocal agreement:

5168 (i) establish and collect appropriate fees for the performance of services and operation
5169 of authorized or required programs and duties;

5170 (ii) accept, use, and administer all federal, state, or private donations or grants of funds,
5171 property, services, or materials for public health purposes; and

5172 (iii) make agreements not in conflict with state law which are conditional to receiving a
5173 donation or grant;

5174 (i) prepare, publish, and disseminate information necessary to inform and advise the
5175 public concerning:

5176 (i) the health and wellness of the population, specific hazards, and risk factors that may
5177 adversely affect the health and wellness of the population; and

5178 (ii) specific activities individuals and institutions can engage in to promote and protect
5179 the health and wellness of the population;

5180 (j) investigate the causes of morbidity and mortality;

5181 (k) issue notices and orders necessary to carry out this part;

5182 (l) conduct studies to identify injury problems, establish injury control systems,
5183 develop standards for the correction and prevention of future occurrences, and provide public
5184 information and instruction to special high risk groups;

5185 (m) cooperate with boards created under Section [19-1-106](#) to enforce laws and rules
5186 within the jurisdiction of the boards;

5187 (n) cooperate with the state health department, the Department of Corrections, the
5188 Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime
5189 Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders,
5190 convicted sexual offenders, and any victims of a sexual offense;

5191 (o) investigate suspected bioterrorism and disease pursuant to Section [\[26-23b-108\]](#)
5192 [26B-7-321](#); and

5193 (p) provide public health assistance in response to a national, state, or local emergency,
5194 a public health emergency as defined in Section [\[26-23b-102\]](#) [26B-7-301](#), or a declaration by
5195 the President of the United States or other federal official requesting public health-related
5196 activities.

5197 (2) The local health department shall:

5198 (a) establish programs or measures to promote and protect the health and general
5199 wellness of the people within the boundaries of the local health department;

5200 (b) investigate infectious and other diseases of public health importance and implement
5201 measures to control the causes of epidemic and communicable diseases and other conditions
5202 significantly affecting the public health which may include involuntary testing of alleged sexual
5203 offenders for the HIV infection pursuant to Section [53-10-802](#) and voluntary testing of victims
5204 of sexual offenses for HIV infection pursuant to Section [53-10-803](#);

5205 (c) cooperate with the department in matters pertaining to the public health and in the
5206 administration of state health laws; and

5207 (d) coordinate implementation of environmental programs to maximize efficient use of
5208 resources by developing with the Department of Environmental Quality a Comprehensive
5209 Environmental Service Delivery Plan which:

5210 (i) recognizes that the Department of Environmental Quality and local health
5211 departments are the foundation for providing environmental health programs in the state;

5212 (ii) delineates the responsibilities of the department and each local health department
5213 for the efficient delivery of environmental programs using federal, state, and local authorities,
5214 responsibilities, and resources;

5215 (iii) provides for the delegation of authority and pass through of funding to local health
5216 departments for environmental programs, to the extent allowed by applicable law, identified in
5217 the plan, and requested by the local health department; and

5218 (iv) is reviewed and updated annually.

5219 (3) The local health department has the following duties regarding public and private
5220 schools within the local health department's boundaries:

5221 (a) enforce all ordinances, standards, and regulations pertaining to the public health of
5222 persons attending public and private schools;

5223 (b) exclude from school attendance any person, including teachers, who is suffering
5224 from any communicable or infectious disease, whether acute or chronic, if the person is likely
5225 to convey the disease to those in attendance; and

5226 (c) (i) make regular inspections of the health-related condition of all school buildings
5227 and premises;

5228 (ii) report the inspections on forms furnished by the department to those responsible for
5229 the condition and provide instructions for correction of any conditions that impair or endanger
5230 the health or life of those attending the schools; and

5231 (iii) provide a copy of the report to the department at the time the report is made.

5232 (4) If those responsible for the health-related condition of the school buildings and
5233 premises do not carry out any instructions for corrections provided in a report in Subsection
5234 (3)(c), the local health board shall cause the conditions to be corrected at the expense of the
5235 persons responsible.

5236 (5) The local health department may exercise incidental authority as necessary to carry
5237 out the provisions and purposes of this part.

5238 (6) Nothing in this part may be construed to authorize a local health department to
5239 enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon
5240 monoxide detector in a residential dwelling against anyone other than the occupant of the
5241 dwelling.

5242 (7) (a) Except as provided in Subsection (7)(c), a local health department may not
5243 declare a public health emergency or issue an order of constraint until the local health
5244 department has provided notice of the proposed action to the chief executive officer of the
5245 relevant county no later than 24 hours before the local health department issues the order or
5246 declaration.

5247 (b) The local health department:

5248 (i) shall provide the notice required by Subsection (7)(a) using the best available
5249 method under the circumstances as determined by the local health department;

5250 (ii) may provide the notice required by Subsection (7)(a) in electronic format; and

5251 (iii) shall provide the notice in written form, if practicable.

5252 (c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a
5253 public health emergency or issue an order of constraint without approval of the chief executive
5254 officer of the relevant county if the passage of time necessary to obtain approval of the chief
5255 executive officer of the relevant county as required in Subsection (7)(a) would substantially
5256 increase the likelihood of loss of life due to an imminent threat.

5257 (ii) If a local health department declares a public health emergency or issues an order
5258 of constraint as described in Subsection (7)(c)(i), the local health department shall notify the
5259 chief executive officer of the relevant county before issuing the order of constraint.

5260 (iii) The chief executive officer of the relevant county may terminate a declaration of a
5261 public health emergency or an order of constraint issued as described in Subsection (7)(c)(i)
5262 within 72 hours of declaration of the public health emergency or issuance of the order of
5263 constraint.

5264 (d) (i) The relevant county governing body may at any time terminate a public health
5265 emergency or an order of constraint issued by the local health department by majority vote of
5266 the county governing body in response to a declared public health emergency.

5267 (ii) A vote by the relevant county governing body to terminate a public health
5268 emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto
5269 by the relevant chief executive officer.

5270 (8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by
5271 a local health department expires at the earliest of:

5272 (i) the local health department or the chief executive officer of the relevant county
5273 finding that the threat or danger has passed or the public health emergency reduced to the
5274 extent that emergency conditions no longer exist;

5275 (ii) 30 days after the date on which the local health department declared the public
5276 health emergency; or

5277 (iii) the day on which the public health emergency is terminated by majority vote of the
5278 county governing body.

5279 (b) (i) The relevant county legislative body, by majority vote, may extend a public
5280 health emergency for a time period designated by the county legislative body.

5281 (ii) If the county legislative body extends a public health emergency as described in
5282 Subsection (8)(b)(i), the public health emergency expires on the date designated by the county
5283 legislative body.

5284 (c) Except as provided in Subsection (8)(d), if a public health emergency declared by a
5285 local health department expires as described in Subsection (8)(a), the local health department
5286 may not declare a public health emergency for the same illness or occurrence that precipitated
5287 the previous public health emergency declaration.

5288 (d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local
5289 health department finds that exigent circumstances exist, after providing notice to the county
5290 legislative body, the department may declare a new public health emergency for the same
5291 illness or occurrence that precipitated a previous public health emergency declaration.

5292 (ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in
5293 accordance with Subsection (8)(a) or (b).

5294 (e) For a public health emergency declared by a local health department under this
5295 chapter or under [~~Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~] Title
5296 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable
5297 Diseases, the Legislature may terminate by joint resolution a public health emergency that was

5298 declared based on exigent circumstances or that has been in effect for more than 30 days.

5299 (f) If the Legislature or county legislative body terminates a public health emergency
5300 declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health
5301 department may not declare a new public health emergency for the same illness, occurrence, or
5302 exigent circumstances.

5303 (9) (a) During a public health emergency declared under this chapter or under [~~Title 26;~~
5304 ~~Chapter 23b, Detection of Public Health Emergencies Act~~] Title 26B, Chapter 7, Part 3,
5305 Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:

5306 (i) except as provided in Subsection (9)(b), a local health department may not issue an
5307 order of constraint without approval of the chief executive officer of the relevant county;

5308 (ii) the Legislature may at any time terminate by joint resolution an order of constraint
5309 issued by a local health department in response to a declared public health emergency that has
5310 been in effect for more than 30 days; and

5311 (iii) a county governing body may at any time terminate by majority vote of the
5312 governing body an order of constraint issued by a local health department in response to a
5313 declared public health emergency.

5314 (b) (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an
5315 order of constraint without approval of the chief executive officer of the relevant county if the
5316 passage of time necessary to obtain approval of the chief executive officer of the relevant
5317 county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of
5318 life due to an imminent threat.

5319 (ii) If a local health department issues an order of constraint as described in Subsection
5320 (9)(b), the local health department shall notify the chief executive officer of the relevant county
5321 before issuing the order of constraint.

5322 (iii) The chief executive officer of the relevant county may terminate an order of
5323 constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of
5324 constraint.

5325 (c) (i) For a local health department that serves more than one county, the approval
5326 described in Subsection (9)(a)(i) is required for the chief executive officer for which the order
5327 of constraint is applicable.

5328 (ii) For a local health department that serves more than one county, a county governing

5329 body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the
5330 county served by the county governing body.

5331 (10) (a) During a public health emergency declared as described in this title:

5332 (i) the department or a local health department may not impose an order of constraint
5333 on a religious gathering that is more restrictive than an order of constraint that applies to any
5334 other relevantly similar gathering; and

5335 (ii) an individual, while acting or purporting to act within the course and scope of the
5336 individual's official department or local health department capacity, may not:

5337 (A) prevent a religious gathering that is held in a manner consistent with any order of
5338 constraint issued pursuant to this title; or

5339 (B) impose a penalty for a previous religious gathering that was held in a manner
5340 consistent with any order of constraint issued pursuant to this title.

5341 (b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to
5342 prevent the violation of this Subsection (10).

5343 (c) During a public health emergency declared as described in this title, the department
5344 or a local health department shall not issue a public health order or impose or implement a
5345 regulation that substantially burdens an individual's exercise of religion unless the department
5346 or local health department demonstrates that the application of the burden to the individual:

5347 (i) is in furtherance of a compelling government interest; and

5348 (ii) is the least restrictive means of furthering that compelling government interest.

5349 (d) Notwithstanding Subsections (8)(a) and (c), the department or a local health
5350 department shall allow reasonable accommodations for an individual to perform or participate
5351 in a religious practice or rite.

5352 (11) An order of constraint issued by a local health department pursuant to a declared
5353 public health emergency does not apply to a facility, property, or area owned or leased by the
5354 state, including the capitol hill complex, as that term is defined in Section [63C-9-102](#).

5355 Section 67. Section **26A-1-116** is amended to read:

5356 **26A-1-116. Allocation of state funds to local health departments -- Formula.**

5357 (1) (a) The Departments of Health and Environmental Quality shall each establish by
5358 rule a formula for allocating state funds by contract to local health departments.

5359 (b) This formula shall provide for allocation of funds based on need.

5360 (c) Determination of need shall be based on population unless the department making
5361 the rule establishes by valid and accepted data that other defined factors are relevant and
5362 reliable indicators of need.

5363 (d) The formula shall include a differential to compensate for additional costs of
5364 providing services in rural areas.

5365 (2) (a) The formulas established under Subsection (1) shall be in effect on or before
5366 July 1, 1991.

5367 (b) The formulas apply to all state funds appropriated by the Legislature to the
5368 Departments of Health and Environmental Quality for local health departments.

5369 (c) The formulas do not apply to funds a local health department receives from:

5370 (i) sources other than the Departments of Health and Environmental Quality; and

5371 (ii) the Departments of Health and Environmental Quality:

5372 (A) to operate a specific program within the local health department's boundaries
5373 which program is available to all residents of the state;

5374 (B) to meet a need that exists only within the local health department's boundaries; and

5375 (C) to engage in research projects.

5376 Section 68. Section **26A-1-121** is amended to read:

5377 **26A-1-121. Standards and regulations adopted by local board -- Local standards**
5378 **not more stringent than federal or state standards -- Administrative and judicial review**
5379 **of actions.**

5380 (1) (a) Subject to Subsection (1)(g), the board may make standards and regulations:

5381 (i) not in conflict with rules of the department or the Department of Environmental
5382 Quality; and

5383 (ii) necessary for the promotion of public health, environmental health quality, injury
5384 control, and the prevention of outbreaks and spread of communicable and infectious diseases.

5385 (b) The standards and regulations under Subsection (1)(a):

5386 (i) supersede existing local standards, regulations, and ordinances pertaining to similar
5387 subject matter;

5388 (ii) except where specifically allowed by federal law or state statute, may not be more
5389 stringent than those established by federal law, state statute, or administrative rules adopted by
5390 the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

5391 and

5392 (iii) notwithstanding Subsection (1)(b)(ii), may be more stringent than those
5393 established by federal law, state statute, or administrative rule adopted by the department if the
5394 standard or regulation is:

5395 (A) in effect on February 1, 2022; and

5396 (B) not modified or amended after February 1, 2022.

5397 (c) The board shall provide public hearings prior to the adoption of any regulation or
5398 standard.

5399 (d) Notice of any public hearing shall be published at least twice throughout the county
5400 or counties served by the local health department. The publication may be in one or more
5401 newspapers, if the notice is provided in accordance with this Subsection (1)(d).

5402 (e) The hearings may be conducted by the board at a regular or special meeting, or the
5403 board may appoint hearing officers who may conduct hearings in the name of the board at a
5404 designated time and place.

5405 (f) A record or summary of the proceedings of a hearing shall be taken and filed with
5406 the board.

5407 (g) (i) During a declared public health emergency declared under this chapter or under
5408 [~~Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~] Title 26B, Chapter 7, Part
5409 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:

5410 (A) except as provided in Subsection (1)(h), a local health department may not issue an
5411 order of constraint without approval of the chief executive officer of the relevant county;

5412 (B) the Legislature may at any time terminate by joint resolution an order of constraint
5413 issued by a local health department in response to a declared public health emergency that has
5414 been in effect for more than 30 days; and

5415 (C) a county governing body may at any time terminate, by majority vote of the
5416 governing body, an order of constraint issued by a local health department in response to a
5417 declared public health emergency.

5418 (ii) (A) For a local health department that serves more than one county, the approval
5419 described in Subsection (1)(g)(i)(A) is required for the chief executive officer for which the
5420 order of constraint is applicable.

5421 (B) For a local health department that serves more than one county, a county governing

5422 body may only terminate an order of constraint as described in Subsection (1)(g)(i)(C) for the
5423 county served by the county governing body.

5424 (h) (i) Notwithstanding Subsection (1)(g)(i)(A), a local health department may issue an
5425 order of constraint without approval of the chief executive officer of the relevant county if the
5426 passage of time necessary to obtain approval of the chief executive officer of the relevant
5427 county as required in Subsection (1)(g)(i)(A) would substantially increase the likelihood of loss
5428 of life due to an imminent threat.

5429 (ii) If a local health department issues an order of constraint as described in Subsection
5430 (1)(h)(i), the local health department shall notify the chief executive officer of the relevant
5431 county before issuing the order of constraint.

5432 (iii) The chief executive officer of the relevant county may terminate an order of
5433 constraint issued as described in Subsection (1)(h)(i) within 72 hours of issuance of the order
5434 of constraint.

5435 (i) (i) During a public health emergency declared as described in this title:

5436 (A) a local health department may not impose an order of constraint on a public
5437 gathering that applies to a religious gathering differently than the order of constraint applies to
5438 any other relevantly similar gathering; and

5439 (B) an individual, while acting or purporting to act within the course and scope of the
5440 individual's official local health department capacity, may not prevent a religious gathering that
5441 is held in a manner consistent with any order of constraint issued pursuant to this title, or
5442 impose a penalty for a previous religious gathering that was held in a manner consistent with
5443 any order of constraint issued pursuant to this title.

5444 (ii) Upon proper grounds, a court of competent jurisdiction may grant an injunction to
5445 prevent the violation of this Subsection (1)(i).

5446 (iii) During a public health emergency declared as described in this title, the
5447 department or a local health department shall not issue a public health order or impose or
5448 implement a regulation that substantially burdens an individual's exercise of religion unless the
5449 department or local health department demonstrates that the application of the burden to the
5450 individual:

5451 (A) is in furtherance of a compelling government interest; and

5452 (B) is the least restrictive means of furthering that compelling government interest.

5453 (iv) Notwithstanding Subsections (1)(i)(i) and (ii), the department or a local health
5454 department shall allow reasonable accommodations for an individual to perform or participate
5455 in a religious practice or rite.

5456 (j) If a local health department declares a public health emergency as described in this
5457 chapter, and the local health department finds that the public health emergency conditions
5458 warrant an extension of the public health emergency beyond the 30-day term or another date
5459 designated by the local legislative body, the local health department shall provide written
5460 notice to the local legislative body at least 10 days before the expiration of the public health
5461 emergency.

5462 (2) (a) A person aggrieved by an action or inaction of the local health department
5463 relating to the public health shall have an opportunity for a hearing with the local health officer
5464 or a designated representative of the local health department. The board shall grant a
5465 subsequent hearing to the person upon the person's written request.

5466 (b) In an adjudicative hearing, a member of the board or the hearing officer may
5467 administer oaths, examine witnesses, and issue notice of the hearings or subpoenas in the name
5468 of the board requiring the testimony of witnesses and the production of evidence relevant to a
5469 matter in the hearing. The local health department shall make a written record of the hearing,
5470 including findings of facts and conclusions of law.

5471 (c) Judicial review of a final determination of the local board may be secured by a
5472 person adversely affected by the final determination, or by the department or the Department of
5473 Environmental Quality, by filing a petition in the district court within 30 days after receipt of
5474 notice of the board's final determination.

5475 (d) The petition shall be served upon the secretary of the board and shall state the
5476 grounds upon which review is sought.

5477 (e) The board's answer shall certify and file with the court all documents and papers
5478 and a transcript of all testimony taken in the matter together with the board's findings of fact,
5479 conclusions of law, and order.

5480 (f) The appellant and the board are parties to the appeal.

5481 (g) The department and the Department of Environmental Quality may become a party
5482 by intervention as in a civil action upon showing cause.

5483 (h) A further appeal may be taken to the Court of Appeals under Section [78A-4-103](#).

5484 (3) Nothing in the provisions of Subsection (1)(b)(ii) or (c), shall limit the ability of a
5485 local health department board to make standards and regulations in accordance with Subsection
5486 (1)(a) for:

- 5487 (a) emergency rules made in accordance with Section [63G-3-304](#); or
- 5488 (b) items not regulated under federal law, state statute, or state administrative rule.

5489 Section 69. Section **26A-1-126** is amended to read:

5490 **26A-1-126. Medical reserve corps.**

5491 (1) In addition to the duties listed in Section [26A-1-114](#), a local health department may
5492 establish a medical reserve corps in accordance with this section.

5493 (2) The purpose of a medical reserve corps is to enable a local health authority to
5494 respond with appropriate health care professionals to a national, state, or local emergency, a
5495 public health emergency as defined in Section [~~26-23b-102~~] [26B-7-301](#), or a declaration by the
5496 president of the United States or other federal official requesting public health related
5497 activities.

5498 (3) (a) A local health department may train health care professionals who participate in
5499 a medical reserve corps to respond to an emergency or declaration for public health related
5500 activities pursuant to Subsection (2).

5501 (b) When an emergency or request for public health related activities has been declared
5502 in accordance with Subsection (2), a local health department may activate a medical reserve
5503 corps for the duration of the emergency or declaration for public health related activities.

5504 (4) For purposes of this section, a medical reserve corps may include persons who:

5505 (a) are licensed under Title 58, Occupations and Professions, and who are operating
5506 within the scope of their practice;

5507 (b) are exempt from licensure, or operating under modified scope of practice
5508 provisions in accordance with Subsections [58-1-307](#)(4) and (5); and

5509 (c) within the 10 years preceding the declared emergency, held a valid license, in good
5510 standing in Utah, for one of the occupations described in Subsection [58-13-2](#)(1), but the license
5511 is not currently active.

5512 (5) (a) Notwithstanding the provisions of Subsections [58-1-307](#)(4)(a) and (5)(b) the
5513 local health department may authorize a person described in Subsection (4) to operate in a
5514 modified scope of practice as necessary to respond to the declaration under Subsection (2).

5515 (b) A person operating as a member of an activated medical reserve corps or training as
5516 a member of a medical reserve corps under this section:

5517 (i) shall be volunteering for and supervised by the local health department;

5518 (ii) shall comply with the provisions of this section;

5519 (iii) is exempt from the licensing laws of Title 58, Occupations and Professions; and

5520 (iv) shall carry a certificate issued by the local health department which designates the
5521 individual as a member of the medical reserve corps during the duration of the emergency or
5522 declaration for public health related activities pursuant to Subsection (2).

5523 (6) The local department of health may access the Division of Professional Licensing
5524 database for the purpose of determining if a person's current or expired license to practice in
5525 the state was in good standing.

5526 (7) The local department of health shall maintain a registry of persons who are
5527 members of a medical reserve corps. The registry of the medical reserve corps shall be made
5528 available to the public and to the Division of Professional Licensing.

5529 Section 70. Section **26A-1-128** is amended to read:

5530 **26A-1-128. Tobacco, electronic cigarette, and nicotine product permits --**

5531 **Enforcement.**

5532 A local health department:

5533 (1) shall enforce the requirements of [~~Title 26, Chapter 62, Tobacco, Electronic~~
5534 ~~Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation of
5535 Smoking, Tobacco Products, and Nicotine Products;

5536 (2) may enforce licensing requirements for entities that hold a business license to sell a
5537 tobacco product, an electronic cigarette product, or a nicotine product under Section [10-8-41.6](#)
5538 or Section [17-50-333](#); and

5539 (3) may recommend to a municipality or county that the business license of a retail
5540 tobacco specialty business be suspended or revoked for a violation of Section [10-8-41.6](#),
5541 Section [17-50-333](#), or [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine~~
5542 ~~Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products,
5543 and Nicotine Products.

5544 Section 71. Section **30-1-12** is amended to read:

5545 **30-1-12. Clerk to file license and certificate -- Designation as vital record.**

5546 (1) (a) The license, together with the certificate of the individual officiating at the
5547 marriage, shall be filed and preserved by the clerk, and shall be recorded by the clerk in a book
5548 kept for that purpose, or by electronic means.

5549 (b) The record shall be properly indexed in the names of the parties so married.

5550 (2) An individual may use a diacritical mark, as defined in Section [~~26-2-4~~] [26B-8-103](#),
5551 on a marriage license.

5552 (3) A transcript shall be promptly certified and transmitted by the clerk to the state
5553 registrar of vital statistics.

5554 (4) The license and the certificate of the individual officiating at the marriage are vital
5555 records as defined in Section [~~26-2-2~~] [26B-8-101](#) and are subject to the inspection
5556 requirements described in Section [~~26-2-22~~] [26B-8-125](#).

5557 Section 72. Section **30-2-5** is amended to read:

5558 **30-2-5. Separate debts.**

5559 (1) Neither spouse is personally liable for the separate debts, obligations, or liabilities
5560 of the other:

5561 (a) contracted or incurred before marriage;

5562 (b) contracted or incurred during marriage, except family expenses as provided in
5563 Section [30-2-9](#);

5564 (c) contracted or incurred after divorce or an order for separate maintenance under this
5565 title, except the spouse is personally liable for that portion of the expenses incurred on behalf
5566 of a minor child for reasonable and necessary medical and dental expenses, and other similar
5567 necessities as provided in a court order under Section [30-3-5](#), [30-4-3](#), or [78B-12-212](#), or an
5568 administrative order under Section [~~62A-11-326~~] [26B-9-224](#); or

5569 (d) ordered by the court to be paid by the other spouse under Section [30-3-5](#) or [30-4-3](#)
5570 and not in conflict with Section [15-4-6.5](#) or [15-4-6.7](#).

5571 (2) The wages, earnings, property, rents, or other income of one spouse may not be
5572 reached by a creditor of the other spouse to satisfy a debt, obligation, or liability of the other
5573 spouse, as described under Subsection (1).

5574 Section 73. Section **30-3-5** is amended to read:

5575 **30-3-5. Disposition of property -- Maintenance and health care of parties and**
5576 **children -- Division of debts -- Court to have continuing jurisdiction -- Custody and**

5577 **parent-time -- Alimony -- Nonmeritorious petition for modification.**

5578 (1) As used in this section:

5579 (a) "Cohabit" means to live together, or to reside together on a regular basis, in the
5580 same residence and in a relationship of a romantic or sexual nature.5581 (b) "Fault" means any of the following wrongful conduct during the marriage that
5582 substantially contributed to the breakup of the marriage:

5583 (i) engaging in sexual relations with an individual other than the party's spouse;

5584 (ii) knowingly and intentionally causing or attempting to cause physical harm to the
5585 other party or a child;5586 (iii) knowingly and intentionally causing the other party or a child to reasonably fear
5587 life-threatening harm; or

5588 (iv) substantially undermining the financial stability of the other party or the child.

5589 (c) "Length of the marriage" means, for purposes of alimony, the number of years from
5590 the day on which the parties are legally married to the day on which the petition for divorce is
5591 filed with the court.5592 (2) When a decree of divorce is rendered, the court may include in the decree of
5593 divorce equitable orders relating to the children, property, debts or obligations, and parties.

5594 (3) The court shall include the following in every decree of divorce:

5595 (a) an order assigning responsibility for the payment of reasonable and necessary
5596 medical and dental expenses of a dependent child, including responsibility for health insurance
5597 out-of-pocket expenses such as co-payments, co-insurance, and deductibles;5598 (b) (i) if coverage is or becomes available at a reasonable cost, an order requiring the
5599 purchase and maintenance of appropriate health, hospital, and dental care insurance for a
5600 dependent child; and5601 (ii) a designation of which health, hospital, or dental insurance plan is primary and
5602 which health, hospital, or dental insurance plan is secondary in accordance with Section
5603 [30-3-5.4](#) that will take effect if at any time a dependent child is covered by both parents' health,
5604 hospital, or dental insurance plans;5605 (c) in accordance with Section [15-4-6.5](#):5606 (i) an order specifying which party is responsible for the payment of joint debts,
5607 obligations, or liabilities of the parties contracted or incurred during marriage;

5608 (ii) an order requiring the parties to notify respective creditors or obligees, regarding
5609 the court's division of debts, obligations, or liabilities and regarding the parties' separate,
5610 current addresses; and

5611 (iii) provisions for the enforcement of these orders;

5612 (d) provisions for income withholding in accordance with [~~Title 62A, Chapter 11,~~
5613 ~~Recovery Services~~] Title 26B, Chapter 9, Recovery Services and Administration of Child
5614 Support; and

5615 (e) if either party owns a life insurance policy or an annuity contract, an
5616 acknowledgment by the court that the owner:

5617 (i) has reviewed and updated, where appropriate, the list of beneficiaries;

5618 (ii) has affirmed that those listed as beneficiaries are in fact the intended beneficiaries
5619 after the divorce becomes final; and

5620 (iii) understands that if no changes are made to the policy or contract, the beneficiaries
5621 currently listed will receive any funds paid by the insurance company under the terms of the
5622 policy or contract.

5623 (4) (a) The court may include, in an order determining child support, an order assigning
5624 financial responsibility for all or a portion of child care expenses incurred on behalf of a
5625 dependent child, necessitated by the employment or training of the custodial parent.

5626 (b) If the court determines that the circumstances are appropriate and that the
5627 dependent child would be adequately cared for, the court may include an order allowing the
5628 noncustodial parent to provide child care for the dependent child, necessitated by the
5629 employment or training of the custodial parent.

5630 (5) The court has continuing jurisdiction to make subsequent changes or new orders for
5631 the custody of a child and the child's support, maintenance, health, and dental care, and for
5632 distribution of the property and obligations for debts as is reasonable and necessary.

5633 (6) Child support, custody, visitation, and other matters related to a child born to the
5634 parents after entry of the decree of divorce may be added to the decree by modification.

5635 (7) (a) In determining parent-time rights of parents and visitation rights of grandparents
5636 and other members of the immediate family, the court shall consider the best interest of the
5637 child.

5638 (b) Upon a specific finding by the court of the need for peace officer enforcement, the

5639 court may include in an order establishing a parent-time or visitation schedule a provision,
5640 among other things, authorizing any peace officer to enforce a court-ordered parent-time or
5641 visitation schedule entered under this chapter.

5642 (8) If a petition for modification of child custody or parent-time provisions of a court
5643 order is made and denied, the court shall order the petitioner to pay the reasonable attorney fees
5644 expended by the prevailing party in that action, if the court determines that the petition was
5645 without merit and not asserted or defended against in good faith.

5646 (9) If a motion or petition alleges noncompliance with a parent-time order by a parent,
5647 or a visitation order by a grandparent or other member of the immediate family where a
5648 visitation or parent-time right has been previously granted by the court, the court may award to
5649 the prevailing party:

5650 (a) actual attorney fees incurred;

5651 (b) the costs incurred by the prevailing party because of the other party's failure to
5652 provide or exercise court-ordered visitation or parent-time, which may include:

5653 (i) court costs;

5654 (ii) child care expenses;

5655 (iii) transportation expenses actually incurred;

5656 (iv) lost wages, if ascertainable; and

5657 (v) counseling for a child or parent if ordered or approved by the court;

5658 (c) make-up parent time consistent with the best interest of the child; and

5659 (d) any other appropriate equitable remedy.

5660 (10) (a) The court shall consider at least the following factors in determining alimony:

5661 (i) the financial condition and needs of the recipient spouse;

5662 (ii) the recipient's earning capacity or ability to produce income, including the impact
5663 of diminished workplace experience resulting from primarily caring for a child of the payor
5664 spouse;

5665 (iii) the ability of the payor spouse to provide support;

5666 (iv) the length of the marriage;

5667 (v) whether the recipient spouse has custody of a minor child requiring support;

5668 (vi) whether the recipient spouse worked in a business owned or operated by the payor
5669 spouse; and

5670 (vii) whether the recipient spouse directly contributed to any increase in the payor
5671 spouse's skill by paying for education received by the payor spouse or enabling the payor
5672 spouse to attend school during the marriage.

5673 (b) The court may consider the fault of the parties in determining whether to award
5674 alimony and the terms of the alimony.

5675 (c) The court may, when fault is at issue, close the proceedings and seal the court
5676 records.

5677 (d) As a general rule, the court should look to the standard of living, existing at the
5678 time of separation, in determining alimony in accordance with Subsection (10)(a). However,
5679 the court shall consider all relevant facts and equitable principles and may, in the court's
5680 discretion, base alimony on the standard of living that existed at the time of trial. In marriages
5681 of short duration, when no child has been conceived or born during the marriage, the court may
5682 consider the standard of living that existed at the time of the marriage.

5683 (e) The court may, under appropriate circumstances, attempt to equalize the parties'
5684 respective standards of living.

5685 (f) When a marriage of long duration dissolves on the threshold of a major change in
5686 the income of one of the spouses due to the collective efforts of both, that change shall be
5687 considered in dividing the marital property and in determining the amount of alimony. If one
5688 spouse's earning capacity has been greatly enhanced through the efforts of both spouses during
5689 the marriage, the court may make a compensating adjustment in dividing the marital property
5690 and awarding alimony.

5691 (g) In determining alimony when a marriage of short duration dissolves, and no child
5692 has been conceived or born during the marriage, the court may consider restoring each party to
5693 the condition which existed at the time of the marriage.

5694 (11) (a) The court has continuing jurisdiction to make substantive changes and new
5695 orders regarding alimony based on a substantial material change in circumstances not expressly
5696 stated in the divorce decree or in the findings that the court entered at the time of the divorce
5697 decree.

5698 (b) A party's retirement is a substantial material change in circumstances that is subject
5699 to a petition to modify alimony, unless the divorce decree, or the findings that the court entered
5700 at the time of the divorce decree, expressly states otherwise.

5701 (c) The court may not modify alimony or issue a new order for alimony to address
5702 needs of the recipient that did not exist at the time the decree was entered, unless the court
5703 finds extenuating circumstances that justify that action.

5704 (d) (i) In determining alimony, the income of any subsequent spouse of the payor may
5705 not be considered, except as provided in Subsection (10) or this Subsection (11).

5706 (ii) The court may consider the subsequent spouse's financial ability to share living
5707 expenses.

5708 (iii) The court may consider the income of a subsequent spouse if the court finds that
5709 the payor's improper conduct justifies that consideration.

5710 (e) (i) Except as provided in Subsection (11)(e)(iii), the court may not order alimony
5711 for a period of time longer than the length of the marriage.

5712 (ii) If a party is ordered to pay temporary alimony during the pendency of the divorce
5713 action, the period of time that the party pays temporary alimony shall be counted towards the
5714 period of time for which the party is ordered to pay alimony.

5715 (iii) At any time before the termination of alimony, the court may find extenuating
5716 circumstances or good cause that justify the payment of alimony for a longer period of time
5717 than the length of the marriage.

5718 (12) (a) Except as provided in Subsection (12)(b), unless a decree of divorce
5719 specifically provides otherwise, any order of the court that a party pay alimony to a former
5720 spouse automatically terminates upon the remarriage or death of that former spouse.

5721 (b) If the remarriage of the former spouse is annulled and found to be void ab initio,
5722 payment of alimony shall resume if the party paying alimony is made a party to the action of
5723 annulment and the payor party's rights are determined.

5724 (13) If a party establishes that a current spouse cohabits with another individual during
5725 the pendency of the divorce action, the court:

5726 (a) may not order the party to pay temporary alimony to the current spouse; and

5727 (b) shall terminate any order that the party pay temporary alimony to the current
5728 spouse.

5729 (14) (a) Subject to Subsection (14)(b), the court shall terminate an order that a party
5730 pay alimony to a former spouse if the party establishes that, after the order for alimony is
5731 issued, the former spouse cohabits with another individual even if the former spouse is not

5732 cohabiting with the individual when the party paying alimony files the motion to terminate
5733 alimony.

5734 (b) A party paying alimony to a former spouse may not seek termination of alimony
5735 under Subsection (14)(a), later than one year from the day on which the party knew or should
5736 have known that the former spouse has cohabited with another individual.

5737 Section 74. Section **30-3-5.1** is amended to read:

5738 **30-3-5.1. Provision for income withholding in child support order.**

5739 Whenever a court enters an order for child support, it shall include in the order a
5740 provision for withholding income as a means of collecting child support as provided in [~~Title~~
5741 ~~62A, Chapter 11, Recovery Services~~] Title 26B, Chapter 9, Recovery Services and
5742 Administration of Child Support.

5743 Section 75. Section **30-3-5.4** is amended to read:

5744 **30-3-5.4. Designation of primary and secondary health, dental, or hospital**
5745 **insurance coverage.**

5746 (1) As used in this section, "health, hospital, or dental insurance plan" has the same
5747 meaning as "health care insurance" as defined in Section [31A-1-301](#).

5748 (2) (a) A decree of divorce rendered in accordance with Section [30-3-5](#), an order for
5749 medical expenses rendered in accordance with Section [78B-12-212](#), and an administrative
5750 order under Section [~~62A-11-326~~] [26B-9-224](#) shall, in accordance with Subsection (2)(b)(ii),
5751 designate which parent's health, hospital, or dental insurance plan is primary coverage and
5752 which parent's health, hospital, or dental insurance plan is secondary coverage for a dependent
5753 child.

5754 (b) The provisions of the court order required by Subsection (2)(a) shall:

5755 (i) take effect if at any time a dependent child is covered by both parents' health,
5756 hospital, or dental insurance plans; and

5757 (ii) include the following language:

5758 "If, at any point in time, a dependent child is covered by the health, hospital, or dental
5759 insurance plans of both parents, the health, hospital, or dental insurance plan of (Parent's
5760 Name) shall be primary coverage for the dependent child and the health, hospital, or dental
5761 insurance plan of (Other Parent's Name) shall be secondary coverage for the dependent child.
5762 If a parent remarries and his or her dependent child is not covered by that parent's health,

5763 hospital, or dental insurance plan but is covered by a step-parent's plan, the health, hospital, or
5764 dental insurance plan of the step-parent shall be treated as if it is the plan of the remarried
5765 parent and shall retain the same designation as the primary or secondary plan of the dependent
5766 child."

5767 (c) A decree of divorce or related court order may not modify the language required by
5768 Subsection (2)(b)(ii).

5769 (d) Notwithstanding Subsection (2)(c), a court may allocate the payment of medical
5770 expenses including co-payments, deductibles, and co-insurance not covered by health insurance
5771 between the parents in accordance with Subsections 30-3-5(3)(a) and 78B-12-212(7).

5772 (3) In designating primary coverage pursuant to Subsection (2), a court may take into
5773 account:

5774 (a) the birth dates of the parents;

5775 (b) a requirement in a court order, if any, for one of the parents to maintain health
5776 insurance coverage for a dependent child;

5777 (c) the parent with physical custody of the dependent child; or

5778 (d) any other factor the court considers relevant.

5779 Section 76. Section 30-3-10 is amended to read:

5780 **30-3-10. Custody of a child -- Custody factors.**

5781 (1) If a married couple having one or more minor children are separated, or the married
5782 couple's marriage is declared void or dissolved, the court shall enter, and has continuing
5783 jurisdiction to modify, an order of custody and parent-time.

5784 (2) In determining any form of custody and parent-time under Subsection (1), the court
5785 shall consider the best interest of the child and may consider among other factors the court
5786 finds relevant, the following for each parent:

5787 (a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional
5788 abuse, involving the child, the parent, or a household member of the parent;

5789 (b) the parent's demonstrated understanding of, responsiveness to, and ability to meet
5790 the developmental needs of the child, including the child's:

5791 (i) physical needs;

5792 (ii) emotional needs;

5793 (iii) educational needs;

- 5794 (iv) medical needs; and
- 5795 (v) any special needs;
- 5796 (c) the parent's capacity and willingness to function as a parent, including:
 - 5797 (i) parenting skills;
 - 5798 (ii) co-parenting skills, including:
 - 5799 (A) ability to appropriately communicate with the other parent;
 - 5800 (B) ability to encourage the sharing of love and affection; and
 - 5801 (C) willingness to allow frequent and continuous contact between the child and the
 - 5802 other parent, except that, if the court determines that the parent is acting to protect the child
 - 5803 from domestic violence, neglect, or abuse, the parent's protective actions may be taken into
 - 5804 consideration; and
 - 5805 (iii) ability to provide personal care rather than surrogate care;
 - 5806 (d) in accordance with Subsection (10), the past conduct and demonstrated moral
 - 5807 character of the parent;
 - 5808 (e) the emotional stability of the parent;
 - 5809 (f) the parent's inability to function as a parent because of drug abuse, excessive
 - 5810 drinking, or other causes;
 - 5811 (g) whether the parent has intentionally exposed the child to pornography or material
 - 5812 harmful to minors, as "material" and "harmful to minors" are defined in Section [76-10-1201](#);
 - 5813 (h) the parent's reasons for having relinquished custody or parent-time in the past;
 - 5814 (i) duration and depth of desire for custody or parent-time;
 - 5815 (j) the parent's religious compatibility with the child;
 - 5816 (k) the parent's financial responsibility;
 - 5817 (l) the child's interaction and relationship with step-parents, extended family members
 - 5818 of other individuals who may significantly affect the child's best interests;
 - 5819 (m) who has been the primary caretaker of the child;
 - 5820 (n) previous parenting arrangements in which the child has been happy and
 - 5821 well-adjusted in the home, school, and community;
 - 5822 (o) the relative benefit of keeping siblings together;
 - 5823 (p) the stated wishes and concerns of the child, taking into consideration the child's
 - 5824 cognitive ability and emotional maturity;

5825 (q) the relative strength of the child's bond with the parent, meaning the depth, quality,
5826 and nature of the relationship between the parent and the child; and

5827 (r) any other factor the court finds relevant.

5828 (3) There is a rebuttable presumption that joint legal custody, as defined in Section
5829 30-3-10.1, is in the best interest of the child, except in cases when there is:

5830 (a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional
5831 abuse involving the child, a parent, or a household member of the parent;

5832 (b) special physical or mental needs of a parent or child, making joint legal custody
5833 unreasonable;

5834 (c) physical distance between the residences of the parents, making joint decision
5835 making impractical in certain circumstances; or

5836 (d) any other factor the court considers relevant including those listed in this section
5837 and Section 30-3-10.2.

5838 (4) (a) The person who desires joint legal custody shall file a proposed parenting plan
5839 in accordance with Sections 30-3-10.8 and 30-3-10.9.

5840 (b) A presumption for joint legal custody may be rebutted by a showing by a
5841 preponderance of the evidence that it is not in the best interest of the child.

5842 (5) (a) A child may not be required by either party to testify unless the trier of fact
5843 determines that extenuating circumstances exist that would necessitate the testimony of the
5844 child be heard and there is no other reasonable method to present the child's testimony.

5845 (b) (i) The court may inquire of the child's and take into consideration the child's
5846 desires regarding future custody or parent-time schedules, but the expressed desires are not
5847 controlling and the court may determine the child's custody or parent-time otherwise.

5848 (ii) The desires of a child 14 years of age or older shall be given added weight, but is
5849 not the single controlling factor.

5850 (c) (i) If an interview with a child is conducted by the court pursuant to Subsection
5851 (5)(b), the interview shall be conducted by the judge in camera.

5852 (ii) The prior consent of the parties may be obtained but is not necessary if the court
5853 finds that an interview with a child is the only method to ascertain the child's desires regarding
5854 custody.

5855 (6) (a) Except as provided in Subsection (6)(b), a court may not discriminate against a

5856 parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining
5857 whether a substantial change has occurred for the purpose of modifying an award of custody.

5858 (b) The court may not consider the disability of a parent as a factor in awarding custody
5859 or modifying an award of custody based on a determination of a substantial change in
5860 circumstances, unless the court makes specific findings that:

5861 (i) the disability significantly or substantially inhibits the parent's ability to provide for
5862 the physical and emotional needs of the child at issue; and

5863 (ii) the parent with a disability lacks sufficient human, monetary, or other resources
5864 available to supplement the parent's ability to provide for the physical and emotional needs of
5865 the child at issue.

5866 (c) Nothing in this section may be construed to apply to adoption proceedings under
5867 Title 78B, Chapter 6, Part 1, Utah Adoption Act.

5868 (7) This section does not establish a preference for either parent solely because of the
5869 gender of the parent.

5870 (8) This section establishes neither a preference nor a presumption for or against joint
5871 physical custody or sole physical custody, but allows the court and the family the widest
5872 discretion to choose a parenting plan that is in the best interest of the child.

5873 (9) When an issue before the court involves custodial responsibility in the event of a
5874 deployment of one or both parents who are servicemembers, and the servicemember has not yet
5875 been notified of deployment, the court shall resolve the issue based on the standards in Sections
5876 78B-20-306 through 78B-20-309.

5877 (10) In considering the past conduct and demonstrated moral standards of each party
5878 under Subsection (2)(d) or any other factor a court finds relevant, the court may not:

5879 (a) consider or treat a parent's lawful possession or use of cannabis in a medicinal
5880 dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in
5881 accordance with Title 4, Chapter 41a, Cannabis Production Establishments, [~~Title 26, Chapter~~
5882 ~~61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and
5883 Medical Cannabis, or Subsection 58-37-3.7(2) or (3) any differently than the court would
5884 consider or treat the lawful possession or use of any prescribed controlled substance; or

5885 (b) discriminate against a parent because of the parent's status as a:

5886 (i) cannabis production establishment agent, as that term is defined in Section

5887 4-41a-102;

5888 (ii) medical cannabis pharmacy agent, as that term is defined in Section ~~[26-61a-102]~~

5889 26B-4-201;

5890 (iii) medical cannabis courier agent, as that term is defined in Section ~~[26-61a-102]~~

5891 26B-4-201; or

5892 (iv) medical cannabis cardholder in accordance with ~~[Title 26, Chapter 61a, Utah~~

5893 ~~Medical Cannabis Act]~~ Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical

5894 Cannabis.

5895 Section 77. Section **30-3-10.5** is amended to read:

5896 **30-3-10.5. Payments of support, maintenance, and alimony.**

5897 (1) All monthly payments of support, maintenance, or alimony provided for in the

5898 order or decree shall be due on the first day of each month for purposes of Section ~~78B-12-112,~~

5899 child support services pursuant to ~~[Title 62A, Chapter 11, Part 3, Child Support Services Act]~~

5900 Title 26B, Chapter 9, Part 2, Child Support Services, income withholding services pursuant to

5901 ~~[Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases]~~ Title 26B, Chapter 9, Part

5902 3, Income Withholding in IV-D Cases, and other income withholding procedures pursuant to

5903 ~~[Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases]~~ Title 26B, Chapter 9,

5904 Part 4, Income Withholding in Non IV-D Cases.

5905 (2) For purposes of child support services and income withholding pursuant to ~~[Title~~

5906 ~~62A, Chapter 11, Part 3, Child Support Services Act, and Part 4, Income Withholding in IV-D~~

5907 ~~Cases]~~ Title 26B, Chapter 9, Part 2, Child Support Services, and Title 26B, Chapter 9, Part 3,

5908 Income Withholding in IV-D Cases, child support is not considered past due until the first day

5909 of the following month.

5910 (3) For purposes other than those specified in Subsections (1) and (2), support shall be

5911 payable 1/2 by the 5th day of each month and 1/2 by the 20th day of that month, unless the

5912 order or decree provides for a different time for payment.

5913 Section 78. Section **30-3-38** is amended to read:

5914 **30-3-38. Expedited Parent-time Enforcement Program.**

5915 (1) There is established an Expedited Parent-time Enforcement Program in the third

5916 judicial district to be administered by the Administrative Office of the Courts.

5917 (2) As used in this section:

- 5918 (a) "Mediator" means a person who:
5919 (i) is qualified to mediate parent-time disputes under criteria established by the
5920 Administrative Office of the Courts; and
5921 (ii) agrees to follow billing guidelines established by the Administrative Office of the
5922 Courts and this section.
- 5923 (b) "Services to facilitate parent-time" or "services" means services designed to assist
5924 families in resolving parent-time problems through:
5925 (i) counseling;
5926 (ii) supervised parent-time;
5927 (iii) neutral drop-off and pick-up;
5928 (iv) educational classes; and
5929 (v) other related activities.
- 5930 (3) (a) If a parent files a motion in the third district court alleging that court-ordered
5931 parent-time rights are being violated, the clerk of the court, after assigning the case to a judge,
5932 shall refer the case to the administrator of this program for assignment to a mediator, unless a
5933 parent is incarcerated or otherwise unavailable. Unless the court rules otherwise, a parent
5934 residing outside of the state is not unavailable. The director of the program for the courts, the
5935 court, or the mediator may excuse either party from the requirement to mediate for good cause.
- 5936 (b) Upon receipt of a case, the mediator shall:
5937 (i) meet with the parents to address parent-time issues within 15 days of the motion
5938 being filed;
5939 (ii) assess the situation;
5940 (iii) facilitate an agreement on parent-time between the parents; and
5941 (iv) determine whether a referral to a service provider under Subsection (3)(c) is
5942 warranted.
- 5943 (c) While a case is in mediation, a mediator may refer the parents to a service provider
5944 designated by the Department of Health and Human Services for services to facilitate
5945 parent-time if:
5946 (i) the services may be of significant benefit to the parents; or
5947 (ii) (A) a mediated agreement between the parents is unlikely; and
5948 (B) the services may facilitate an agreement.

5949 (d) At any time during mediation, a mediator shall terminate mediation and transfer the
5950 case to the administrator of the program for referral to the judge or court commissioner to
5951 whom the case was assigned under Subsection (3)(a) if:

- 5952 (i) a written agreement between the parents is reached; or
5953 (ii) the parents are unable to reach an agreement through mediation and:
5954 (A) the parents have received services to facilitate parent-time;
5955 (B) both parents object to receiving services to facilitate parent-time; or
5956 (C) the parents are unlikely to benefit from receiving services to facilitate parent-time.

5957 (e) Upon receiving a case from the administrator of the program, a judge or court
5958 commissioner may:

- 5959 (i) review the agreement of the parents and, if acceptable, sign it as an order;
5960 (ii) order the parents to receive services to facilitate parent-time;
5961 (iii) proceed with the case; or
5962 (iv) take other appropriate action.

5963 (4) (a) If a parent makes a particularized allegation of physical or sexual abuse of a
5964 child who is the subject of a parent-time order against the other parent or a member of the other
5965 parent's household to a mediator or service provider, the mediator or service provider shall
5966 immediately report that information to:

5967 (i) the judge assigned to the case who may immediately issue orders and take other
5968 appropriate action to resolve the allegation and protect the child; and

5969 (ii) the Division of Child and Family Services within the Department of Health and
5970 Human Services in the manner required by Title 80, Chapter 2, Part 6, Child Abuse and
5971 Neglect Reports.

5972 (b) If an allegation under Subsection (4)(a) is made against a parent with parent-time
5973 rights or a member of that parent's household, parent-time by that parent shall, pursuant to an
5974 order of the court, be supervised until:

- 5975 (i) the allegation has been resolved; or
5976 (ii) a court orders otherwise.

5977 (c) Notwithstanding an allegation under Subsection (4)(a), a mediator may continue to
5978 mediate parent-time problems and a service provider may continue to provide services to
5979 facilitate parent-time unless otherwise ordered by a court.

5980 (5) (a) The Department of Health and Human Services may contract with one or more
5981 entities in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to provide:

5982 (i) services to facilitate parent-time;

5983 (ii) case management services; and

5984 (iii) administrative services.

5985 (b) An entity who contracts with the Department of Health and Human Services under
5986 Subsection (5)(a) shall:

5987 (i) be qualified to provide one or more of the services listed in Subsection (5)(a); and

5988 (ii) agree to follow billing guidelines established by the Department of Health and
5989 Human Services and this section.

5990 (6) (a) Except as provided in Subsection (6)(b), the cost of mediation shall be:

5991 (i) reduced to a sum certain;

5992 (ii) divided equally between the parents; and

5993 (iii) charged against each parent taking into account the ability of that parent to pay
5994 under billing guidelines adopted in accordance with this section.

5995 (b) A judge may order a parent to pay an amount in excess of that provided for in
5996 Subsection (6)(a) if the parent:

5997 (i) failed to participate in good faith in mediation or services to facilitate parent-time;

5998 or

5999 (ii) made an unfounded assertion or claim of physical or sexual abuse of a child.

6000 (c) (i) The cost of mediation and services to facilitate parent-time may be charged to
6001 parents at periodic intervals.

6002 (ii) Mediation and services to facilitate parent-time may only be terminated on the
6003 ground of nonpayment if both parents are delinquent.

6004 (7) (a) The Judicial Council may make rules to implement and administer the
6005 provisions of this program related to mediation.

6006 (b) The Department of Health and Human Services may make rules to implement and
6007 administer the provisions of this program related to services to facilitate parent-time.

6008 (8) (a) The Administrative Office of the Courts shall adopt outcome measures to
6009 evaluate the effectiveness of the mediation component of this program. Progress reports shall
6010 be provided to the Judiciary Interim Committee as requested by the committee.

6011 (b) The Department of Health and Human Services shall adopt outcome measures to
6012 evaluate the effectiveness of the services component of this program. Progress reports shall be
6013 provided to the Judiciary Interim Committee as requested by the committee.

6014 (c) The Administrative Office of the Courts and the Department of Health and Human
6015 Services may adopt joint outcome measures and file joint reports to satisfy the requirements of
6016 Subsections (7)(a) and (b).

6017 (9) The Department of Health and Human Services shall, by following the procedures
6018 and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, apply for federal
6019 funds as available.

6020 Section 79. Section **31A-1-301** is amended to read:

6021 **31A-1-301. Definitions.**

6022 As used in this title, unless otherwise specified:

6023 (1) (a) "Accident and health insurance" means insurance to provide protection against
6024 economic losses resulting from:

6025 (i) a medical condition including:

6026 (A) a medical care expense; or

6027 (B) the risk of disability;

6028 (ii) accident; or

6029 (iii) sickness.

6030 (b) "Accident and health insurance":

6031 (i) includes a contract with disability contingencies including:

6032 (A) an income replacement contract;

6033 (B) a health care contract;

6034 (C) a fixed indemnity contract;

6035 (D) a credit accident and health contract;

6036 (E) a continuing care contract; and

6037 (F) a long-term care contract; and

6038 (ii) may provide:

6039 (A) hospital coverage;

6040 (B) surgical coverage;

6041 (C) medical coverage;

- 6042 (D) loss of income coverage;
- 6043 (E) prescription drug coverage;
- 6044 (F) dental coverage; or
- 6045 (G) vision coverage.
- 6046 (c) "Accident and health insurance" does not include workers' compensation insurance.
- 6047 (d) For purposes of a national licensing registry, "accident and health insurance" is the
- 6048 same as "accident and health or sickness insurance."
- 6049 (2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title
- 6050 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 6051 (3) "Administrator" means the same as that term is defined in Subsection (182).
- 6052 (4) "Adult" means an individual who is 18 years old or older.
- 6053 (5) "Affiliate" means a person who controls, is controlled by, or is under common
- 6054 control with, another person. A corporation is an affiliate of another corporation, regardless of
- 6055 ownership, if substantially the same group of individuals manage the corporations.
- 6056 (6) "Agency" means:
- 6057 (a) a person other than an individual, including a sole proprietorship by which an
- 6058 individual does business under an assumed name; and
- 6059 (b) an insurance organization licensed or required to be licensed under Section
- 6060 [31A-23a-301](#), [31A-25-207](#), or [31A-26-209](#).
- 6061 (7) "Alien insurer" means an insurer domiciled outside the United States.
- 6062 (8) "Amendment" means an endorsement to an insurance policy or certificate.
- 6063 (9) "Annuity" means an agreement to make periodical payments for a period certain or
- 6064 over the lifetime of one or more individuals if the making or continuance of all or some of the
- 6065 series of the payments, or the amount of the payment, is dependent upon the continuance of
- 6066 human life.
- 6067 (10) "Application" means a document:
- 6068 (a) (i) completed by an applicant to provide information about the risk to be insured;
- 6069 and
- 6070 (ii) that contains information that is used by the insurer to evaluate risk and decide
- 6071 whether to:
- 6072 (A) insure the risk under:

- 6073 (I) the coverage as originally offered; or
- 6074 (II) a modification of the coverage as originally offered; or
- 6075 (B) decline to insure the risk; or
- 6076 (b) used by the insurer to gather information from the applicant before issuance of an
- 6077 annuity contract.
- 6078 (11) "Articles" or "articles of incorporation" means:
- 6079 (a) the original articles;
- 6080 (b) a special law;
- 6081 (c) a charter;
- 6082 (d) an amendment;
- 6083 (e) restated articles;
- 6084 (f) articles of merger or consolidation;
- 6085 (g) a trust instrument;
- 6086 (h) another constitutive document for a trust or other entity that is not a corporation;
- 6087 and
- 6088 (i) an amendment to an item listed in Subsections (11)(a) through (h).
- 6089 (12) "Bail bond insurance" means a guarantee that a person will attend court when
- 6090 required, up to and including surrender of the person in execution of a sentence imposed under
- 6091 Subsection [77-20-501](#)(1), as a condition to the release of that person from confinement.
- 6092 (13) "Binder" means the same as that term is defined in Section [31A-21-102](#).
- 6093 (14) "Blanket insurance policy" or "blanket contract" means a group insurance policy
- 6094 covering a defined class of persons:
- 6095 (a) without individual underwriting or application; and
- 6096 (b) that is determined by definition without designating each person covered.
- 6097 (15) "Board," "board of trustees," or "board of directors" means the group of persons
- 6098 with responsibility over, or management of, a corporation, however designated.
- 6099 (16) "Bona fide office" means a physical office in this state:
- 6100 (a) that is open to the public;
- 6101 (b) that is staffed during regular business hours on regular business days; and
- 6102 (c) at which the public may appear in person to obtain services.
- 6103 (17) "Business entity" means:

- 6104 (a) a corporation;
- 6105 (b) an association;
- 6106 (c) a partnership;
- 6107 (d) a limited liability company;
- 6108 (e) a limited liability partnership; or
- 6109 (f) another legal entity.
- 6110 (18) "Business of insurance" means the same as that term is defined in Subsection (95).
- 6111 (19) "Business plan" means the information required to be supplied to the
- 6112 commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required
- 6113 when these subsections apply by reference under:
 - 6114 (a) Section 31A-8-205; or
 - 6115 (b) Subsection 31A-9-205(2).
- 6116 (20) (a) "Bylaws" means the rules adopted for the regulation or management of a
- 6117 corporation's affairs, however designated.
- 6118 (b) "Bylaws" includes comparable rules for a trust or other entity that is not a
- 6119 corporation.
- 6120 (21) "Captive insurance company" means:
 - 6121 (a) an insurer:
 - 6122 (i) owned by a parent organization; and
 - 6123 (ii) whose purpose is to insure risks of the parent organization and other risks as
 - 6124 authorized under:
 - 6125 (A) Chapter 37, Captive Insurance Companies Act; and
 - 6126 (B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; or
 - 6127 (b) in the case of a group or association, an insurer:
 - 6128 (i) owned by the insureds; and
 - 6129 (ii) whose purpose is to insure risks of:
 - 6130 (A) a member organization;
 - 6131 (B) a group member; or
 - 6132 (C) an affiliate of:
 - 6133 (I) a member organization; or
 - 6134 (II) a group member.

- 6135 (22) "Casualty insurance" means liability insurance.
- 6136 (23) "Certificate" means evidence of insurance given to:
- 6137 (a) an insured under a group insurance policy; or
- 6138 (b) a third party.
- 6139 (24) "Certificate of authority" is included within the term "license."
- 6140 (25) "Claim," unless the context otherwise requires, means a request or demand on an
- 6141 insurer for payment of a benefit according to the terms of an insurance policy.
- 6142 (26) "Claims-made coverage" means an insurance contract or provision limiting
- 6143 coverage under a policy insuring against legal liability to claims that are first made against the
- 6144 insured while the policy is in force.
- 6145 (27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance
- 6146 commissioner.
- 6147 (b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent
- 6148 supervisory official of another jurisdiction.
- 6149 (28) (a) "Continuing care insurance" means insurance that:
- 6150 (i) provides board and lodging;
- 6151 (ii) provides one or more of the following:
- 6152 (A) a personal service;
- 6153 (B) a nursing service;
- 6154 (C) a medical service; or
- 6155 (D) any other health-related service; and
- 6156 (iii) provides the coverage described in this Subsection (28)(a) under an agreement
- 6157 effective:
- 6158 (A) for the life of the insured; or
- 6159 (B) for a period in excess of one year.
- 6160 (b) Insurance is continuing care insurance regardless of whether or not the board and
- 6161 lodging are provided at the same location as a service described in Subsection (28)(a)(ii).
- 6162 (29) (a) "Control," "controlling," "controlled," or "under common control" means the
- 6163 direct or indirect possession of the power to direct or cause the direction of the management
- 6164 and policies of a person. This control may be:
- 6165 (i) by contract;

- 6166 (ii) by common management;
- 6167 (iii) through the ownership of voting securities; or
- 6168 (iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

6169 (b) There is no presumption that an individual holding an official position with another
6170 person controls that person solely by reason of the position.

6171 (c) A person having a contract or arrangement giving control is considered to have
6172 control despite the illegality or invalidity of the contract or arrangement.

6173 (d) There is a rebuttable presumption of control in a person who directly or indirectly
6174 owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the
6175 voting securities of another person.

6176 (30) "Controlled insurer" means a licensed insurer that is either directly or indirectly
6177 controlled by a producer.

6178 (31) "Controlling person" means a person that directly or indirectly has the power to
6179 direct or cause to be directed, the management, control, or activities of a reinsurance
6180 intermediary.

6181 (32) "Controlling producer" means a producer who directly or indirectly controls an
6182 insurer.

6183 (33) "Corporate governance annual disclosure" means a report an insurer or insurance
6184 group files in accordance with the requirements of Chapter 16b, Corporate Governance Annual
6185 Disclosure Act.

6186 (34) (a) "Corporation" means an insurance corporation, except when referring to:

6187 (i) a corporation doing business:

6188 (A) as:

6189 (I) an insurance producer;

6190 (II) a surplus lines producer;

6191 (III) a limited line producer;

6192 (IV) a consultant;

6193 (V) a managing general agent;

6194 (VI) a reinsurance intermediary;

6195 (VII) a third party administrator; or

6196 (VIII) an adjuster; and

- 6197 (B) under:
- 6198 (I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and
6199 Reinsurance Intermediaries;
- 6200 (II) Chapter 25, Third Party Administrators; or
- 6201 (III) Chapter 26, Insurance Adjusters; or
- 6202 (ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance
6203 Holding Companies.
- 6204 (b) "Mutual" or "mutual corporation" means a mutual insurance corporation.
- 6205 (c) "Stock corporation" means a stock insurance corporation.
- 6206 (35) (a) "Creditable coverage" has the same meaning as provided in federal regulations
6207 adopted pursuant to the Health Insurance Portability and Accountability Act.
- 6208 (b) "Creditable coverage" includes coverage that is offered through a public health plan
6209 such as:
- 6210 (i) the Primary Care Network Program under a Medicaid primary care network
6211 demonstration waiver obtained subject to Section [~~26-18-3~~] [26B-3-108](#);
- 6212 (ii) the Children's Health Insurance Program under Section [~~26-40-106~~] [26B-3-904](#); or
- 6213 (iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L.
6214 No. 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. No.
6215 109-415.
- 6216 (36) "Credit accident and health insurance" means insurance on a debtor to provide
6217 indemnity for payments coming due on a specific loan or other credit transaction while the
6218 debtor has a disability.
- 6219 (37) (a) "Credit insurance" means insurance offered in connection with an extension of
6220 credit that is limited to partially or wholly extinguishing that credit obligation.
- 6221 (b) "Credit insurance" includes:
- 6222 (i) credit accident and health insurance;
- 6223 (ii) credit life insurance;
- 6224 (iii) credit property insurance;
- 6225 (iv) credit unemployment insurance;
- 6226 (v) guaranteed automobile protection insurance;
- 6227 (vi) involuntary unemployment insurance;

6228 (vii) mortgage accident and health insurance;

6229 (viii) mortgage guaranty insurance; and

6230 (ix) mortgage life insurance.

6231 (38) "Credit life insurance" means insurance on the life of a debtor in connection with

6232 an extension of credit that pays a person if the debtor dies.

6233 (39) "Creditor" means a person, including an insured, having a claim, whether:

6234 (a) matured;

6235 (b) unmatured;

6236 (c) liquidated;

6237 (d) unliquidated;

6238 (e) secured;

6239 (f) unsecured;

6240 (g) absolute;

6241 (h) fixed; or

6242 (i) contingent.

6243 (40) "Credit property insurance" means insurance:

6244 (a) offered in connection with an extension of credit; and

6245 (b) that protects the property until the debt is paid.

6246 (41) "Credit unemployment insurance" means insurance:

6247 (a) offered in connection with an extension of credit; and

6248 (b) that provides indemnity if the debtor is unemployed for payments coming due on a:

6249 (i) specific loan; or

6250 (ii) credit transaction.

6251 (42) (a) "Crop insurance" means insurance providing protection against damage to

6252 crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation,

6253 disease, or other yield-reducing conditions or perils that is:

6254 (i) provided by the private insurance market; or

6255 (ii) subsidized by the Federal Crop Insurance Corporation.

6256 (b) "Crop insurance" includes multiperil crop insurance.

6257 (43) (a) "Customer service representative" means a person that provides an insurance

6258 service and insurance product information:

- 6259 (i) for the customer service representative's:
- 6260 (A) producer;
- 6261 (B) surplus lines producer; or
- 6262 (C) consultant employer; and
- 6263 (ii) to the customer service representative's employer's:
- 6264 (A) customer;
- 6265 (B) client; or
- 6266 (C) organization.
- 6267 (b) A customer service representative may only operate within the scope of authority of
- 6268 the customer service representative's producer, surplus lines producer, or consultant employer.
- 6269 (44) "Deadline" means a final date or time:
- 6270 (a) imposed by:
- 6271 (i) statute;
- 6272 (ii) rule; or
- 6273 (iii) order; and
- 6274 (b) by which a required filing or payment must be received by the department.
- 6275 (45) "Deemer clause" means a provision under this title under which upon the
- 6276 occurrence of a condition precedent, the commissioner is considered to have taken a specific
- 6277 action. If the statute so provides, a condition precedent may be the commissioner's failure to
- 6278 take a specific action.
- 6279 (46) "Degree of relationship" means the number of steps between two persons
- 6280 determined by counting the generations separating one person from a common ancestor and
- 6281 then counting the generations to the other person.
- 6282 (47) "Department" means the Insurance Department.
- 6283 (48) "Director" means a member of the board of directors of a corporation.
- 6284 (49) "Disability" means a physiological or psychological condition that partially or
- 6285 totally limits an individual's ability to:
- 6286 (a) perform the duties of:
- 6287 (i) that individual's occupation; or
- 6288 (ii) an occupation for which the individual is reasonably suited by education, training,
- 6289 or experience; or

- 6290 (b) perform two or more of the following basic activities of daily living:
- 6291 (i) eating;
- 6292 (ii) toileting;
- 6293 (iii) transferring;
- 6294 (iv) bathing; or
- 6295 (v) dressing.
- 6296 (50) "Disability income insurance" means the same as that term is defined in
- 6297 Subsection (86).
- 6298 (51) "Domestic insurer" means an insurer organized under the laws of this state.
- 6299 (52) "Domiciliary state" means the state in which an insurer:
- 6300 (a) is incorporated;
- 6301 (b) is organized; or
- 6302 (c) in the case of an alien insurer, enters into the United States.
- 6303 (53) (a) "Eligible employee" means:
- 6304 (i) an employee who:
- 6305 (A) works on a full-time basis; and
- 6306 (B) has a normal work week of 30 or more hours; or
- 6307 (ii) a person described in Subsection (53)(b).
- 6308 (b) "Eligible employee" includes:
- 6309 (i) an owner, sole proprietor, or partner who:
- 6310 (A) works on a full-time basis;
- 6311 (B) has a normal work week of 30 or more hours; and
- 6312 (C) employs at least one common employee; and
- 6313 (ii) an independent contractor if the individual is included under a health benefit plan
- 6314 of a small employer.
- 6315 (c) "Eligible employee" does not include, unless eligible under Subsection (53)(b):
- 6316 (i) an individual who works on a temporary or substitute basis for a small employer;
- 6317 (ii) an employer's spouse who does not meet the requirements of Subsection (53)(a)(i);
- 6318 or
- 6319 (iii) a dependent of an employer who does not meet the requirements of Subsection
- 6320 (53)(a)(i).

- 6321 (54) "Emergency medical condition" means a medical condition that:
6322 (a) manifests itself by acute symptoms, including severe pain; and
6323 (b) would cause a prudent layperson possessing an average knowledge of medicine and
6324 health to reasonably expect the absence of immediate medical attention through a hospital
6325 emergency department to result in:
6326 (i) placing the layperson's health or the layperson's unborn child's health in serious
6327 jeopardy;
6328 (ii) serious impairment to bodily functions; or
6329 (iii) serious dysfunction of any bodily organ or part.
6330 (55) "Employee" means:
6331 (a) an individual employed by an employer; or
6332 (b) an individual who meets the requirements of Subsection (53)(b).
6333 (56) "Employee benefits" means one or more benefits or services provided to:
6334 (a) an employee; or
6335 (b) a dependent of an employee.
6336 (57) (a) "Employee welfare fund" means a fund:
6337 (i) established or maintained, whether directly or through a trustee, by:
6338 (A) one or more employers;
6339 (B) one or more labor organizations; or
6340 (C) a combination of employers and labor organizations; and
6341 (ii) that provides employee benefits paid or contracted to be paid, other than income
6342 from investments of the fund:
6343 (A) by or on behalf of an employer doing business in this state; or
6344 (B) for the benefit of a person employed in this state.
6345 (b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax
6346 revenues.
6347 (58) "Endorsement" means a written agreement attached to a policy or certificate to
6348 modify the policy or certificate coverage.
6349 (59) (a) "Enrollee" means:
6350 (i) a policyholder;
6351 (ii) a certificate holder;

- 6352 (iii) a subscriber; or
- 6353 (iv) a covered individual:
- 6354 (A) who has entered into a contract with an organization for health care; or
- 6355 (B) on whose behalf an arrangement for health care has been made.
- 6356 (b) "Enrollee" includes an insured.
- 6357 (60) "Enrollment date," with respect to a health benefit plan, means:
- 6358 (a) the first day of coverage; or
- 6359 (b) if there is a waiting period, the first day of the waiting period.
- 6360 (61) "Enterprise risk" means an activity, circumstance, event, or series of events
- 6361 involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a
- 6362 material adverse effect upon the financial condition or liquidity of the insurer or its insurance
- 6363 holding company system as a whole, including anything that would cause:
- 6364 (a) the insurer's risk-based capital to fall into an action or control level as set forth in
- 6365 Sections [31A-17-601](#) through [31A-17-613](#); or
- 6366 (b) the insurer to be in hazardous financial condition set forth in Section [31A-27a-101](#).
- 6367 (62) (a) "Escrow" means:
- 6368 (i) a transaction that effects the sale, transfer, encumbering, or leasing of real property,
- 6369 when a person not a party to the transaction, and neither having nor acquiring an interest in the
- 6370 title, performs, in accordance with the written instructions or terms of the written agreement
- 6371 between the parties to the transaction, any of the following actions:
- 6372 (A) the explanation, holding, or creation of a document; or
- 6373 (B) the receipt, deposit, and disbursement of money;
- 6374 (ii) a settlement or closing involving:
- 6375 (A) a mobile home;
- 6376 (B) a grazing right;
- 6377 (C) a water right; or
- 6378 (D) other personal property authorized by the commissioner.
- 6379 (b) "Escrow" does not include:
- 6380 (i) the following notarial acts performed by a notary within the state:
- 6381 (A) an acknowledgment;
- 6382 (B) a copy certification;

- 6383 (C) jurat; and
- 6384 (D) an oath or affirmation;
- 6385 (ii) the receipt or delivery of a document; or
- 6386 (iii) the receipt of money for delivery to the escrow agent.
- 6387 (63) "Escrow agent" means an agency title insurance producer meeting the
- 6388 requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through an
- 6389 individual title insurance producer licensed with an escrow subline of authority.
- 6390 (64) (a) "Excludes" is not exhaustive and does not mean that another thing is not also
- 6391 excluded.
- 6392 (b) The items listed in a list using the term "excludes" are representative examples for
- 6393 use in interpretation of this title.
- 6394 (65) "Exclusion" means for the purposes of accident and health insurance that an
- 6395 insurer does not provide insurance coverage, for whatever reason, for one of the following:
- 6396 (a) a specific physical condition;
- 6397 (b) a specific medical procedure;
- 6398 (c) a specific disease or disorder; or
- 6399 (d) a specific prescription drug or class of prescription drugs.
- 6400 (66) "Fidelity insurance" means insurance guaranteeing the fidelity of a person holding
- 6401 a position of public or private trust.
- 6402 (67) (a) "Filed" means that a filing is:
- 6403 (i) submitted to the department as required by and in accordance with applicable
- 6404 statute, rule, or filing order;
- 6405 (ii) received by the department within the time period provided in applicable statute,
- 6406 rule, or filing order; and
- 6407 (iii) accompanied by the appropriate fee in accordance with:
- 6408 (A) Section 31A-3-103; or
- 6409 (B) rule.
- 6410 (b) "Filed" does not include a filing that is rejected by the department because it is not
- 6411 submitted in accordance with Subsection (67)(a).
- 6412 (68) "Filing," when used as a noun, means an item required to be filed with the
- 6413 department including:

- 6414 (a) a policy;
- 6415 (b) a rate;
- 6416 (c) a form;
- 6417 (d) a document;
- 6418 (e) a plan;
- 6419 (f) a manual;
- 6420 (g) an application;
- 6421 (h) a report;
- 6422 (i) a certificate;
- 6423 (j) an endorsement;
- 6424 (k) an actuarial certification;
- 6425 (l) a licensee annual statement;
- 6426 (m) a licensee renewal application;
- 6427 (n) an advertisement;
- 6428 (o) a binder; or
- 6429 (p) an outline of coverage.
- 6430 (69) "First party insurance" means an insurance policy or contract in which the insurer
- 6431 agrees to pay a claim submitted to it by the insured for the insured's losses.
- 6432 (70) (a) "Fixed indemnity insurance" means accident and health insurance written to
- 6433 provide a fixed amount for a specified event relating to or resulting from an illness or injury.
- 6434 (b) "Fixed indemnity insurance" includes hospital confinement indemnity insurance.
- 6435 (71) "Foreign insurer" means an insurer domiciled outside of this state, including an
- 6436 alien insurer.
- 6437 (72) (a) "Form" means one of the following prepared for general use:
- 6438 (i) a policy;
- 6439 (ii) a certificate;
- 6440 (iii) an application;
- 6441 (iv) an outline of coverage; or
- 6442 (v) an endorsement.
- 6443 (b) "Form" does not include a document specially prepared for use in an individual
- 6444 case.

6445 (73) "Franchise insurance" means an individual insurance policy provided through a
6446 mass marketing arrangement involving a defined class of persons related in some way other
6447 than through the purchase of insurance.

6448 (74) "General lines of authority" include:

6449 (a) the general lines of insurance in Subsection (75);

6450 (b) title insurance under one of the following sublines of authority:

6451 (i) title examination, including authority to act as a title marketing representative;

6452 (ii) escrow, including authority to act as a title marketing representative; and

6453 (iii) title marketing representative only;

6454 (c) surplus lines;

6455 (d) workers' compensation; and

6456 (e) another line of insurance that the commissioner considers necessary to recognize in
6457 the public interest.

6458 (75) "General lines of insurance" include:

6459 (a) accident and health;

6460 (b) casualty;

6461 (c) life;

6462 (d) personal lines;

6463 (e) property; and

6464 (f) variable contracts, including variable life and annuity.

6465 (76) "Group health plan" means an employee welfare benefit plan to the extent that the
6466 plan provides medical care:

6467 (a) (i) to an employee; or

6468 (ii) to a dependent of an employee; and

6469 (b) (i) directly;

6470 (ii) through insurance reimbursement; or

6471 (iii) through another method.

6472 (77) (a) "Group insurance policy" means a policy covering a group of persons that is
6473 issued:

6474 (i) to a policyholder on behalf of the group; and

6475 (ii) for the benefit of a member of the group who is selected under a procedure defined

6476 in:

6477 (A) the policy; or

6478 (B) an agreement that is collateral to the policy.

6479 (b) A group insurance policy may include a member of the policyholder's family or a
6480 dependent.

6481 (78) "Group-wide supervisor" means the commissioner or other regulatory official
6482 designated as the group-wide supervisor for an internationally active insurance group under
6483 Section [31A-16-108.6](#).

6484 (79) "Guaranteed automobile protection insurance" means insurance offered in
6485 connection with an extension of credit that pays the difference in amount between the
6486 insurance settlement and the balance of the loan if the insured automobile is a total loss.

6487 (80) (a) "Health benefit plan" means a policy, contract, certificate, or agreement offered
6488 or issued by an insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of
6489 health care, including major medical expense coverage.

6490 (b) "Health benefit plan" does not include:

6491 (i) coverage only for accident or disability income insurance, or any combination
6492 thereof;

6493 (ii) coverage issued as a supplement to liability insurance;

6494 (iii) liability insurance, including general liability insurance and automobile liability
6495 insurance;

6496 (iv) workers' compensation or similar insurance;

6497 (v) automobile medical payment insurance;

6498 (vi) credit-only insurance;

6499 (vii) coverage for on-site medical clinics;

6500 (viii) other similar insurance coverage, specified in federal regulations issued pursuant
6501 to Pub. L. No. 104-191, under which benefits for health care services are secondary or
6502 incidental to other insurance benefits;

6503 (ix) the following benefits if they are provided under a separate policy, certificate, or
6504 contract of insurance or are otherwise not an integral part of the plan:

6505 (A) limited scope dental or vision benefits;

6506 (B) benefits for long-term care, nursing home care, home health care,

6507 community-based care, or any combination thereof; or
6508 (C) other similar limited benefits, specified in federal regulations issued pursuant to
6509 Pub. L. No. 104-191;
6510 (x) the following benefits if the benefits are provided under a separate policy,
6511 certificate, or contract of insurance, there is no coordination between the provision of benefits
6512 and any exclusion of benefits under any health plan, and the benefits are paid with respect to an
6513 event without regard to whether benefits are provided under any health plan:
6514 (A) coverage only for specified disease or illness; or
6515 (B) fixed indemnity insurance;
6516 (xi) the following if offered as a separate policy, certificate, or contract of insurance:
6517 (A) Medicare supplemental health insurance as defined under the Social Security Act,
6518 42 U.S.C. Sec. 1395ss(g)(1);
6519 (B) coverage supplemental to the coverage provided under United States Code, Title
6520 10, Chapter 55, Civilian Health and Medical Program of the Uniformed Services
6521 (CHAMPUS); or
6522 (C) similar supplemental coverage provided to coverage under a group health insurance
6523 plan;
6524 (xii) short-term limited duration health insurance; and
6525 (xiii) student health insurance, except as required under 45 C.F.R. Sec. 147.145.
6526 (81) "Health care" means any of the following intended for use in the diagnosis,
6527 treatment, mitigation, or prevention of a human ailment or impairment:
6528 (a) a professional service;
6529 (b) a personal service;
6530 (c) a facility;
6531 (d) equipment;
6532 (e) a device;
6533 (f) supplies; or
6534 (g) medicine.
6535 (82) (a) "Health care insurance" or "health insurance" means insurance providing:
6536 (i) a health care benefit; or
6537 (ii) payment of an incurred health care expense.

6538 (b) "Health care insurance" or "health insurance" does not include accident and health
6539 insurance providing a benefit for:

6540 (i) replacement of income;

6541 (ii) short-term accident;

6542 (iii) fixed indemnity;

6543 (iv) credit accident and health;

6544 (v) supplements to liability;

6545 (vi) workers' compensation;

6546 (vii) automobile medical payment;

6547 (viii) no-fault automobile;

6548 (ix) equivalent self-insurance; or

6549 (x) a type of accident and health insurance coverage that is a part of or attached to
6550 another type of policy.

6551 (83) "Health care provider" means the same as that term is defined in Section
6552 [78B-3-403](#).

6553 (84) "Health insurance exchange" means an exchange as defined in 45 C.F.R. Sec.
6554 155.20.

6555 (85) "Health Insurance Portability and Accountability Act" means the Health Insurance
6556 Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

6557 (86) "Income replacement insurance" or "disability income insurance" means insurance
6558 written to provide payments to replace income lost from accident or sickness.

6559 (87) "Indemnity" means the payment of an amount to offset all or part of an insured
6560 loss.

6561 (88) "Independent adjuster" means an insurance adjuster required to be licensed under
6562 Section [31A-26-201](#) who engages in insurance adjusting as a representative of an insurer.

6563 (89) "Independently procured insurance" means insurance procured under Section
6564 [31A-15-104](#).

6565 (90) "Individual" means a natural person.

6566 (91) "Inland marine insurance" includes insurance covering:

6567 (a) property in transit on or over land;

6568 (b) property in transit over water by means other than boat or ship;

- 6569 (c) bailee liability;
- 6570 (d) fixed transportation property such as bridges, electric transmission systems, radio
6571 and television transmission towers and tunnels; and
- 6572 (e) personal and commercial property floaters.
- 6573 (92) "Insolvency" or "insolvent" means that:
- 6574 (a) an insurer is unable to pay the insurer's obligations as the obligations are due;
- 6575 (b) an insurer's total adjusted capital is less than the insurer's mandatory control level
6576 RBC under Subsection 31A-17-601(8)(c); or
- 6577 (c) an insurer's admitted assets are less than the insurer's liabilities.
- 6578 (93) (a) "Insurance" means:
- 6579 (i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more
6580 persons to one or more other persons; or
- 6581 (ii) an arrangement, contract, or plan for the distribution of a risk or risks among a
6582 group of persons that includes the person seeking to distribute that person's risk.
- 6583 (b) "Insurance" includes:
- 6584 (i) a risk distributing arrangement providing for compensation or replacement for
6585 damages or loss through the provision of a service or a benefit in kind;
- 6586 (ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a
6587 business and not as merely incidental to a business transaction; and
- 6588 (iii) a plan in which the risk does not rest upon the person who makes an arrangement,
6589 but with a class of persons who have agreed to share the risk.
- 6590 (94) "Insurance adjuster" means a person who directs or conducts the investigation,
6591 negotiation, or settlement of a claim under an insurance policy other than life insurance or an
6592 annuity, on behalf of an insurer, policyholder, or a claimant under an insurance policy.
- 6593 (95) "Insurance business" or "business of insurance" includes:
- 6594 (a) providing health care insurance by an organization that is or is required to be
6595 licensed under this title;
- 6596 (b) providing a benefit to an employee in the event of a contingency not within the
6597 control of the employee, in which the employee is entitled to the benefit as a right, which
6598 benefit may be provided either:
- 6599 (i) by a single employer or by multiple employer groups; or

- 6600 (ii) through one or more trusts, associations, or other entities;
- 6601 (c) providing an annuity:
- 6602 (i) including an annuity issued in return for a gift; and
- 6603 (ii) except an annuity provided by a person specified in Subsections [31A-22-1305\(2\)](#)
- 6604 and (3);
- 6605 (d) providing the characteristic services of a motor club;
- 6606 (e) providing another person with insurance;
- 6607 (f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor,
- 6608 or surety, a contract or policy offering title insurance;
- 6609 (g) transacting or proposing to transact any phase of title insurance, including:
- 6610 (i) solicitation;
- 6611 (ii) negotiation preliminary to execution;
- 6612 (iii) execution of a contract of title insurance;
- 6613 (iv) insuring; and
- 6614 (v) transacting matters subsequent to the execution of the contract and arising out of
- 6615 the contract, including reinsurance;
- 6616 (h) transacting or proposing a life settlement; and
- 6617 (i) doing, or proposing to do, any business in substance equivalent to Subsections
- 6618 (95)(a) through (h) in a manner designed to evade this title.
- 6619 (96) "Insurance consultant" or "consultant" means a person who:
- 6620 (a) advises another person about insurance needs and coverages;
- 6621 (b) is compensated by the person advised on a basis not directly related to the insurance
- 6622 placed; and
- 6623 (c) except as provided in Section [31A-23a-501](#), is not compensated directly or
- 6624 indirectly by an insurer or producer for advice given.
- 6625 (97) "Insurance group" means the persons that comprise an insurance holding company
- 6626 system.
- 6627 (98) "Insurance holding company system" means a group of two or more affiliated
- 6628 persons, at least one of whom is an insurer.
- 6629 (99) (a) "Insurance producer" or "producer" means a person licensed or required to be
- 6630 licensed under the laws of this state to sell, solicit, or negotiate insurance.

- 6631 (b) (i) "Producer for the insurer" means a producer who is compensated directly or
6632 indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that
6633 insurer.
- 6634 (ii) "Producer for the insurer" may be referred to as an "agent."
- 6635 (c) (i) "Producer for the insured" means a producer who:
- 6636 (A) is compensated directly and only by an insurance customer or an insured; and
6637 (B) receives no compensation directly or indirectly from an insurer for selling,
6638 soliciting, or negotiating an insurance product of that insurer to an insurance customer or
6639 insured.
- 6640 (ii) "Producer for the insured" may be referred to as a "broker."
- 6641 (100) (a) "Insured" means a person to whom or for whose benefit an insurer makes a
6642 promise in an insurance policy and includes:
- 6643 (i) a policyholder;
6644 (ii) a subscriber;
6645 (iii) a member; and
6646 (iv) a beneficiary.
- 6647 (b) The definition in Subsection (100)(a):
- 6648 (i) applies only to this title;
6649 (ii) does not define the meaning of "insured" as used in an insurance policy or
6650 certificate; and
6651 (iii) includes an enrollee.
- 6652 (101) (a) "Insurer," "carrier," "insurance carrier," or "insurance company" means a
6653 person doing an insurance business as a principal including:
- 6654 (i) a fraternal benefit society;
6655 (ii) an issuer of a gift annuity other than an annuity specified in Subsections
6656 [31A-22-1305\(2\)](#) and (3);
6657 (iii) a motor club;
6658 (iv) an employee welfare plan;
6659 (v) a person purporting or intending to do an insurance business as a principal on that
6660 person's own account; and
6661 (vi) a health maintenance organization.

6662 (b) "Insurer," "carrier," "insurance carrier," or "insurance company" does not include a
6663 governmental entity.

6664 (102) "Interinsurance exchange" means the same as that term is defined in Subsection
6665 (163).

6666 (103) "Internationally active insurance group" means an insurance holding company
6667 system:

6668 (a) that includes an insurer registered under Section [31A-16-105](#);

6669 (b) that has premiums written in at least three countries;

6670 (c) whose percentage of gross premiums written outside the United States is at least
6671 10% of its total gross written premiums; and

6672 (d) that, based on a three-year rolling average, has:

6673 (i) total assets of at least \$50,000,000,000; or

6674 (ii) total gross written premiums of at least \$10,000,000,000.

6675 (104) "Involuntary unemployment insurance" means insurance:

6676 (a) offered in connection with an extension of credit; and

6677 (b) that provides indemnity if the debtor is involuntarily unemployed for payments
6678 coming due on a:

6679 (i) specific loan; or

6680 (ii) credit transaction.

6681 (105) "Large employer," in connection with a health benefit plan, means an employer
6682 who, with respect to a calendar year and to a plan year:

6683 (a) employed an average of at least 51 employees on business days during the
6684 preceding calendar year; and

6685 (b) employs at least one employee on the first day of the plan year.

6686 (106) "Late enrollee," with respect to an employer health benefit plan, means an
6687 individual whose enrollment is a late enrollment.

6688 (107) "Late enrollment," with respect to an employer health benefit plan, means
6689 enrollment of an individual other than:

6690 (a) on the earliest date on which coverage can become effective for the individual
6691 under the terms of the plan; or

6692 (b) through special enrollment.

6693 (108) (a) Except for a retainer contract or legal assistance described in Section
6694 31A-1-103, "legal expense insurance" means insurance written to indemnify or pay for a
6695 specified legal expense.

6696 (b) "Legal expense insurance" includes an arrangement that creates a reasonable
6697 expectation of an enforceable right.

6698 (c) "Legal expense insurance" does not include the provision of, or reimbursement for,
6699 legal services incidental to other insurance coverage.

6700 (109) (a) "Liability insurance" means insurance against liability:

6701 (i) for death, injury, or disability of a human being, or for damage to property,
6702 exclusive of the coverages under:

6703 (A) medical malpractice insurance;

6704 (B) professional liability insurance; and

6705 (C) workers' compensation insurance;

6706 (ii) for a medical, hospital, surgical, and funeral benefit to a person other than the
6707 insured who is injured, irrespective of legal liability of the insured, when issued with or
6708 supplemental to insurance against legal liability for the death, injury, or disability of a human
6709 being, exclusive of the coverages under:

6710 (A) medical malpractice insurance;

6711 (B) professional liability insurance; and

6712 (C) workers' compensation insurance;

6713 (iii) for loss or damage to property resulting from an accident to or explosion of a
6714 boiler, pipe, pressure container, machinery, or apparatus;

6715 (iv) for loss or damage to property caused by:

6716 (A) the breakage or leakage of a sprinkler, water pipe, or water container; or

6717 (B) water entering through a leak or opening in a building; or

6718 (v) for other loss or damage properly the subject of insurance not within another kind
6719 of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

6720 (b) "Liability insurance" includes:

6721 (i) vehicle liability insurance;

6722 (ii) residential dwelling liability insurance; and

6723 (iii) making inspection of, and issuing a certificate of inspection upon, an elevator,

6724 boiler, machinery, or apparatus of any kind when done in connection with insurance on the
6725 elevator, boiler, machinery, or apparatus.

6726 (110) (a) "License" means authorization issued by the commissioner to engage in an
6727 activity that is part of or related to the insurance business.

6728 (b) "License" includes a certificate of authority issued to an insurer.

6729 (111) (a) "Life insurance" means:

6730 (i) insurance on a human life; and

6731 (ii) insurance pertaining to or connected with human life.

6732 (b) The business of life insurance includes:

6733 (i) granting a death benefit;

6734 (ii) granting an annuity benefit;

6735 (iii) granting an endowment benefit;

6736 (iv) granting an additional benefit in the event of death by accident;

6737 (v) granting an additional benefit to safeguard the policy against lapse; and

6738 (vi) providing an optional method of settlement of proceeds.

6739 (112) "Limited license" means a license that:

6740 (a) is issued for a specific product of insurance; and

6741 (b) limits an individual or agency to transact only for that product or insurance.

6742 (113) "Limited line credit insurance" includes the following forms of insurance:

6743 (a) credit life;

6744 (b) credit accident and health;

6745 (c) credit property;

6746 (d) credit unemployment;

6747 (e) involuntary unemployment;

6748 (f) mortgage life;

6749 (g) mortgage guaranty;

6750 (h) mortgage accident and health;

6751 (i) guaranteed automobile protection; and

6752 (j) another form of insurance offered in connection with an extension of credit that:

6753 (i) is limited to partially or wholly extinguishing the credit obligation; and

6754 (ii) the commissioner determines by rule should be designated as a form of limited line

6755 credit insurance.

6756 (114) "Limited line credit insurance producer" means a person who sells, solicits, or
6757 negotiates one or more forms of limited line credit insurance coverage to an individual through
6758 a master, corporate, group, or individual policy.

6759 (115) "Limited line insurance" includes:

6760 (a) bail bond;

6761 (b) limited line credit insurance;

6762 (c) legal expense insurance;

6763 (d) motor club insurance;

6764 (e) car rental related insurance;

6765 (f) travel insurance;

6766 (g) crop insurance;

6767 (h) self-service storage insurance;

6768 (i) guaranteed asset protection waiver;

6769 (j) portable electronics insurance; and

6770 (k) another form of limited insurance that the commissioner determines by rule should
6771 be designated a form of limited line insurance.

6772 (116) "Limited lines authority" includes the lines of insurance listed in Subsection
6773 (115).

6774 (117) "Limited lines producer" means a person who sells, solicits, or negotiates limited
6775 lines insurance.

6776 (118) (a) "Long-term care insurance" means an insurance policy or rider advertised,
6777 marketed, offered, or designated to provide coverage:

6778 (i) in a setting other than an acute care unit of a hospital;

6779 (ii) for not less than 12 consecutive months for a covered person on the basis of:

6780 (A) expenses incurred;

6781 (B) indemnity;

6782 (C) prepayment; or

6783 (D) another method;

6784 (iii) for one or more necessary or medically necessary services that are:

6785 (A) diagnostic;

- 6786 (B) preventative;
- 6787 (C) therapeutic;
- 6788 (D) rehabilitative;
- 6789 (E) maintenance; or
- 6790 (F) personal care; and
- 6791 (iv) that may be issued by:
 - 6792 (A) an insurer;
 - 6793 (B) a fraternal benefit society;
 - 6794 (C) (I) a nonprofit health hospital; and
 - 6795 (II) a medical service corporation;
 - 6796 (D) a prepaid health plan;
 - 6797 (E) a health maintenance organization; or
 - 6798 (F) an entity similar to the entities described in Subsections (118)(a)(iv)(A) through (E)
 - 6799 to the extent that the entity is otherwise authorized to issue life or health care insurance.
- 6800 (b) "Long-term care insurance" includes:
 - 6801 (i) any of the following that provide directly or supplement long-term care insurance:
 - 6802 (A) a group or individual annuity or rider; or
 - 6803 (B) a life insurance policy or rider;
 - 6804 (ii) a policy or rider that provides for payment of benefits on the basis of:
 - 6805 (A) cognitive impairment; or
 - 6806 (B) functional capacity; or
 - 6807 (iii) a qualified long-term care insurance contract.
- 6808 (c) "Long-term care insurance" does not include:
 - 6809 (i) a policy that is offered primarily to provide basic Medicare supplement coverage;
 - 6810 (ii) basic hospital expense coverage;
 - 6811 (iii) basic medical/surgical expense coverage;
 - 6812 (iv) hospital confinement indemnity coverage;
 - 6813 (v) major medical expense coverage;
 - 6814 (vi) income replacement or related asset-protection coverage;
 - 6815 (vii) accident only coverage;
 - 6816 (viii) coverage for a specified:

- 6817 (A) disease; or
- 6818 (B) accident;
- 6819 (ix) limited benefit health coverage;
- 6820 (x) a life insurance policy that accelerates the death benefit to provide the option of a
- 6821 lump sum payment:
 - 6822 (A) if the following are not conditioned on the receipt of long-term care:
 - 6823 (I) benefits; or
 - 6824 (II) eligibility; and
 - 6825 (B) the coverage is for one or more the following qualifying events:
 - 6826 (I) terminal illness;
 - 6827 (II) medical conditions requiring extraordinary medical intervention; or
 - 6828 (III) permanent institutional confinement; or
 - 6829 (xi) limited long-term care as defined in Section [31A-22-2002](#).
 - 6830 (119) "Managed care organization" means a person:
 - 6831 (a) licensed as a health maintenance organization under Chapter 8, Health Maintenance
 - 6832 Organizations and Limited Health Plans; or
 - 6833 (b) (i) licensed under:
 - 6834 (A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
 - 6835 (B) Chapter 7, Nonprofit Health Service Insurance Corporations; or
 - 6836 (C) Chapter 14, Foreign Insurers; and
 - 6837 (ii) that requires an enrollee to use, or offers incentives, including financial incentives,
 - 6838 for an enrollee to use, network providers.
 - 6839 (120) "Medical malpractice insurance" means insurance against legal liability incident
 - 6840 to the practice and provision of a medical service other than the practice and provision of a
 - 6841 dental service.
 - 6842 (121) "Member" means a person having membership rights in an insurance
 - 6843 corporation.
 - 6844 (122) "Minimum capital" or "minimum required capital" means the capital that must be
 - 6845 constantly maintained by a stock insurance corporation as required by statute.
 - 6846 (123) "Mortgage accident and health insurance" means insurance offered in connection
 - 6847 with an extension of credit that provides indemnity for payments coming due on a mortgage

6848 while the debtor has a disability.

6849 (124) "Mortgage guaranty insurance" means surety insurance under which a mortgagee
6850 or other creditor is indemnified against losses caused by the default of a debtor.

6851 (125) "Mortgage life insurance" means insurance on the life of a debtor in connection
6852 with an extension of credit that pays if the debtor dies.

6853 (126) "Motor club" means a person:

6854 (a) licensed under:

6855 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

6856 (ii) Chapter 11, Motor Clubs; or

6857 (iii) Chapter 14, Foreign Insurers; and

6858 (b) that promises for an advance consideration to provide for a stated period of time
6859 one or more:

6860 (i) legal services under Subsection [31A-11-102\(1\)\(b\)](#);

6861 (ii) bail services under Subsection [31A-11-102\(1\)\(c\)](#); or

6862 (iii) (A) trip reimbursement;

6863 (B) towing services;

6864 (C) emergency road services;

6865 (D) stolen automobile services;

6866 (E) a combination of the services listed in Subsections (126)(b)(iii)(A) through (D); or

6867 (F) other services given in Subsections [31A-11-102\(1\)\(b\)](#) through (f).

6868 (127) "Mutual" means a mutual insurance corporation.

6869 (128) "NAIC" means the National Association of Insurance Commissioners.

6870 (129) "NAIC liquidity stress test framework" means a NAIC publication that includes:

6871 (a) a history of the NAIC's development of regulatory liquidity stress testing;

6872 (b) the scope criteria applicable for a specific data year; and

6873 (c) the liquidity stress test instructions and reporting templates for a specific data year,
6874 as adopted by the NAIC and as amended by the NAIC in accordance with NAIC procedures.

6875 (130) "Network plan" means health care insurance:

6876 (a) that is issued by an insurer; and

6877 (b) under which the financing and delivery of medical care is provided, in whole or in
6878 part, through a defined set of providers under contract with the insurer, including the financing

6879 and delivery of an item paid for as medical care.

6880 (131) "Network provider" means a health care provider who has an agreement with a
6881 managed care organization to provide health care services to an enrollee with an expectation of
6882 receiving payment, other than coinsurance, copayments, or deductibles, directly from the
6883 managed care organization.

6884 (132) "Nonparticipating" means a plan of insurance under which the insured is not
6885 entitled to receive a dividend representing a share of the surplus of the insurer.

6886 (133) "Ocean marine insurance" means insurance against loss of or damage to:

6887 (a) ships or hulls of ships;

6888 (b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money,
6889 securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia
6890 interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

6891 (c) earnings such as freight, passage money, commissions, or profits derived from
6892 transporting goods or people upon or across the oceans or inland waterways; or

6893 (d) a vessel owner or operator as a result of liability to employees, passengers, bailors,
6894 owners of other vessels, owners of fixed objects, customs or other authorities, or other persons
6895 in connection with maritime activity.

6896 (134) "Order" means an order of the commissioner.

6897 (135) "ORSA guidance manual" means the current version of the Own Risk and
6898 Solvency Assessment Guidance Manual developed and adopted by the National Association of
6899 Insurance Commissioners and as amended from time to time.

6900 (136) "ORSA summary report" means a confidential high-level summary of an insurer
6901 or insurance group's own risk and solvency assessment.

6902 (137) "Outline of coverage" means a summary that explains an accident and health
6903 insurance policy.

6904 (138) "Own risk and solvency assessment" means an insurer or insurance group's
6905 confidential internal assessment:

6906 (a) (i) of each material and relevant risk associated with the insurer or insurance group;

6907 (ii) of the insurer or insurance group's current business plan to support each risk
6908 described in Subsection (138)(a)(i); and

6909 (iii) of the sufficiency of capital resources to support each risk described in Subsection

6910 (138)(a)(i); and

6911 (b) that is appropriate to the nature, scale, and complexity of an insurer or insurance
6912 group.

6913 (139) "Participating" means a plan of insurance under which the insured is entitled to
6914 receive a dividend representing a share of the surplus of the insurer.

6915 (140) "Participation," as used in a health benefit plan, means a requirement relating to
6916 the minimum percentage of eligible employees that must be enrolled in relation to the total
6917 number of eligible employees of an employer reduced by each eligible employee who
6918 voluntarily declines coverage under the plan because the employee:

6919 (a) has other group health care insurance coverage; or

6920 (b) receives:

6921 (i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social
6922 Security Amendments of 1965; or

6923 (ii) another government health benefit.

6924 (141) "Person" includes:

6925 (a) an individual;

6926 (b) a partnership;

6927 (c) a corporation;

6928 (d) an incorporated or unincorporated association;

6929 (e) a joint stock company;

6930 (f) a trust;

6931 (g) a limited liability company;

6932 (h) a reciprocal;

6933 (i) a syndicate; or

6934 (j) another similar entity or combination of entities acting in concert.

6935 (142) "Personal lines insurance" means property and casualty insurance coverage sold
6936 for primarily noncommercial purposes to:

6937 (a) an individual; or

6938 (b) a family.

6939 (143) "Plan sponsor" means the same as that term is defined in 29 U.S.C. Sec.

6940 1002(16)(B).

- 6941 (144) "Plan year" means:
- 6942 (a) the year that is designated as the plan year in:
- 6943 (i) the plan document of a group health plan; or
- 6944 (ii) a summary plan description of a group health plan;
- 6945 (b) if the plan document or summary plan description does not designate a plan year or
- 6946 there is no plan document or summary plan description:
- 6947 (i) the year used to determine deductibles or limits;
- 6948 (ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis;
- 6949 or
- 6950 (iii) the employer's taxable year if:
- 6951 (A) the plan does not impose deductibles or limits on a yearly basis; and
- 6952 (B) (I) the plan is not insured; or
- 6953 (II) the insurance policy is not renewed on an annual basis; or
- 6954 (c) in a case not described in Subsection (144)(a) or (b), the calendar year.
- 6955 (145) (a) "Policy" means a document, including an attached endorsement or application
- 6956 that:
- 6957 (i) purports to be an enforceable contract; and
- 6958 (ii) memorializes in writing some or all of the terms of an insurance contract.
- 6959 (b) "Policy" includes a service contract issued by:
- 6960 (i) a motor club under Chapter 11, Motor Clubs;
- 6961 (ii) a service contract provided under Chapter 6a, Service Contracts; and
- 6962 (iii) a corporation licensed under:
- 6963 (A) Chapter 7, Nonprofit Health Service Insurance Corporations; or
- 6964 (B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.
- 6965 (c) "Policy" does not include:
- 6966 (i) a certificate under a group insurance contract; or
- 6967 (ii) a document that does not purport to have legal effect.
- 6968 (146) "Policyholder" means a person who controls a policy, binder, or oral contract by
- 6969 ownership, premium payment, or otherwise.
- 6970 (147) "Policy illustration" means a presentation or depiction that includes
- 6971 nonguaranteed elements of a policy offering life insurance over a period of years.

6972 (148) "Policy summary" means a synopsis describing the elements of a life insurance
6973 policy.

6974 (149) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L. No.
6975 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and
6976 related federal regulations and guidance.

6977 (150) "Preexisting condition," with respect to health care insurance:

6978 (a) means a condition that was present before the effective date of coverage, whether or
6979 not medical advice, diagnosis, care, or treatment was recommended or received before that day;
6980 and

6981 (b) does not include a condition indicated by genetic information unless an actual
6982 diagnosis of the condition by a physician has been made.

6983 (151) (a) "Premium" means the monetary consideration for an insurance policy.

6984 (b) "Premium" includes, however designated:

6985 (i) an assessment;

6986 (ii) a membership fee;

6987 (iii) a required contribution; or

6988 (iv) monetary consideration.

6989 (c) (i) "Premium" does not include consideration paid to a third party administrator for
6990 the third party administrator's services.

6991 (ii) "Premium" includes an amount paid by a third party administrator to an insurer for
6992 insurance on the risks administered by the third party administrator.

6993 (152) "Principal officers" for a corporation means the officers designated under
6994 Subsection [31A-5-203\(3\)](#).

6995 (153) "Proceeding" includes an action or special statutory proceeding.

6996 (154) "Professional liability insurance" means insurance against legal liability incident
6997 to the practice of a profession and provision of a professional service.

6998 (155) (a) "Property insurance" means insurance against loss or damage to real or
6999 personal property of every kind and any interest in that property:

7000 (i) from all hazards or causes; and

7001 (ii) against loss consequential upon the loss or damage including vehicle
7002 comprehensive and vehicle physical damage coverages.

- 7003 (b) "Property insurance" does not include:
- 7004 (i) inland marine insurance; and
- 7005 (ii) ocean marine insurance.
- 7006 (156) "Qualified long-term care insurance contract" or "federally tax qualified
- 7007 long-term care insurance contract" means:
- 7008 (a) an individual or group insurance contract that meets the requirements of Section
- 7009 7702B(b), Internal Revenue Code; or
- 7010 (b) the portion of a life insurance contract that provides long-term care insurance:
- 7011 (i) (A) by rider; or
- 7012 (B) as a part of the contract; and
- 7013 (ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue
- 7014 Code.
- 7015 (157) "Qualified United States financial institution" means an institution that:
- 7016 (a) is:
- 7017 (i) organized under the laws of the United States or any state; or
- 7018 (ii) in the case of a United States office of a foreign banking organization, licensed
- 7019 under the laws of the United States or any state;
- 7020 (b) is regulated, supervised, and examined by a United States federal or state authority
- 7021 having regulatory authority over a bank or trust company; and
- 7022 (c) meets the standards of financial condition and standing that are considered
- 7023 necessary and appropriate to regulate the quality of a financial institution whose letters of credit
- 7024 will be acceptable to the commissioner as determined by:
- 7025 (i) the commissioner by rule; or
- 7026 (ii) the Securities Valuation Office of the National Association of Insurance
- 7027 Commissioners.
- 7028 (158) (a) "Rate" means:
- 7029 (i) the cost of a given unit of insurance; or
- 7030 (ii) for property or casualty insurance, that cost of insurance per exposure unit either
- 7031 expressed as:
- 7032 (A) a single number; or
- 7033 (B) a pure premium rate, adjusted before the application of individual risk variations

7034 based on loss or expense considerations to account for the treatment of:

7035 (I) expenses;

7036 (II) profit; and

7037 (III) individual insurer variation in loss experience.

7038 (b) "Rate" does not include a minimum premium.

7039 (159) (a) "Rate service organization" means a person who assists an insurer in rate
7040 making or filing by:

7041 (i) collecting, compiling, and furnishing loss or expense statistics;

7042 (ii) recommending, making, or filing rates or supplementary rate information; or

7043 (iii) advising about rate questions, except as an attorney giving legal advice.

7044 (b) "Rate service organization" does not include:

7045 (i) an employee of an insurer;

7046 (ii) a single insurer or group of insurers under common control;

7047 (iii) a joint underwriting group; or

7048 (iv) an individual serving as an actuarial or legal consultant.

7049 (160) "Rating manual" means any of the following used to determine initial and
7050 renewal policy premiums:

7051 (a) a manual of rates;

7052 (b) a classification;

7053 (c) a rate-related underwriting rule; and

7054 (d) a rating formula that describes steps, policies, and procedures for determining
7055 initial and renewal policy premiums.

7056 (161) (a) "Rebate" means a licensee paying, allowing, giving, or offering to pay, allow,
7057 or give, directly or indirectly:

7058 (i) a refund of premium or portion of premium;

7059 (ii) a refund of commission or portion of commission;

7060 (iii) a refund of all or a portion of a consultant fee; or

7061 (iv) providing services or other benefits not specified in an insurance or annuity
7062 contract.

7063 (b) "Rebate" does not include:

7064 (i) a refund due to termination or changes in coverage;

- 7065 (ii) a refund due to overcharges made in error by the licensee; or
- 7066 (iii) savings or wellness benefits as provided in the contract by the licensee.
- 7067 (162) "Received by the department" means:
- 7068 (a) the date delivered to and stamped received by the department, if delivered in
- 7069 person;
- 7070 (b) the post mark date, if delivered by mail;
- 7071 (c) the delivery service's post mark or pickup date, if delivered by a delivery service;
- 7072 (d) the received date recorded on an item delivered, if delivered by:
- 7073 (i) facsimile;
- 7074 (ii) email; or
- 7075 (iii) another electronic method; or
- 7076 (e) a date specified in:
- 7077 (i) a statute;
- 7078 (ii) a rule; or
- 7079 (iii) an order.
- 7080 (163) "Reciprocal" or "interinsurance exchange" means an unincorporated association
- 7081 of persons:
- 7082 (a) operating through an attorney-in-fact common to all of the persons; and
- 7083 (b) exchanging insurance contracts with one another that provide insurance coverage
- 7084 on each other.
- 7085 (164) "Reinsurance" means an insurance transaction where an insurer, for
- 7086 consideration, transfers any portion of the risk it has assumed to another insurer. In referring to
- 7087 reinsurance transactions, this title sometimes refers to:
- 7088 (a) the insurer transferring the risk as the "ceding insurer"; and
- 7089 (b) the insurer assuming the risk as the:
- 7090 (i) "assuming insurer"; or
- 7091 (ii) "assuming reinsurer."
- 7092 (165) "Reinsurer" means a person licensed in this state as an insurer with the authority
- 7093 to assume reinsurance.
- 7094 (166) "Residential dwelling liability insurance" means insurance against liability
- 7095 resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is

7096 a detached single family residence or multifamily residence up to four units.
7097 (167) (a) "Retrocession" means reinsurance with another insurer of a liability assumed
7098 under a reinsurance contract.
7099 (b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a
7100 liability assumed under a reinsurance contract.
7101 (168) "Rider" means an endorsement to:
7102 (a) an insurance policy; or
7103 (b) an insurance certificate.
7104 (169) "Scope criteria" means the designated exposure bases and minimum magnitudes
7105 for a specified data year that are used to establish a preliminary list of insurers considered
7106 scoped into the NAIC liquidity stress test framework for that data year.
7107 (170) "Secondary medical condition" means a complication related to an exclusion
7108 from coverage in accident and health insurance.
7109 (171) (a) "Security" means a:
7110 (i) note;
7111 (ii) stock;
7112 (iii) bond;
7113 (iv) debenture;
7114 (v) evidence of indebtedness;
7115 (vi) certificate of interest or participation in a profit-sharing agreement;
7116 (vii) collateral-trust certificate;
7117 (viii) preorganization certificate or subscription;
7118 (ix) transferable share;
7119 (x) investment contract;
7120 (xi) voting trust certificate;
7121 (xii) certificate of deposit for a security;
7122 (xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in
7123 payments out of production under such a title or lease;
7124 (xiv) commodity contract or commodity option;
7125 (xv) certificate of interest or participation in, temporary or interim certificate for,
7126 receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed

- 7127 in Subsections (171)(a)(i) through (xiv); or
- 7128 (xvi) another interest or instrument commonly known as a security.
- 7129 (b) "Security" does not include:
- 7130 (i) any of the following under which an insurance company promises to pay money in a
- 7131 specific lump sum or periodically for life or some other specified period:
- 7132 (A) insurance;
- 7133 (B) an endowment policy; or
- 7134 (C) an annuity contract; or
- 7135 (ii) a burial certificate or burial contract.
- 7136 (172) "Securityholder" means a specified person who owns a security of a person,
- 7137 including:
- 7138 (a) common stock;
- 7139 (b) preferred stock;
- 7140 (c) debt obligations; and
- 7141 (d) any other security convertible into or evidencing the right of any of the items listed
- 7142 in this Subsection (172).
- 7143 (173) (a) "Self-insurance" means an arrangement under which a person provides for
- 7144 spreading the person's own risks by a systematic plan.
- 7145 (b) "Self-insurance" includes:
- 7146 (i) an arrangement under which a governmental entity undertakes to indemnify an
- 7147 employee for liability arising out of the employee's employment; and
- 7148 (ii) an arrangement under which a person with a managed program of self-insurance
- 7149 and risk management undertakes to indemnify the person's affiliate, subsidiary, director,
- 7150 officer, or employee for liability or risk that arises out of the person's relationship with the
- 7151 affiliate, subsidiary, director, officer, or employee.
- 7152 (c) "Self-insurance" does not include:
- 7153 (i) an arrangement under which a number of persons spread their risks among
- 7154 themselves; or
- 7155 (ii) an arrangement with an independent contractor.
- 7156 (174) "Sell" means to exchange a contract of insurance:
- 7157 (a) by any means;

7158 (b) for money or its equivalent; and
7159 (c) on behalf of an insurance company.

7160 (175) "Short-term limited duration health insurance" means a health benefit product
7161 that:

7162 (a) after taking into account any renewals or extensions, has a total duration of no more
7163 than 36 months; and

7164 (b) has an expiration date specified in the contract that is less than 12 months after the
7165 original effective date of coverage under the health benefit product.

7166 (176) "Significant break in coverage" means a period of 63 consecutive days during
7167 each of which an individual does not have creditable coverage.

7168 (177) (a) "Small employer" means, in connection with a health benefit plan and with
7169 respect to a calendar year and to a plan year, an employer who:

7170 (i) (A) employed at least one but not more than 50 eligible employees on business days
7171 during the preceding calendar year; or

7172 (B) if the employer did not exist for the entirety of the preceding calendar year,
7173 reasonably expects to employ an average of at least one but not more than 50 eligible
7174 employees on business days during the current calendar year;

7175 (ii) employs at least one employee on the first day of the plan year; and

7176 (iii) for an employer who has common ownership with one or more other employers, is
7177 treated as a single employer under 26 U.S.C. Sec. 414(b), (c), (m), or (o).

7178 (b) "Small employer" does not include an owner or a sole proprietor that does not
7179 employ at least one employee.

7180 (178) "Special enrollment period," in connection with a health benefit plan, has the
7181 same meaning as provided in federal regulations adopted pursuant to the Health Insurance
7182 Portability and Accountability Act.

7183 (179) (a) "Subsidiary" of a person means an affiliate controlled by that person either
7184 directly or indirectly through one or more affiliates or intermediaries.

7185 (b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting
7186 shares are owned by that person either alone or with its affiliates, except for the minimum
7187 number of shares the law of the subsidiary's domicile requires to be owned by directors or
7188 others.

- 7189 (180) Subject to Subsection (92)(b), "surety insurance" includes:
- 7190 (a) a guarantee against loss or damage resulting from the failure of a principal to pay or
- 7191 perform the principal's obligations to a creditor or other obligee;
- 7192 (b) bail bond insurance; and
- 7193 (c) fidelity insurance.
- 7194 (181) (a) "Surplus" means the excess of assets over the sum of paid-in capital and
- 7195 liabilities.
- 7196 (b) (i) "Permanent surplus" means the surplus of an insurer or organization that is
- 7197 designated by the insurer or organization as permanent.
- 7198 (ii) Sections [31A-5-211](#), [31A-7-201](#), [31A-8-209](#), [31A-9-209](#), and [31A-14-205](#) require
- 7199 that insurers or organizations doing business in this state maintain specified minimum levels of
- 7200 permanent surplus.
- 7201 (iii) Except for assessable mutuals, the minimum permanent surplus requirement is the
- 7202 same as the minimum required capital requirement that applies to stock insurers.
- 7203 (c) "Excess surplus" means:
- 7204 (i) for a life insurer, accident and health insurer, health organization, or property and
- 7205 casualty insurer as defined in Section [31A-17-601](#), the lesser of:
- 7206 (A) that amount of an insurer's or health organization's total adjusted capital that
- 7207 exceeds the product of:
- 7208 (I) 2.5; and
- 7209 (II) the sum of the insurer's or health organization's minimum capital or permanent
- 7210 surplus required under Section [31A-5-211](#), [31A-9-209](#), or [31A-14-205](#); or
- 7211 (B) that amount of an insurer's or health organization's total adjusted capital that
- 7212 exceeds the product of:
- 7213 (I) 3.0; and
- 7214 (II) the authorized control level RBC as defined in Subsection [31A-17-601](#)(8)(a); and
- 7215 (ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer
- 7216 that amount of an insurer's paid-in-capital and surplus that exceeds the product of:
- 7217 (A) 1.5; and
- 7218 (B) the insurer's total adjusted capital required by Subsection [31A-17-609](#)(1).
- 7219 (182) "Third party administrator" or "administrator" means a person who collects

7220 charges or premiums from, or who, for consideration, adjusts or settles claims of residents of
7221 the state in connection with insurance coverage, annuities, or service insurance coverage,
7222 except:

7223 (a) a union on behalf of its members;

7224 (b) a person administering a:

7225 (i) pension plan subject to the federal Employee Retirement Income Security Act of
7226 1974;

7227 (ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

7228 (iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

7229 (c) an employer on behalf of the employer's employees or the employees of one or
7230 more of the subsidiary or affiliated corporations of the employer;

7231 (d) an insurer licensed under the following, but only for a line of insurance for which
7232 the insurer holds a license in this state:

7233 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

7234 (ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

7235 (iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

7236 (iv) Chapter 9, Insurance Fraternal; or

7237 (v) Chapter 14, Foreign Insurers;

7238 (e) a person:

7239 (i) licensed or exempt from licensing under:

7240 (A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and
7241 Reinsurance Intermediaries; or

7242 (B) Chapter 26, Insurance Adjusters; and

7243 (ii) whose activities are limited to those authorized under the license the person holds
7244 or for which the person is exempt; or

7245 (f) an institution, bank, or financial institution:

7246 (i) that is:

7247 (A) an institution whose deposits and accounts are to any extent insured by a federal
7248 deposit insurance agency, including the Federal Deposit Insurance Corporation or National
7249 Credit Union Administration; or

7250 (B) a bank or other financial institution that is subject to supervision or examination by

7251 a federal or state banking authority; and

7252 (ii) that does not adjust claims without a third party administrator license.

7253 (183) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner
7254 of real or personal property or the holder of liens or encumbrances on that property, or others
7255 interested in the property against loss or damage suffered by reason of liens or encumbrances
7256 upon, defects in, or the unmarketability of the title to the property, or invalidity or
7257 unenforceability of any liens or encumbrances on the property.

7258 (184) "Total adjusted capital" means the sum of an insurer's or health organization's
7259 statutory capital and surplus as determined in accordance with:

7260 (a) the statutory accounting applicable to the annual financial statements required to be
7261 filed under Section 31A-4-113; and

7262 (b) another item provided by the RBC instructions, as RBC instructions is defined in
7263 Section 31A-17-601.

7264 (185) (a) "Trustee" means "director" when referring to the board of directors of a
7265 corporation.

7266 (b) "Trustee," when used in reference to an employee welfare fund, means an
7267 individual, firm, association, organization, joint stock company, or corporation, whether acting
7268 individually or jointly and whether designated by that name or any other, that is charged with
7269 or has the overall management of an employee welfare fund.

7270 (186) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer"
7271 means an insurer:

7272 (i) not holding a valid certificate of authority to do an insurance business in this state;

7273 or

7274 (ii) transacting business not authorized by a valid certificate.

7275 (b) "Admitted insurer" or "authorized insurer" means an insurer:

7276 (i) holding a valid certificate of authority to do an insurance business in this state; and

7277 (ii) transacting business as authorized by a valid certificate.

7278 (187) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

7279 (188) "Vehicle liability insurance" means insurance against liability resulting from or
7280 incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle
7281 comprehensive or vehicle physical damage coverage described in Subsection (155).

7282 (189) "Voting security" means a security with voting rights, and includes a security
7283 convertible into a security with a voting right associated with the security.

7284 (190) "Waiting period" for a health benefit plan means the period that must pass before
7285 coverage for an individual, who is otherwise eligible to enroll under the terms of the health
7286 benefit plan, can become effective.

7287 (191) "Workers' compensation insurance" means:

7288 (a) insurance for indemnification of an employer against liability for compensation
7289 based on:

7290 (i) a compensable accidental injury; and

7291 (ii) occupational disease disability;

7292 (b) employer's liability insurance incidental to workers' compensation insurance and
7293 written in connection with workers' compensation insurance; and

7294 (c) insurance assuring to a person entitled to workers' compensation benefits the
7295 compensation provided by law.

7296 Section 80. Section **31A-4-106** is amended to read:

7297 **31A-4-106. Provision of health care.**

7298 (1) As used in this section, "health care provider" has the same definition as in Section
7299 [78B-3-403](#).

7300 (2) Except under Subsection (3) or (4), unless authorized to do so or employed by
7301 someone authorized to do so under Chapter 5, Domestic Stock and Mutual Insurance
7302 Corporations, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health
7303 Maintenance Organizations and Limited Health Plans, Chapter 9, Insurance Fraternal, or
7304 Chapter 14, Foreign Insurers, a person may not:

7305 (a) directly or indirectly provide health care;

7306 (b) arrange for health care;

7307 (c) manage or administer the provision or arrangement of health care;

7308 (d) collect advance payments for health care; or

7309 (e) compensate a provider of health care.

7310 (3) Subsection (2) does not apply to:

7311 (a) a natural person or professional corporation that alone or with others professionally
7312 associated with the natural person or professional corporation, and except as provided in

7313 Subsection (3)(e), without receiving consideration for services in advance of the need for a
7314 particular service, provides the service personally with the aid of nonprofessional assistants;
7315 (b) a health care facility as defined in Section ~~[26-21-2]~~ 26B-2-201 that:
7316 (i) is licensed or exempt from licensing under ~~[Title 26, Chapter 21, Health Care~~
7317 ~~Facility Licensing and Inspection Act]~~ Title 26B, Chapter 2, Part 2, Health Care Facility
7318 Licensing and Inspection; and
7319 (ii) does not engage in health care insurance as defined under Section 31A-1-301;
7320 (c) a person who files with the commissioner a certificate from the United States
7321 Department of Labor, or other evidence satisfactory to the commissioner, showing that the laws
7322 of Utah are preempted under Section 514 of the Employee Retirement Income Security Act of
7323 1974 or other federal law;
7324 (d) a person licensed under Chapter 23a, Insurance Marketing - Licensing Producers,
7325 Consultants, and Reinsurance Intermediaries, who arranges for the insurance of all services
7326 under:
7327 (i) Subsection (2) by an insurer authorized to do business in Utah; or
7328 (ii) Section 31A-15-103; or
7329 (e) notwithstanding the provisions of Subsection (3)(a), a natural person or
7330 professional corporation that alone or with others professionally associated with the natural
7331 person or professional corporation enters into a medical retainer agreement in accordance with
7332 Section 31A-4-106.5.
7333 (4) A person may not provide administrative or management services for another
7334 person subject to Subsection (2) and not exempt under Subsection (3) unless the person:
7335 (a) is an authorized insurer under Chapter 5, Domestic Stock and Mutual Insurance
7336 Corporations, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health
7337 Maintenance Organizations and Limited Health Plans, Chapter 9, Insurance Fraternal, or
7338 Chapter 14, Foreign Insurers; or
7339 (b) complies with Chapter 25, Third Party Administrators.
7340 (5) An insurer or person who provides, administers, or manages health care insurance
7341 under Chapter 5, Domestic Stock and Mutual Insurance Corporations, Chapter 7, Nonprofit
7342 Health Service Insurance Corporations, Chapter 8, Health Maintenance Organizations and
7343 Limited Health Plans, Chapter 9, Insurance Fraternal, or Chapter 14, Foreign Insurers, may not

7344 enter into a contract that limits a health care provider's ability to advise the health care
7345 provider's patients or clients fully about treatment options or other issues that affect the health
7346 care of the health care provider's patients or clients.

7347 Section 81. Section **31A-4-107.5** is amended to read:

7348 **31A-4-107.5. Penalty for failure of a regulated health insurance entity to fulfill**
7349 **duties related to state claims for Medicaid payment or recovery.**

7350 (1) For purposes of this section, "regulated health insurance entity" means a health
7351 insurance entity, as defined in Section [~~26-19-102~~] [26B-3-1001](#), that is subject to regulation by
7352 the department.

7353 (2) If a regulated health insurance entity fails to comply with the provisions of Section
7354 [~~26-19-301~~] [26B-3-1004](#):

7355 (a) the commissioner may revoke or suspend, in whole or in part, a license, certificate
7356 of authority, registration, or other authority that is granted by the commissioner to the regulated
7357 health insurance entity; and

7358 (b) the regulated health insurance entity is subject to the penalties and procedures
7359 provided for in Section [31A-2-308](#).

7360 Section 82. Section **31A-8-104** is amended to read:

7361 **31A-8-104. Determination of ability to provide services.**

7362 (1) The commissioner may not issue a certificate of authority to an applicant for a
7363 certificate of authority under this chapter unless the applicant demonstrates to the
7364 commissioner that the applicant has:

7365 (a) the willingness and potential ability to furnish the proposed health care services in a
7366 manner to assure both availability and accessibility of adequate personnel and facilities and
7367 continuity of service; and

7368 (b) arrangements for an ongoing quality of health care assurance program concerning
7369 health care processes and outcomes.

7370 (2) (a) In accordance with Sections [31A-2-203](#) and [31A-2-204](#), the commissioner may
7371 order an independent audit or examination by one or more technical experts to determine an
7372 applicant's ability to provide the proposed health care services as described in Subsection (1).

7373 (b) In accordance with Section [31A-2-205](#), an applicant shall reimburse the
7374 commissioner for the reasonable cost of an independent audit or examination.

7375 (3) Licensing under this chapter does not exempt an organization from any licensing
7376 requirement applicable under [~~Title 26, Chapter 21, Health Care Facility Licensing and~~
7377 ~~Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

7378 Section 83. Section **31A-15-103** is amended to read:

7379 **31A-15-103. Surplus lines insurance -- Unauthorized insurers.**

7380 (1) Notwithstanding Section [31A-15-102](#), when this state is the home state as defined
7381 in Section [31A-3-305](#), a nonadmitted insurer may make an insurance contract for coverage of a
7382 person in this state and on a risk located in this state, subject to the limitations and
7383 requirements of this section.

7384 (2) (a) For a contract made under this section, the insurer may, in this state:

7385 (i) inspect the risks to be insured;

7386 (ii) collect premiums;

7387 (iii) adjust losses; and

7388 (iv) do another act reasonably incidental to the contract.

7389 (b) An act described in Subsection (2)(a) may be done through:

7390 (i) an employee; or

7391 (ii) an independent contractor.

7392 (3) (a) Subsections (1) and (2) do not permit a person to solicit business in this state on
7393 behalf of an insurer that has no certificate of authority.

7394 (b) Insurance placed with a nonadmitted insurer shall be placed by a surplus lines
7395 producer licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants,
7396 and Reinsurance Intermediaries.

7397 (c) The commissioner may by rule prescribe how a surplus lines producer may:

7398 (i) pay or permit the payment, commission, or other remuneration on insurance placed
7399 by the surplus lines producer under authority of the surplus lines producer's license to one
7400 holding a license to act as an insurance producer; and

7401 (ii) advertise the availability of the surplus lines producer's services in procuring, on
7402 behalf of a person seeking insurance, a contract with a nonadmitted insurer.

7403 (4) For a contract made under this section, a nonadmitted insurer is subject to Sections
7404 [31A-23a-402](#), [31A-23a-402.5](#), and [31A-23a-403](#) and the rules adopted under those sections.

7405 (5) A nonadmitted insurer may not issue workers' compensation insurance coverage to

7406 an employer located in this state, except:

7407 (a) for stop loss coverage issued to an employer securing workers' compensation under
7408 Subsection [34A-2-201\(2\)](#);

7409 (b) a cannabis production establishment as defined in Section [4-41a-102](#); or

7410 (c) a medical cannabis pharmacy as defined in Section [~~26-61a-102~~] [26B-4-201](#).

7411 (6) (a) The commissioner may by rule prohibit making a contract under Subsection (1)
7412 for a specified class of insurance if authorized insurers provide an established market for the
7413 class in this state that is adequate and reasonably competitive.

7414 (b) The commissioner may by rule place a restriction or a limitation on and create
7415 special procedures for making a contract under Subsection (1) for a specified class of insurance
7416 if:

7417 (i) there have been abuses of placements in the class; or

7418 (ii) the policyholders in the class, because of limited financial resources, business
7419 experience, or knowledge, cannot protect their own interests adequately.

7420 (c) The commissioner may prohibit an individual insurer from making a contract under
7421 Subsection (1) and all insurance producers from dealing with the insurer if:

7422 (i) the insurer willfully violates:

7423 (A) this section;

7424 (B) Section [31A-4-102](#), [31A-23a-402](#), [31A-23a-402.5](#), or [31A-26-303](#); or

7425 (C) a rule adopted under a section listed in Subsection (6)(c)(i)(A) or (B);

7426 (ii) the insurer fails to pay the fees and taxes specified under Section [31A-3-301](#); or

7427 (iii) the commissioner has reason to believe that the insurer is:

7428 (A) in an unsound condition;

7429 (B) operated in a fraudulent, dishonest, or incompetent manner; or

7430 (C) in violation of the law of its domicile.

7431 (d) (i) The commissioner may issue one or more lists of nonadmitted foreign insurers

7432 whose:

7433 (A) solidity the commissioner doubts; or

7434 (B) practices the commissioner considers objectionable.

7435 (ii) The commissioner shall issue one or more lists of nonadmitted foreign insurers the
7436 commissioner considers to be reliable and solid.

7437 (iii) In addition to the lists described in Subsections (6)(d)(i) and (ii), the commissioner
7438 may issue other relevant evaluations of nonadmitted insurers.

7439 (iv) An action may not lie against the commissioner or an employee of the department
7440 for a written or oral communication made in, or in connection with the issuance of, a list or
7441 evaluation described in this Subsection (6)(d).

7442 (e) A foreign nonadmitted insurer shall be listed on the commissioner's "reliable" list
7443 only if the nonadmitted insurer:

7444 (i) delivers a request to the commissioner to be on the list;

7445 (ii) establishes satisfactory evidence of good reputation and financial integrity;

7446 (iii) (A) delivers to the commissioner a copy of the nonadmitted insurer's current
7447 annual statement certified by the insurer and, each subsequent year, delivers to the
7448 commissioner a copy of the nonadmitted insurer's annual statement within 60 days after the day
7449 on which the nonadmitted insurer files the annual statement with the insurance regulatory
7450 authority where the nonadmitted insurer is domiciled; or

7451 (B) files the nonadmitted insurer's annual statements with the National Association of
7452 Insurance Commissioners and the nonadmitted insurer's annual statements are available
7453 electronically from the National Association of Insurance Commissioners;

7454 (iv) (A) is in substantial compliance with the solvency standards in Chapter 17, Part 6,
7455 Risk-Based Capital, or maintains capital and surplus of at least \$15,000,000, whichever is
7456 greater; or

7457 (B) in the case of any "Lloyd's" or other similar incorporated or unincorporated group
7458 of alien individual insurers, maintains a trust fund that:

7459 (I) shall be in an amount not less than \$50,000,000 as security to its full amount for all
7460 policyholders and creditors in the United States of each member of the group;

7461 (II) may consist of cash, securities, or investments of substantially the same character
7462 and quality as those which are "qualified assets" under Section [31A-17-201](#); and

7463 (III) may include as part of this trust arrangement a letter of credit that qualifies as
7464 acceptable security under Section [31A-17-404.1](#); and

7465 (v) for an alien insurer not domiciled in the United States or a territory of the United
7466 States, is listed on the Quarterly Listing of Alien Insurers maintained by the National
7467 Association of Insurance Commissioners International Insurers Department.

7468 (7) (a) Subject to Subsection (7)(b), a surplus lines producer may not, either knowingly
7469 or without reasonable investigation of the financial condition and general reputation of the
7470 insurer, place insurance under this section with:

- 7471 (i) a financially unsound insurer;
- 7472 (ii) an insurer engaging in unfair practices; or
- 7473 (iii) an otherwise substandard insurer.

7474 (b) A surplus line producer may place insurance under this section with an insurer
7475 described in Subsection (7)(a) if the surplus line producer:

7476 (i) gives the applicant notice in writing of the known deficiencies of the insurer or the
7477 limitations on the surplus line producer's investigation; and

7478 (ii) explains the need to place the business with that insurer.

7479 (c) A copy of the notice described in Subsection (7)(b) shall be kept in the office of the
7480 surplus line producer for at least five years.

7481 (d) To be financially sound, an insurer shall satisfy standards that are comparable to
7482 those applied under the laws of this state to an authorized insurer.

7483 (e) An insurer on the "doubtful or objectionable" list under Subsection (6)(d) or an
7484 insurer not on the commissioner's "reliable" list under Subsection (6)(e) is presumed
7485 substandard.

7486 (8) (a) A policy issued under this section shall:

7487 (i) include a description of the subject of the insurance; and

7488 (ii) indicate:

7489 (A) the coverage, conditions, and term of the insurance;

7490 (B) the premium charged the policyholder;

7491 (C) the premium taxes to be collected from the policyholder; and

7492 (D) the name and address of the policyholder and insurer.

7493 (b) If the direct risk is assumed by more than one insurer, the policy shall state:

7494 (i) the names and addresses of all insurers; and

7495 (ii) the portion of the entire direct risk each assumes.

7496 (c) A policy issued under this section shall have attached or affixed to the policy the
7497 following statement: "The insurer issuing this policy does not hold a certificate of authority to
7498 do business in this state and thus is not fully subject to regulation by the Utah insurance

7499 commissioner. This policy receives no protection from any of the guaranty associations created
7500 under Title 31A, Chapter 28, Guaranty Associations."

7501 (9) Upon placing a new or renewal coverage under this section, a surplus lines
7502 producer shall promptly deliver to the policyholder or the policyholder's agent evidence of the
7503 insurance consisting either of:

7504 (a) the policy as issued by the insurer; or

7505 (b) if the policy is not available upon placing the coverage, a certificate, cover note, or
7506 other confirmation of insurance complying with Subsection (8).

7507 (10) If the commissioner finds it necessary to protect the interests of insureds and the
7508 public in this state, the commissioner may by rule subject a policy issued under this section to
7509 as much of the regulation provided by this title as is required for a comparable policy written
7510 by an authorized foreign insurer.

7511 (11) (a) A surplus lines transaction in this state shall be examined to determine whether
7512 it complies with:

7513 (i) the surplus lines tax levied under Chapter 3, Department Funding, Fees, and Taxes;

7514 (ii) the solicitation limitations of Subsection (3);

7515 (iii) the requirement of Subsection (3) that placement be through a surplus lines
7516 producer;

7517 (iv) placement limitations imposed under Subsections (6)(a), (b), and (c); and

7518 (v) the policy form requirements of Subsections (8) and (10).

7519 (b) The examination described in Subsection (11)(a) shall take place as soon as
7520 practicable after the transaction. The surplus lines producer shall submit to the examiner
7521 information necessary to conduct the examination within a period specified by rule.

7522 (c) (i) The examination described in Subsection (11)(a) may be conducted by the
7523 commissioner or by an advisory organization created under Section [31A-15-111](#) and authorized
7524 by the commissioner to conduct these examinations. The commissioner is not required to
7525 authorize an additional advisory organization to conduct an examination under this Subsection
7526 (11)(c).

7527 (ii) The commissioner's authorization of one or more advisory organizations to act as
7528 examiners under this Subsection (11)(c) shall be:

7529 (A) by rule; and

7530 (B) evidenced by a contract, on a form provided by the commissioner, between the
7531 authorized advisory organization and the department.

7532 (d) (i) (A) A person conducting the examination described in Subsection (11)(a) shall
7533 collect a stamping fee of an amount not to exceed 1% of the policy premium payable in
7534 connection with the transaction.

7535 (B) A stamping fee collected by the commissioner shall be deposited in the General
7536 Fund.

7537 (C) The commissioner shall establish a stamping fee by rule.

7538 (ii) A stamping fee collected by an advisory organization is the property of the advisory
7539 organization to be used in paying the expenses of the advisory organization.

7540 (iii) Liability for paying a stamping fee is as required under Subsection [31A-3-303\(1\)](#)
7541 for taxes imposed under Section [31A-3-301](#).

7542 (iv) The commissioner shall adopt a rule dealing with the payment of stamping fees. If
7543 a stamping fee is not paid when due, the commissioner or advisory organization may impose a
7544 penalty of 25% of the stamping fee due, plus 1-1/2% per month from the time of default until
7545 full payment of the stamping fee.

7546 (e) The commissioner, representatives of the department, advisory organizations,
7547 representatives and members of advisory organizations, authorized insurers, and surplus lines
7548 insurers are not liable for damages on account of statements, comments, or recommendations
7549 made in good faith in connection with their duties under this Subsection (11)(e) or under
7550 Section [31A-15-111](#).

7551 (f) An examination conducted under this Subsection (11) and a document or materials
7552 related to the examination are confidential.

7553 (12) (a) For a surplus lines insurance transaction in the state entered into on or after
7554 May 13, 2014, if an audit is required by the surplus lines insurance policy, a surplus lines
7555 insurer:

7556 (i) shall exercise due diligence to initiate an audit of an insured, to determine whether
7557 additional premium is owed by the insured, by no later than six months after the expiration of
7558 the term for which premium is paid; and

7559 (ii) may not audit an insured more than three years after the surplus lines insurance
7560 policy expires.

7561 (b) A surplus lines insurer that does not comply with this Subsection (12) may not
7562 charge or collect additional premium in excess of the premium agreed to under the surplus
7563 lines insurance policy.

7564 Section 84. Section **31A-22-305** is amended to read:

7565 **31A-22-305. Uninsured motorist coverage.**

7566 (1) As used in this section, "covered persons" includes:

7567 (a) the named insured;

7568 (b) for a claim arising on or after May 13, 2014, the named insured's dependent minor
7569 children;

7570 (c) persons related to the named insured by blood, marriage, adoption, or guardianship,
7571 who are residents of the named insured's household, including those who usually make their
7572 home in the same household but temporarily live elsewhere;

7573 (d) any person occupying or using a motor vehicle:

7574 (i) referred to in the policy; or

7575 (ii) owned by a self-insured; and

7576 (e) any person who is entitled to recover damages against the owner or operator of the
7577 uninsured or underinsured motor vehicle because of bodily injury to or death of persons under
7578 Subsection (1)(a), (b), (c), or (d).

7579 (2) As used in this section, "uninsured motor vehicle" includes:

7580 (a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered
7581 under a liability policy at the time of an injury-causing occurrence; or

7582 (ii) (A) a motor vehicle covered with lower liability limits than required by Section
7583 [31A-22-304](#); and

7584 (B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of
7585 the deficiency;

7586 (b) an unidentified motor vehicle that left the scene of an accident proximately caused
7587 by the motor vehicle operator;

7588 (c) a motor vehicle covered by a liability policy, but coverage for an accident is
7589 disputed by the liability insurer for more than 60 days or continues to be disputed for more than
7590 60 days; or

7591 (d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of

7592 the motor vehicle is declared insolvent by a court of competent jurisdiction; and

7593 (ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent
7594 that the claim against the insolvent insurer is not paid by a guaranty association or fund.

7595 (3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides
7596 coverage for covered persons who are legally entitled to recover damages from owners or
7597 operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

7598 (4) (a) For new policies written on or after January 1, 2001, the limits of uninsured
7599 motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle
7600 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
7601 under the named insured's motor vehicle policy, unless a named insured rejects or purchases
7602 coverage in a lesser amount by signing an acknowledgment form that:

7603 (i) is filed with the department;

7604 (ii) is provided by the insurer;

7605 (iii) waives the higher coverage;

7606 (iv) need only state in this or similar language that uninsured motorist coverage
7607 provides benefits or protection to you and other covered persons for bodily injury resulting
7608 from an accident caused by the fault of another party where the other party has no liability
7609 insurance; and

7610 (v) discloses the additional premiums required to purchase uninsured motorist
7611 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
7612 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
7613 under the named insured's motor vehicle policy.

7614 (b) Any selection or rejection under this Subsection (4) continues for that issuer of the
7615 liability coverage until the insured requests, in writing, a change of uninsured motorist
7616 coverage from that liability insurer.

7617 (c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after
7618 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for
7619 arbitration or filed a complaint in a court of competent jurisdiction.

7620 (ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b)
7621 clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

7622 (d) For purposes of this Subsection (4), "new policy" means:

- 7623 (i) any policy that is issued which does not include a renewal or reinstatement of an
7624 existing policy; or
- 7625 (ii) a change to an existing policy that results in:
- 7626 (A) a named insured being added to or deleted from the policy; or
- 7627 (B) a change in the limits of the named insured's motor vehicle liability coverage.
- 7628 (e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change
7629 that increases the total number of vehicles insured by the policy, and does not include
7630 replacement, substitute, or temporary vehicles.
- 7631 (ii) The adding of an additional motor vehicle to an existing personal lines or
7632 commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).
- 7633 (iii) If an additional motor vehicle is added to a personal lines policy where uninsured
7634 motorist coverage has been rejected, or where uninsured motorist limits are lower than the
7635 named insured's motor vehicle liability limits, the insurer shall provide a notice to a named
7636 insured within 30 days that:
- 7637 (A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of
7638 uninsured motorist coverage; and
- 7639 (B) encourages the named insured to contact the insurance company or insurance
7640 producer for quotes as to the additional premiums required to purchase uninsured motorist
7641 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
7642 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
7643 under the named insured's motor vehicle policy.
- 7644 (f) A change in policy number resulting from any policy change not identified under
7645 Subsection (4)(d)(ii) does not constitute a new policy.
- 7646 (g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1,
7647 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration
7648 or filed a complaint in a court of competent jurisdiction.
- 7649 (ii) The Legislature finds that the retroactive application of Subsection (4):
- 7650 (A) does not enlarge, eliminate, or destroy vested rights; and
- 7651 (B) clarifies legislative intent.
- 7652 (h) A self-insured, including a governmental entity, may elect to provide uninsured
7653 motorist coverage in an amount that is less than its maximum self-insured retention under

7654 Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from
7655 the chief financial officer or chief risk officer that declares the:

- 7656 (i) self-insured entity's coverage level; and
7657 (ii) process for filing an uninsured motorist claim.

7658 (i) Uninsured motorist coverage may not be sold with limits that are less than the
7659 minimum bodily injury limits for motor vehicle liability policies under Section [31A-22-304](#).

7660 (j) The acknowledgment under Subsection (4)(a) continues for that issuer of the
7661 uninsured motorist coverage until the named insured requests, in writing, different uninsured
7662 motorist coverage from the insurer.

7663 (k) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for
7664 policies existing on that date, the insurer shall disclose in the same medium as the premium
7665 renewal notice, an explanation of:

7666 (A) the purpose of uninsured motorist coverage in the same manner as described in
7667 Subsection (4)(a)(iv); and

7668 (B) a disclosure of the additional premiums required to purchase uninsured motorist
7669 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
7670 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
7671 under the named insured's motor vehicle policy.

7672 (ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named
7673 insureds that carry uninsured motorist coverage limits in an amount less than the named
7674 insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage
7675 limits available by the insurer under the named insured's motor vehicle policy.

7676 (l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in
7677 a household constitutes notice or disclosure to all insureds within the household.

7678 (5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject
7679 uninsured motorist coverage by an express writing to the insurer that provides liability
7680 coverage under Subsection [31A-22-302\(1\)\(a\)](#).

7681 (ii) This rejection shall be on a form provided by the insurer that includes a reasonable
7682 explanation of the purpose of uninsured motorist coverage.

7683 (iii) This rejection continues for that issuer of the liability coverage until the insured in
7684 writing requests uninsured motorist coverage from that liability insurer.

7685 (b) (i) All persons, including governmental entities, that are engaged in the business of,
7686 or that accept payment for, transporting natural persons by motor vehicle, and all school
7687 districts that provide transportation services for their students, shall provide coverage for all
7688 motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance,
7689 uninsured motorist coverage of at least \$25,000 per person and \$500,000 per accident.

7690 (ii) This coverage is secondary to any other insurance covering an injured covered
7691 person.

7692 (c) Uninsured motorist coverage:

7693 (i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'
7694 Compensation Act, except that the covered person is credited an amount described in
7695 Subsection [34A-2-106\(5\)](#);

7696 (ii) may not be subrogated by the workers' compensation insurance carrier, workers'
7697 compensation insurance, uninsured employer, the Uninsured Employers Fund created in
7698 Section [34A-2-704](#), or the Employers' Reinsurance Fund created in Section [34A-2-702](#);

7699 (iii) may not be reduced by any benefits provided by workers' compensation insurance,
7700 uninsured employer, the Uninsured Employers Fund created in Section [34A-2-704](#), or the
7701 Employers' Reinsurance Fund created in Section [34A-2-702](#);

7702 (iv) may be reduced by health insurance subrogation only after the covered person has
7703 been made whole;

7704 (v) may not be collected for bodily injury or death sustained by a person:

7705 (A) while committing a violation of Section [41-1a-1314](#);

7706 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated
7707 in violation of Section [41-1a-1314](#); or

7708 (C) while committing a felony; and

7709 (vi) notwithstanding Subsection (5)(c)(v), may be recovered:

7710 (A) for a person under 18 years old who is injured within the scope of Subsection
7711 (5)(c)(v) but limited to medical and funeral expenses; or

7712 (B) by a law enforcement officer as defined in Section [53-13-103](#), who is injured
7713 within the course and scope of the law enforcement officer's duties.

7714 (d) As used in this Subsection (5), "motor vehicle" has the same meaning as under
7715 Section [41-1a-102](#).

7716 (6) When a covered person alleges that an uninsured motor vehicle under Subsection
7717 (2)(b) proximately caused an accident without touching the covered person or the motor
7718 vehicle occupied by the covered person, the covered person shall show the existence of the
7719 uninsured motor vehicle by clear and convincing evidence consisting of more than the covered
7720 person's testimony.

7721 (7) (a) The limit of liability for uninsured motorist coverage for two or more motor
7722 vehicles may not be added together, combined, or stacked to determine the limit of insurance
7723 coverage available to an injured person for any one accident.

7724 (b) (i) Subsection (7)(a) applies to all persons except a covered person as defined under
7725 Subsection (8)(b).

7726 (ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest
7727 limits of uninsured motorist coverage afforded for any one motor vehicle that the covered
7728 person is the named insured or an insured family member.

7729 (iii) This coverage shall be in addition to the coverage on the motor vehicle the covered
7730 person is occupying.

7731 (iv) Neither the primary nor the secondary coverage may be set off against the other.

7732 (c) Coverage on a motor vehicle occupied at the time of an accident shall be primary
7733 coverage, and the coverage elected by a person described under Subsections (1)(a), (b), and (c)
7734 shall be secondary coverage.

7735 (8) (a) Uninsured motorist coverage under this section applies to bodily injury,
7736 sickness, disease, or death of covered persons while occupying or using a motor vehicle only if
7737 the motor vehicle is described in the policy under which a claim is made, or if the motor
7738 vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy.
7739 Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a
7740 motor vehicle described in a policy that includes uninsured motorist benefits may not elect to
7741 collect uninsured motorist coverage benefits from any other motor vehicle insurance policy
7742 under which the person is a covered person.

7743 (b) Each of the following persons may also recover uninsured motorist benefits under
7744 any one other policy in which they are described as a "covered person" as defined in Subsection
7745 (1):

7746 (i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

7747 (ii) except as provided in Subsection (8)(c), a covered person injured while occupying
7748 or using a motor vehicle that is not owned, leased, or furnished:

7749 (A) to the covered person;

7750 (B) to the covered person's spouse; or

7751 (C) to the covered person's resident parent or resident sibling.

7752 (c) (i) A covered person may recover benefits from no more than two additional
7753 policies, one additional policy from each parent's household if the covered person is:

7754 (A) a dependent minor of parents who reside in separate households; and

7755 (B) injured while occupying or using a motor vehicle that is not owned, leased, or
7756 furnished:

7757 (I) to the covered person;

7758 (II) to the covered person's resident parent; or

7759 (III) to the covered person's resident sibling.

7760 (ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of
7761 the damages that the limit of liability of each parent's policy of uninsured motorist coverage
7762 bears to the total of both parents' uninsured coverage applicable to the accident.

7763 (d) A covered person's recovery under any available policies may not exceed the full
7764 amount of damages.

7765 (e) A covered person in Subsection (8)(b) is not barred against making subsequent
7766 elections if recovery is unavailable under previous elections.

7767 (f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a
7768 single incident of loss under more than one insurance policy.

7769 (ii) Except to the extent permitted by Subsection (7) and this Subsection (8),
7770 interpolicy stacking is prohibited for uninsured motorist coverage.

7771 (9) (a) When a claim is brought by a named insured or a person described in
7772 Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the
7773 claimant may elect to resolve the claim:

7774 (i) by submitting the claim to binding arbitration; or

7775 (ii) through litigation.

7776 (b) Unless otherwise provided in the policy under which uninsured benefits are
7777 claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that

7778 if the policy under which insured benefits are claimed provides that either an insured or the
7779 insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to
7780 arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

7781 (c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii),
7782 the claimant may not elect to resolve the claim through binding arbitration under this section
7783 without the written consent of the uninsured motorist carrier.

7784 (d) For purposes of the statute of limitations applicable to a claim described in
7785 Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the
7786 claim is considered filed when the claimant submits the claim to binding arbitration in
7787 accordance with this Subsection (9).

7788 (e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
7789 binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

7790 (ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).

7791 (iii) If the parties are unable to agree on a single arbitrator as required under Subsection
7792 (9)(e)(ii), the parties shall select a panel of three arbitrators.

7793 (f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):

7794 (i) each side shall select one arbitrator; and

7795 (ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional
7796 arbitrator to be included in the panel.

7797 (g) Unless otherwise agreed to in writing:

7798 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected
7799 under Subsection (9)(e)(i); or

7800 (ii) if an arbitration panel is selected under Subsection (9)(e)(iii):

7801 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and

7802 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected
7803 under Subsection (9)(f)(ii).

7804 (h) Except as otherwise provided in this section or unless otherwise agreed to in
7805 writing by the parties, an arbitration proceeding conducted under this section shall be governed
7806 by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

7807 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),
7808 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of

7809 Subsections (10)(a) through (c) are satisfied.

7810 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure
7811 shall be determined based on the claimant's specific monetary amount in the written demand
7812 for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

7813 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to
7814 arbitration claims under this part.

7815 (j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

7816 (k) A written decision by a single arbitrator or by a majority of the arbitration panel
7817 shall constitute a final decision.

7818 (l) (i) Except as provided in Subsection (10), the amount of an arbitration award may
7819 not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies,
7820 including applicable uninsured motorist umbrella policies.

7821 (ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all
7822 applicable uninsured motorist policies, the arbitration award shall be reduced to an amount
7823 equal to the combined uninsured motorist policy limits of all applicable uninsured motorist
7824 policies.

7825 (m) The arbitrator or arbitration panel may not decide the issues of coverage or
7826 extra-contractual damages, including:

7827 (i) whether the claimant is a covered person;

7828 (ii) whether the policy extends coverage to the loss; or

7829 (iii) any allegations or claims asserting consequential damages or bad faith liability.

7830 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or
7831 class-representative basis.

7832 (o) If the arbitrator or arbitration panel finds that the action was not brought, pursued,
7833 or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees
7834 and costs against the party that failed to bring, pursue, or defend the claim in good faith.

7835 (p) An arbitration award issued under this section shall be the final resolution of all
7836 claims not excluded by Subsection (9)(m) between the parties unless:

7837 (i) the award was procured by corruption, fraud, or other undue means;

7838 (ii) either party, within 20 days after service of the arbitration award:

7839 (A) files a complaint requesting a trial de novo in the district court; and

7840 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo
7841 under Subsection (9)(p)(ii)(A).

7842 (q) (i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim
7843 shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules
7844 of Evidence in the district court.

7845 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
7846 request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

7847 (r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection
7848 (9)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the
7849 arbitration award, the claimant is responsible for all of the nonmoving party's costs.

7850 (ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested
7851 under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the arbitration
7852 award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

7853 (iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r)
7854 shall include:

7855 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

7856 (B) the costs of expert witnesses and depositions.

7857 (iv) An award of costs under this Subsection (9)(r) may not exceed \$2,500 unless
7858 Subsection (10)(h)(iii) applies.

7859 (s) For purposes of determining whether a party's verdict is greater or less than the
7860 arbitration award under Subsection (9)(r), a court may not consider any recovery or other relief
7861 granted on a claim for damages if the claim for damages:

7862 (i) was not fully disclosed in writing prior to the arbitration proceeding; or

7863 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil
7864 Procedure.

7865 (t) If a district court determines, upon a motion of the nonmoving party, that the
7866 moving party's use of the trial de novo process was filed in bad faith in accordance with
7867 Section [78B-5-825](#), the district court may award reasonable attorney fees to the nonmoving
7868 party.

7869 (u) Nothing in this section is intended to limit any claim under any other portion of an
7870 applicable insurance policy.

7871 (v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the
7872 claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist
7873 carriers.

7874 (10) (a) Within 30 days after a covered person elects to submit a claim for uninsured
7875 motorist benefits to binding arbitration or files litigation, the covered person shall provide to
7876 the uninsured motorist carrier:

7877 (i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

7878 (A) subject to Subsection (10)(m), the specific monetary amount of the demand,
7879 including a computation of the covered person's claimed past medical expenses, claimed past
7880 lost wages, and the other claimed past economic damages; and

7881 (B) the factual and legal basis and any supporting documentation for the demand;

7882 (ii) a written statement under oath disclosing:

7883 (A) (I) the names and last known addresses of all health care providers who have
7884 rendered health care services to the covered person that are material to the claims for which
7885 uninsured motorist benefits are sought for a period of five years preceding the date of the event
7886 giving rise to the claim for uninsured motorist benefits up to the time the election for
7887 arbitration or litigation has been exercised; and

7888 (II) the names and last known addresses of the health care providers who have rendered
7889 health care services to the covered person, which the covered person claims are immaterial to
7890 the claims for which uninsured motorist benefits are sought, for a period of five years
7891 preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the
7892 time the election for arbitration or litigation has been exercised that have not been disclosed
7893 under Subsection (10)(a)(ii)(A)(I);

7894 (B) (I) the names and last known addresses of all health insurers or other entities to
7895 whom the covered person has submitted claims for health care services or benefits material to
7896 the claims for which uninsured motorist benefits are sought, for a period of five years
7897 preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the
7898 time the election for arbitration or litigation has been exercised; and

7899 (II) the names and last known addresses of the health insurers or other entities to whom
7900 the covered person has submitted claims for health care services or benefits, which the covered
7901 person claims are immaterial to the claims for which uninsured motorist benefits are sought,

7902 for a period of five years preceding the date of the event giving rise to the claim for uninsured
7903 motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

7904 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all
7905 employers of the covered person for a period of five years preceding the date of the event
7906 giving rise to the claim for uninsured motorist benefits up to the time the election for
7907 arbitration or litigation has been exercised;

7908 (D) other documents to reasonably support the claims being asserted; and

7909 (E) all state and federal statutory lienholders including a statement as to whether the
7910 covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health
7911 Insurance Program benefits under [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~]
7912 Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is
7913 subject to any other state or federal statutory liens; and

7914 (iii) signed authorizations to allow the uninsured motorist carrier to only obtain records
7915 and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I),
7916 (B)(I), and (C).

7917 (b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed
7918 health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably
7919 necessary, the uninsured motorist carrier may:

7920 (A) make a request for the disclosure of the identity of the health care providers or
7921 health care insurers; and

7922 (B) make a request for authorizations to allow the uninsured motorist carrier to only
7923 obtain records and billings from the individuals or entities not disclosed.

7924 (ii) If the covered person does not provide the requested information within 10 days:

7925 (A) the covered person shall disclose, in writing, the legal or factual basis for the
7926 failure to disclose the health care providers or health care insurers; and

7927 (B) either the covered person or the uninsured motorist carrier may request the
7928 arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be
7929 provided if the covered person has elected arbitration.

7930 (iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of
7931 the dispute concerning the disclosure and production of records of the health care providers or
7932 health care insurers.

7933 (c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice
7934 of filing litigation and the demand for payment of uninsured motorist benefits under Subsection
7935 (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and
7936 receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

7937 (A) provide a written response to the written demand for payment provided for in
7938 Subsection (10)(a)(i);

7939 (B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the
7940 uninsured motorist carrier's determination of the amount owed to the covered person; and

7941 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
7942 Children's Health Insurance Program benefits under [~~Title 26, Chapter 40, Utah Children's~~
7943 ~~Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program,
7944 or if the claim is subject to any other state or federal statutory liens, tender the amount, if any,
7945 of the uninsured motorist carrier's determination of the amount owed to the covered person
7946 less:

7947 (I) if the amount of the state or federal statutory lien is established, the amount of the
7948 lien; or

7949 (II) if the amount of the state or federal statutory lien is not established, two times the
7950 amount of the medical expenses subject to the state or federal statutory lien until such time as
7951 the amount of the state or federal statutory lien is established.

7952 (ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i)
7953 is the total amount of the uninsured motorist policy limits, the tendered amount shall be
7954 accepted by the covered person.

7955 (d) A covered person who receives a written response from an uninsured motorist
7956 carrier as provided for in Subsection (10)(c)(i), may:

7957 (i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all
7958 uninsured motorist claims; or

7959 (ii) elect to:

7960 (A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all
7961 uninsured motorist claims; and

7962 (B) continue to litigate or arbitrate the remaining claim in accordance with the election
7963 made under Subsections (9)(a), (b), and (c).

7964 (e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i)
7965 as partial payment of all uninsured motorist claims, the final award obtained through
7966 arbitration, litigation, or later settlement shall be reduced by any payment made by the
7967 uninsured motorist carrier under Subsection (10)(c)(i).

7968 (f) In an arbitration proceeding on the remaining uninsured claims:

7969 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid
7970 under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

7971 (ii) the parties may not disclose the amount of the limits of uninsured motorist benefits
7972 provided by the policy.

7973 (g) If the final award obtained through arbitration or litigation is greater than the
7974 average of the covered person's initial written demand for payment provided for in Subsection
7975 (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in
7976 Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

7977 (i) the final award obtained through arbitration or litigation, except that if the award
7978 exceeds the policy limits of the subject uninsured motorist policy by more than \$15,000, the
7979 amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

7980 (ii) any of the following applicable costs:

7981 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

7982 (B) the arbitrator or arbitration panel's fee; and

7983 (C) the reasonable costs of expert witnesses and depositions used in the presentation of
7984 evidence during arbitration or litigation.

7985 (h) (i) The covered person shall provide an affidavit of costs within five days of an
7986 arbitration award.

7987 (ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to
7988 which the uninsured motorist carrier objects.

7989 (B) The objection shall be resolved by the arbitrator or arbitration panel.

7990 (iii) The award of costs by the arbitrator or arbitration panel under Subsection
7991 (10)(g)(ii) may not exceed \$5,000.

7992 (i) (i) A covered person shall disclose all material information, other than rebuttal
7993 evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist
7994 coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

7995 (ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person
7996 may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

7997 (j) This Subsection (10) does not limit any other cause of action that arose or may arise
7998 against the uninsured motorist carrier from the same dispute.

7999 (k) The provisions of this Subsection (10) only apply to motor vehicle accidents that
8000 occur on or after March 30, 2010.

8001 (l) (i) The written demand requirement in Subsection (10)(a)(i)(A) does not affect the
8002 covered person's requirement to provide a computation of any other economic damages
8003 claimed, and the one or more respondents shall have a reasonable time after the receipt of the
8004 computation of any other economic damages claimed to conduct fact and expert discovery as to
8005 any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290,
8006 Section 10, and Chapter 300, Section 10, to this Subsection (10)(l) and Subsection
8007 (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after
8008 May 13, 2014.

8009 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter
8010 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to
8011 binding arbitration or through litigation on or after May 13, 2014.

8012 (11) (a) Notwithstanding Section 31A-21-313, an action on a written policy or contract
8013 for uninsured motorist coverage shall be commenced within four years after the inception of
8014 loss.

8015 (b) Subsection (11)(a) shall apply to all claims that have not been time barred by
8016 Subsection 31A-21-313(1)(a) as of May 14, 2019.

8017 Section 85. Section 31A-22-305.3 is amended to read:

8018 **31A-22-305.3. Underinsured motorist coverage.**

8019 (1) As used in this section:

8020 (a) "Covered person" has the same meaning as defined in Section 31A-22-305.

8021 (b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation,
8022 maintenance, or use of which is covered under a liability policy at the time of an injury-causing
8023 occurrence, but which has insufficient liability coverage to compensate fully the injured party
8024 for all special and general damages.

8025 (ii) The term "underinsured motor vehicle" does not include:

8026 (A) a motor vehicle that is covered under the liability coverage of the same policy that
8027 also contains the underinsured motorist coverage;

8028 (B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

8029 (C) a motor vehicle owned or leased by:

8030 (I) a named insured;

8031 (II) a named insured's spouse; or

8032 (III) a dependent of a named insured.

8033 (2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides
8034 coverage for a covered person who is legally entitled to recover damages from an owner or
8035 operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.

8036 (b) A covered person occupying or using a motor vehicle owned, leased, or furnished
8037 to the covered person, the covered person's spouse, or covered person's resident relative may
8038 recover underinsured benefits only if the motor vehicle is:

8039 (i) described in the policy under which a claim is made; or

8040 (ii) a newly acquired or replacement motor vehicle covered under the terms of the
8041 policy.

8042 (3) (a) For purposes of this Subsection (3), "new policy" means:

8043 (i) any policy that is issued that does not include a renewal or reinstatement of an
8044 existing policy; or

8045 (ii) a change to an existing policy that results in:

8046 (A) a named insured being added to or deleted from the policy; or

8047 (B) a change in the limits of the named insured's motor vehicle liability coverage.

8048 (b) For new policies written on or after January 1, 2001, the limits of underinsured
8049 motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle
8050 liability coverage or the maximum underinsured motorist coverage limits available by the
8051 insurer under the named insured's motor vehicle policy, unless a named insured rejects or
8052 purchases coverage in a lesser amount by signing an acknowledgment form that:

8053 (i) is filed with the department;

8054 (ii) is provided by the insurer;

8055 (iii) waives the higher coverage;

8056 (iv) need only state in this or similar language that "underinsured motorist coverage

8057 provides benefits or protection to you and other covered persons for bodily injury resulting
8058 from an accident caused by the fault of another party where the other party has insufficient
8059 liability insurance"; and

8060 (v) discloses the additional premiums required to purchase underinsured motorist
8061 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
8062 liability coverage or the maximum underinsured motorist coverage limits available by the
8063 insurer under the named insured's motor vehicle policy.

8064 (c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the
8065 liability coverage until the insured requests, in writing, a change of underinsured motorist
8066 coverage from that liability insurer.

8067 (d) (i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after
8068 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for
8069 arbitration or filed a complaint in a court of competent jurisdiction.

8070 (ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c)
8071 clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

8072 (e) (i) As used in this Subsection (3)(e), "additional motor vehicle" means a change
8073 that increases the total number of vehicles insured by the policy, and does not include
8074 replacement, substitute, or temporary vehicles.

8075 (ii) The adding of an additional motor vehicle to an existing personal lines or
8076 commercial lines policy does not constitute a new policy for purposes of Subsection (3)(a).

8077 (iii) If an additional motor vehicle is added to a personal lines policy where
8078 underinsured motorist coverage has been rejected, or where underinsured motorist limits are
8079 lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice
8080 to a named insured within 30 days that:

8081 (A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of
8082 underinsured motorist coverage; and

8083 (B) encourages the named insured to contact the insurance company or insurance
8084 producer for quotes as to the additional premiums required to purchase underinsured motorist
8085 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
8086 liability coverage or the maximum underinsured motorist coverage limits available by the
8087 insurer under the named insured's motor vehicle policy.

8088 (f) A change in policy number resulting from any policy change not identified under
8089 Subsection (3)(a)(ii) does not constitute a new policy.

8090 (g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1,
8091 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or
8092 filed a complaint in a court of competent jurisdiction.

8093 (ii) The Legislature finds that the retroactive application of Subsection (3)(a):

8094 (A) does not enlarge, eliminate, or destroy vested rights; and

8095 (B) clarifies legislative intent.

8096 (h) A self-insured, including a governmental entity, may elect to provide underinsured
8097 motorist coverage in an amount that is less than its maximum self-insured retention under
8098 Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy statement from the
8099 chief financial officer or chief risk officer that declares the:

8100 (i) self-insured entity's coverage level; and

8101 (ii) process for filing an underinsured motorist claim.

8102 (i) Underinsured motorist coverage may not be sold with limits that are less than:

8103 (i) \$10,000 for one person in any one accident; and

8104 (ii) at least \$20,000 for two or more persons in any one accident.

8105 (j) An acknowledgment under Subsection (3)(b) continues for that issuer of the
8106 underinsured motorist coverage until the named insured, in writing, requests different
8107 underinsured motorist coverage from the insurer.

8108 (k) (i) The named insured's underinsured motorist coverage, as described in Subsection
8109 (2), is secondary to the liability coverage of an owner or operator of an underinsured motor
8110 vehicle, as described in Subsection (1).

8111 (ii) Underinsured motorist coverage may not be set off against the liability coverage of
8112 the owner or operator of an underinsured motor vehicle, but shall be added to, combined with,
8113 or stacked upon the liability coverage of the owner or operator of the underinsured motor
8114 vehicle to determine the limit of coverage available to the injured person.

8115 (l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for
8116 policies existing on that date, the insurer shall disclose in the same medium as the premium
8117 renewal notice, an explanation of:

8118 (A) the purpose of underinsured motorist coverage in the same manner as described in

8119 Subsection (3)(b)(iv); and

8120 (B) a disclosure of the additional premiums required to purchase underinsured motorist
8121 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
8122 liability coverage or the maximum underinsured motorist coverage limits available by the
8123 insurer under the named insured's motor vehicle policy.

8124 (ii) The disclosure required under this Subsection (3)(l) shall be sent to all named
8125 insureds that carry underinsured motorist coverage limits in an amount less than the named
8126 insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage
8127 limits available by the insurer under the named insured's motor vehicle policy.

8128 (m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured
8129 in a household constitutes notice or disclosure to all insureds within the household.

8130 (4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a
8131 motor vehicle described in a policy that includes underinsured motorist benefits may not elect
8132 to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

8133 (ii) The limit of liability for underinsured motorist coverage for two or more motor
8134 vehicles may not be added together, combined, or stacked to determine the limit of insurance
8135 coverage available to an injured person for any one accident.

8136 (iii) Subsection (4)(a)(ii) applies to all persons except a covered person described
8137 under Subsections (4)(b)(i) and (ii).

8138 (b) (i) A covered person injured as a pedestrian by an underinsured motor vehicle may
8139 recover underinsured motorist benefits under any one other policy in which they are described
8140 as a covered person.

8141 (ii) Except as provided in Subsection (4)(b)(iii), a covered person injured while
8142 occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the
8143 covered person, the covered person's spouse, or the covered person's resident parent or resident
8144 sibling, may also recover benefits under any one other policy under which the covered person is
8145 also a covered person.

8146 (iii) (A) A covered person may recover benefits from no more than two additional
8147 policies, one additional policy from each parent's household if the covered person is:

8148 (I) a dependent minor of parents who reside in separate households; and

8149 (II) injured while occupying or using a motor vehicle that is not owned, leased, or

8150 furnished to the covered person, the covered person's resident parent, or the covered person's
8151 resident sibling.

8152 (B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the
8153 percentage of the damages that the limit of liability of each parent's policy of underinsured
8154 motorist coverage bears to the total of both parents' underinsured coverage applicable to the
8155 accident.

8156 (iv) A covered person's recovery under any available policies may not exceed the full
8157 amount of damages.

8158 (v) Underinsured coverage on a motor vehicle occupied at the time of an accident is
8159 primary coverage, and the coverage elected by a person described under Subsections
8160 [31A-22-305](#)(1)(a), (b), and (c) is secondary coverage.

8161 (vi) The primary and the secondary coverage may not be set off against the other.

8162 (vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the
8163 highest limits of underinsured motorist coverage under only one additional policy per
8164 household applicable to that covered person as a named insured, spouse, or relative.

8165 (viii) A covered injured person is not barred against making subsequent elections if
8166 recovery is unavailable under previous elections.

8167 (ix) (A) As used in this section, "interpolicy stacking" means recovering benefits for a
8168 single incident of loss under more than one insurance policy.

8169 (B) Except to the extent permitted by this Subsection (4), interpolicy stacking is
8170 prohibited for underinsured motorist coverage.

8171 (c) Underinsured motorist coverage:

8172 (i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'
8173 Compensation Act, except that the covered person is credited an amount described in
8174 Subsection [34A-2-106](#)(5);

8175 (ii) may not be subrogated by a workers' compensation insurance carrier, workers'
8176 compensation insurance, uninsured employer, the Uninsured Employers Fund created in
8177 Section [34A-2-704](#), or the Employers' Reinsurance Fund created in Section [34A-2-702](#);

8178 (iii) may not be reduced by benefits provided by workers' compensation insurance,
8179 uninsured employer, the Uninsured Employers Fund created in Section [34A-2-704](#), or the
8180 Employers' Reinsurance Fund created in Section [34A-2-702](#);

8181 (iv) may be reduced by health insurance subrogation only after the covered person is
8182 made whole;

8183 (v) may not be collected for bodily injury or death sustained by a person:

8184 (A) while committing a violation of Section 41-1a-1314;

8185 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated
8186 in violation of Section 41-1a-1314; or

8187 (C) while committing a felony; and

8188 (vi) notwithstanding Subsection (4)(c)(v), may be recovered:

8189 (A) for a person younger than 18 years old who is injured within the scope of
8190 Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

8191 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured
8192 within the course and scope of the law enforcement officer's duties.

8193 (5) The inception of the loss under Subsection 31A-21-313(1) for underinsured
8194 motorist claims occurs upon the date of the last liability policy payment.

8195 (6) An underinsured motorist insurer does not have a right of reimbursement against a
8196 person liable for the damages resulting from an injury-causing occurrence if the person's
8197 liability insurer has tendered the policy limit and the limits have been accepted by the claimant.

8198 (7) Except as otherwise provided in this section, a covered person may seek, subject to
8199 the terms and conditions of the policy, additional coverage under any policy:

8200 (a) that provides coverage for damages resulting from motor vehicle accidents; and

8201 (b) that is not required to conform to Section 31A-22-302.

8202 (8) (a) When a claim is brought by a named insured or a person described in
8203 Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist
8204 carrier, the claimant may elect to resolve the claim:

8205 (i) by submitting the claim to binding arbitration; or

8206 (ii) through litigation.

8207 (b) Unless otherwise provided in the policy under which underinsured benefits are
8208 claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that
8209 if the policy under which insured benefits are claimed provides that either an insured or the
8210 insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to
8211 arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

8212 (c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the
8213 claimant may not elect to resolve the claim through binding arbitration under this section
8214 without the written consent of the underinsured motorist coverage carrier.

8215 (d) For purposes of the statute of limitations applicable to a claim described in
8216 Subsection (8)(a), if the claimant does not elect to resolve the claim through litigation, the
8217 claim is considered filed when the claimant submits the claim to binding arbitration in
8218 accordance with this Subsection (8).

8219 (e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
8220 binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

8221 (ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).

8222 (iii) If the parties are unable to agree on a single arbitrator as required under Subsection
8223 (8)(e)(ii), the parties shall select a panel of three arbitrators.

8224 (f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):

8225 (i) each side shall select one arbitrator; and

8226 (ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional
8227 arbitrator to be included in the panel.

8228 (g) Unless otherwise agreed to in writing:

8229 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected
8230 under Subsection (8)(e)(i); or

8231 (ii) if an arbitration panel is selected under Subsection (8)(e)(iii):

8232 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and

8233 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected
8234 under Subsection (8)(f)(ii).

8235 (h) Except as otherwise provided in this section or unless otherwise agreed to in
8236 writing by the parties, an arbitration proceeding conducted under this section is governed by
8237 Title 78B, Chapter 11, Utah Uniform Arbitration Act.

8238 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),
8239 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of
8240 Subsections (9)(a) through (c) are satisfied.

8241 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure
8242 shall be determined based on the claimant's specific monetary amount in the written demand

8243 for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

8244 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to
8245 arbitration claims under this part.

8246 (j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

8247 (k) A written decision by a single arbitrator or by a majority of the arbitration panel
8248 constitutes a final decision.

8249 (l) (i) Except as provided in Subsection (9), the amount of an arbitration award may not
8250 exceed the underinsured motorist policy limits of all applicable underinsured motorist policies,
8251 including applicable underinsured motorist umbrella policies.

8252 (ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all
8253 applicable underinsured motorist policies, the arbitration award shall be reduced to an amount
8254 equal to the combined underinsured motorist policy limits of all applicable underinsured
8255 motorist policies.

8256 (m) The arbitrator or arbitration panel may not decide an issue of coverage or
8257 extra-contractual damages, including:

8258 (i) whether the claimant is a covered person;

8259 (ii) whether the policy extends coverage to the loss; or

8260 (iii) an allegation or claim asserting consequential damages or bad faith liability.

8261 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or
8262 class-representative basis.

8263 (o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued,
8264 or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees
8265 and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.

8266 (p) An arbitration award issued under this section shall be the final resolution of all
8267 claims not excluded by Subsection (8)(m) between the parties unless:

8268 (i) the award is procured by corruption, fraud, or other undue means; or

8269 (ii) either party, within 20 days after service of the arbitration award:

8270 (A) files a complaint requesting a trial de novo in the district court; and

8271 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo
8272 under Subsection (8)(p)(ii)(A).

8273 (q) (i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall

8274 proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of
8275 Evidence in the district court.

8276 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
8277 request a jury trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

8278 (r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection
8279 (8)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the
8280 arbitration award, the claimant is responsible for all of the nonmoving party's costs.

8281 (ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested
8282 under Subsection (8)(p), does not obtain a verdict that is at least 20% less than the arbitration
8283 award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

8284 (iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r)
8285 shall include:

8286 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

8287 (B) the costs of expert witnesses and depositions.

8288 (iv) An award of costs under this Subsection (8)(r) may not exceed \$2,500 unless
8289 Subsection (9)(h)(iii) applies.

8290 (s) For purposes of determining whether a party's verdict is greater or less than the
8291 arbitration award under Subsection (8)(r), a court may not consider any recovery or other relief
8292 granted on a claim for damages if the claim for damages:

8293 (i) was not fully disclosed in writing prior to the arbitration proceeding; or

8294 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil
8295 Procedure.

8296 (t) If a district court determines, upon a motion of the nonmoving party, that a moving
8297 party's use of the trial de novo process is filed in bad faith in accordance with Section
8298 [78B-5-825](#), the district court may award reasonable attorney fees to the nonmoving party.

8299 (u) Nothing in this section is intended to limit a claim under another portion of an
8300 applicable insurance policy.

8301 (v) If there are multiple underinsured motorist policies, as set forth in Subsection (4),
8302 the claimant may elect to arbitrate in one hearing the claims against all the underinsured
8303 motorist carriers.

8304 (9) (a) Within 30 days after a covered person elects to submit a claim for underinsured

8305 motorist benefits to binding arbitration or files litigation, the covered person shall provide to
8306 the underinsured motorist carrier:

8307 (i) a written demand for payment of underinsured motorist coverage benefits, setting
8308 forth:

8309 (A) subject to Subsection (9)(l), the specific monetary amount of the demand,
8310 including a computation of the covered person's claimed past medical expenses, claimed past
8311 lost wages, and all other claimed past economic damages; and

8312 (B) the factual and legal basis and any supporting documentation for the demand;

8313 (ii) a written statement under oath disclosing:

8314 (A) (I) the names and last known addresses of all health care providers who have
8315 rendered health care services to the covered person that are material to the claims for which the
8316 underinsured motorist benefits are sought for a period of five years preceding the date of the
8317 event giving rise to the claim for underinsured motorist benefits up to the time the election for
8318 arbitration or litigation has been exercised; and

8319 (II) the names and last known addresses of the health care providers who have rendered
8320 health care services to the covered person, which the covered person claims are immaterial to
8321 the claims for which underinsured motorist benefits are sought, for a period of five years
8322 preceding the date of the event giving rise to the claim for underinsured motorist benefits up to
8323 the time the election for arbitration or litigation has been exercised that have not been disclosed
8324 under Subsection (9)(a)(ii)(A)(I);

8325 (B) (I) the names and last known addresses of all health insurers or other entities to
8326 whom the covered person has submitted claims for health care services or benefits material to
8327 the claims for which underinsured motorist benefits are sought, for a period of five years
8328 preceding the date of the event giving rise to the claim for underinsured motorist benefits up to
8329 the time the election for arbitration or litigation has been exercised; and

8330 (II) the names and last known addresses of the health insurers or other entities to whom
8331 the covered person has submitted claims for health care services or benefits, which the covered
8332 person claims are immaterial to the claims for which underinsured motorist benefits are sought,
8333 for a period of five years preceding the date of the event giving rise to the claim for
8334 underinsured motorist benefits up to the time the election for arbitration or litigation have not
8335 been disclosed;

8336 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all
8337 employers of the covered person for a period of five years preceding the date of the event
8338 giving rise to the claim for underinsured motorist benefits up to the time the election for
8339 arbitration or litigation has been exercised;

8340 (D) other documents to reasonably support the claims being asserted; and

8341 (E) all state and federal statutory lienholders including a statement as to whether the
8342 covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health
8343 Insurance Program benefits under [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~]
8344 Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is
8345 subject to any other state or federal statutory liens; and

8346 (iii) signed authorizations to allow the underinsured motorist carrier to only obtain
8347 records and billings from the individuals or entities disclosed under Subsections
8348 (9)(a)(ii)(A)(I), (B)(I), and (C).

8349 (b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed
8350 health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary,
8351 the underinsured motorist carrier may:

8352 (A) make a request for the disclosure of the identity of the health care providers or
8353 health care insurers; and

8354 (B) make a request for authorizations to allow the underinsured motorist carrier to only
8355 obtain records and billings from the individuals or entities not disclosed.

8356 (ii) If the covered person does not provide the requested information within 10 days:

8357 (A) the covered person shall disclose, in writing, the legal or factual basis for the
8358 failure to disclose the health care providers or health care insurers; and

8359 (B) either the covered person or the underinsured motorist carrier may request the
8360 arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be
8361 provided if the covered person has elected arbitration.

8362 (iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of
8363 the dispute concerning the disclosure and production of records of the health care providers or
8364 health care insurers.

8365 (c) (i) An underinsured motorist carrier that receives an election for arbitration or a
8366 notice of filing litigation and the demand for payment of underinsured motorist benefits under

8367 Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the
8368 demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

8369 (A) provide a written response to the written demand for payment provided for in
8370 Subsection (9)(a)(i);

8371 (B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the
8372 underinsured motorist carrier's determination of the amount owed to the covered person; and

8373 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
8374 Children's Health Insurance Program benefits under [~~Title 26, Chapter 40, Utah Children's~~
8375 ~~Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program,
8376 or if the claim is subject to any other state or federal statutory liens, tender the amount, if any,
8377 of the underinsured motorist carrier's determination of the amount owed to the covered person
8378 less:

8379 (I) if the amount of the state or federal statutory lien is established, the amount of the
8380 lien; or

8381 (II) if the amount of the state or federal statutory lien is not established, two times the
8382 amount of the medical expenses subject to the state or federal statutory lien until such time as
8383 the amount of the state or federal statutory lien is established.

8384 (ii) If the amount tendered by the underinsured motorist carrier under Subsection
8385 (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount
8386 shall be accepted by the covered person.

8387 (d) A covered person who receives a written response from an underinsured motorist
8388 carrier as provided for in Subsection (9)(c)(i), may:

8389 (i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all
8390 underinsured motorist claims; or

8391 (ii) elect to:

8392 (A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all
8393 underinsured motorist claims; and

8394 (B) continue to litigate or arbitrate the remaining claim in accordance with the election
8395 made under Subsections (8)(a), (b), and (c).

8396 (e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i)
8397 as partial payment of all underinsured motorist claims, the final award obtained through

8398 arbitration, litigation, or later settlement shall be reduced by any payment made by the
8399 underinsured motorist carrier under Subsection (9)(c)(i).

8400 (f) In an arbitration proceeding on the remaining underinsured claims:

8401 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid
8402 under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

8403 (ii) the parties may not disclose the amount of the limits of underinsured motorist
8404 benefits provided by the policy.

8405 (g) If the final award obtained through arbitration or litigation is greater than the
8406 average of the covered person's initial written demand for payment provided for in Subsection
8407 (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in
8408 Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

8409 (i) the final award obtained through arbitration or litigation, except that if the award
8410 exceeds the policy limits of the subject underinsured motorist policy by more than \$15,000, the
8411 amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

8412 (ii) any of the following applicable costs:

8413 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

8414 (B) the arbitrator or arbitration panel's fee; and

8415 (C) the reasonable costs of expert witnesses and depositions used in the presentation of
8416 evidence during arbitration or litigation.

8417 (h) (i) The covered person shall provide an affidavit of costs within five days of an
8418 arbitration award.

8419 (ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to
8420 which the underinsured motorist carrier objects.

8421 (B) The objection shall be resolved by the arbitrator or arbitration panel.

8422 (iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii)
8423 may not exceed \$5,000.

8424 (i) (i) A covered person shall disclose all material information, other than rebuttal
8425 evidence, within 30 days after a covered person elects to submit a claim for underinsured
8426 motorist coverage benefits to binding arbitration or files litigation as specified in Subsection
8427 (9)(a).

8428 (ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person

8429 may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

8430 (j) This Subsection (9) does not limit any other cause of action that arose or may arise
8431 against the underinsured motorist carrier from the same dispute.

8432 (k) The provisions of this Subsection (9) only apply to motor vehicle accidents that
8433 occur on or after March 30, 2010.

8434 (l) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the
8435 covered person's requirement to provide a computation of any other economic damages
8436 claimed, and the one or more respondents shall have a reasonable time after the receipt of the
8437 computation of any other economic damages claimed to conduct fact and expert discovery as to
8438 any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290,
8439 Section 11, and Chapter 300, Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A)
8440 apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

8441 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter
8442 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to
8443 binding arbitration or through litigation on or after May 13, 2014.

8444 Section 86. Section **31A-22-604** is amended to read:

8445 **31A-22-604. Reimbursement by insurers of Medicaid benefits.**

8446 (1) As used in this section, "Medicaid" means the program under Title XIX of the
8447 federal Social Security Act.

8448 (2) Any accident and health insurer, including a group accident and health insurance
8449 plan, as defined in Section 607(1), Federal Employee Retirement Income Security Act of 1974,
8450 or health maintenance organization as defined in Section [31A-8-101](#), is prohibited from
8451 considering the availability or eligibility for medical assistance in this or any other state under
8452 Medicaid, when considering eligibility for coverage or making payments under its plan for
8453 eligible enrollees, subscribers, policyholders, or certificate holders.

8454 (3) To the extent that payment for covered expenses has been made under the state
8455 Medicaid program for health care items or services furnished to an individual in any case when
8456 a third party has a legal liability to make payments, the state is considered to have acquired the
8457 rights of the individual to payment by any other party for those health care items or services.

8458 (4) [~~Title 26, Chapter 19, Medical Benefits Recovery Act~~] Title 26B, Chapter 3, Part
8459 10, Medical Benefits Recovery, applies to reimbursement of insurers of Medicaid benefits.

8460 Section 87. Section **31A-22-610** is amended to read:

8461 **31A-22-610. Dependent coverage from moment of birth or adoption.**

8462 (1) As used in this section:

8463 (a) "Child" means, in connection with any adoption, or placement for adoption of the
8464 child, an individual who is younger than 18 years of age as of the date of the adoption or
8465 placement for adoption.

8466 (b) "Placement for adoption" means the assumption and retention by a person of a legal
8467 obligation for total or partial support of a child in anticipation of the adoption of the child.

8468 (2) (a) Except as provided in Subsection (5), if an accident and health insurance policy
8469 provides coverage for any members of the policyholder's or certificate holder's family, the
8470 policy shall provide that any health insurance benefits applicable to dependents of the insured
8471 are applicable on the same basis to:

8472 (i) a newly born child from the moment of birth; and

8473 (ii) an adopted child:

8474 (A) beginning from the moment of birth, if placement for adoption occurs within 30
8475 days of the child's birth; or

8476 (B) beginning from the date of placement, if placement for adoption occurs 30 days or
8477 more after the child's birth.

8478 (b) The coverage described in this Subsection (2):

8479 (i) is not subject to any preexisting conditions; and

8480 (ii) includes any injury or sickness, including the necessary care and treatment of
8481 medically diagnosed:

8482 (A) congenital defects;

8483 (B) birth abnormalities; or

8484 (C) prematurity.

8485 (c) (i) Subject to Subsection (2)(c)(ii), a claim for services for a newly born child or an
8486 adopted child may be denied until the child is enrolled.

8487 (ii) Notwithstanding Subsection (2)(c)(i), an otherwise eligible claim denied under
8488 Subsection (2)(c)(i) is eligible for payment and may be resubmitted or reprocessed once a child
8489 is enrolled pursuant to Subsection (2)(d) or (e).

8490 (d) If the payment of a specific premium is required to provide coverage for a child of a

8491 policyholder or certificate holder, for there to be coverage for the child, the policyholder or
8492 certificate holder shall enroll:

8493 (i) a newly born child within 30 days after the date of birth of the child; or

8494 (ii) an adopted child within 30 days after the day of placement of adoption.

8495 (e) If the payment of a specific premium is not required to provide coverage for a child
8496 of a policyholder or certificate holder, for the child to receive coverage the policyholder or
8497 certificate holder shall enroll a newly born child or an adopted child no later than 30 days after
8498 the first notification of denial of a claim for services for that child.

8499 (3) (a) The coverage required by Subsection (2) as to children placed for the purpose of
8500 adoption with a policyholder or certificate holder continues in the same manner as it would
8501 with respect to a child of the policyholder or certificate holder unless:

8502 (i) the placement is disrupted prior to legal adoption; and

8503 (ii) the child is removed from placement.

8504 (b) The coverage required by Subsection (2) ends if the child is removed from
8505 placement prior to being legally adopted.

8506 (4) The provisions of this section apply to employee welfare benefit plans as defined in
8507 Section [~~26-19-102~~] [26B-3-1001](#).

8508 (5) If an accident and health insurance policy that is not subject to the special
8509 enrollment rights described in 45 C.F.R. Sec. 146.117(b) provides coverage for one individual,
8510 the insurer may choose to:

8511 (a) provide coverage according to this section; or

8512 (b) allow application, subject to the insurer's underwriting criteria for:

8513 (i) a newborn;

8514 (ii) an adopted child; or

8515 (iii) a child placed for adoption.

8516 Section 88. Section **31A-22-610.5** is amended to read:

8517 **31A-22-610.5. Dependent coverage.**

8518 (1) As used in this section, "child" has the same meaning as defined in Section
8519 [78B-12-102](#).

8520 (2) (a) Any individual or group accident and health insurance policy or managed care
8521 organization contract that provides coverage for a policyholder's or certificate holder's

8522 dependent:

8523 (i) may not terminate coverage of an unmarried dependent by reason of the dependent's
8524 age before the dependent's 26th birthday; and

8525 (ii) shall, upon application, provide coverage for all unmarried dependents up to age
8526 26.

8527 (b) The cost of coverage for unmarried dependents 19 to 26 years of age shall be
8528 included in the premium on the same basis as other dependent coverage.

8529 (c) This section does not prohibit the employer from requiring the employee to pay all
8530 or part of the cost of coverage for unmarried dependents.

8531 (d) An individual or group health insurance policy or managed care organization shall
8532 continue in force coverage for a dependent through the last day of the month in which the
8533 dependent ceases to be a dependent:

8534 (i) if premiums are paid; and

8535 (ii) notwithstanding Sections [31A-22-618.6](#) and [31A-22-618.7](#).

8536 (3) (a) When a parent is required by a court or administrative order to provide health
8537 insurance coverage for a child, an accident and health insurer may not deny enrollment of a
8538 child under the accident and health insurance plan of the child's parent on the grounds the
8539 child:

8540 (i) was born out of wedlock and is entitled to coverage under Subsection (4);

8541 (ii) was born out of wedlock and the custodial parent seeks enrollment for the child
8542 under the custodial parent's policy;

8543 (iii) is not claimed as a dependent on the parent's federal tax return;

8544 (iv) does not reside with the parent; or

8545 (v) does not reside in the insurer's service area.

8546 (b) A child enrolled as required under Subsection (3)(a)(iv) is subject to the terms of
8547 the accident and health insurance plan contract pertaining to services received outside of an
8548 insurer's service area.

8549 (4) When a child has accident and health coverage through an insurer of a noncustodial
8550 parent, and when requested by the noncustodial or custodial parent, the insurer shall:

8551 (a) provide information to the custodial parent as necessary for the child to obtain
8552 benefits through that coverage, but the insurer or employer, or the agents or employees of either

8553 of them, are not civilly or criminally liable for providing information in compliance with this
8554 Subsection (4)(a), whether the information is provided pursuant to a verbal or written request;

8555 (b) permit the custodial parent or the service provider, with the custodial parent's
8556 approval, to submit claims for covered services without the approval of the noncustodial
8557 parent; and

8558 (c) make payments on claims submitted in accordance with Subsection (4)(b) directly
8559 to the custodial parent, the child who obtained benefits, the provider, or the state Medicaid
8560 agency.

8561 (5) When a parent is required by a court or administrative order to provide health
8562 coverage for a child, and the parent is eligible for family health coverage, the insurer shall:

8563 (a) permit the parent to enroll, under the family coverage, a child who is otherwise
8564 eligible for the coverage without regard to an enrollment season restrictions;

8565 (b) if the parent is enrolled but fails to make application to obtain coverage for the
8566 child, enroll the child under family coverage upon application of the child's other parent, the
8567 state agency administering the Medicaid program, or the state agency administering 42 U.S.C.
8568 Sec. 651 through 669, the child support enforcement program; and

8569 (c) (i) when the child is covered by an individual policy, not disenroll or eliminate
8570 coverage of the child unless the insurer is provided satisfactory written evidence that:

8571 (A) the court or administrative order is no longer in effect; or

8572 (B) the child is or will be enrolled in comparable accident and health coverage through
8573 another insurer which will take effect not later than the effective date of disenrollment; or

8574 (ii) when the child is covered by a group policy, not disenroll or eliminate coverage of
8575 the child unless the employer is provided with satisfactory written evidence, which evidence is
8576 also provided to the insurer, that Subsection (8)(c)(i), (ii), or (iii) has happened.

8577 (6) An insurer may not impose requirements on a state agency that has been assigned
8578 the rights of an individual eligible for medical assistance under Medicaid and covered for
8579 accident and health benefits from the insurer that are different from requirements applicable to
8580 an agent or assignee of any other individual so covered.

8581 (7) Insurers may not reduce their coverage of pediatric vaccines below the benefit level
8582 in effect on May 1, 1993.

8583 (8) When a parent is required by a court or administrative order to provide health

8584 coverage, which is available through an employer doing business in this state, the employer
8585 shall:

8586 (a) permit the parent to enroll under family coverage any child who is otherwise
8587 eligible for coverage without regard to any enrollment season restrictions;

8588 (b) if the parent is enrolled but fails to make application to obtain coverage of the child,
8589 enroll the child under family coverage upon application by the child's other parent, by the state
8590 agency administering the Medicaid program, or the state agency administering 42 U.S.C. Sec.
8591 651 through 669, the child support enforcement program;

8592 (c) not disenroll or eliminate coverage of the child unless the employer is provided
8593 satisfactory written evidence that:

8594 (i) the court order is no longer in effect;

8595 (ii) the child is or will be enrolled in comparable coverage which will take effect no
8596 later than the effective date of disenrollment; or

8597 (iii) the employer has eliminated family health coverage for all of its employees; and

8598 (d) withhold from the employee's compensation the employee's share, if any, of
8599 premiums for health coverage and to pay this amount to the insurer.

8600 (9) An order issued under Section [~~62A-11-326.1~~] [26B-9-225](#) may be considered a
8601 "qualified medical support order" for the purpose of enrolling a dependent child in a group
8602 accident and health insurance plan as defined in Section 609(a), Federal Employee Retirement
8603 Income Security Act of 1974.

8604 (10) This section does not affect any insurer's ability to require as a precondition of any
8605 child being covered under any policy of insurance that:

8606 (a) the parent continues to be eligible for coverage;

8607 (b) the child shall be identified to the insurer with adequate information to comply with
8608 this section; and

8609 (c) the premium shall be paid when due.

8610 (11) This section applies to employee welfare benefit plans as defined in Section
8611 [~~26-19-102~~] [26B-3-1001](#).

8612 (12) (a) A policy that provides coverage to a child of a group member may not deny
8613 eligibility for coverage to a child solely because:

8614 (i) the child does not reside with the insured; or

8615 (ii) the child is solely dependent on a former spouse of the insured rather than on the
8616 insured.

8617 (b) A child who does not reside with the insured may be excluded on the same basis as
8618 a child who resides with the insured.

8619 Section 89. Section **31A-22-610.6** is amended to read:

8620 **31A-22-610.6. Special enrollment for individuals receiving premium assistance.**

8621 (1) As used in this section:

8622 (a) "Premium assistance" means assistance under [~~Title 26, Chapter 18, Medical~~
8623 ~~Assistance Act~~] Title 26B, Chapter 3, Health Care - Delivery and Assistance, in the payment of
8624 premium.

8625 (b) "Qualified beneficiary" means an individual who is approved to receive premium
8626 assistance.

8627 (2) Subject to the other provisions in this section, an individual may enroll under this
8628 section at a time outside of an employer health benefit plan open enrollment period, regardless
8629 of previously waiving coverage, if the individual is:

8630 (a) a qualified beneficiary who is eligible for coverage as an employee under the
8631 employer health benefit plan; or

8632 (b) a dependent of the qualified beneficiary who is eligible for coverage under the
8633 employer health benefit plan.

8634 (3) To be eligible to enroll outside of an open enrollment period, an individual
8635 described in Subsection (2) shall enroll in the employer health benefit plan by no later than 30
8636 days from the day on which the qualified beneficiary receives initial written notification, after
8637 July 1, 2008, that the qualified beneficiary is eligible to receive premium assistance.

8638 (4) An individual described in Subsection (2) may enroll under this section only in an
8639 employer health benefit plan that is available at the time of enrollment to similarly situated
8640 eligible employees or dependents of eligible employees.

8641 (5) Coverage under an employer health benefit plan for an individual described in
8642 Subsection (2) may begin as soon as the first day of the month immediately following
8643 enrollment of the individual in accordance with this section.

8644 (6) This section does not modify any requirement related to premiums that applies
8645 under an employer health benefit plan to a similarly situated eligible employee or dependent of

8646 an eligible employee under the employer health benefit plan.

8647 (7) An employer health benefit plan may require an individual described in Subsection
8648 (2) to satisfy a preexisting condition waiting period that:

8649 (a) is allowed under the Health Insurance Portability and Accountability Act; and

8650 (b) is not longer than 12 months.

8651 Section 90. Section **31A-22-613.5** is amended to read:

8652 **31A-22-613.5. Price and value comparisons of health insurance.**

8653 (1) (a) This section applies to all health benefit plans.

8654 (b) Subsection (2) applies to:

8655 (i) all health benefit plans; and

8656 (ii) coverage offered to state employees under Subsection [49-20-202\(1\)\(a\)](#).

8657 (2) The commissioner shall promote informed consumer behavior and responsible
8658 health benefit plans by requiring an insurer issuing a health benefit plan to provide to all
8659 enrollees, before enrollment in the health benefit plan, written disclosure of:

8660 (a) restrictions or limitations on prescription drugs and biologics, including:

8661 (i) the use of a formulary;

8662 (ii) co-payments and deductibles for prescription drugs; and

8663 (iii) requirements for generic substitution;

8664 (b) coverage limits under the plan;

8665 (c) any limitation or exclusion of coverage, including:

8666 (i) a limitation or exclusion for a secondary medical condition related to a limitation or
8667 exclusion from coverage; and

8668 (ii) easily understood examples of a limitation or exclusion of coverage for a secondary
8669 medical condition;

8670 (d) (i) (A) each drug, device, and covered service that is subject to a preauthorization
8671 requirement as defined in Section [31A-22-650](#); or

8672 (B) if listing each device or covered service in accordance with Subsection (2)(d)(i)(A)
8673 is too numerous to list separately, all devices or covered services in a particular category where
8674 all devices or covered services have the same preauthorization requirement;

8675 (ii) each requirement for authorization as defined in Section [31A-22-650](#) for:

8676 (A) each drug, device, or covered service described in Subsection (2)(d)(i)(A); and

8677 (B) each category of devices or covered services described in Subsection (2)(d)(i)(B);

8678 and

8679 (iii) sufficient information to allow a network provider or enrollee to submit all of the

8680 information to the insurer necessary to meet each requirement for authorization described in

8681 Subsection (2)(d)(ii);

8682 (e) whether the insurer permits an exchange of the adoption indemnity benefit in

8683 Section [31A-22-610.1](#) for infertility treatments, in accordance with Subsection

8684 [31A-22-610.1\(1\)\(c\)\(ii\)](#) and the terms associated with the exchange of benefits; and

8685 (f) whether the insurer provides coverage for telehealth services in accordance with

8686 Section ~~[26-18-13.5]~~ [26B-3-123](#) and terms associated with that coverage.

8687 (3) An insurer shall provide the disclosure required by Subsection (2) in writing to the

8688 commissioner:

8689 (a) upon commencement of operations in the state; and

8690 (b) anytime the insurer amends any of the following described in Subsection (2):

8691 (i) treatment policies;

8692 (ii) practice standards;

8693 (iii) restrictions;

8694 (iv) coverage limits of the insurer's health benefit plan or health insurance policy; or

8695 (v) limitations or exclusions of coverage including a limitation or exclusion for a

8696 secondary medical condition related to a limitation or exclusion of the insurer's health

8697 insurance plan.

8698 (4) (a) An insurer shall provide the enrollee with notice of an increase in costs for

8699 prescription drug coverage due to a change in benefit design under Subsection (2)(a):

8700 (i) either:

8701 (A) in writing; or

8702 (B) on the insurer's website; and

8703 (ii) at least 30 days prior to the date of the implementation of the increase in cost, or as

8704 soon as reasonably possible.

8705 (b) If under Subsection (2)(a) a formulary is used, the insurer shall make available to

8706 prospective enrollees and maintain evidence of the fact of the disclosure of:

8707 (i) the drugs included;

8708 (ii) the patented drugs not included;
8709 (iii) any conditions that exist as a precedent to coverage; and
8710 (iv) any exclusion from coverage for secondary medical conditions that may result
8711 from the use of an excluded drug.

8712 (c) The commissioner shall develop examples of limitations or exclusions of a
8713 secondary medical condition that an insurer may use under Subsection (2)(c).

8714 (5) Examples of a limitation or exclusion of coverage provided under this section or
8715 otherwise are for illustrative purposes only, and the failure of a particular fact situation to fall
8716 within the description of an example does not, by itself, support a finding of coverage.

8717 (6) An insurer shall:

8718 (a) post the information described in Subsection (2)(d) on the insurer's website and
8719 provider portal;

8720 (b) if requested by an enrollee, provide the enrollee with the information required by
8721 this section by mail or email; and

8722 (c) if requested by a network provider for a specific drug, device, or covered service,
8723 provide the network provider with the information described in Subsection (2)(d) for the drug,
8724 device, or covered service by mail or email.

8725 **Section 91. Effective date.**

8726 This bill takes effect on May 3, 2023 with the exceptions of [13-61-101](#) (Effective
8727 [12/31/23](#)) and [30-1-12](#) which take effect on 12/31/2023.

8728 **Section 92. Revisor instructions.**

8729 The Legislature intends that the Office of Legislative Research and General Counsel, in
8730 preparing the Utah Code database for publication, not enroll this bill if any of the following
8731 bills do not pass:

8732 (a) S.B. 38, Health and Human Services Recodification - Administration, Licensing,
8733 and Recovery Services;

8734 (b) S.B. 39, Health and Human Services Recodification - Prevention, Supports,
8735 Substance Use and Mental Health;

8736 (c) S.B. 40, Health and Human Services Recodification - Health Care Assistance and
8737 Data; or

8738 (d) S.B. 41, Health and Human Services Recodification - Health Care Delivery and

8739 Repeals.