

Representative Raymond P. Ward proposes the following substitute bill:

**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 - Health Care Assistance and Data;
 - S.B. 40, Health and Human Services Recodification - Health Care Delivery and Repeals; and
 - S.B. 41, Health and Human Services Recodification - Prevention, Supports, Substance Use and Mental Health; and
- ▶ makes technical and corresponding changes.

Money Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 This bill provides a special effective date.

29 This bill provides coordination clauses.

30 This bill provides revisor instructions.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **4-5-501**, as last amended by Laws of Utah 2019, Chapter 32

34 **4-41-103.3**, as last amended by Laws of Utah 2022, Chapter 290

35 **4-41-402**, as last amended by Laws of Utah 2022, Chapter 290

36 **4-41a-102**, as last amended by Laws of Utah 2022, Chapters 290, 452

37 **4-41a-103**, as last amended by Laws of Utah 2020, Chapter 12

38 **4-41a-201**, as last amended by Laws of Utah 2022, Chapter 290

39 **4-41a-204**, as last amended by Laws of Utah 2021, Chapter 350

40 **4-41a-403**, as last amended by Laws of Utah 2021, Chapter 350

41 **4-41a-404**, as last amended by Laws of Utah 2020, Chapter 12

42 **4-41a-406**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

43 **7-1-1006**, as last amended by Laws of Utah 2011, Chapter 344

44 **7-26-102**, as enacted by Laws of Utah 2020, Chapter 228

45 **10-2-419**, as last amended by Laws of Utah 2021, First Special Session, Chapter 15

46 **10-2-425**, as last amended by Laws of Utah 2019, Chapter 159

47 **10-8-41.6**, as last amended by Laws of Utah 2022, Chapter 255

48 **10-8-84.6**, as enacted by Laws of Utah 2022, Chapter 21

49 **10-8-85.5**, as last amended by Laws of Utah 2012, Chapter 289

50 **10-8-90**, as last amended by Laws of Utah 2018, Chapter 467

51 **10-9a-103**, as last amended by Laws of Utah 2022, Chapters 355, 406

52 **10-9a-520**, as last amended by Laws of Utah 2013, Chapter 309

53 **10-9a-528**, as last amended by Laws of Utah 2021, Chapter 60

54 **11-46-102**, as enacted by Laws of Utah 2011, Chapter 130

55 **11-48-101.5**, as enacted by Laws of Utah 2021, Chapter 265

56 **11-48-103**, as enacted by Laws of Utah 2021, Chapter 265

57 [13-5b-103](#), as enacted by Laws of Utah 2007, Chapter 172
58 [13-59-102](#), as enacted by Laws of Utah 2021, Chapter 138
59 [13-60-102](#), as enacted by Laws of Utah 2021, Chapter 361
60 [13-60-103](#), as enacted by Laws of Utah 2021, Chapter 361
61 [13-61-101 \(Effective 12/31/23\)](#), as enacted by Laws of Utah 2022, Chapter 462
62 [15-4-1](#), as last amended by Laws of Utah 2017, Chapter 340
63 [15-4-6.7](#), as last amended by Laws of Utah 2017, Chapter 340
64 [15A-1-208](#), as enacted by Laws of Utah 2011, Chapter 14
65 [15A-2-105](#), as enacted by Laws of Utah 2011, Chapter 14
66 [15A-3-102](#), as last amended by Laws of Utah 2019, Chapter 20
67 [15A-3-103](#), as last amended by Laws of Utah 2020, Chapters 243, 441
68 [15A-5-202](#), as last amended by Laws of Utah 2022, Chapter 28
69 [15A-5-203](#), as last amended by Laws of Utah 2022, Chapter 350
70 [17-22-2.5](#), as last amended by Laws of Utah 2018, Chapter 86
71 [17-27a-103](#), as last amended by Laws of Utah 2022, Chapter 406
72 [17-27a-519](#), as last amended by Laws of Utah 2013, Chapter 309
73 [17-27a-525](#), as last amended by Laws of Utah 2021, Chapter 60
74 [17-27a-1102](#), as enacted by Laws of Utah 2021, Chapter 244
75 [17-43-102](#), as last amended by Laws of Utah 2022, Chapter 255
76 [17-43-201](#), as last amended by Laws of Utah 2022, Chapter 255
77 [17-43-204](#), as last amended by Laws of Utah 2016, Chapter 113
78 [17-43-301](#), as last amended by Laws of Utah 2022, Chapter 255
79 [17-43-303](#), as last amended by Laws of Utah 2004, Chapter 80
80 [17-43-306](#), as enacted by Laws of Utah 2003, Chapter 100
81 [17-50-318](#), as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8
82 [17-50-333](#), as last amended by Laws of Utah 2022, Chapter 255
83 [17-50-339](#), as enacted by Laws of Utah 2022, Chapter 21
84 [17B-2a-818.5](#), as last amended by Laws of Utah 2022, Chapter 421
85 [17B-2a-902](#), as last amended by Laws of Utah 2014, Chapter 189
86 [18-1-3](#), as last amended by Laws of Utah 2007, Chapter 22
87 [19-1-205](#), as enacted by Laws of Utah 1991, Chapter 112

- 88 [19-1-206](#), as last amended by Laws of Utah 2022, Chapters 421, 443
- 89 [19-4-115](#), as enacted by Laws of Utah 2022, Chapter 194
- 90 [19-6-902](#), as last amended by Laws of Utah 2015, Chapter 451
- 91 [20A-2-104](#), as last amended by Laws of Utah 2021, Chapter 100
- 92 [20A-2-306](#), as last amended by Laws of Utah 2022, Chapter 121
- 93 [20A-11-1202](#), as last amended by Laws of Utah 2020, Chapter 365
- 94 [23-19-5.5](#), as last amended by Laws of Utah 2022, Chapter 58
- 95 [23-19-14](#), as last amended by Laws of Utah 2018, Chapter 39
- 96 [26-8a-102](#), as last amended by Laws of Utah 2022, Chapters 255, 351, and 404
- 97 [26-8a-104](#), as last amended by Laws of Utah 2021, Chapters 237 and 265
- 98 [26-8a-204](#), as enacted by Laws of Utah 1999, Chapter 141
- 99 [26-8a-205](#), as enacted by Laws of Utah 1999, Chapter 141
- 100 [26-8a-206](#), as last amended by Laws of Utah 2021, Chapter 208
- 101 [26A-1-102](#), as last amended by Laws of Utah 2022, Chapter 255
- 102 [26A-1-114](#), as last amended by Laws of Utah 2022, Chapters 39, 415 and 430
- 103 [26A-1-116](#), as last amended by Laws of Utah 1991, Chapter 112 and renumbered and
- 104 amended by Laws of Utah 1991, Chapter 269
- 105 [26A-1-121](#), as last amended by Laws of Utah 2022, Chapter 255
- 106 [26A-1-126](#), as last amended by Laws of Utah 2022, Chapter 415
- 107 [26A-1-128](#), as last amended by Laws of Utah 2020, Chapter 347
- 108 [30-1-12](#), as last amended by Laws of Utah 2022, Chapter 231
- 109 [30-2-5](#), as last amended by Laws of Utah 2008, Chapter 3
- 110 [30-3-5](#), as last amended by Laws of Utah 2022, Chapter 263
- 111 [30-3-5.1](#), as last amended by Laws of Utah 1997, Chapter 232
- 112 [30-3-5.4](#), as last amended by Laws of Utah 2022, Chapter 263
- 113 [30-3-10](#), as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 114 [30-3-10.5](#), as last amended by Laws of Utah 2008, Chapter 3
- 115 [30-3-38](#), as last amended by Laws of Utah 2022, Chapter 335
- 116 [31A-1-301](#), as last amended by Laws of Utah 2022, Chapter 198
- 117 [31A-4-106](#), as last amended by Laws of Utah 2018, Chapter 281
- 118 [31A-4-107.5](#), as last amended by Laws of Utah 2018, Chapter 443

- 119 [31A-8-104](#), as last amended by Laws of Utah 2018, Chapter 319
- 120 [31A-15-103](#), as last amended by Laws of Utah 2019, Chapter 341
- 121 [31A-22-305](#), as last amended by Laws of Utah 2022, Chapter 163
- 122 [31A-22-305.3](#), as last amended by Laws of Utah 2022, Chapters 163, 198
- 123 [31A-22-604](#), as last amended by Laws of Utah 2001, Chapter 116
- 124 [31A-22-610](#), as last amended by Laws of Utah 2018, Chapter 443
- 125 [31A-22-610.5](#), as last amended by Laws of Utah 2020, Chapter 32
- 126 [31A-22-610.6](#), as last amended by Laws of Utah 2011, Chapter 284
- 127 [31A-22-613.5](#), as last amended by Laws of Utah 2019, Chapter 439

128 RENUMBERS AND AMENDS:

- 129 [13-60-104](#), (Renumbered from 13-60-201, as enacted by Laws of Utah 2021, Chapter
- 130 361)
- 131 [13-60-105](#), (Renumbered from 13-60-202, as enacted by Laws of Utah 2021, Chapter
- 132 361)
- 133 [13-60-106](#), (Renumbered from 13-60-301, as enacted by Laws of Utah 2021, Chapter
- 134 361)
- 135 [13-60-203](#), (Renumbered from 26-45-102, as last amended by Laws of Utah 2022,
- 136 Chapter 434)
- 137 [13-60-204](#), (Renumbered from 26-45-103, as last amended by Laws of Utah 2022,
- 138 Chapter 434)
- 139 [13-60-205](#), (Renumbered from 26-45-104, as last amended by Laws of Utah 2022,
- 140 Chapter 434)
- 141 [13-60-206](#), (Renumbered from 26-45-105, as last amended by Laws of Utah 2022,
- 142 Chapter 434)
- 143 [13-60-207](#), (Renumbered from 26-45-106, as enacted by Laws of Utah 2002, Chapter
- 144 120)

145 **Utah Code Sections Affected by Coordination Clause:**

- 146 [4-41a-201](#), as last amended by Laws of Utah 2022, Chapter 290
- 147 [10-9a-528](#), as last amended by Laws of Utah 2021, Chapter 60
- 148 [17-27a-525](#), as last amended by Laws of Utah 2021, Chapter 60
- 149 [26-8a-102](#), as last amended by Laws of Utah 2022, Chapters 255, 351, and 404

- 150 **26-8a-104**, as last amended by Laws of Utah 2021, Chapters 237 and 265
- 151 **26-8a-204**, as enacted by Laws of Utah 1999, Chapter 141
- 152 **26-8a-205**, as enacted by Laws of Utah 1999, Chapter 141
- 153 **26-8a-206**, as last amended by Laws of Utah 2021, Chapter 208
- 154 **26-8a-211**, as enacted by Laws of Utah 2020, Chapter 215
- 155 **53-2d-206**, Utah Code Annotated 1953

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

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

159 **4-5-501. Cottage food operations.**

160 (1) For purposes of this chapter:

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

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

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

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

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

168 (d) "Potentially hazardous food" means:

169 (i) a food of animal origin;

170 (ii) raw seed sprouts; or

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

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

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

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

178 (b) the use of a commercial grade:

179 (i) sink;

180 (ii) dishwasher; or

- 181 (iii) oven;
- 182 (c) a separate kitchen for the cottage food operation; or
- 183 (d) the submission of plans and specifications before construction of, or remodel of, a
- 184 cottage food production operation.
- 185 (4) The operator of a cottage food operation shall:
- 186 (a) register with the department as a cottage food operation before operating as a
- 187 cottage food operation;
- 188 (b) hold a valid food handler's permit; and
- 189 (c) package a cottage food product with a label, as specified by the department in rule.
- 190 (5) Notwithstanding the provisions of Subsections [4-5-301\(1\)\(a\)](#) and (c), the
- 191 department shall issue a registration to an applicant for a cottage food operation if the applicant
- 192 for the registration:
- 193 (a) pays the fees required by the department; and
- 194 (b) meets the requirements of this section.
- 195 (6) Notwithstanding the provisions of Section [26A-1-114](#), a local health department:
- 196 (a) does not have jurisdiction to regulate the production of food at a cottage food
- 197 operation operating in compliance with this section, as long as the products are not offered to
- 198 the public for consumption on the premises; and
- 199 (b) does have jurisdiction to investigate a cottage food operation in an investigation
- 200 into the cause of a foodborne illness outbreak.
- 201 (7) A food service establishment as defined in Section [~~26-15a-102~~] [26B-7-401](#) may
- 202 not use a product produced in a cottage food operation as an ingredient in a food that is
- 203 prepared by the food establishment and offered by the food establishment to the public for
- 204 consumption.
- 205 Section 2. Section **4-41-103.3** is amended to read:
- 206 **4-41-103.3. Industrial hemp retailer permit.**
- 207 (1) Except as provided in Subsection (4), a retailer permittee of the department may
- 208 market or sell industrial hemp products.
- 209 (2) A person seeking an industrial hemp retailer permit shall provide to the department:
- 210 (a) the name of the person that is seeking to market or sell an industrial hemp product;
- 211 (b) the address of each location where the industrial hemp product will be sold; and

212 (c) written consent allowing a representative of the department to enter all premises
213 where the person is selling an industrial hemp product for the purpose of:

- 214 (i) conducting a physical inspection; or
- 215 (ii) ensuring compliance with the requirements of this chapter.

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

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

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

222 **4-41-402. Cannabinoid sales and use authorized.**

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

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

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

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

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

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

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

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

240 **4-41a-102. Definitions.**

241 As used in this chapter:

242 (1) "Adulterant" means any poisonous or deleterious substance in a quantity that may

243 be injurious to health, including:

- 244 (a) pesticides;
- 245 (b) heavy metals;
- 246 (c) solvents;
- 247 (d) microbial life;
- 248 (e) toxins; or
- 249 (f) foreign matter.

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

252 (3) "Cannabis" means the same as that term is defined in Section [~~26-61a-102~~]
253 [26B-4-201](#).

254 (4) "Cannabis concentrate" means:

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

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

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

- 262 (a) possesses cannabis;
- 263 (b) grows or intends to grow cannabis; and
- 264 (c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis
265 processing facility, or a medical cannabis research licensee.

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

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

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

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

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

- 273 (a) acquires or intends to acquire cannabis from a cannabis production establishment;

- 274 (b) possesses cannabis with the intent to manufacture a cannabis product;
- 275 (c) manufactures or intends to manufacture a cannabis product from unprocessed
276 cannabis or a cannabis extract; and
- 277 (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a
278 medical cannabis research licensee.
- 279 (11) "Cannabis processing facility agent" means an individual who:
- 280 (a) is an employee of a cannabis processing facility; and
- 281 (b) holds a valid cannabis production establishment agent registration card.
- 282 (12) "Cannabis product" means the same as that term is defined in Section
283 ~~[26-61a-102]~~ [26B-4-201](#).
- 284 (13) "Cannabis production establishment" means a cannabis cultivation facility, a
285 cannabis processing facility, or an independent cannabis testing laboratory.
- 286 (14) "Cannabis production establishment agent" means a cannabis cultivation facility
287 agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.
- 288 (15) "Cannabis production establishment agent registration card" means a registration
289 card that the department issues that:
- 290 (a) authorizes an individual to act as a cannabis production establishment agent; and
- 291 (b) designates the type of cannabis production establishment for which an individual is
292 authorized to act as an agent.
- 293 (16) "Community location" means a public or private elementary or secondary school,
294 a church, a public library, a public playground, or a public park.
- 295 (17) "Cultivation space" means, quantified in square feet, the horizontal area in which
296 a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the
297 cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other
298 plants in multiple levels.
- 299 (18) "Department" means the Department of Agriculture and Food.
- 300 (19) "Derivative cannabinoid" means any cannabinoid that has been intentionally
301 created using a process to convert a naturally occurring cannabinoid into another cannabinoid.
- 302 (20) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling,
303 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
304 sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

- 305 (21) (a) "Independent cannabis testing laboratory" means a person that:
306 (i) conducts a chemical or other analysis of cannabis or a cannabis product; or
307 (ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to
308 conduct a chemical or other analysis of the cannabis or cannabis product.
- 309 (b) "Independent cannabis testing laboratory" includes a laboratory that the department
310 or a research university operates in accordance with Subsection [4-41a-201](#)(14).
- 311 (22) "Independent cannabis testing laboratory agent" means an individual who:
312 (a) is an employee of an independent cannabis testing laboratory; and
313 (b) holds a valid cannabis production establishment agent registration card.
- 314 (23) "Industrial hemp waste" means:
315 (a) a cannabinoid concentrate; or
316 (b) industrial hemp biomass.
- 317 (24) "Inventory control system" means a system described in Section [4-41a-103](#).
- 318 (25) "Licensing board" or "board" means the Cannabis Production Establishment
319 Licensing Advisory Board created in Section [4-41a-201.1](#).
- 320 (26) "Medical cannabis" means the same as that term is defined in Section
321 ~~[26-61a-102]~~ [26B-4-201](#).
- 322 (27) "Medical cannabis card" means the same as that term is defined in Section
323 ~~[26-61a-102]~~ [26B-4-201](#).
- 324 (28) "Medical cannabis pharmacy" means the same as that term is defined in Section
325 ~~[26-61a-102]~~ [26B-4-201](#).
- 326 (29) "Medical cannabis pharmacy agent" means the same as that term is defined in
327 Section ~~[26-61a-102]~~ [26B-4-201](#).
- 328 (30) "Medical cannabis research license" means a license that the department issues to
329 a research university for the purpose of obtaining and possessing medical cannabis for
330 academic research.
- 331 (31) "Medical cannabis research licensee" means a research university that the
332 department licenses to obtain and possess medical cannabis for academic research, in
333 accordance with Section [4-41a-901](#).
- 334 (32) "Medical cannabis treatment" means the same as that term is defined in Section
335 ~~[26-61a-102]~~ [26B-4-201](#).

336 (33) "Medicinal dosage form" means the same as that term is defined in Section
337 ~~[26-61a-102]~~ [26B-4-201](#).

338 (34) "Qualified medical provider" means the same as that term is defined in Section
339 ~~[26-61a-102]~~ [26B-4-201](#).

340 (35) "Qualified Production Enterprise Fund" means the fund created in Section
341 [4-41a-104](#).

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

344 (37) "Research university" means the same as that term is defined in Section
345 [53B-7-702](#) and a private, nonprofit college or university in the state that:

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

347 (b) grants doctoral degrees; and

348 (c) has a laboratory containing or a program researching a schedule I controlled
349 substance described in Section [58-37-4](#).

350 (38) "State electronic verification system" means the system described in Section
351 ~~[26-61a-103]~~ [26B-4-202](#).

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

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

355 (b) is not a derivative cannabinoid.

356 (40) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in
357 Section [4-41-102](#).

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

359 (42) "Total composite tetrahydrocannabinol" means all detectable forms of
360 tetrahydrocannabinol.

361 (43) "Total tetrahydrocannabinol" or "total THC" means the same as that term is
362 defined in Section [4-41-102](#).

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

364 **4-41a-103. Inventory control system.**

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

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

369 (a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis
370 plant is eight inches tall and has a root ball until the cannabis is disposed of or sold, in the form
371 of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card;

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

374 (c) includes a video recording system that:

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

377 (ii) is tamper proof; and

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

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

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

384 (a) the department;

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

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

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

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

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

398 (6) (a) The Division of Finance shall, in consultation with the state treasurer:
399 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
400 make rules to:
401 (A) establish a process for validating financial institutions for access to an inventory
402 control system in accordance with Subsections (3)(c) and (6)(b); and
403 (B) establish qualifications for the validation described in Subsection (6)(a)(i)(A);
404 (ii) review applications the Division of Finance receives in accordance with the process
405 established under Subsection (6)(a)(i);
406 (iii) validate a financial institution that meets the qualifications described in Subsection
407 (6)(a)(i); and
408 (iv) provide a list of validated financial institutions to the department and the
409 Department of Health and Human Services.
410 (b) A financial institution that the Division of Finance validates under Subsection
411 (6)(a):
412 (i) may only access an inventory control system for the purpose of reconciling
413 transactions and other financial activity of cannabis production establishments, medical
414 cannabis pharmacies, and medical cannabis couriers that use financial services that the
415 financial institution provides;
416 (ii) may only access information related to financial transactions; and
417 (iii) may not access any identifying patient information.
418 Section 6. Section **4-41a-201** is amended to read:
419 **4-41a-201. Cannabis production establishment -- License.**
420 (1) Except as provided in Subsection (14), a person may not operate a cannabis
421 production establishment without a license that the department issues under this chapter.
422 (2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section **4-41a-205**, for a
423 licensing process that the department initiates after March 17, 2021, the department, through
424 the licensing board, shall issue licenses in accordance with Section **4-41a-201.1**.
425 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
426 department shall make rules to specify a transparent and efficient process to:
427 (A) solicit applications for a license under this section;
428 (B) allow for comments and questions in the development of applications;

- 429 (C) timely and objectively evaluate applications;
- 430 (D) hold public hearings that the department deems appropriate; and
- 431 (E) select applicants to receive a license.
- 432 (iii) The department may not issue a license to operate a cannabis production
- 433 establishment to an applicant who is not eligible for a license under this section.
- 434 (b) An applicant is eligible for a license under this section if the applicant submits to
- 435 the licensing board:
 - 436 (i) subject to Subsection (2)(c), a proposed name and address or, for a cannabis
 - 437 cultivation facility, addresses of no more than two facility locations, located in a zone described
 - 438 in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis production
 - 439 establishment;
 - 440 (ii) the name and address of any individual who has:
 - 441 (A) for a publicly traded company, a financial or voting interest of 2% or greater in the
 - 442 proposed cannabis production establishment;
 - 443 (B) for a privately held company, a financial or voting interest in the proposed cannabis
 - 444 production establishment; or
 - 445 (C) the power to direct or cause the management or control of a proposed cannabis
 - 446 production establishment;
 - 447 (iii) an operating plan that:
 - 448 (A) complies with Section 4-41a-204;
 - 449 (B) includes operating procedures that comply with this chapter and any law the
 - 450 municipality or county in which the person is located adopts that is consistent with Section
 - 451 4-41a-406; and
 - 452 (C) the department or licensing board approves;
 - 453 (iv) a statement that the applicant will obtain and maintain a performance bond that a
 - 454 surety authorized to transact surety business in the state issues in an amount of at least:
 - 455 (A) \$100,000 for each cannabis cultivation facility for which the applicant applies; or
 - 456 (B) \$50,000 for each cannabis processing facility or independent cannabis testing
 - 457 laboratory for which the applicant applies;
 - 458 (v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the
 - 459 department sets in accordance with Section 63J-1-504; and

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

464 (c) (i) A person may not locate a cannabis production establishment:

465 (A) within 1,000 feet of a community location; or

466 (B) in or within 600 feet of a district that the relevant municipality or county has zoned
467 as primarily residential.

468 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
469 from the nearest entrance to the cannabis production establishment by following the shortest
470 route of ordinary pedestrian travel to the property boundary of the community location or
471 residential area.

472 (iii) The licensing board may grant a waiver to reduce the proximity requirements in
473 Subsection (2)(c)(i) by up to 20% if the licensing board determines that it is not reasonably
474 feasible for the applicant to site the proposed cannabis production establishment without the
475 waiver.

476 (iv) An applicant for a license under this section shall provide evidence of compliance
477 with the proximity requirements described in Subsection (2)(c)(i).

478 (3) If the licensing board approves an application for a license under this section and
479 Section 4-41a-201.1:

480 (a) the applicant shall pay the department:

481 (i) an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the
482 department sets in accordance with Section 63J-1-504; or

483 (ii) a fee for a 120-day limited license to operate as a cannabis processing facility
484 described in Subsection (3)(b) that is equal to 33% of the initial license fee described in
485 Subsection (3)(a)(i); and

486 (b) the department shall notify the Department of Public Safety of the license approval
487 and the names of each individual described in Subsection (2)(b)(ii).

488 (4) (a) Except as provided in Subsection (4)(b), a cannabis production establishment
489 shall obtain a separate license for each type of cannabis production establishment and each
490 location of a cannabis production establishment.

491 (b) The licensing board may issue a cannabis cultivation facility license and a cannabis
492 processing facility license to a person to operate at the same physical location or at separate
493 physical locations.

494 (5) If the licensing board receives more than one application for a cannabis production
495 establishment within the same city or town, the licensing board shall consult with the local land
496 use authority before approving any of the applications pertaining to that city or town.

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

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

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

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

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

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

510 (i) a felony; or

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

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

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

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

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

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

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

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

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

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

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

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

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

537 (i) a felony; or

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

539 (d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at
540 the time of application, or fails to supplement the information described in Subsection
541 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the
542 application within 14 calendar days after the licensee receives notice of the investigation or
543 adverse action;

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

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

550 or

551 (g) for an independent cannabis testing laboratory, if the independent cannabis testing
552 laboratory fails to substantially meet the performance standards described in Subsection

553 (14)(b).

554 (10) (a) A person who receives a cannabis production establishment license under this
555 chapter, if the municipality or county where the licensed cannabis production establishment
556 will be located requires a local land use permit, shall submit to the licensing board a copy of
557 the licensee's approved application for the land use permit within 120 days after the day on
558 which the licensing board issues the license.

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

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

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

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

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

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

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

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

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

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

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

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

582 (B) the department has ensured that the licensed independent cannabis testing
583 laboratories have sufficient capacity to provide the testing necessary to support the state's

584 medical cannabis market; and

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

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

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

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

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

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

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

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

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

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

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

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

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

611 **4-41a-204. Operating plan.**

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

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

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

619 (i) each officer, director, and owner of the proposed cannabis production
620 establishment; and

621 (ii) any highly skilled or experienced prospective employee;

622 (c) the cannabis production establishment's employee training standards;

623 (d) a security plan;

624 (e) a description of the cannabis production establishment's inventory control system,
625 including a description of how the inventory control system is compatible with the state
626 electronic verification system described in Section [~~26-61a-103~~] [26B-4-202](#);

627 (f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a
628 manner that is sanitary and preserves the integrity of the cannabis;

629 (g) for a cannabis cultivation facility, the information described in Subsection (2);

630 (h) for a cannabis processing facility, the information described in Subsection (3); and

631 (i) for an independent cannabis testing laboratory, the information described in
632 Subsection (4).

633 (2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan
634 includes the facility's intended:

635 (i) cannabis cultivation practices, including the facility's intended pesticide use and
636 fertilizer use; and

637 (ii) subject to Subsection (2)(b), acreage or square footage under cultivation and
638 anticipated cannabis yield.

639 (b) Except as provided in Subsection (2)(c)(i) or (c)(ii), a cannabis cultivation facility
640 may not:

641 (i) for a facility that cultivates cannabis only indoors, use more than 100,000 total
642 square feet of cultivation space;

643 (ii) for a facility that cultivates cannabis only outdoors, use more than four acres for
644 cultivation; and

645 (iii) for a facility that cultivates cannabis through a combination of indoor and outdoor

646 cultivation, use more combined indoor square footage and outdoor acreage than allowed under
647 the department's formula described in Subsection (2)(e).

648 (c) (i) Each licensee may apply to the department for:

649 (A) a one-time, permanent increase of up to 20% of the limitation on the cannabis
650 cultivation facility's cultivation space; or

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

653 (ii) After conducting a review equivalent to the review described in Subsection
654 4-41a-205(2)(a), if the department determines that additional cultivation is needed, the
655 department may:

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

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

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

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

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

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

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

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

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

675 (a) offered variety of cannabis product;

676 (b) cannabinoid extraction method;

- 677 (c) cannabinoid extraction equipment;
- 678 (d) processing equipment;
- 679 (e) processing techniques; and
- 680 (f) sanitation and manufacturing safety procedures for items for human consumption.

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

- 683 (a) cannabis and cannabis product testing capability;
- 684 (b) cannabis and cannabis product testing equipment; and
- 685 (c) testing methods, standards, practices, and procedures for testing cannabis and
686 cannabis products.

687 (5) Notwithstanding an applicant's proposed operating plan, a cannabis production
688 establishment is subject to land use regulations, as defined in Sections 10-9a-103 and
689 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.

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

691 **4-41a-403. Advertising.**

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

694 (2) A cannabis production establishment may advertise an employment opportunity at
695 the cannabis production establishment.

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

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

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

703 (i) includes only:

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

706 (B) a green cross; and

707 (ii) complies with local ordinances regulating signage.

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

710 (5) (a) A cannabis production establishment may hold an educational event for the
711 public or medical providers in accordance with this Subsection (5) and the rules described in
712 Subsection (5)(c).

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

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

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

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

722 (iv) a presenter other than the following:

723 (A) a cannabis production establishment agent;

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

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

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

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

731 (F) a state employee.

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

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

736 **4-41a-404. Medical cannabis transportation.**

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

739 (i) a registered cannabis production establishment agent; or
740 (ii) a medical cannabis cardholder who is transporting a medical cannabis treatment
741 that the cardholder is authorized to possess under this chapter.

742 (b) Only an agent of a cannabis cultivation facility, when the agent is transporting
743 cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory,
744 may transport unprocessed cannabis outside of a medicinal dosage form.

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

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

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

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

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

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

760 (i) between a cannabis production establishment and another cannabis production
761 establishment; and

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

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

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

767 (i) guilty of an infraction; and

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

769 (c) An individual who is guilty of a violation described in Subsection (4)(b) is not

770 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
771 underlying the violation described in Subsection (4)(b).

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

774 (i) the penalty described in Subsection (4)(b) does not apply; and

775 (ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled
776 Substances Act.

777 (5) Nothing in this section prevents the department from taking administrative
778 enforcement action against a cannabis production establishment or another person for failing to
779 make a transport in compliance with the requirements of this section.

780 (6) An individual other than an individual described in Subsection (1) may transport a
781 medical cannabis device within the state if the transport does not also contain medical
782 cannabis.

783 Section 10. Section ~~4-41a-406~~ is amended to read:

784 **4-41a-406. Local control.**

785 (1) As used in this section:

786 (a) "Land use decision" means the same as that term is defined in Sections [10-9a-103](#)
787 and [17-27a-103](#).

788 (b) "Land use permit" means the same as that term is defined in Sections [10-9a-103](#)
789 and [17-27a-103](#).

790 (c) "Land use regulation" means the same as that term is defined in Sections [10-9a-103](#)
791 and [17-27a-103](#).

792 (2) (a) If a municipality's or county's zoning ordinances provide for an industrial zone,
793 the operation of a cannabis production establishment shall be a permitted industrial use in any
794 industrial zone unless the municipality or county has designated by ordinance, before an
795 individual submits a land use permit application for a cannabis production establishment, at
796 least one industrial zone in which the operation of a cannabis production establishment is a
797 permitted use.

798 (b) If a municipality's or county's zoning ordinances provide for an agricultural zone,
799 the operation of a cannabis production establishment shall be a permitted agricultural use in
800 any agricultural zone unless the municipality or county has designated by ordinance, before an

801 individual submits a land use permit application for a cannabis production establishment, at
802 least one agricultural zone in which the operation of a cannabis production establishment is a
803 permitted use.

804 (c) The operation of a cannabis production establishment shall be a permitted use on
805 land that the municipality or county has not zoned.

806 (3) A municipality or county may not:

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

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

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

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

812 (i) another cannabis production establishment;

813 (ii) a medical cannabis pharmacy;

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

815 [26B-7-501](#); or

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

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

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

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

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

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

827 **7-1-1006. Inapplicable to certain official investigations.**

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

830 (a) local police;

831 (b) a sheriff;

- 832 (c) a peace officer;
- 833 (d) a city attorney;
- 834 (e) a county attorney;
- 835 (f) a district attorney;
- 836 (g) the attorney general;
- 837 (h) the Department of Public Safety;
- 838 (i) the Office of Recovery Services of the Department of Health and Human Services;
- 839 (j) the Insurance Department;
- 840 (k) the Department of Commerce;
- 841 (l) the Benefit Payment Control Unit or the Payment Error Prevention Unit of the
- 842 Department of Workforce Services;
- 843 (m) the state auditor;
- 844 (n) the State Tax Commission; or
- 845 (o) the Department of Health and Human Services or its designee, when undertaking an
- 846 official investigation to determine whether an individual qualifies for certain assistance
- 847 programs as provided in Section [~~26-18-2.5~~] [26B-3-106](#).
- 848 (2) Except for the Office of Recovery Services, if a governmental entity listed in
- 849 Subsection (1) seeks a record, the entity shall obtain the record as follows:
- 850 (a) if the record is a nonprotected record, by request in writing that:
- 851 (i) certifies that an official investigation is being conducted; and
- 852 (ii) is signed by a representative of the governmental entity that is conducting the
- 853 official investigation; or
- 854 (b) if the record is a protected record, by obtaining:
- 855 (i) a subpoena authorized by statute;
- 856 (ii) other legal process:
- 857 (A) ordered by a court of competent jurisdiction; and
- 858 (B) served upon the financial institution; or
- 859 (iii) written permission from all account holders of the account referenced in the record
- 860 to be examined.
- 861 (3) If the Office of Recovery Services seeks a record, the Office of Recovery Services
- 862 shall obtain the record pursuant to:

- 863 (a) Subsection [~~62A-11-104(1)(g)~~] 26B-9-104(1)(g);
- 864 (b) Section [~~62A-11-304.1~~] 26B-9-205;
- 865 (c) Section [~~62A-11-304.5~~] 26B-9-208; or
- 866 (d) Title IV, Part D of the Social Security Act as codified in 42 U.S.C. 651 et seq.
- 867 (4) A financial institution may not give notice to an account holder or person named or
- 868 referenced within the record disclosed pursuant to Subsection (2)(a).
- 869 (5) In accordance with Section 7-1-1004, the governmental entity conducting the
- 870 official investigation that obtains a record from a financial institution under this section shall
- 871 reimburse the financial institution for costs reasonably and directly incurred by the financial
- 872 institution.

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

874 **7-26-102. Definitions.**

875 As used in this chapter:

- 876 (1) "Adult Protective Services" means the same as that term is defined in Section
- 877 [~~62A-3-301~~] 26B-6-201.
- 878 (2) "Covered financial institution" means any of the following that operate in the state:
 - 879 (a) a state or federally chartered:
 - 880 (i) bank;
 - 881 (ii) savings and loan association;
 - 882 (iii) savings bank;
 - 883 (iv) industrial bank;
 - 884 (v) credit union;
 - 885 (vi) trust company; or
 - 886 (vii) depository institution; or
 - 887 (b) a financial institution.
- 888 (3) "Financial exploitation" means:
 - 889 (a) the wrongful or unauthorized taking, withholding, appropriation, or use of money,
 - 890 assets, or other property of an individual; or
 - 891 (b) an act or omission, including through a power of attorney, guardianship, or
 - 892 conservatorship of an individual, to:
 - 893 (i) obtain control, through deception, intimidation, or undue influence, over the

894 individual's money, assets, or other property to deprive the individual of the ownership, use,
895 benefit, or possession of the individual's money, assets, or other property; or

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

898 (4) "Law enforcement agency" means the same as that term is defined in Section
899 53-1-102.

900 (5) "Qualified individual" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

925 (g) a request to encumber any movable or immovable property; or
926 (h) a request to designate or change the designation of beneficiaries to receive any
927 property, benefit, or contract right.

928 (8) "Vulnerable adult" means:

929 (a) an individual who is 65 years [~~of age~~] old or older; or

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

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

932 **10-2-419. Boundary adjustment -- Notice and hearing -- Protest.**

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

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

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

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

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

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

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

949 (b) by posting notice on the Utah Public Notice Website, created in Section
950 63A-16-601, for three weeks before the day of the public hearing;

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

955 (i) the title holder of any state-owned real property described in this Subsection [~~(3)(d)~~]

956 (3)(c); and

957 (ii) the Utah State Developmental Center Board, created under Section [~~62A-5-202.5~~]
958 26B-1-429, if any state-owned real property described in this Subsection [~~(3)(d)~~] (3)(c) is
959 associated with the Utah State Developmental Center; and

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

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

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

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

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

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

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

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

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

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

977 (ii) a title holder of state-owned real property described in Subsection [~~(3)(d)~~] (3)(c);

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

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

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

986 (B) in the creation of which an election was not required because of Subsection

987 17B-1-214(3)(c); and

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

990 (f) state that the area proposed for annexation to the municipality will be automatically
991 withdrawn from a local district providing fire protection, paramedic, and emergency services,
992 as provided in Subsection 17B-1-502(2), if:

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

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

996 (B) in the creation of which an election was not required because of Subsection
997 17B-1-214(3)(c); and

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

1000 (5) Upon conclusion of the public hearing described in Subsection (2)(b), the
1001 municipal legislative body may adopt an ordinance approving the adjustment of the common
1002 boundary unless, at or before the hearing described in Subsection (2)(b), a written protest to the
1003 adjustment is filed with the city recorder or town clerk by a person described in Subsection
1004 (3)(c)(i) or (ii).

1005 (6) The municipal legislative body shall comply with the requirements of Section
1006 10-2-425 as if the boundary adjustment were an annexation.

1007 (7) (a) An ordinance adopted under Subsection (5) becomes effective when each
1008 municipality involved in the boundary adjustment has adopted an ordinance under Subsection
1009 (5).

1010 (b) The effective date of a boundary adjustment under this section is governed by
1011 Section 10-2-425.

1012 Section 14. Section 10-2-425 is amended to read:

1013 **10-2-425. Filing of notice and plat -- Recording and notice requirements --**
1014 **Effective date of annexation or boundary adjustment.**

1015 (1) The legislative body of each municipality that enacts an ordinance under this part
1016 approving the annexation of an unincorporated area or the adjustment of a boundary, or the
1017 legislative body of an eligible city, as defined in Section 10-2a-403, that annexes an

1018 unincorporated island upon the results of an election held in accordance with Section
1019 [10-2a-404](#), shall:

1020 (a) within 60 days after enacting the ordinance or the day of the election or, in the case
1021 of a boundary adjustment, within 60 days after each of the municipalities involved in the
1022 boundary adjustment has enacted an ordinance, file with the lieutenant governor:

1023 (i) a notice of an impending boundary action, as defined in Section [67-1a-6.5](#), that
1024 meets the requirements of Subsection [67-1a-6.5\(3\)](#); and

1025 (ii) a copy of an approved final local entity plat, as defined in Section [67-1a-6.5](#);

1026 (b) upon the lieutenant governor's issuance of a certificate of annexation or boundary
1027 adjustment, as the case may be, under Section [67-1a-6.5](#):

1028 (i) if the annexed area or area subject to the boundary adjustment is located within the
1029 boundary of a single county, submit to the recorder of that county the original notice of an
1030 impending boundary action, the original certificate of annexation or boundary adjustment, the
1031 original approved final local entity plat, and a certified copy of the ordinance approving the
1032 annexation or boundary adjustment; or

1033 (ii) if the annexed area or area subject to the boundary adjustment is located within the
1034 boundaries of more than a single county:

1035 (A) submit to the recorder of one of those counties the original notice of impending
1036 boundary action, the original certificate of annexation or boundary adjustment, and the original
1037 approved final local entity plat;

1038 (B) submit to the recorder of each other county a certified copy of the documents listed
1039 in Subsection (1)(b)(ii)(A); and

1040 (C) submit a certified copy of the ordinance approving the annexation or boundary
1041 adjustment to each county described in Subsections (1)(b)(ii)(A) and (B); and

1042 (c) concurrently with Subsection (1)(b):

1043 (i) send notice of the annexation or boundary adjustment to each affected entity; and

1044 (ii) in accordance with Section [~~26-8a-414~~] [26B-4-168](#), file with the Department of
1045 Health and Human Services:

1046 (A) a certified copy of the ordinance approving the annexation of an unincorporated
1047 area or the adjustment of a boundary; and

1048 (B) a copy of the approved final local entity plat.

1049 (2) If an annexation or boundary adjustment under this part or Chapter 2a, Part 4,
1050 Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class
1051 on and after May 12, 2015, also causes an automatic annexation to a local district under
1052 Section 17B-1-416 or an automatic withdrawal from a local district under Subsection
1053 17B-1-502(2), the municipal legislative body shall, as soon as practicable after the lieutenant
1054 governor issues a certificate of annexation or boundary adjustment under Section 67-1a-6.5,
1055 send notice of the annexation or boundary adjustment to the local district to which the annexed
1056 area is automatically annexed or from which the annexed area is automatically withdrawn.

1057 (3) Each notice required under Subsection (1) relating to an annexation or boundary
1058 adjustment shall state the effective date of the annexation or boundary adjustment, as
1059 determined under Subsection (4).

1060 (4) An annexation or boundary adjustment under this part is completed and takes
1061 effect:

1062 (a) for the annexation of or boundary adjustment affecting an area located in a county
1063 of the first class, except for an annexation under Section 10-2-418:

1064 (i) July 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a
1065 certificate of annexation or boundary adjustment if:

1066 (A) the certificate is issued during the preceding November 1 through April 30; and

1067 (B) the requirements of Subsection (1) are met before that July 1; or

1068 (ii) January 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a
1069 certificate of annexation or boundary adjustment if:

1070 (A) the certificate is issued during the preceding May 1 through October 31; and

1071 (B) the requirements of Subsection (1) are met before that January 1; and

1072 (b) subject to Subsection (5), for all other annexations and boundary adjustments, the
1073 date of the lieutenant governor's issuance, under Section 67-1a-6.5, of a certificate of
1074 annexation or boundary adjustment.

1075 (5) If an annexation of an unincorporated island is based upon the results of an election
1076 held in accordance with Section 10-2a-404:

1077 (a) the county and the annexing municipality may agree to a date on which the
1078 annexation is complete and takes effect; and

1079 (b) the lieutenant governor shall issue, under Section 67-1a-6.5, a certification of

1080 annexation on the date agreed to under Subsection (5)(a).

1081 (6) (a) As used in this Subsection (6):

1082 (i) "Affected area" means:

1083 (A) in the case of an annexation, the annexed area; and

1084 (B) in the case of a boundary adjustment, any area that, as a result of the boundary
1085 adjustment, is moved from within the boundary of one municipality to within the boundary of
1086 another municipality.

1087 (ii) "Annexing municipality" means:

1088 (A) in the case of an annexation, the municipality that annexes an unincorporated area;
1089 and

1090 (B) in the case of a boundary adjustment, a municipality whose boundary includes an
1091 affected area as a result of a boundary adjustment.

1092 (b) The effective date of an annexation or boundary adjustment for purposes of
1093 assessing property within an affected area is governed by Section [59-2-305.5](#).

1094 (c) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the
1095 recorder of each county in which the property is located, a municipality may not:

1096 (i) levy or collect a property tax on property within an affected area;

1097 (ii) levy or collect an assessment on property within an affected area; or

1098 (iii) charge or collect a fee for service provided to property within an affected area,

1099 unless the municipality was charging and collecting the fee within that area immediately before
1100 annexation.

1101 Section 15. Section **10-8-41.6** is amended to read:

1102 **10-8-41.6. Regulation of retail tobacco specialty business.**

1103 (1) As used in this section:

1104 (a) "Community location" means:

1105 (i) a public or private kindergarten, elementary, middle, junior high, or high school;

1106 (ii) a licensed child-care facility or preschool;

1107 (iii) a trade or technical school;

1108 (iv) a church;

1109 (v) a public library;

1110 (vi) a public playground;

- 1111 (vii) a public park;
- 1112 (viii) a youth center or other space used primarily for youth oriented activities;
- 1113 (ix) a public recreational facility;
- 1114 (x) a public arcade; or
- 1115 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.
- 1116 (b) "Department" means the Department of Health and Human Services created in
- 1117 Section [26B-1-201](#).
- 1118 (c) "Electronic cigarette product" means the same as that term is defined in Section
- 1119 [76-10-101](#).
- 1120 (d) "Flavored electronic cigarette product" means the same as that term is defined in
- 1121 Section [76-10-101](#).
- 1122 (e) "Licensee" means a person licensed under this section to conduct business as a
- 1123 retail tobacco specialty business.
- 1124 (f) "Local health department" means the same as that term is defined in Section
- 1125 [26A-1-102](#).
- 1126 (g) "Nicotine product" means the same as that term is defined in Section [76-10-101](#).
- 1127 (h) "Retail tobacco specialty business" means a commercial establishment in which:
- 1128 (i) sales of tobacco products, electronic cigarette products, and nicotine products
- 1129 account for more than 35% of the total quarterly gross receipts for the establishment;
- 1130 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
- 1131 storage of tobacco products, electronic cigarette products, or nicotine products;
- 1132 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of
- 1133 tobacco products, electronic cigarette products, or nicotine products;
- 1134 (iv) the commercial establishment:
- 1135 (A) holds itself out as a retail tobacco specialty business; and
- 1136 (B) causes a reasonable person to believe the commercial establishment is a retail
- 1137 tobacco specialty business;
- 1138 (v) any flavored electronic cigarette product is sold; or
- 1139 (vi) the retail space features a self-service display for tobacco products, electronic
- 1140 cigarette products, or nicotine products.
- 1141 (i) "Self-service display" means the same as that term is defined in Section

1142 76-10-105.1.

1143 (j) "Tobacco product" means:

1144 (i) a tobacco product as defined in Section 76-10-101; or

1145 (ii) tobacco paraphernalia as defined in Section 76-10-101.

1146 (2) The regulation of a retail tobacco specialty business is an exercise of the police
1147 powers of the state by the state or by delegation of the state's police powers to other
1148 governmental entities.

1149 (3) (a) A person may not operate a retail tobacco specialty business in a municipality
1150 unless the person obtains a license from the municipality in which the retail tobacco specialty
1151 business is located.

1152 (b) A municipality may only issue a retail tobacco specialty business license to a
1153 person if the person complies with the provisions of Subsections (4) and (5).

1154 (4) (a) Except as provided in Subsection (7), a municipality may not issue a license for
1155 a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty
1156 business is located within:

1157 (i) 1,000 feet of a community location;

1158 (ii) 600 feet of another retail tobacco specialty business; or

1159 (iii) 600 feet from property used or zoned for:

1160 (A) agriculture use; or

1161 (B) residential use.

1162 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in
1163 a straight line from the nearest entrance of the retail tobacco specialty business to the nearest
1164 property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard
1165 to intervening structures or zoning districts.

1166 (5) A municipality may not issue or renew a license for a person to conduct business as
1167 a retail tobacco specialty business until the person provides the municipality with proof that the
1168 retail tobacco specialty business has:

1169 (a) a valid permit for a retail tobacco specialty business issued under [~~Title 26, Chapter~~
1170 ~~62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7,
1171 Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health
1172 department having jurisdiction over the area in which the retail tobacco specialty business is

1173 located; and

1174 (b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax
1175 Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; and

1176 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid
1177 license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an
1178 electronic cigarette product or a nicotine product.

1179 (6) (a) Nothing in this section:

1180 (i) requires a municipality to issue a retail tobacco specialty business license; or

1181 (ii) prohibits a municipality from adopting more restrictive requirements on a person
1182 seeking a license or renewal of a license to conduct business as a retail tobacco specialty
1183 business.

1184 (b) A municipality may suspend or revoke a retail tobacco specialty business license
1185 issued under this section:

1186 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10,
1187 Part 16, Pattern of Unlawful Activity Act;

1188 (ii) if a licensee violates federal law or federal regulations restricting the sale and
1189 distribution of tobacco products or electronic cigarette products to protect children and
1190 adolescents;

1191 (iii) upon the recommendation of the department or a local health department under
1192 [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title
1193 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products; or

1194 (iv) under any other provision of state law or local ordinance.

1195 (7) (a) A retail tobacco specialty business is exempt from Subsection (4) if:

1196 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
1197 license to conduct business as a retail tobacco specialty business;

1198 (ii) the retail tobacco specialty business is operating in a municipality in accordance
1199 with all applicable laws except for the requirement in Subsection (4); and

1200 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
1201 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

1202 (b) A retail tobacco specialty business may maintain an exemption under Subsection
1203 (7)(a) if:

1204 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse
1205 or permanent revocation;

1206 (ii) the retail tobacco specialty business does not close for business or otherwise
1207 suspend the sale of tobacco products, electronic cigarette products, or nicotine products for
1208 more than 60 consecutive days;

1209 (iii) the retail tobacco specialty business does not substantially change the business
1210 premises or business operation; and

1211 (iv) the retail tobacco specialty business maintains the right to operate under the terms
1212 of other applicable laws, including:

1213 (A) [~~Title 26, Chapter 38, Utah Indoor Clean Air Act~~] Section 26B-7-503;

1214 (B) zoning ordinances;

1215 (C) building codes; and

1216 (D) the requirements of the license described in Subsection (7)(a)(i).

1217 (c) A retail tobacco specialty business that does not qualify for an exemption under
1218 Subsection (7)(a) is exempt from Subsection (4) if:

1219 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
1220 general tobacco retailer permit or a retail tobacco specialty business permit under [~~Title 26,~~
1221 ~~Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B,
1222 Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the
1223 local health department having jurisdiction over the area in which the retail tobacco specialty
1224 business is located;

1225 (ii) the retail tobacco specialty business is operating in the municipality in accordance
1226 with all applicable laws except for the requirement in Subsection (4); and

1227 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
1228 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

1229 (d) Except as provided in Subsection (7)(e), a retail tobacco specialty business may
1230 maintain an exemption under Subsection (7)(c) if:

1231 (i) on or before December 31, 2020, the retail tobacco specialty business receives a
1232 retail tobacco specialty business permit from the local health department having jurisdiction
1233 over the area in which the retail tobacco specialty business is located;

1234 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse

1235 or permanent revocation;

1236 (iii) the retail tobacco specialty business does not close for business or otherwise
1237 suspend the sale of tobacco products, electronic cigarette products, or nicotine products for
1238 more than 60 consecutive days;

1239 (iv) the retail tobacco specialty business does not substantially change the business
1240 premises or business operation as the business existed when the retail tobacco specialty
1241 business received a permit under Subsection (7)(d)(i); and

1242 (v) the retail tobacco specialty business maintains the right to operate under the terms
1243 of other applicable laws, including:

1244 (A) [~~Title 26, Chapter 38, Utah Indoor Clean Air Act~~] 26B-7-503;

1245 (B) zoning ordinances;

1246 (C) building codes; and

1247 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

1248 (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is
1249 located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high,
1250 or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco
1251 specialty business:

1252 (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use
1253 and located within a group of architecturally unified commercial establishments built on a site
1254 that is planned, developed, owned, and managed as an operating unit; and

1255 (ii) continues to meet the requirements described in Subsection (7)(b) that are not
1256 directly related to the relocation described in this Subsection (7)(e).

1257 Section 16. Section ~~10-8-84.6~~ is amended to read:

1258 **10-8-84.6. Prohibition on licensing or certification of child care programs.**

1259 (1) (a) As used in this section, "child care program" means a child care facility or
1260 program operated by a person who holds a license or certificate from the Department of Health
1261 and Human Services under [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B,
1262 Chapter 2, Part 4, Child Care Licensing.

1263 (b) "Child care program" does not include a child care program for which a
1264 municipality provides oversight, as described in Subsection [~~26-39-403(2)(e)~~] 26B-2-405(2)(e).

1265 (2) A municipality may not enact or enforce an ordinance that:

- 1266 (a) imposes licensing or certification requirements for a child care program; or
- 1267 (b) governs the manner in which child care is provided in a child care program.

1268 (3) This section does not prohibit a municipality from:

- 1269 (a) requiring a business license to operate a business within the municipality; or
- 1270 (b) imposing requirements related to building, health, and fire codes.

1271 Section 17. Section **10-8-85.5** is amended to read:

1272 **10-8-85.5. "Rental dwelling" defined -- Municipality may require a business**
1273 **license or a regulatory business license and inspections -- Exception.**

1274 (1) As used in this section, "rental dwelling" means a building or portion of a building
1275 that is:

- 1276 (a) used or designated for use as a residence by one or more persons; and
- 1277 (b) (i) available to be rented, loaned, leased, or hired out for a period of one month or
1278 longer; or
- 1279 (ii) arranged, designed, or built to be rented, loaned, leased, or hired out for a period of
1280 one month or longer.

1281 (2) (a) The legislative body of a municipality may by ordinance require the owner of a
1282 rental dwelling located within the municipality:

- 1283 (i) to obtain a business license pursuant to Section [10-1-203](#); or
- 1284 (ii) (A) to obtain a regulatory business license to operate and maintain the rental
1285 dwelling in accordance with Section [10-1-203.5](#); and
- 1286 (B) to allow inspections of the rental dwelling as a condition of obtaining a regulatory
1287 business license.

1288 (b) A municipality may not require an owner of multiple rental dwellings or multiple
1289 buildings containing rental dwellings to obtain more than one regulatory business license for
1290 the operation and maintenance of those rental dwellings.

1291 (c) A municipality may not charge a fee for the inspection of a rental dwelling.

1292 (d) If a municipality's inspection of a rental dwelling, allowed under Subsection
1293 (2)(a)(ii)(B), approves the rental dwelling for purposes of a regulatory business license, a
1294 municipality may not inspect that rental dwelling except as provided for in Section [10-1-203.5](#).

1295 (3) A municipality may not:

- 1296 (a) interfere with the ability of an owner of a rental dwelling to contract with a tenant

1297 concerning the payment of the cost of a utility or municipal service provided to the rental
1298 dwelling; or

1299 (b) except as required under the State Construction Code or an approved code under
1300 Title 15A, State Construction and Fire Codes Act, for a structural change to the rental dwelling,
1301 or as required in an ordinance adopted before January 1, 2008, require the owner of a rental
1302 dwelling to retrofit the rental dwelling with or install in the rental dwelling a safety feature that
1303 was not required when the rental dwelling was constructed.

1304 (4) Nothing in this section shall be construed to affect the rights and duties established
1305 under Title 57, Chapter 22, Utah Fit Premises Act, or to restrict a municipality's ability to
1306 enforce its generally applicable health ordinances or building code, a local health department's
1307 authority under Title 26A, Chapter 1, Local Health Departments, or the [~~Utah Department of~~
1308 ~~Health's~~] Department of Health and Human Service's authority under [~~Title 26, Utah Health~~
1309 ~~Code~~] Title 26B, Utah Health and Human Services Code.

1310 Section 18. Section **10-8-90** is amended to read:

1311 **10-8-90. Ownership and operation of hospitals.**

1312 (1) Each city of the third, fourth, or fifth class and each town of the state is authorized
1313 to construct, own, and operate hospitals and to join with other cities, towns, and counties in the
1314 construction, ownership, and operation of hospitals.

1315 (2) (a) Beginning July 1, 2017, a hospital under Subsection (1) that owns a nursing care
1316 facility regulated under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection~~
1317 ~~Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, and uses an
1318 intergovernmental transfer as that term is defined in Section [~~26-18-21~~] 26B-3-130 may not
1319 enter into a new agreement or arrangement to operate a nursing care facility in another city,
1320 town, or county without first entering into an agreement under Title 11, Chapter 13, Interlocal
1321 Cooperation Act, or other contract with the other city, town, or county to operate the nursing
1322 care facility.

1323 (b) Subsection (2)(a) only applies to a city or town described in Subsection (1).

1324 Section 19. Section **10-9a-103** is amended to read:

1325 **10-9a-103. Definitions.**

1326 As used in this chapter:

1327 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or

1328 detached from a primary single-family dwelling and contained on one lot.

1329 (2) "Adversely affected party" means a person other than a land use applicant who:

1330 (a) owns real property adjoining the property that is the subject of a land use
1331 application or land use decision; or

1332 (b) will suffer a damage different in kind than, or an injury distinct from, that of the
1333 general community as a result of the land use decision.

1334 (3) "Affected entity" means a county, municipality, local district, special service
1335 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
1336 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
1337 public utility, property owner, property owners association, or the [Utah] Department of
1338 Transportation, if:

1339 (a) the entity's services or facilities are likely to require expansion or significant
1340 modification because of an intended use of land;

1341 (b) the entity has filed with the municipality a copy of the entity's general or long-range
1342 plan; or

1343 (c) the entity has filed with the municipality a request for notice during the same
1344 calendar year and before the municipality provides notice to an affected entity in compliance
1345 with a requirement imposed under this chapter.

1346 (4) "Affected owner" means the owner of real property that is:

1347 (a) a single project;

1348 (b) the subject of a land use approval that sponsors of a referendum timely challenged
1349 in accordance with Subsection 20A-7-601(6); and

1350 (c) determined to be legally referable under Section 20A-7-602.8.

1351 (5) "Appeal authority" means the person, board, commission, agency, or other body
1352 designated by ordinance to decide an appeal of a decision of a land use application or a
1353 variance.

1354 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or
1355 residential property if the sign is designed or intended to direct attention to a business, product,
1356 or service that is not sold, offered, or existing on the property where the sign is located.

1357 (7) (a) "Charter school" means:

1358 (i) an operating charter school;

1359 (ii) a charter school applicant that a charter school authorizer approves in accordance
1360 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

1361 (iii) an entity that is working on behalf of a charter school or approved charter
1362 applicant to develop or construct a charter school building.

1363 (b) "Charter school" does not include a therapeutic school.

1364 (8) "Conditional use" means a land use that, because of the unique characteristics or
1365 potential impact of the land use on the municipality, surrounding neighbors, or adjacent land
1366 uses, may not be compatible in some areas or may be compatible only if certain conditions are
1367 required that mitigate or eliminate the detrimental impacts.

1368 (9) "Constitutional taking" means a governmental action that results in a taking of
1369 private property so that compensation to the owner of the property is required by the:

1370 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

1371 (b) Utah Constitution Article I, Section 22.

1372 (10) "Culinary water authority" means the department, agency, or public entity with
1373 responsibility to review and approve the feasibility of the culinary water system and sources for
1374 the subject property.

1375 (11) "Development activity" means:

1376 (a) any construction or expansion of a building, structure, or use that creates additional
1377 demand and need for public facilities;

1378 (b) any change in use of a building or structure that creates additional demand and need
1379 for public facilities; or

1380 (c) any change in the use of land that creates additional demand and need for public
1381 facilities.

1382 (12) (a) "Development agreement" means a written agreement or amendment to a
1383 written agreement between a municipality and one or more parties that regulates or controls the
1384 use or development of a specific area of land.

1385 (b) "Development agreement" does not include an improvement completion assurance.

1386 (13) (a) "Disability" means a physical or mental impairment that substantially limits
1387 one or more of a person's major life activities, including a person having a record of such an
1388 impairment or being regarded as having such an impairment.

1389 (b) "Disability" does not include current illegal use of, or addiction to, any federally

1390 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
1391 802.

1392 (14) "Educational facility":

1393 (a) means:

1394 (i) a school district's building at which pupils assemble to receive instruction in a
1395 program for any combination of grades from preschool through grade 12, including
1396 kindergarten and a program for children with disabilities;

1397 (ii) a structure or facility:

1398 (A) located on the same property as a building described in Subsection (14)(a)(i); and

1399 (B) used in support of the use of that building; and

1400 (iii) a building to provide office and related space to a school district's administrative
1401 personnel; and

1402 (b) does not include:

1403 (i) land or a structure, including land or a structure for inventory storage, equipment
1404 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

1405 (A) not located on the same property as a building described in Subsection (14)(a)(i);
1406 and

1407 (B) used in support of the purposes of a building described in Subsection (14)(a)(i); or

1408 (ii) a therapeutic school.

1409 (15) "Fire authority" means the department, agency, or public entity with responsibility
1410 to review and approve the feasibility of fire protection and suppression services for the subject
1411 property.

1412 (16) "Flood plain" means land that:

1413 (a) is within the 100-year flood plain designated by the Federal Emergency
1414 Management Agency; or

1415 (b) has not been studied or designated by the Federal Emergency Management Agency
1416 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
1417 the land has characteristics that are similar to those of a 100-year flood plain designated by the
1418 Federal Emergency Management Agency.

1419 (17) "General plan" means a document that a municipality adopts that sets forth general
1420 guidelines for proposed future development of the land within the municipality.

1421 (18) "Geologic hazard" means:

1422 (a) a surface fault rupture;

1423 (b) shallow groundwater;

1424 (c) liquefaction;

1425 (d) a landslide;

1426 (e) a debris flow;

1427 (f) unstable soil;

1428 (g) a rock fall; or

1429 (h) any other geologic condition that presents a risk:

1430 (i) to life;

1431 (ii) of substantial loss of real property; or

1432 (iii) of substantial damage to real property.

1433 (19) "Historic preservation authority" means a person, board, commission, or other
1434 body designated by a legislative body to:

1435 (a) recommend land use regulations to preserve local historic districts or areas; and

1436 (b) administer local historic preservation land use regulations within a local historic
1437 district or area.

1438 (20) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
1439 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other
1440 utility system.

1441 (21) "Identical plans" means building plans submitted to a municipality that:

1442 (a) are clearly marked as "identical plans";

1443 (b) are substantially identical to building plans that were previously submitted to and
1444 reviewed and approved by the municipality; and

1445 (c) describe a building that:

1446 (i) is located on land zoned the same as the land on which the building described in the
1447 previously approved plans is located;

1448 (ii) is subject to the same geological and meteorological conditions and the same law
1449 as the building described in the previously approved plans;

1450 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
1451 and approved by the municipality; and

1452 (iv) does not require any additional engineering or analysis.

1453 (22) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
1454 Impact Fees Act.

1455 (23) "Improvement completion assurance" means a surety bond, letter of credit,
1456 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
1457 by a municipality to guaranty the proper completion of landscaping or an infrastructure
1458 improvement required as a condition precedent to:

1459 (a) recording a subdivision plat; or

1460 (b) development of a commercial, industrial, mixed use, or multifamily project.

1461 (24) "Improvement warranty" means an applicant's unconditional warranty that the
1462 applicant's installed and accepted landscaping or infrastructure improvement:

1463 (a) complies with the municipality's written standards for design, materials, and
1464 workmanship; and

1465 (b) will not fail in any material respect, as a result of poor workmanship or materials,
1466 within the improvement warranty period.

1467 (25) "Improvement warranty period" means a period:

1468 (a) no later than one year after a municipality's acceptance of required landscaping; or

1469 (b) no later than one year after a municipality's acceptance of required infrastructure,
1470 unless the municipality:

1471 (i) determines for good cause that a one-year period would be inadequate to protect the
1472 public health, safety, and welfare; and

1473 (ii) has substantial evidence, on record:

1474 (A) of prior poor performance by the applicant; or

1475 (B) that the area upon which the infrastructure will be constructed contains suspect soil
1476 and the municipality has not otherwise required the applicant to mitigate the suspect soil.

1477 (26) "Infrastructure improvement" means permanent infrastructure that is essential for
1478 the public health and safety or that:

1479 (a) is required for human occupation; and

1480 (b) an applicant must install:

1481 (i) in accordance with published installation and inspection specifications for public
1482 improvements; and

- 1483 (ii) whether the improvement is public or private, as a condition of:
1484 (A) recording a subdivision plat;
1485 (B) obtaining a building permit; or
1486 (C) development of a commercial, industrial, mixed use, condominium, or multifamily
1487 project.
- 1488 (27) "Internal lot restriction" means a platted note, platted demarcation, or platted
1489 designation that:
1490 (a) runs with the land; and
1491 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
1492 the plat; or
1493 (ii) designates a development condition that is enclosed within the perimeter of a lot
1494 described on the plat.
- 1495 (28) "Land use applicant" means a property owner, or the property owner's designee,
1496 who submits a land use application regarding the property owner's land.
- 1497 (29) "Land use application":
1498 (a) means an application that is:
1499 (i) required by a municipality; and
1500 (ii) submitted by a land use applicant to obtain a land use decision; and
1501 (b) does not mean an application to enact, amend, or repeal a land use regulation.
- 1502 (30) "Land use authority" means:
1503 (a) a person, board, commission, agency, or body, including the local legislative body,
1504 designated by the local legislative body to act upon a land use application; or
1505 (b) if the local legislative body has not designated a person, board, commission,
1506 agency, or body, the local legislative body.
- 1507 (31) "Land use decision" means an administrative decision of a land use authority or
1508 appeal authority regarding:
1509 (a) a land use permit; or
1510 (b) a land use application.
- 1511 (32) "Land use permit" means a permit issued by a land use authority.
- 1512 (33) "Land use regulation":
1513 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,

1514 specification, fee, or rule that governs the use or development of land;
1515 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
1516 and
1517 (c) does not include:
1518 (i) a land use decision of the legislative body acting as the land use authority, even if
1519 the decision is expressed in a resolution or ordinance; or
1520 (ii) a temporary revision to an engineering specification that does not materially:
1521 (A) increase a land use applicant's cost of development compared to the existing
1522 specification; or
1523 (B) impact a land use applicant's use of land.
1524 (34) "Legislative body" means the municipal council.
1525 (35) "Local district" means an entity under Title 17B, Limited Purpose Local
1526 Government Entities - Local Districts, and any other governmental or quasi-governmental
1527 entity that is not a county, municipality, school district, or the state.
1528 (36) "Local historic district or area" means a geographically definable area that:
1529 (a) contains any combination of buildings, structures, sites, objects, landscape features,
1530 archeological sites, or works of art that contribute to the historic preservation goals of a
1531 legislative body; and
1532 (b) is subject to land use regulations to preserve the historic significance of the local
1533 historic district or area.
1534 (37) "Lot" means a tract of land, regardless of any label, that is created by and shown
1535 on a subdivision plat that has been recorded in the office of the county recorder.
1536 (38) (a) "Lot line adjustment" means a relocation of a lot line boundary between
1537 adjoining lots or between a lot and adjoining parcels in accordance with Section [10-9a-608](#):
1538 (i) whether or not the lots are located in the same subdivision; and
1539 (ii) with the consent of the owners of record.
1540 (b) "Lot line adjustment" does not mean a new boundary line that:
1541 (i) creates an additional lot; or
1542 (ii) constitutes a subdivision.
1543 (c) "Lot line adjustment" does not include a boundary line adjustment made by the
1544 Department of Transportation.

1545 (39) "Major transit investment corridor" means public transit service that uses or
1546 occupies:

1547 (a) public transit rail right-of-way;

1548 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit;

1549 or

1550 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
1551 municipality or county and:

1552 (i) a public transit district as defined in Section [17B-2a-802](#); or

1553 (ii) an eligible political subdivision as defined in Section [59-12-2219](#).

1554 (40) "Moderate income housing" means housing occupied or reserved for occupancy
1555 by households with a gross household income equal to or less than 80% of the median gross
1556 income for households of the same size in the county in which the city is located.

1557 (41) "Municipal utility easement" means an easement that:

1558 (a) is created or depicted on a plat recorded in a county recorder's office and is
1559 described as a municipal utility easement granted for public use;

1560 (b) is not a protected utility easement or a public utility easement as defined in Section
1561 [54-3-27](#);

1562 (c) the municipality or the municipality's affiliated governmental entity uses and
1563 occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm
1564 water, or communications or data lines;

1565 (d) is used or occupied with the consent of the municipality in accordance with an
1566 authorized franchise or other agreement;

1567 (e) (i) is used or occupied by a specified public utility in accordance with an authorized
1568 franchise or other agreement; and

1569 (ii) is located in a utility easement granted for public use; or

1570 (f) is described in Section [10-9a-529](#) and is used by a specified public utility.

1571 (42) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
1572 spent and expenses incurred in:

1573 (a) verifying that building plans are identical plans; and

1574 (b) reviewing and approving those minor aspects of identical plans that differ from the
1575 previously reviewed and approved building plans.

1576 (43) "Noncomplying structure" means a structure that:
1577 (a) legally existed before the structure's current land use designation; and
1578 (b) because of one or more subsequent land use ordinance changes, does not conform
1579 to the setback, height restrictions, or other regulations, excluding those regulations, which
1580 govern the use of land.

1581 (44) "Nonconforming use" means a use of land that:
1582 (a) legally existed before its current land use designation;
1583 (b) has been maintained continuously since the time the land use ordinance governing
1584 the land changed; and
1585 (c) because of one or more subsequent land use ordinance changes, does not conform
1586 to the regulations that now govern the use of the land.

1587 (45) "Official map" means a map drawn by municipal authorities and recorded in a
1588 county recorder's office that:

1589 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
1590 highways and other transportation facilities;

1591 (b) provides a basis for restricting development in designated rights-of-way or between
1592 designated setbacks to allow the government authorities time to purchase or otherwise reserve
1593 the land; and

1594 (c) has been adopted as an element of the municipality's general plan.

1595 (46) "Parcel" means any real property that is not a lot.

1596 (47) (a) "Parcel boundary adjustment" means a recorded agreement between owners of
1597 adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line
1598 agreement in accordance with Section [10-9a-524](#), if no additional parcel is created and:

1599 (i) none of the property identified in the agreement is a lot; or

1600 (ii) the adjustment is to the boundaries of a single person's parcels.

1601 (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary
1602 line that:

1603 (i) creates an additional parcel; or

1604 (ii) constitutes a subdivision.

1605 (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by
1606 the Department of Transportation.

1607 (48) "Person" means an individual, corporation, partnership, organization, association,
1608 trust, governmental agency, or any other legal entity.

1609 (49) "Plan for moderate income housing" means a written document adopted by a
1610 municipality's legislative body that includes:

1611 (a) an estimate of the existing supply of moderate income housing located within the
1612 municipality;

1613 (b) an estimate of the need for moderate income housing in the municipality for the
1614 next five years;

1615 (c) a survey of total residential land use;

1616 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
1617 income housing; and

1618 (e) a description of the municipality's program to encourage an adequate supply of
1619 moderate income housing.

1620 (50) "Plat" means an instrument subdividing property into lots as depicted on a map or
1621 other graphical representation of lands that a licensed professional land surveyor makes and
1622 prepares in accordance with Section [10-9a-603](#) or [57-8-13](#).

1623 (51) "Potential geologic hazard area" means an area that:

1624 (a) is designated by a Utah Geological Survey map, county geologist map, or other
1625 relevant map or report as needing further study to determine the area's potential for geologic
1626 hazard; or

1627 (b) has not been studied by the Utah Geological Survey or a county geologist but
1628 presents the potential of geologic hazard because the area has characteristics similar to those of
1629 a designated geologic hazard area.

1630 (52) "Public agency" means:

1631 (a) the federal government;

1632 (b) the state;

1633 (c) a county, municipality, school district, local district, special service district, or other
1634 political subdivision of the state; or

1635 (d) a charter school.

1636 (53) "Public hearing" means a hearing at which members of the public are provided a
1637 reasonable opportunity to comment on the subject of the hearing.

1638 (54) "Public meeting" means a meeting that is required to be open to the public under
1639 Title 52, Chapter 4, Open and Public Meetings Act.

1640 (55) "Public street" means a public right-of-way, including a public highway, public
1641 avenue, public boulevard, public parkway, public road, public lane, public alley, public
1642 viaduct, public subway, public tunnel, public bridge, public byway, other public transportation
1643 easement, or other public way.

1644 (56) "Receiving zone" means an area of a municipality that the municipality
1645 designates, by ordinance, as an area in which an owner of land may receive a transferable
1646 development right.

1647 (57) "Record of survey map" means a map of a survey of land prepared in accordance
1648 with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

1649 (58) "Residential facility for persons with a disability" means a residence:

1650 (a) in which more than one person with a disability resides; and

1651 ~~[(b) (i) which is licensed or certified by the Department of Human Services under Title~~
1652 ~~62A, Chapter 2, Licensure of Programs and Facilities; or]~~

1653 ~~[(ii) which is licensed or certified by the Department of Health under Title 26, Chapter~~
1654 ~~21, Health Care Facility Licensing and Inspection Act.]~~

1655 (b) which is licensed or certified by the Department of Health and Human Services
1656 under:

1657 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

1658 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

1659 (59) "Rules of order and procedure" means a set of rules that govern and prescribe in a
1660 public meeting:

1661 (a) parliamentary order and procedure;

1662 (b) ethical behavior; and

1663 (c) civil discourse.

1664 (60) "Sanitary sewer authority" means the department, agency, or public entity with
1665 responsibility to review and approve the feasibility of sanitary sewer services or onsite
1666 wastewater systems.

1667 (61) "Sending zone" means an area of a municipality that the municipality designates,
1668 by ordinance, as an area from which an owner of land may transfer a transferable development

1669 right.

1670 (62) "Specified public agency" means:

1671 (a) the state;

1672 (b) a school district; or

1673 (c) a charter school.

1674 (63) "Specified public utility" means an electrical corporation, gas corporation, or
1675 telephone corporation, as those terms are defined in Section 54-2-1.

1676 (64) "State" includes any department, division, or agency of the state.

1677 (65) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be
1678 divided into two or more lots or other division of land for the purpose, whether immediate or
1679 future, for offer, sale, lease, or development either on the installment plan or upon any and all
1680 other plans, terms, and conditions.

1681 (b) "Subdivision" includes:

1682 (i) the division or development of land, whether by deed, metes and bounds
1683 description, devise and testacy, map, plat, or other recorded instrument, regardless of whether
1684 the division includes all or a portion of a parcel or lot; and

1685 (ii) except as provided in Subsection (65)(c), divisions of land for residential and
1686 nonresidential uses, including land used or to be used for commercial, agricultural, and
1687 industrial purposes.

1688 (c) "Subdivision" does not include:

1689 (i) a bona fide division or partition of agricultural land for the purpose of joining one of
1690 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
1691 neither the resulting combined parcel nor the parcel remaining from the division or partition
1692 violates an applicable land use ordinance;

1693 (ii) a boundary line agreement recorded with the county recorder's office between
1694 owners of adjoining parcels adjusting the mutual boundary in accordance with Section
1695 10-9a-524 if no new parcel is created;

1696 (iii) a recorded document, executed by the owner of record:

1697 (A) revising the legal descriptions of multiple parcels into one legal description
1698 encompassing all such parcels; or

1699 (B) joining a lot to a parcel;

- 1700 (iv) a boundary line agreement between owners of adjoining subdivided properties
1701 adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:
1702 (A) no new dwelling lot or housing unit will result from the adjustment; and
1703 (B) the adjustment will not violate any applicable land use ordinance;
1704 (v) a bona fide division of land by deed or other instrument if the deed or other
1705 instrument states in writing that the division:
1706 (A) is in anticipation of future land use approvals on the parcel or parcels;
1707 (B) does not confer any land use approvals; and
1708 (C) has not been approved by the land use authority;
1709 (vi) a parcel boundary adjustment;
1710 (vii) a lot line adjustment;
1711 (viii) a road, street, or highway dedication plat;
1712 (ix) a deed or easement for a road, street, or highway purpose; or
1713 (x) any other division of land authorized by law.
1714 (66) "Subdivision amendment" means an amendment to a recorded subdivision in
1715 accordance with Section 10-9a-608 that:
1716 (a) vacates all or a portion of the subdivision;
1717 (b) alters the outside boundary of the subdivision;
1718 (c) changes the number of lots within the subdivision;
1719 (d) alters a public right-of-way, a public easement, or public infrastructure within the
1720 subdivision; or
1721 (e) alters a common area or other common amenity within the subdivision.
1722 (67) "Substantial evidence" means evidence that:
1723 (a) is beyond a scintilla; and
1724 (b) a reasonable mind would accept as adequate to support a conclusion.
1725 (68) "Suspect soil" means soil that has:
1726 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
1727 3% swell potential;
1728 (b) bedrock units with high shrink or swell susceptibility; or
1729 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
1730 commonly associated with dissolution and collapse features.

1731 (69) "Therapeutic school" means a residential group living facility:

1732 (a) for four or more individuals who are not related to:

1733 (i) the owner of the facility; or

1734 (ii) the primary service provider of the facility;

1735 (b) that serves students who have a history of failing to function:

1736 (i) at home;

1737 (ii) in a public school; or

1738 (iii) in a nonresidential private school; and

1739 (c) that offers:

1740 (i) room and board; and

1741 (ii) an academic education integrated with:

1742 (A) specialized structure and supervision; or

1743 (B) services or treatment related to a disability, an emotional development, a
1744 behavioral development, a familial development, or a social development.

1745 (70) "Transferable development right" means a right to develop and use land that
1746 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
1747 land use rights from a designated sending zone to a designated receiving zone.

1748 (71) "Unincorporated" means the area outside of the incorporated area of a city or
1749 town.

1750 (72) "Water interest" means any right to the beneficial use of water, including:

1751 (a) each of the rights listed in Section 73-1-11; and

1752 (b) an ownership interest in the right to the beneficial use of water represented by:

1753 (i) a contract; or

1754 (ii) a share in a water company, as defined in Section 73-3-3.5.

1755 (73) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
1756 land use zones, overlays, or districts.

1757 Section 20. Section **10-9a-520** is amended to read:

1758 **10-9a-520. Licensing of residences for persons with a disability.**

1759 The responsibility to license programs or entities that operate facilities for persons with
1760 a disability, as well as to require and monitor the provision of adequate services to persons
1761 residing in those facilities, shall rest with the Department of Health and Human Services as

1762 provided in:

1763 ~~[(1) for programs or entities licensed or certified by the Department of Human~~
1764 ~~Services, the Department of Human Services as provided in Title 62A, Chapter 5, Services for~~
1765 ~~People with Disabilities, and]~~

1766 ~~[(2) for programs or entities licensed or certified by the Department of Health, the~~
1767 ~~Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and~~
1768 ~~Inspection Act.]~~

1769 (1) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

1770 (2) Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities.

1771 Section 21. Section **10-9a-528** is amended to read:

1772 **10-9a-528. Cannabis production establishments, medical cannabis pharmacies,**
1773 **and industrial hemp producer licensee.**

1774 (1) As used in this section:

1775 (a) "Cannabis production establishment" means the same as that term is defined in
1776 Section 4-41a-102.

1777 (b) "Industrial hemp producer licensee" means the same as the term "licensee" is
1778 defined in Section 4-41-102.

1779 (c) "Medical cannabis pharmacy" means the same as that term is defined in Section
1780 ~~[26-61a-102]~~ 26B-4-201.

1781 (2) (a) (i) A municipality may not regulate a cannabis production establishment in
1782 conflict with:

1783 (A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable
1784 jurisprudence; and

1785 (B) this chapter.

1786 (ii) A municipality may not regulate a medical cannabis pharmacy in conflict with:

1787 (A) ~~[Title 26, Chapter 61a, Utah Medical Cannabis Act]~~ Title 26B, Chapter 4, Part 2,
1788 Cannabinoid Research and Medical Cannabis, and applicable jurisprudence; and

1789 (B) this chapter.

1790 (iii) A municipality may not regulate an industrial hemp producer licensee in conflict
1791 with:

1792 (A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and

1793 (B) this chapter.

1794 (b) The Department of Agriculture and Food has plenary authority to license programs
1795 or entities that operate a cannabis production establishment.

1796 (c) The Department of Health and Human Services has plenary authority to license
1797 programs or entities that operate a medical cannabis pharmacy.

1798 (3) (a) Within the time period described in Subsection (3)(b), a municipality shall
1799 prepare and adopt a land use regulation, development agreement, or land use decision in
1800 accordance with this title and:

1801 (i) regarding a cannabis production establishment, Section [4-41a-406](#); or

1802 (ii) regarding a medical cannabis pharmacy, Section [~~26-61a-507~~] [26B-4-235](#).

1803 (b) A municipality shall take the action described in Subsection (3)(a):

1804 (i) before January 1, 2021, within 45 days after the day on which the municipality
1805 receives a petition for the action; and

1806 (ii) after January 1, 2021, in accordance with Subsection [10-9a-509.5\(2\)](#).

1807 Section 22. Section **11-46-102** is amended to read:

1808 **11-46-102. Definitions.**

1809 As used in this chapter:

1810 (1) "Animal" means a cat or dog.

1811 (2) "Animal control officer" means any person employed or appointed by a county or a
1812 municipality who is authorized to investigate violations of laws and ordinances concerning
1813 animals, to issue citations in accordance with Utah law, and take custody of animals as
1814 appropriate in the enforcement of the laws and ordinances.

1815 (3) "Animal shelter" means a facility or program:

1816 (a) providing services for stray, lost, or unwanted animals, including holding and
1817 placing the animals for adoption, but does not include an institution conducting research on
1818 animals, as defined in Section [~~26-26-1~~] [26B-1-236](#); or

1819 (b) a private humane society or private animal welfare organization.

1820 (4) "Person" means an individual, an entity, or a representative of an entity.

1821 Section 23. Section **11-48-101.5** is amended to read:

1822 **11-48-101.5. Definitions.**

1823 As used in this chapter:

1824 (1) (a) "911 ambulance services" means ambulance services rendered in response to a
1825 911 call received by a designated dispatch center that receives 911 or E911 calls.

1826 (b) "911 ambulance services" does not mean a seven or ten digit telephone call
1827 received directly by an ambulance provider licensed under [~~Title 26, Chapter 8a, Utah~~
1828 ~~Emergency Medical Services System Act~~] Title 26B, Chapter 4, Part 1, Utah Emergency
1829 Medical Services System.

1830 (2) "Municipality" means a city, town, or metro township.

1831 (3) "Political subdivision" means a county, city, town, local district, or special district.

1832 Section 24. Section **11-48-103** is amended to read:

1833 **11-48-103. Provision of 911 ambulance services in municipalities and counties.**

1834 (1) The governing body of each municipality and county shall, subject to [~~Title 26,~~
1835 ~~Chapter 8a, Part 4, Ambulance and Paramedic Providers~~] Title 26B, Chapter 4, Part 1, Utah
1836 Emergency Medical Services System, ensure at least a minimum level of 911 ambulance
1837 services are provided:

1838 (a) within the territorial limits of the municipality or county;

1839 (b) by a ground ambulance provider, licensed by the Department of Health and Human
1840 Services under [~~Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers~~] Title 26B,
1841 Chapter 4, Part 1, Utah Emergency Medical Services System; and

1842 (c) in accordance with rules established by the State Emergency Medical Services
1843 Committee under [~~Subsection 26-8a-104(8)~~] Section 26B-1-404.

1844 (2) A municipality or county may:

1845 (a) subject to Subsection (3), maintain and support 911 ambulance services for the
1846 municipality's or county's own jurisdiction; or

1847 (b) contract to:

1848 (i) provide 911 ambulance services to any county, municipal corporation, local district,
1849 special service district, interlocal entity, private corporation, nonprofit corporation, state
1850 agency, or federal agency;

1851 (ii) receive 911 ambulance services from any county, municipal corporation, local
1852 district, special service district, interlocal entity, private corporation, nonprofit corporation,
1853 state agency, or federal agency;

1854 (iii) jointly provide 911 ambulance services with any county, municipal corporation,

1855 local district, special service district, interlocal entity, private corporation, nonprofit
1856 corporation, state agency, or federal agency; or

1857 (iv) contribute toward the support of 911 ambulance services in any county, municipal
1858 corporation, local district, special service district, interlocal entity, private corporation,
1859 nonprofit corporation, state agency, or federal agency in return for 911 ambulance services.

1860 (3) (a) A municipality or county that maintains and supports 911 ambulance services
1861 for the municipality's or county's own jurisdiction under Subsection (2)(a) shall obtain a license
1862 as a ground ambulance provider from the Department of Health and Human Services under
1863 [~~Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers~~] Title 26B, Chapter 4, Part
1864 1, Utah Emergency Medical Services System.

1865 (b) [~~Subsections 26-8a-405~~] Sections 26B-4-154 through [~~26-8a-405.3~~] 26B-4-157 do
1866 not apply to a license described in Subsection (3)(a).

1867 Section 25. Section **13-5b-103** is amended to read:

1868 **13-5b-103. Contract negotiation standards.**

1869 (1) An integrated health system shall prohibit any employee or independent contractor
1870 of any division, subsidiary, or affiliate engaged in the business of health insurance from
1871 negotiating contracts on behalf of the integrated health care system's health care facilities,
1872 subject to licensing under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection~~
1873 ~~Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, with any other
1874 licensed health insurer in the state.

1875 (2) An integrated health system shall prohibit the disclosure of contract pricing terms
1876 between the integrated health care system's health care facilities and other health insurers with
1877 the integrated health care system's divisions, subsidiaries, or affiliates which are engaged in the
1878 business of health insurance.

1879 Section 26. Section **13-59-102** is amended to read:

1880 **13-59-102. Definitions.**

1881 As used in this chapter:

1882 (1) "Enrollee" means the same as that term is defined in Section 31A-1-301.

1883 (2) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

1884 (3) "Health care provider" means a person licensed to provide health care under:

1885 (a) [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B,

1886 Chapter 2, Part 2, Health Care Facility Licensing and Inspection; or

1887 (b) Title 58, Occupations and Professions.

1888 Section 27. Section **13-60-102** is amended to read:

1889 **Part 1. Genetic Information Privacy Act**

1890 **13-60-102. Definitions.**

1891 As used in this [~~chapter~~] part:

1892 (1) "Biological sample" means any human material known to contain DNA, including
1893 tissue, blood, urine, or saliva.

1894 (2) "Consumer" means an individual who is a resident of the state.

1895 (3) "Deidentified data" means data that:

1896 (a) cannot reasonably be linked to an identifiable individual; and

1897 (b) possessed by a company that:

1898 (i) takes administrative and technical measures to ensure that the data cannot be
1899 associated with a particular consumer;

1900 (ii) makes a public commitment to maintain and use data in deidentified form and not
1901 attempt to reidentify data; and

1902 (iii) enters into legally enforceable contractual obligation that prohibits a recipient of
1903 the data from attempting to reidentify the data.

1904 (4) "Direct-to-consumer genetic testing company" or "company" means an entity that:

1905 (a) offers consumer genetic testing products or services directly to consumers; or

1906 (b) collects, uses, or analyzes genetic data that a consumer provides to the entity.

1907 (5) "DNA" means deoxyribonucleic acid.

1908 (6) "Express consent" means a consumer's affirmative response to a clear, meaningful,
1909 and prominent notice regarding the collection, use, or disclosure of genetic data for a specific
1910 purpose.

1911 (7) (a) "Genetic data" means any data, regardless of format, concerning a consumer's
1912 genetic characteristics.

1913 (b) "Genetic data" includes:

1914 (i) raw sequence data that result from sequencing all or a portion of a consumer's
1915 extracted DNA;

1916 (ii) genotypic and phenotypic information obtained from analyzing a consumer's raw

1917 sequence data; and
1918 (iii) self-reported health information regarding a consumer's health conditions that the
1919 consumer provides to a company that the company:
1920 (A) uses for scientific research or product development; and
1921 (B) analyzes in connection with the consumer's raw sequence data.
1922 (c) "Genetic data" does not include deidentified data.
1923 (8) "Genetic testing" means:
1924 (a) a laboratory test of a consumer's complete DNA, regions of DNA, chromosomes,
1925 genes, or gene products to determine the presence of genetic characteristics of the consumer; or
1926 (b) an interpretation of a consumer's genetic data.
1927 Section 28. Section **13-60-103** is amended to read:
1928 **13-60-103. Limitations.**
1929 This ~~chapter~~ part does not apply to:
1930 (1) protected health information that is collected by a covered entity or business
1931 associate as those terms are defined in 45 C.F.R. Parts 160 and 164;
1932 (2) a public or private institution of higher education; or
1933 (3) an entity owned or operated by a public or private institution of higher education.
1934 Section 29. Section **13-60-104**, which is renumbered from Section 13-60-201 is
1935 renumbered and amended to read:
1936 ~~[13-60-201].~~ **13-60-104. Consumer genetic information -- Privacy notice --**
1937 **Consent -- Access -- Deletion -- Destruction.**
1938 (1) A direct-to-consumer genetic testing company shall:
1939 (a) provide to a consumer:
1940 (i) essential information about the company's collection, use, and disclosure of genetic
1941 data; and
1942 (ii) a prominent, publicly available privacy notice that includes information about the
1943 company's data collection, consent, use, access, disclosure, transfer, security, retention, and
1944 deletion practices;
1945 (b) obtain a consumer's initial express consent for collection, use, or disclosure of the
1946 consumer's genetic data that:
1947 (i) clearly describes the company's use of the genetic data that the company collects

1948 through the company's genetic testing product or service;

1949 (ii) specifies who has access to test results; and

1950 (iii) specifies how the company may share the genetic data;

1951 (c) if the company engages in any of the following, obtain a consumer's:

1952 (i) separate express consent for:

1953 (A) the transfer or disclosure of the consumer's genetic data to any person other than

1954 the company's vendors and service providers;

1955 (B) the use of genetic data beyond the primary purpose of the company's genetic testing

1956 product or service; or

1957 (C) the company's retention of any biological sample provided by the consumer

1958 following the company's completion of the initial testing service requested by the consumer;

1959 (ii) informed consent in accordance with the Federal Policy for the Protection of

1960 Human Subjects, 45 C.F.R. Part 46, for transfer or disclosure of the consumer's genetic data to

1961 a third party for:

1962 (A) research purposes; or

1963 (B) research conducted under the control of the company for the purpose of publication

1964 or generalizable knowledge; and

1965 (iii) express consent for:

1966 (A) marketing to a consumer based on the consumer's genetic data; or

1967 (B) marketing by a third party person to a consumer based on the consumer having

1968 ordered or purchased a genetic testing product or service;

1969 (d) require valid legal process for the company's disclosure of a consumer's genetic

1970 data to law enforcement or any government entity without the consumer's express written

1971 consent;

1972 (e) develop, implement, and maintain a comprehensive security program to protect a

1973 consumer's genetic data against unauthorized access, use, or disclosure; and

1974 (f) provide a process for a consumer to:

1975 (i) access the consumer's genetic data;

1976 (ii) delete the consumer's account and genetic data; and

1977 (iii) destroy the consumer's biological sample.

1978 (2) Notwithstanding Subsection (1)(c)(iii), a direct-to-consumer genetic testing

1979 company with a first-party relationship to a consumer may, without obtaining the consumer's
1980 express consent, provide customized content or offers on the company's website or through the
1981 company's application or service.

1982 Section 30. Section **13-60-105**, which is renumbered from Section 13-60-202 is
1983 renumbered and amended to read:

1984 ~~[13-60-202]~~. **13-60-105. Prohibited disclosures.**

1985 A direct-to-consumer genetic testing company may not disclose a consumer's genetic
1986 data without the consumer's written consent to:

- 1987 (1) an entity that offers health insurance, life insurance, or long-term care insurance; or
1988 (2) an employer of the consumer.

1989 Section 31. Section **13-60-106**, which is renumbered from Section 13-60-301 is
1990 renumbered and amended to read:

1991 ~~[13-60-301]~~. **13-60-106. Enforcement powers of the attorney general.**

- 1992 (1) The attorney general may enforce this ~~[chapter]~~ part.
1993 (2) The attorney general may initiate a civil enforcement action against a person for
1994 violating this ~~[chapter]~~ part.
1995 (3) In an action to enforce this ~~[chapter]~~ part, the attorney general may recover:
1996 (a) actual damages to the consumer;
1997 (b) costs;
1998 (c) attorney fees; and
1999 (d) \$2,500 for each violation of this ~~[chapter]~~ part.

2000 Section 32. Section **13-60-203**, which is renumbered from Section 26-45-102 is
2001 renumbered and amended to read:

2002 **Part 2. Genetic Testing and Procedure Privacy Act**

2003 ~~[26-45-102]~~. **13-60-203. Definitions.**

2004 As used in this ~~[chapter]~~ part:

- 2005 (1) "Blood relative" means an individual's biologically related:
2006 (a) parent;
2007 (b) grandparent;
2008 (c) child;
2009 (d) grandchild;

- 2010 (e) sibling;
- 2011 (f) uncle;
- 2012 (g) aunt;
- 2013 (h) nephew;
- 2014 (i) niece; or
- 2015 (j) first cousin.
- 2016 (2) "DNA" means:
- 2017 (a) deoxyribonucleic acid, ribonucleic acid, and chromosomes, which may be analyzed
- 2018 to detect heritable diseases or conditions, including the identification of carriers, predicting risk
- 2019 of disease, or establishing a clinical diagnosis; or
- 2020 (b) proteins, enzymes, or other molecules associated with a genetic process, which may
- 2021 be modified, replaced in part or whole, superseded, or bypassed in function by a health or
- 2022 medical procedure.
- 2023 (3) "DNA sample" means any human biological specimen from which DNA can be
- 2024 extracted, or DNA extracted from such specimen.
- 2025 (4) "Employer" means the same as that term is defined in Section [34A-2-103](#).
- 2026 (5) (a) "Genetic analysis" or "genetic test" means the testing, detection, or analysis of
- 2027 an identifiable individual's DNA that results in information that is derived from the presence,
- 2028 absence, alteration, or mutation of an inherited gene or genes, or the presence or absence of a
- 2029 specific DNA marker or markers.
- 2030 (b) "Genetic analysis" or "genetic test" does not mean:
- 2031 (i) a routine physical examination;
- 2032 (ii) a routine chemical, blood, or urine analysis;
- 2033 (iii) a test to identify the presence of drugs or HIV infection; or
- 2034 (iv) a test performed due to the presence of signs, symptoms, or other manifestations of
- 2035 a disease, illness, impairment, or other disorder.
- 2036 (6) "Genetic procedure" means any therapy, treatment, or medical procedure that is
- 2037 intended to:
- 2038 (a) add, remove, alter, activate, change, or cause mutation in an individual's inherited
- 2039 DNA; or
- 2040 (b) replace, supersede, or bypass a normal DNA function.

2041 (7) "Health care insurance" means the same as that term is defined in Section
2042 31A-1-301.

2043 (8) (a) "Private genetic information" means any information about an identifiable
2044 individual that:

2045 (i) is derived from:

2046 (A) the presence, absence, alteration, or mutation of an inherited gene or genes; or
2047 (B) the presence or absence of a specific DNA marker or markers; and

2048 (ii) has been obtained:

2049 (A) from a genetic test or analysis of the individual's DNA;
2050 (B) from a genetic test or analysis of the DNA of a blood relative of the individual; or
2051 (C) from a genetic procedure.

2052 (b) "Private genetic information" does not include information that is derived from:

2053 (i) a routine physical examination;
2054 (ii) a routine chemical, blood, or urine analysis;
2055 (iii) a test to identify the presence of drugs or HIV infection; or
2056 (iv) a test performed due to the presence of signs, symptoms, or other manifestations of
2057 a disease, illness, impairment, or other disorder.

2058 Section 33. Section **13-60-204**, which is renumbered from Section 26-45-103 is
2059 renumbered and amended to read:

2060 ~~[26-45-103]~~. **13-60-204. Restrictions on employers.**

2061 (1) Except as provided in Subsection (2), an employer may not in connection with a
2062 hiring, promotion, retention, or other related decision:

2063 (a) access or otherwise take into consideration private genetic information about an
2064 individual;

2065 (b) request or require an individual to consent to a release for the purpose of accessing
2066 private genetic information about the individual;

2067 (c) request or require an individual or the individual's blood relative to submit to:

2068 (i) a genetic test; or
2069 (ii) a genetic procedure; or

2070 (d) inquire into or otherwise take into consideration the fact that an individual or the
2071 individual's blood relative has:

- 2072 (i) taken or refused to take a genetic test; or
2073 (ii) undergone or refused to undergo a genetic procedure.
- 2074 (2) (a) Notwithstanding Subsection (1), an employer may seek an order compelling the
2075 disclosure of private genetic information held by an individual or third party pursuant to
2076 Subsection (2)(b) in connection with:
- 2077 (i) an employment-related judicial or administrative proceeding in which the individual
2078 has placed his health at issue; or
- 2079 (ii) an employment-related decision in which the employer has a reasonable basis to
2080 believe that the individual's health condition poses a real and unjustifiable safety risk requiring
2081 the change or denial of an assignment.
- 2082 (b) (i) An order compelling the disclosure of private genetic information pursuant to
2083 this Subsection (2) may only be entered upon a finding that:
- 2084 (A) other ways of obtaining the private information are not available or would not be
2085 effective; and
- 2086 (B) there is a compelling need for the private genetic information which substantially
2087 outweighs the potential harm to the privacy interests of the individual.
- 2088 (ii) An order compelling the disclosure of private genetic information pursuant to this
2089 Subsection (2) shall:
- 2090 (A) limit disclosure to those parts of the record containing information essential to
2091 fulfill the objective of the order;
- 2092 (B) limit disclosure to those persons whose need for the information is the basis of the
2093 order; and
- 2094 (C) include such other measures as may be necessary to limit disclosure for the
2095 protection of the individual.

2096 Section 34. Section **13-60-205**, which is renumbered from Section 26-45-104 is
2097 renumbered and amended to read:

2098 ~~[26-45-104]~~. **13-60-205. Restrictions on health insurers.**

2099 (1) Except as provided in Subsection (2), an insurer offering health care insurance may
2100 not in connection with the offer or renewal of an insurance product or in the determination of
2101 premiums, coverage, renewal, cancellation, or any other underwriting decision that pertains

2102 directly to the individual or any group of which the individual is a member that purchases
2103 insurance jointly:

2104 (a) access or otherwise take into consideration private genetic information about an
2105 asymptomatic individual;

2106 (b) request or require an asymptomatic individual to consent to a release for the
2107 purpose of accessing private genetic information about the individual;

2108 (c) request or require an asymptomatic individual or the individual's blood relative to
2109 submit to a genetic test;

2110 (d) inquire into or otherwise take into consideration the fact that an asymptomatic
2111 individual or the individual's blood relative has taken or refused to take a genetic test;

2112 (e) request or require an individual or the individual's blood relative to submit to a
2113 genetic procedure; or

2114 (f) inquire into the results of a genetic procedure that an individual or the individual's
2115 blood relative undergoes.

2116 (2) An insurer offering health care insurance:

2117 (a) may request information regarding the necessity of a genetic test, but not the results
2118 of the test, if a claim for payment for the test has been made against an individual's health
2119 insurance policy;

2120 (b) may request information regarding the necessity of a genetic procedure, including
2121 the results of the procedure, if a claim for payment for the procedure has been made against an
2122 individual's health insurance policy;

2123 (c) may request that portion of private genetic information that is necessary to
2124 determine the insurer's obligation to pay for health care services where:

2125 (i) the primary basis for rendering such services to an individual is the result of a
2126 genetic test; and

2127 (ii) a claim for payment for such services has been made against the individual's health
2128 insurance policy;

2129 (d) may only store information obtained under this Subsection (2) in accordance with
2130 the provisions of the Health Insurance Portability and Accountability Act of 1996; and

2131 (e) may only use or otherwise disclose the information obtained under this Subsection
2132 (2) in connection with a proceeding to determine the obligation of an insurer to pay for a

2133 genetic test or health care services, provided that, in accordance with the provisions of the
2134 Health Insurance Portability and Accountability Act of 1996, the insurer makes a reasonable
2135 effort to limit disclosure to the minimum necessary to carry out the purposes of the disclosure.

2136 (3) (a) An insurer may, to the extent permitted by Subsection (2), seek an order
2137 compelling the disclosure of private genetic information held by an individual or third party.

2138 (b) An order authorizing the disclosure of private genetic information pursuant to this
2139 Subsection (2) shall:

2140 (i) limit disclosure to those parts of the record containing information essential to
2141 fulfill the objectives of the order;

2142 (ii) limit disclosure to those persons whose need for the information is the basis for the
2143 order; and

2144 (iii) include such other measures as may be necessary to limit disclosure for the
2145 protection of the individual.

2146 (4) Nothing in this section may be construed as restricting the ability of an insurer to
2147 use information other than private genetic information to take into account the health status of
2148 an individual, group, or population in determining premiums or making other underwriting
2149 decisions.

2150 (5) Nothing in this section may be construed as:

2151 (a) requiring an insurer to pay for genetic testing or a genetic procedure; or

2152 (b) prohibiting the use of step-therapy protocols.

2153 (6) Information maintained by an insurer about an individual under this section may be
2154 redisclosed:

2155 (a) to protect the interests of the insurer in detecting, prosecuting, or taking legal action
2156 against criminal activity, fraud, material misrepresentations, and material omissions;

2157 (b) to enable business decisions to be made about the purchase, transfer, merger,
2158 reinsurance, or sale of all or part of the insurer's business; and

2159 (c) to the commissioner of insurance upon formal request.

2160 Section 35. Section **13-60-206**, which is renumbered from Section 26-45-105 is
2161 renumbered and amended to read:

2162 ~~[26-45-105]~~. **13-60-206. Private right of action.**

2163 (1) (a) An individual whose legal rights arising under this ~~chapter~~ part have been

2164 violated after June 30, 2003, may recover damages and be granted equitable relief in a civil
2165 action.

2166 (b) Subsection (1)(a) does not create a legal right prior to the Legislature enacting the
2167 right under this [chapter] part.

2168 (2) Any insurance company or employer who violates the legal rights of an individual
2169 arising from this [chapter] part shall be liable to the individual for each separate violation in an
2170 amount equal to:

2171 (a) actual damages sustained as a result of the violation;

2172 (b) (i) \$100,000 if the violation is the result of an intentional and willful act; or

2173 (ii) punitive damages if the violation is the result of a malicious act; and

2174 (c) reasonable attorneys' fees.

2175 Section 36. Section ~~13-60-207~~, which is renumbered from Section 26-45-106 is
2176 renumbered and amended to read:

2177 ~~[26-45-106]~~. **13-60-207. Enforcement.**

2178 (1) Whenever the attorney general has reason to believe that any person is using or is
2179 about to use any method, act, or practice in violation of the provisions of this [chapter] part,
2180 and that proceedings would be in the public interest, the attorney general may bring an action
2181 against the person to restrain or enjoin the use of such method, act, or practice.

2182 (2) In addition to restraining or enjoining the use of a method, act, or practice, the court
2183 may, after June 30, 2003, require the payment of:

2184 (a) a civil fine of not more than \$25,000 for each separate intentional violation; and

2185 (b) reasonable costs of investigation and litigation, including reasonable attorneys' fees.

2186 Section 37. Section ~~13-61-101~~ (Effective 12/31/23) is amended to read:

2187 **13-61-101 (Effective 12/31/23). Definitions.**

2188 As used in this chapter:

2189 (1) "Account" means the Consumer Privacy Restricted Account established in Section
2190 ~~13-61-403~~.

2191 (2) "Affiliate" means an entity that:

2192 (a) controls, is controlled by, or is under common control with another entity; or

2193 (b) shares common branding with another entity.

2194 (3) "Aggregated data" means information that relates to a group or category of

2195 consumers:

2196 (a) from which individual consumer identities have been removed; and

2197 (b) that is not linked or reasonably linkable to any consumer.

2198 (4) "Air carrier" means the same as that term is defined in 49 U.S.C. Sec. 40102.

2199 (5) "Authenticate" means to use reasonable means to determine that a consumer's
2200 request to exercise the rights described in Section 13-61-201 is made by the consumer who is
2201 entitled to exercise those rights.

2202 (6) (a) "Biometric data" means data generated by automatic measurements of an
2203 individual's unique biological characteristics.

2204 (b) "Biometric data" includes data described in Subsection (6)(a) that are generated by
2205 automatic measurements of an individual's fingerprint, voiceprint, eye retinas, irises, or any
2206 other unique biological pattern or characteristic that is used to identify a specific individual.

2207 (c) "Biometric data" does not include:

2208 (i) a physical or digital photograph;

2209 (ii) a video or audio recording;

2210 (iii) data generated from an item described in Subsection (6)(c)(i) or (ii);

2211 (iv) information captured from a patient in a health care setting; or

2212 (v) information collected, used, or stored for treatment, payment, or health care
2213 operations as those terms are defined in 45 C.F.R. Parts 160, 162, and 164.

2214 (7) "Business associate" means the same as that term is defined in 45 C.F.R. Sec.
2215 160.103.

2216 (8) "Child" means an individual younger than 13 years old.

2217 (9) "Consent" means an affirmative act by a consumer that unambiguously indicates
2218 the consumer's voluntary and informed agreement to allow a person to process personal data
2219 related to the consumer.

2220 (10) (a) "Consumer" means an individual who is a resident of the state acting in an
2221 individual or household context.

2222 (b) "Consumer" does not include an individual acting in an employment or commercial
2223 context.

2224 (11) "Control" or "controlled" as used in Subsection (2) means:

2225 (a) ownership of, or the power to vote, more than 50% of the outstanding shares of any

2226 class of voting securities of an entity;

2227 (b) control in any manner over the election of a majority of the directors or of the
2228 individuals exercising similar functions; or

2229 (c) the power to exercise controlling influence of the management of an entity.

2230 (12) "Controller" means a person doing business in the state who determines the
2231 purposes for which and the means by which personal data are processed, regardless of whether
2232 the person makes the determination alone or with others.

2233 (13) "Covered entity" means the same as that term is defined in 45 C.F.R. Sec.
2234 160.103.

2235 (14) "Deidentified data" means data that:

2236 (a) cannot reasonably be linked to an identified individual or an identifiable individual;
2237 and

2238 (b) are possessed by a controller who:

2239 (i) takes reasonable measures to ensure that a person cannot associate the data with an
2240 individual;

2241 (ii) publicly commits to maintain and use the data only in deidentified form and not
2242 attempt to reidentify the data; and

2243 (iii) contractually obligates any recipients of the data to comply with the requirements
2244 described in Subsections (14)(b)(i) and (ii).

2245 (15) "Director" means the director of the Division of Consumer Protection.

2246 (16) "Division" means the Division of Consumer Protection created in Section [13-2-1](#).

2247 (17) "Governmental entity" means the same as that term is defined in Section
2248 [63G-2-103](#).

2249 (18) "Health care facility" means the same as that term is defined in Section [\[26-21-2\]](#)
2250 [26B-2-201](#).

2251 (19) "Health care provider" means the same as that term is defined in Section [\[26-21-2\]](#)
2252 [78B-3-403](#).

2253 (20) "Identifiable individual" means an individual who can be readily identified,
2254 directly or indirectly.

2255 (21) "Institution of higher education" means a public or private institution of higher
2256 education.

- 2257 (22) "Local political subdivision" means the same as that term is defined in Section
2258 11-14-102.
- 2259 (23) "Nonprofit corporation" means:
2260 (a) the same as that term is defined in Section 16-6a-102; or
2261 (b) a foreign nonprofit corporation as defined in Section 16-6a-102.
- 2262 (24) (a) "Personal data" means information that is linked or reasonably linkable to an
2263 identified individual or an identifiable individual.
2264 (b) "Personal data" does not include deidentified data, aggregated data, or publicly
2265 available information.
- 2266 (25) "Process" means an operation or set of operations performed on personal data,
2267 including collection, use, storage, disclosure, analysis, deletion, or modification of personal
2268 data.
- 2269 (26) "Processor" means a person who processes personal data on behalf of a controller.
- 2270 (27) "Protected health information" means the same as that term is defined in 45 C.F.R.
2271 Sec. 160.103.
- 2272 (28) "Pseudonymous data" means personal data that cannot be attributed to a specific
2273 individual without the use of additional information, if the additional information is:
2274 (a) kept separate from the consumer's personal data; and
2275 (b) subject to appropriate technical and organizational measures to ensure that the
2276 personal data are not attributable to an identified individual or an identifiable individual.
- 2277 (29) "Publicly available information" means information that a person:
2278 (a) lawfully obtains from a record of a governmental entity;
2279 (b) reasonably believes a consumer or widely distributed media has lawfully made
2280 available to the general public; or
2281 (c) if the consumer has not restricted the information to a specific audience, obtains
2282 from a person to whom the consumer disclosed the information.
- 2283 (30) "Right" means a consumer right described in Section 13-61-201.
- 2284 (31) (a) "Sale," "sell," or "sold" means the exchange of personal data for monetary
2285 consideration by a controller to a third party.
2286 (b) "Sale," "sell," or "sold" does not include:
2287 (i) a controller's disclosure of personal data to a processor who processes the personal

- 2288 data on behalf of the controller;
- 2289 (ii) a controller's disclosure of personal data to an affiliate of the controller;
- 2290 (iii) considering the context in which the consumer provided the personal data to the
- 2291 controller, a controller's disclosure of personal data to a third party if the purpose is consistent
- 2292 with a consumer's reasonable expectations;
- 2293 (iv) the disclosure or transfer of personal data when a consumer directs a controller to:
- 2294 (A) disclose the personal data; or
- 2295 (B) interact with one or more third parties;
- 2296 (v) a consumer's disclosure of personal data to a third party for the purpose of
- 2297 providing a product or service requested by the consumer or a parent or legal guardian of a
- 2298 child;
- 2299 (vi) the disclosure of information that the consumer:
- 2300 (A) intentionally makes available to the general public via a channel of mass media;
- 2301 and
- 2302 (B) does not restrict to a specific audience; or
- 2303 (vii) a controller's transfer of personal data to a third party as an asset that is part of a
- 2304 proposed or actual merger, an acquisition, or a bankruptcy in which the third party assumes
- 2305 control of all or part of the controller's assets.
- 2306 (32) (a) "Sensitive data" means:
- 2307 (i) personal data that reveals:
- 2308 (A) an individual's racial or ethnic origin;
- 2309 (B) an individual's religious beliefs;
- 2310 (C) an individual's sexual orientation;
- 2311 (D) an individual's citizenship or immigration status; or
- 2312 (E) information regarding an individual's medical history, mental or physical health
- 2313 condition, or medical treatment or diagnosis by a health care professional;
- 2314 (ii) the processing of genetic personal data or biometric data, if the processing is for the
- 2315 purpose of identifying a specific individual; or
- 2316 (iii) specific geolocation data.
- 2317 (b) "Sensitive data" does not include personal data that reveals an individual's:
- 2318 (i) racial or ethnic origin, if the personal data are processed by a video communication

2319 service; or

2320 (ii) if the personal data are processed by a person licensed to provide health care under
2321 [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2,
2322 Part 2, Health Care Facility Licensing and Inspection, or Title 58, Occupations and Professions,
2323 information regarding an individual's medical history, mental or physical health condition, or
2324 medical treatment or diagnosis by a health care professional.

2325 (33) (a) "Specific geolocation data" means information derived from technology,
2326 including global position system level latitude and longitude coordinates, that directly
2327 identifies an individual's specific location, accurate within a radius of 1,750 feet or less.

2328 (b) "Specific geolocation data" does not include:

2329 (i) the content of a communication; or

2330 (ii) any data generated by or connected to advanced utility metering infrastructure
2331 systems or equipment for use by a utility.

2332 (34) (a) "Targeted advertising" means displaying an advertisement to a consumer
2333 where the advertisement is selected based on personal data obtained from the consumer's
2334 activities over time and across nonaffiliated websites or online applications to predict the
2335 consumer's preferences or interests.

2336 (b) "Targeted advertising" does not include advertising:

2337 (i) based on a consumer's activities within a controller's website or online application
2338 or any affiliated website or online application;

2339 (ii) based on the context of a consumer's current search query or visit to a website or
2340 online application;

2341 (iii) directed to a consumer in response to the consumer's request for information,
2342 product, a service, or feedback; or

2343 (iv) processing personal data solely to measure or report advertising:

2344 (A) performance;

2345 (B) reach; or

2346 (C) frequency.

2347 (35) "Third party" means a person other than:

2348 (a) the consumer, controller, or processor; or

2349 (b) an affiliate or contractor of the controller or the processor.

2350 (36) "Trade secret" means information, including a formula, pattern, compilation,
2351 program, device, method, technique, or process, that:

2352 (a) derives independent economic value, actual or potential, from not being generally
2353 known to, and not being readily ascertainable by proper means by, other persons who can
2354 obtain economic value from the information's disclosure or use; and

2355 (b) is the subject of efforts that are reasonable under the circumstances to maintain the
2356 information's secrecy.

2357 Section 38. Section **15-4-1** is amended to read:

2358 **15-4-1. Definitions.**

2359 As used in this chapter:

2360 (1) "Obligation" includes a liability in tort and contractual obligations[;].

2361 (2) "Obligee" includes a creditor and a person having a right based on a tort[;].

2362 (3) "Obligor" includes a debtor and a person liable for a tort[;].

2363 (4) (a) "School fee" means a charge, deposit, rent, or other mandatory payment
2364 imposed by:

2365 (i) a public school as defined in Section [~~26-39-102~~] [26B-2-401](#); or

2366 (ii) a private school that provides education to students in any grade from kindergarten
2367 through grade 12.

2368 (b) "School fee" includes:

2369 (i) an admission fee;

2370 (ii) a transportation charge; or

2371 (iii) a charge, deposit, rent, or other mandatory payment imposed by a third party in
2372 connection with an activity or function sponsored by a school described in Subsection (4)(a).

2373 (5) "Several obligors" means obligors severally bound for the same performance.

2374 (6) "Waiver" means the act of not requiring an individual to pay an amount that the
2375 individual otherwise owes.

2376 Section 39. Section **15-4-6.7** is amended to read:

2377 **15-4-6.7. Medical and miscellaneous expenses of minor children -- Collection and**
2378 **billing pursuant to court or administrative order of child support.**

2379 (1) When a court enters an order that provides for the payment of medical and dental
2380 expenses of a minor child under Section [30-3-5](#), [30-4-3](#), or [78B-12-111](#), or an administrative

2381 order under Section [~~62A-11-326~~] [26B-9-224](#), a provider who receives a copy of the order:

2382 (a) at or before the time the provider renders medical or dental services to the minor
2383 child shall, upon request from either parent, separately bill each parent for the share of the
2384 medical and dental expenses that the parent is required to pay under the order; or

2385 (b) within 30 days after the day on which the provider renders the medical or dental
2386 service, may not:

2387 (i) make a claim for unpaid medical and dental expenses against a parent who has paid
2388 in full the share of the medical and dental expenses that the parent is required to pay under the
2389 order; or

2390 (ii) make a negative credit report under Section [70C-7-107](#), or report of the debtor's
2391 repayment practices or credit history under Title 7, Chapter 14, Credit Information Exchange,
2392 regarding a parent who has paid in full the share of the medical and dental expenses that the
2393 parent is required to pay under the order.

2394 (2) (a) When a court enters an order that provides for the payment of school fees of a
2395 minor child under Section [30-3-5](#) or [30-4-3](#):

2396 (i) a provider who receives a copy of the order before the day on which the provider
2397 first issues a bill for a school fee shall, upon request from either parent, separately bill each
2398 parent for the share of the school fee that the parent is required to pay under the order;

2399 (ii) a provider who receives a copy of the order, regardless of whether the provider
2400 receives the copy before, on, or after the day on which the provider first issues a bill for the
2401 school fee may not make a negative credit report under Section [70C-7-107](#), or report of the
2402 debtor's repayment practices or credit history under Title 7, Chapter 14, Credit Information
2403 Exchange, regarding a parent who has paid in full the share of the school fee that the parent is
2404 required to pay under the order; and

2405 (iii) each parent is liable only for the share of the school fee that the parent is required
2406 to pay under the order.

2407 (b) A provider may bill a parent for the parent's share of a minor child's school fee
2408 under an order described in Subsection (2)(a) regardless of whether the provider grants the
2409 other parent a waiver for all or a portion of the other parent's share of the minor child's school
2410 fee.

2411 Section 40. Section **15A-1-208** is amended to read:

2412 **15A-1-208. Standards for specialized buildings.**

2413 (1) This chapter may not be implied to repeal or otherwise affect the authority granted
2414 to a state agency to make or administer standards for specialized buildings, as provided in:

2415 (a) [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B,
2416 Chapter 2, Part 1, Human Services Programs and Facilities;

2417 (b) [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2, Part 2,
2418 Health Care Facility Licensing and Inspection;

2419 (c) [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2,
2420 Part 4, Child Care Licensing;

2421 (d) Title 64, Chapter 13, Department of Corrections - State Prison; or

2422 (e) another statute that grants a state agency authority to make or administer other
2423 special standards.

2424 (2) If a special standard conflicts with a code, the special standard prevails.

2425 (3) This chapter does not apply to the administration of the statutes described in
2426 Subsection (1).

2427 Section 41. Section **15A-2-105** is amended to read:

2428 **15A-2-105. Scope of application.**

2429 (1) To the extent that a construction code adopted under Section **15A-2-103** establishes
2430 a local administrative function or establishes a method of appeal which pursuant to Section
2431 **15A-1-207** is designated to be established by the compliance agency:

2432 (a) that provision of the construction code is not included in the State Construction
2433 Code; and

2434 (b) a compliance agency may establish provisions to establish a local administrative
2435 function or a method of appeal.

2436 (2) (a) To the extent that a construction code adopted under Subsection (1) establishes
2437 a provision, standard, or reference to another code that by state statute is designated to be
2438 established or administered by another state agency, or a local city, town, or county
2439 jurisdiction:

2440 (i) that provision of the construction code is not included in the State Construction
2441 Code; and

2442 (ii) the state agency or local government has authority over that provision of the

2443 construction code.

2444 (b) Provisions excluded under this Subsection (2) include:

2445 (i) the International Property Maintenance Code;

2446 (ii) the International Private Sewage Disposal Code, authority over which is reserved to
2447 the Department of Health and Human Services and the Department of Environmental Quality;

2448 (iii) the International Fire Code, authority over which is reserved to the board, pursuant
2449 to Section [15A-1-403](#);

2450 (iv) a day care provision that is in conflict with [~~Title 26, Chapter 39, Utah Child Care~~
2451 ~~Licensing Act~~] Title 26B, Chapter 2, Part 4, Child Care Licensing, authority over which is
2452 designated to the [~~Utah~~] Department of Health and Human Services; and

2453 (v) a wildland urban interface provision that goes beyond the authority under Section
2454 [15A-1-204](#), for the State Construction Code, authority over which is designated to the [~~Utah~~]
2455 Division of Forestry or to a local compliance agency.

2456 (3) If a construction code adopted under Subsection [15A-2-103](#)(1) establishes a
2457 provision that exceeds the scope described in Chapter 1, Part 2, State Construction Code
2458 Administration Act, to the extent the scope is exceeded, the provision is not included in the
2459 State Construction Code.

2460 Section 42. Section **15A-3-102** is amended to read:

2461 **15A-3-102. Amendments to Chapters 1 through 3 of IBC.**

2462 (1) IBC, Section 106, is deleted.

2463 (2) In IBC, Section 110, a new section is added as follows: " 110.3.5.1,
2464 Weather-resistant exterior wall envelope. An inspection shall be made of the weather-resistant
2465 exterior wall envelope as required by Section 1404.2, and flashing as required by Section
2466 1404.4 to prevent water from entering the weather-resistive barrier."

2467 (3) IBC, Section 115.1, is deleted and replaced with the following: "115.1 Authority.
2468 Whenever the building official finds any work regulated by this code being performed in a
2469 manner either contrary to the provisions of this code or other pertinent laws or ordinances or is
2470 dangerous or unsafe, the building official is authorized to stop work."

2471 (4) In IBC, Section 202, the following definition is added for Ambulatory Surgical
2472 Center: "AMBULATORY SURGICAL CENTER. A building or portion of a building licensed
2473 by the Utah Department of Health and Human Services where procedures are performed that

2474 may render patients incapable of self preservation where care is less than 24 hours. See Utah
2475 Administrative Code R432-13."

2476 (5) In IBC, Section 202, the following definition is added for Assisted Living Facility:
2477 "ASSISTED LIVING FACILITY. See Residential Treatment/Support Assisted Living Facility,
2478 Type I Assisted Living Facility, and Type II Assisted Living Facility."

2479 (6) In IBC, Section 202, the definition for Foster Care Facilities is modified by deleting
2480 the word "Foster" and replacing it with the word "Child."

2481 (7) In IBC, Section 202, the definition for "[F]Record Drawings" is modified by
2482 deleting the words "a fire alarm system" and replacing them with "any fire protection system."

2483 (8) In IBC, Section 202, the following definition is added for Residential
2484 Treatment/Support Assisted Living Facility: "RESIDENTIAL TREATMENT/SUPPORT
2485 ASSISTED LIVING FACILITY. A residential facility that provides a group living
2486 environment for four or more residents licensed by the Department of Health and Human
2487 Services, and provides a protected living arrangement for ambulatory, non-restrained persons
2488 who are capable of achieving mobility sufficient to exit the facility without the physical
2489 assistance of another person."

2490 (9) In IBC, Section 202, the following definition is added for Type I Assisted Living
2491 Facility: "TYPE I ASSISTED LIVING FACILITY. A residential facility licensed by the
2492 Department of Health and Human Services that provides a protected living arrangement,
2493 assistance with activities of daily living and social care to two or more ambulatory,
2494 non-restrained persons who are capable of mobility sufficient to exit the facility without the
2495 assistance of another person. Subcategories are:

2496 Limited Capacity: two to five residents;

2497 Small: six to sixteen residents; and

2498 Large: over sixteen residents."

2499 (10) In IBC, Section 202, the following definition is added for Type II Assisted Living
2500 Facility: "TYPE II ASSISTED LIVING FACILITY. A residential facility licensed by the
2501 Department of Health and Human Services that provides an array of coordinated supportive
2502 personal and health care services to two or more residents who are:

2503 A. Physically disabled but able to direct his or her own care; or

2504 B. Cognitively impaired or physically disabled but able to evacuate from the facility, or

2505 to a zone or area of safety, with the physical assistance of one person. Subcategories are:

2506 Limited Capacity: two to five residents;

2507 Small: six to sixteen residents; and

2508 Large: over sixteen residents."

2509 (11) In IBC, Section 305.2, the following changes are made:

2510 (a) delete the words "more than five children older than 2 1/2 years of age" and replace
2511 with the words "five or more children 2 years of age or older";

2512 (b) after the word "supervision" insert the words "child care services"; and

2513 (c) add the following sentence at the end of the paragraph: "See Section 429, Day Care,
2514 for special requirements for day care."

2515 (12) In IBC, Section 305.2.2 and 305.2.3, the word "five" is deleted and replaced with
2516 the word "four" in all places.

2517 (13) A new IBC Section 305.2.4 is added as follows: "305.2.4 Child day care --
2518 residential child care certificate or a license. Areas used for child day care purposes with a
2519 residential child care certificate, as described in Utah Administrative Code, R430-50,
2520 Residential Certificate Child Care, or a residential child care license, as described in Utah
2521 Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or
2522 R-3 occupancy as provided in Sections 310.3 and 310.4 comply with the International
2523 Residential Code in accordance with Section R101.2."

2524 (14) A new IBC Section 305.2.5 is added as follows: "305.2.5 Child care centers. Each
2525 of the following areas may be classified as accessory occupancies, if the area complies with
2526 Section 508.2:

2527 1. Hourly child care centers, as described in Utah Administrative Code, R381-60,
2528 Hourly Child Care Centers;

2529 2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care
2530 Centers; and

2531 3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70,
2532 Out of School Time Child Care Programs."

2533 (15) In IBC, Table 307.1(1), footnote "d" is added to the row for Explosives, Division
2534 1.4G in the column titled STORAGE - Solid Pounds (cubic feet).

2535 (16) In IBC, Section 308.2, in the list of items under "This group shall include," the

2536 words "Type-I Large and Type-II Small, see Section 308.2.5" are added after "Assisted living
2537 facilities."

2538 (17) In IBC, Section 308.2.4, all of the words after the first International Residential
2539 Code are deleted.

2540 (18) A new IBC, Section 308.2.5 is added as follows:

2541 "308.2.5 Group I-1 assisted living facility occupancy groups. The following occupancy
2542 groups shall apply to assisted living facilities:

2543 Type I assisted living facilities with seventeen or more residents are Large Facilities
2544 classified as an Institutional Group I-1, Condition 1 occupancy.

2545 Type II assisted living facilities with six to sixteen residents are Small Facilities
2546 classified as an Institutional Group I-1, Condition 2 occupancy. See Section 202 for
2547 definitions."

2548 (19) In IBC, Section 308.3 Institutional Group I-2, the following changes are made:

2549 (a) The words "more than five" are deleted and replaced with "four or more";

2550 (b) The group "Assisted living facilities, Type-II Large" is added to the list of groups;

2551 (c) The words "Foster care facilities" are deleted and replaced with the words "Child
2552 care facilities"; and

2553 (d) The words "(both intermediate care facilities and skilled nursing facilities)" are
2554 added after "Nursing homes."

2555 (20) In IBC, Section 308.3.2, the number "five" is deleted and replaced with the
2556 number "four" in each location.

2557 (21) A new IBC, Section 308.3.3 is added as follows:

2558 "308.3.3 Group I-2 assisted living facilities. Type II assisted living facilities with
2559 seventeen or more residents are Large Facilities classified as an Institutional Group I-2,
2560 Condition 1 occupancy. See Section 202 for definitions."

2561 (22) In IBC, Section 308.5, the words "more than five" are deleted and replaced with
2562 the words "five or more."

2563 (23) In IBC, Section 308.5.1, the following changes are made:

2564 (a) The words "more than five" are deleted and replaced with the words "five or more."

2565 (b) The words "2-1/2 years or less of age" are deleted and replaced with "under the age
2566 of two."

2567 (c) The following sentence is added at the end: "See Section 429 for special
2568 requirements for Day Care."

2569 (24) In IBC, Sections 308.5.3 and 308.5.4, the words "five or fewer" are deleted and
2570 replaced with the words "four or fewer" in both places and the following sentence is added at
2571 the end: "See Section 429 for special requirements for Day Care."

2572 (25) In IBC, Section 310.4, the following changes are made:

2573 (a) The words "and single family dwellings complying with the IRC" are added after
2574 "Residential Group-3 occupancies."

2575 (b) The words "Assisted Living Facilities, limited capacity" are added to the list of
2576 occupancies.

2577 (26) In IBC, Section 310.4.1, the following changes are made:

2578 (a) The words "other than Child Care" are inserted after the words "Care facilities" in
2579 the first sentence.

2580 (b) All of the words after the first "International Residential Code" are deleted.

2581 (c) The following sentence is added at the end of the last sentence: "See Section 429
2582 for special requirements for Child Day Care."

2583 (27) A new IBC Section 310.4.3 is added as follows: "310.4.3 Child Care. Areas used
2584 for child care purposes may be located in a residential dwelling unit under all of the following
2585 conditions and Section 429:

2586 1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted
2587 under the authority of the Utah Fire Prevention Board.

2588 2. Use is approved by the Utah Department of Health and Human Services, as enacted
2589 under the authority of the Utah Code, [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~]
2590 Title 26B, Chapter 2, Part 4, Child Care Licensing, and in any of the following categories:

2591 a. Utah Administrative Code, R430-50, Residential Certificate Child Care.

2592 b. Utah Administrative Code, R430-90, Licensed Family Child Care.

2593 3. Compliance with all zoning regulations of the local regulator."

2594 (28) A new IBC, Section 310.4.4 is added as follows: "310.4.4 Assisted living
2595 facilities. Type I assisted living facilities with two to five residents are Limited Capacity
2596 facilities classified as a Residential Group R-3 occupancy or are permitted to comply with the
2597 International Residential Code. See Section 202 for definitions."

2598 (29) In IBC, Section 310.5, the words "Type II Limited Capacity and Type I Small, see
2599 Section 310.5.3" are added after the words "assisted living facilities."

2600 (30) A new IBC, Section 310.5.3, is added as follows: "310.5.3 Group R-4 Assisted
2601 living facility occupancy groups. The following occupancy groups shall apply to Assisted
2602 Living Facilities: Type II Assisted Living Facilities with two to five residents are Limited
2603 Capacity Facilities classified as a Residential Group R-4, Condition 2 occupancy. Type I
2604 assisted living facilities with six to sixteen residents are Small Facilities classified as
2605 Residential Group R-4, Condition 1 occupancies. See Section 202 for definitions."

2606 Section 43. Section **15A-3-103** is amended to read:

2607 **15A-3-103. Amendments to Chapters 4 through 6 of IBC.**

2608 (1) IBC Section 403.5.5 is deleted.

2609 (2) In IBC, Section 407.2.5, the words "and assisted living facility" are added in the
2610 title and first sentence after the words "nursing home."

2611 (3) In IBC, Section 407.2.6, the words "and assisted living facility" are added in the
2612 title after the words "nursing home."

2613 (4) In IBC, Section 407.11, a new exception is added as follows: "Exception: An
2614 essential electrical system is not required in assisted living facilities."

2615 (5) In IBC, Section 412.3.1, a new exception is added as follows: "Exception: Aircraft
2616 hangars of Type I or II construction that are less than 5,000 square feet (464.5m²) in area."

2617 (6) A new IBC, Section 422.2.1 is added as follows: "422.2.1 Separations: Ambulatory
2618 care facilities licensed by the Department of Health and Human Services shall be separated
2619 from adjacent tenants with a fire partition having a minimum one hour fire-resistance rating.
2620 Any level below the level of exit discharge shall be separated from the level of exit discharge
2621 by a horizontal assembly having a minimum one hour fire-resistance rating.

2622 Exception: A fire barrier is not required to separate the level of exit discharge when:

2623 1. Such levels are under the control of the Ambulatory Care Facility.

2624 2. Any hazardous spaces are separated by horizontal assembly having a minimum one
2625 hour fire-resistance rating."

2626 (7) A new IBC Section 429, Day Care, is added as follows:

2627 "429.1 Detailed Requirements. In addition to the occupancy and construction

2628 requirements in this code, the additional provisions of this section shall apply to all Day Care in

2629 accordance with Utah Administrative Code R710-8 Day Care Rules.

2630 429.2 Definitions.

2631 429.2.1 Authority Having Jurisdiction (AHJ): State Fire Marshal, his duly authorized
2632 deputies, or the local fire enforcement authority code official.

2633 429.2.2 Day Care Facility: Any building or structure occupied by clients of any age who
2634 receive custodial care for less than 24 hours by individuals other than parents, guardians,
2635 relatives by blood, marriage or adoption.

2636 429.2.3 Day Care Center: Providing care for five or more clients in a place other than
2637 the home of the person cared for. This would also include Child Care Centers, Out of School
2638 Time or Hourly Child Care Centers licensed by the Department of Health and Human Services.

2639 429.2.4 Family Day Care: Providing care for clients listed in the following two groups:

2640 429.2.4.1 Type 1: Services provided for five to eight clients in a home. This would also
2641 include a home that is certified by the Department of Health and Human Services as
2642 Residential Certificate Child Care or licensed as Family Child Care.

2643 429.2.4.2 Type 2: Services provided for nine to sixteen clients in a home with sufficient
2644 staffing. This would also include a home that is licensed by the Department of Health and
2645 Human Services as Family Child Care.

2646 429.2.5 R710-8: Utah Administrative Code, R710-8, Day Care Rules, as enacted under
2647 the authority of the Utah Fire Prevention Board.

2648 429.3 Family Day Care.

2649 429.3.1 Family Day Care units shall have on each floor occupied by clients, two
2650 separate means of egress, arranged so that if one is blocked the other will be available.

2651 429.3.2 Family Day Care units that are located in the basement or on the second story
2652 shall be provided with two means of egress, one of which shall discharge directly to the
2653 outside.

2654 429.3.2.1 Residential Certificate Child Care and Licensed Family Child Care with five
2655 to eight clients in a home, located on the ground level or in a basement, may use an emergency
2656 escape or rescue window as allowed in IFC, Chapter 10, Section 1030.

2657 429.3.3 Family Day Care units shall not be located above the second story.

2658 429.3.4 In Family Day Care units, clients under the age of two shall not be located
2659 above or below the first story.

2660 429.3.4.1 Clients under the age of two may be housed above or below the first story
2661 where there is at least one exit that leads directly to the outside and complies with IFC, Section
2662 1011 or Section 1012 or Section 1027.

2663 429.3.5 Family Day Care units located in split entry/split level type homes in which
2664 stairs to the lower level and upper level are equal or nearly equal, may have clients housed on
2665 both levels when approved by the AHJ.

2666 429.3.6 Family Day Care units shall have a portable fire extinguisher on each level
2667 occupied by clients, which shall have a classification of not less than 2A:10BC, and shall be
2668 serviced in accordance with NFPA, Standard 10, Standard for Portable Fire Extinguishers.

2669 429.3.7 Family Day Care units shall have single station smoke detectors in good
2670 operating condition on each level occupied by clients. Battery operated smoke detectors shall
2671 be permitted if the facility demonstrates testing, maintenance, and battery replacement to insure
2672 continued operation of the smoke detectors.

2673 429.3.8 Rooms in Family Day Care units that are provided for clients to sleep or nap,
2674 shall have at least one window or door approved for emergency escape.

2675 429.3.9 Fire drills shall be conducted in Family Day Care units quarterly and shall
2676 include the complete evacuation from the building of all clients and staff. At least annually, in
2677 Type I Family Day Care units, the fire drill shall include the actual evacuation using the escape
2678 or rescue window, if one is used as a substitute for one of the required means of egress.

2679 429.4 Day Care Centers.

2680 429.4.1 Day Care Centers shall comply with either I-4 requirements or E requirements
2681 of the IBC, whichever is applicable for the type of Day Care Center.

2682 429.4.2 Emergency Evacuation Drills shall be completed as required in IFC, Chapter 4,
2683 Section 405.

2684 429.4.3 Location at grade. Group E child day care centers shall be located at the level
2685 of exit discharge.

2686 429.4.3.1 Child day care spaces for children over the age of 24 months may be located
2687 on the second floor of buildings equipped with automatic fire protection throughout and an
2688 automatic fire alarm system.

2689 429.4.4 Egress. All Group E child day care spaces with an occupant load of more than
2690 10 shall have a second means of egress. If the second means of egress is not an exit door

2691 leading directly to the exterior, the room shall have an emergency escape and rescue window
2692 complying with Section 1030.

2693 429.4.5 All Group E Child Day Care Centers shall comply with Utah Administrative
2694 Code, R430-100 Child Care Centers, R430-60 Hourly Child Care Centers, and R430-70 Out of
2695 School Time.

2696 429.5 Requirements for all Day Care.

2697 429.5.1 Heating equipment in spaces occupied by children shall be provided with
2698 partitions, screens, or other means to protect children from hot surfaces and open flames.

2699 429.5.2 A fire escape plan shall be completed and posted in a conspicuous place. All
2700 staff shall be trained on the fire escape plan and procedure."

2701 (8) In IBC, Section 504.4, a new section is added as follows: "504.4.1 Group I-2
2702 Assisted Living Facilities. Notwithstanding the allowable number of stories permitted by Table
2703 504.4 Group I-2 Assisted Living Facilities of type VA, construction shall be allowed on each
2704 level of a two-story building when all of the following apply:

2705 1. The total combined area of both stories does not exceed the total allowable area for a
2706 one-story, above grade plane building equipped throughout with an automatic sprinkler system
2707 installed in accordance with Section 903.3.1.1.

2708 2. All other provisions that apply in Section 407 have been provided."

2709 (9) A new IBC, Section 504.5, is added as follows: "504.5 Group 1-2 Secured areas in
2710 Assisted Living Facilities. In Type IIIB, IV, and V construction, all areas for the use and care of
2711 residents required to be secured shall be located on the level of exit discharge with door
2712 operations in compliance with Section 1010.1.9.7, as amended."

2713 Section 44. Section **15A-5-202** is amended to read:

2714 **15A-5-202. Amendments and additions to IFC related to administration, permits,**
2715 **definitions, and general and emergency planning.**

2716 (1) For IFC, Chapter 1, Scope and Administration:

2717 (a) IFC, Chapter 1, Section 102.5, is deleted and rewritten as follows:

2718 "102.5 Application of residential code.

2719 If a structure is designed and constructed in accordance with the International
2720 Residential Code, the provisions of this code apply only as follows:

2721 1. The construction and design provisions of this code apply only to premises

2722 identification, fire apparatus access, fire hydrants and water supplies, and construction permits
2723 required by Section 105.7.

2724 2. This code does not supercede the land use, subdivision, or development standards
2725 established by a local jurisdiction.

2726 3. The administrative, operational, and maintenance provisions of this code apply."

2727 (b) IFC, Chapter 1, Section 102.9, is deleted and rewritten as follows:

2728 "102.9 Matters not provided for.

2729 Requirements that are essential for the public safety of an existing or proposed activity,
2730 building or structure, or for the safety of the occupants thereof, which are not specifically
2731 provided for by this code, shall be determined by the fire code official on an emergency basis
2732 if:

2733 (a) the facts known to the fire code official show that an immediate and significant
2734 danger to the public health, safety, or welfare exists; and

2735 (b) the threat requires immediate action by the fire code official.

2736 102.9.1 Limitation of emergency order.

2737 In issuing its emergency order, the fire code official shall:

2738 (a) limit the order to require only the action necessary to prevent or avoid the danger to
2739 the public health, safety, or welfare; and

2740 (b) give immediate notice to the persons who are required to comply with the order,
2741 that includes a brief statement of the reasons for the fire code official's order.

2742 101.9.2 Right to appeal emergency order.

2743 If the emergency order issued under this section will result in the continued
2744 infringement or impairment of any legal right or interest of any party, the party shall have a
2745 right to appeal the fire code official's order in accordance with IFC, Chapter 1, Section 109."

2746 (c) IFC, Chapter 1, Section 105.4.1, Submittals, is amended to add the following after
2747 the last sentence:

2748 "Fire sprinkler system layout may be prepared and submitted by a person certified by
2749 the National Institute for Certification in Engineering Technologies at level III or IV in
2750 Water-Based System Layout. Fire alarm system layout may be prepared and submitted by a
2751 person certified by the National Institute for Certification in Engineering Technologies at level
2752 III or IV in Fire Alarm Systems."

2753 (d) IFC, Chapter 1, Section 105.6.16, Flammable and combustible liquids, is amended
2754 to add the following section: "12. The owner of an underground tank that is out of service for
2755 longer than one year shall receive a Temporary Closure Notice from the Department of
2756 Environmental Quality and a copy shall be given to the AHJ."

2757 (e) A new IFC, Chapter 1, Section 109.1.1, Application of residential code, is added as
2758 follows:

2759 "109.1.1 Application of residential code.

2760 For development regulated by a local jurisdiction's land use authority, the fire code
2761 official's interpretation of this code is subject to the advisory opinion process described in Utah
2762 Code, Section 13-43-205, and to a land use appeal authority appointed under Utah Code,
2763 Section 10-9a-701 or 17-27a-701."

2764 (f) In IFC, Chapter 1, Section 109, a new Section 109.4, Notice of right to appeal, is
2765 added as follows: "At the time a fire code official makes an order, decision, or determination
2766 that relates to the application or interpretation of this chapter, the fire code official shall inform
2767 the person affected by the order, decision, or determination of the person's right to appeal under
2768 this section. Upon request, the fire code official shall provide a person affected by an order,
2769 decision, or determination that relates to the application or interpretation of this chapter a
2770 written notice that describes the person's right to appeal under this section."

2771 (g) IFC, Chapter 1, Section 110.3, Notice of violation, is deleted and rewritten as
2772 follows:

2773 "110.3 Notice of violation.

2774 If the fire code official determines that a building, premises, vehicle, storage facility, or
2775 outdoor area is in violation of this code or other pertinent laws or ordinances, the fire code
2776 official is authorized to prepare a written notice of violation that describes the conditions
2777 deemed unsafe and, absent immediate compliance, specifies a time for reinspection."

2778 (2) For IFC, Chapter 2, Definitions:

2779 (a) IFC, Chapter 2, Section 202, General Definitions, the following definition is added
2780 for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or
2781 portion of a building licensed by the Department of Health and Human Services where
2782 procedures are performed that may render patients incapable of self preservation where care is
2783 less than 24 hours. See Utah Administrative Code, R432-13, Freestanding Ambulatory Surgical

2784 Center Construction Rule."

2785 (b) IFC, Chapter 2, Section 202, General Definitions, the following definition is added
2786 for Assisted Living Facility. "ASSISTED LIVING FACILITY. See Residential
2787 Treatment/Support Assisted Living Facility, Type I Assisted Living Facility, and Type II
2788 Assisted Living Facility."

2789 (c) IFC, Chapter 2, Section 202, General Definitions, FOSTER CARE FACILITIES is
2790 amended as follows: The word "Foster" is changed to the word "Child."

2791 (d) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2792 CLASSIFICATION, Educational Group E, Group E, day care facilities, is amended as follows:

2793 (i) On line three delete the word "five" and replace it with the word "four"; and

2794 (ii) On line four after the word "supervision" add the words "child care centers."

2795 (e) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2796 CLASSIFICATION, Educational Group E, Five or fewer children, is amended as follows: The
2797 word "five" is deleted and replaced with the word "four" in both places.

2798 (f) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2799 CLASSIFICATION, Educational Group E, Five or fewer children in a dwelling unit, is
2800 amended as follows: The word "five" is deleted and replaced with the word "four" in both
2801 places.

2802 (g) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2803 CLASSIFICATION, Educational Group E, a new section is added as follows: "Child day care
2804 -- residential child care certificate or a license. Areas used for child day care purposes with a
2805 residential child care certificate, as described in Utah Administrative Code, R430-50,
2806 Residential Certificate Child Care, or a residential child care license, as described in Utah
2807 Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or
2808 R-3 occupancy as provided in Residential Group R-3, or shall comply with the International
2809 Residential Code in accordance with Section R101.2."

2810 (h) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2811 CLASSIFICATION, Educational Group E, a new section is added as follows: "Child care
2812 centers. Each of the following areas may be classified as accessory occupancies:

2813 1. Hourly child care centers, as described in Utah Administrative Code, R381-60,
2814 Hourly Child Care Centers;

2815 2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care
2816 Centers; and

2817 3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70,
2818 Out of School Time Child Care Programs."

2819 (i) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2820 CLASSIFICATION, Institutional Group I-1, is amended as follows: Insert "Type I" in front of
2821 the words "Assisted living facilities".

2822 (j) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2823 CLASSIFICATION, Institutional Group I-1, Five or fewer persons receiving custodial care is
2824 amended as follows: On line four after "International Residential Code" the rest of the section
2825 is deleted.

2826 (k) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2827 CLASSIFICATION, Institutional Group I-2, is amended as follows:

2828 (i) On line three delete the word "five" and insert the word "three";

2829 (ii) On line six the word "foster" is deleted and replaced with the word "child"; and

2830 (iii) On line 10, after the words "Psychiatric hospitals", add the following to the list:

2831 "both intermediate nursing care and skilled nursing care facilities, ambulatory surgical centers
2832 with five or more operating rooms, and Type II assisted living facilities. Type II assisted living
2833 facilities with five or fewer persons shall be classified as a Group R-4. Type II assisted living
2834 facilities with at least six and not more than 16 residents shall be classified as a Group I-1
2835 facility".

2836 (l) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2837 CLASSIFICATION, Institutional Group I-4, day care facilities, Classification as Group E, is
2838 amended as follows:

2839 (i) On line two delete the word "five" and replace it with the word "four"; and

2840 (ii) On line three delete the words "2 1/2 years or less of age" and replace with the
2841 words "under the age of two".

2842 (m) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2843 CLASSIFICATION, Institutional Group I-4, day care facilities, Five or fewer occupants
2844 receiving care in a dwelling unit, is amended as follows: On lines one and three the word "five"
2845 is deleted and replaced with the word "four".

2846 (n) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2847 CLASSIFICATION, Residential Group R-3, the words "and single family dwellings complying
2848 with the IRC" are added after the word "Residential Group R-3 occupancies".

2849 (o) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2850 CLASSIFICATION, Residential Group R-3, Care facilities within a dwelling, is amended as
2851 follows: On line three after the word "dwelling" insert "other than child care".

2852 (p) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY
2853 CLASSIFICATION, Residential Group R-3, a new section is added as follows: "Child Care.
2854 Areas used for child care purposes may be located in a residential dwelling unit when all of the
2855 following conditions are met:

2856 1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted
2857 under the authority of the Utah Fire Prevention Board;

2858 2. Use is approved by the Department of Health and Human Services under the
2859 authority of Utah Code, [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B,
2860 Chapter 2, Part 4, Child Care Licensing, and in any of the following categories:

2861 1.1. Utah Administrative Code, R430-50, Residential Certificate Child Care; or

2862 1.2. Utah Administrative Code, R430-90, Licensed Family Child Care; and

2863 1.3 Compliance with all zoning regulations of the local regulator."

2864 (q) IFC, Chapter 2, Section 202, General Definitions, RECORD DRAWINGS, is
2865 amended as follows: Delete the words "a fire alarm system" and replace them with "any fire
2866 protection system".

2867 (r) IFC, Chapter 2, Section 202, General Definitions, the following definition is added
2868 for Residential Treatment/Support Assisted Living Facility. "RESIDENTIAL
2869 TREATMENT/SUPPORT ASSISTED LIVING FACILITY. A residential facility that provides
2870 a group living environment for four or more residents licensed by the Department of Health
2871 and Human Services, and provides a protected living arrangement for ambulatory,
2872 non-restrained persons who are capable of achieving mobility sufficient to exit the facility
2873 without the physical assistance of another person."

2874 (s) IFC, Chapter 2, Section 202, General Definitions, the following definition is added
2875 for Type I Assisted Living Facility. "TYPE I ASSISTED LIVING FACILITY. A residential
2876 facility licensed by the Department of Health and Human Services that provides a protected

2877 living arrangement, assistance with activities of daily living and social care to two or more
2878 ambulatory, non-restrained persons who are capable of mobility sufficient to exit the facility
2879 without the assistance of another person. Subcategories are:

2880 Limited Capacity: two to five residents;

2881 Small: six to sixteen residents; and

2882 Large: over sixteen residents."

2883 (t) IFC, Chapter 2, Section 202, General Definitions, the following definition is added
2884 for Type II Assisted Living Facility. "TYPE II ASSISTED LIVING FACILITY. A residential
2885 facility licensed by the Department of Health and Human Services that provides an array of
2886 coordinated supportive personal and health care services to two or more residents who are:

2887 A. Physically disabled but able to direct his or her own care; or

2888 B. Cognitively impaired or physically disabled but able to evacuate from the facility, or
2889 to a zone or area of safety, with the physical assistance of one person. Subcategories are:

2890 Limited Capacity: two to five residents;

2891 Small: six to sixteen residents; and

2892 Large: over sixteen residents."

2893 Section 45. Section **15A-5-203** is amended to read:

2894 **15A-5-203. Amendments and additions to IFC related to fire safety, building, and**
2895 **site requirements.**

2896 (1) For IFC, Chapter 5, Fire Service Features:

2897 (a) In IFC, Chapter 5, a new Section 501.5, Access grade and fire flow, is added as
2898 follows: "An authority having jurisdiction over a structure built in accordance with the
2899 requirements of the International Residential Code as adopted in the State Construction Code,
2900 may require an automatic fire sprinkler system for the structure only by ordinance and only if
2901 any of the following conditions exist:

2902 (i) the structure:

2903 (A) is located in an urban-wildland interface area as provided in the Utah Wildland
2904 Urban Interface Code adopted as a construction code under the State Construction Code; and

2905 (B) does not meet the requirements described in Utah Code, Subsection

2906 **65A-8-203(4)(a)** and Utah Administrative Code, R652-122-1300, Minimum Standards for
2907 County Wildland Fire Ordinance;

2908 (ii) the structure is in an area where a public water distribution system with fire
2909 hydrants does not exist as required in Utah Administrative Code, R309-550-5, Water Main
2910 Design;

2911 (iii) the only fire apparatus access road has a grade greater than 10% for more than 500
2912 continual feet;

2913 (iv) the total floor area of all floor levels within the exterior walls of the dwelling unit
2914 exceeds 10,000 square feet; or

2915 (v) the total floor area of all floor levels within the exterior walls of the dwelling unit is
2916 double the average of the total floor area of all floor levels of unsprinkled homes in the
2917 subdivision that are no larger than 10,000 square feet.

2918 (vi) Exception: A single family dwelling does not require a fire sprinkler system if the
2919 dwelling:

2920 (A) is located outside the wildland urban interface;

2921 (B) is built in a one-lot subdivision; and

2922 (C) has 50 feet of defensible space on all sides that limits the propensity of fire
2923 spreading from the dwelling to another property."

2924 (b) In IFC, Chapter 5, Section 506.1, Where Required, is deleted and rewritten as
2925 follows: "Where access to or within a structure or an area is restricted because of secured
2926 openings or where immediate access is necessary for life-saving or fire-fighting purposes, the
2927 fire code official, after consultation with the building owner, may require a key box to be
2928 installed in an approved location. The key box shall contain keys to gain necessary access as
2929 required by the fire code official. For each fire jurisdiction that has at least one building with a
2930 required key box, the fire jurisdiction shall adopt an ordinance, resolution, or other operating
2931 rule or policy that creates a process to ensure that each key to each key box is properly
2932 accounted for and secure."

2933 (c) In IFC, Chapter 5, a new Section 507.1.1, Isolated one- and two-family dwellings,
2934 is added as follows: "Fire flow may be reduced for an isolated one- and two-family dwelling
2935 when the authority having jurisdiction over the dwelling determines that the development of a
2936 full fire-flow requirement is impractical."

2937 (d) In IFC, Chapter 5, a new Section 507.1.2, Pre-existing subdivision lots, is added as
2938 follows:

2939 "507.1.2 Pre-existing subdivision lots.

2940 The requirements for a pre-existing subdivision lot shall not exceed the requirements
2941 described in Section 501.5."

2942 (e) In IFC, Chapter 5, Section 510.1, Emergency responder radio coverage in new
2943 buildings, is amended by adding: "When required by the fire code official," at the beginning of
2944 the first paragraph.

2945 (2) For IFC, Chapter 6, Building Services and Systems:

2946 (a) In IFC, Chapter 6, Section 606.7, Elevator key location, is deleted and rewritten as
2947 follows: "Firefighter service keys shall be kept in a "Supra-Stor-a-key" elevator key box or
2948 similar box with corresponding key system that is adjacent to the elevator for immediate use by
2949 the fire department. The key box shall contain one key for each elevator, one key for lobby
2950 control, and any other keys necessary for emergency service. The elevator key box shall be
2951 accessed using a 6049 numbered key."

2952 (b) In IFC, Chapter 6, Section 607.1, General, is amended as follows: On line three,
2953 after the word "Code", add the words "and NFPA 96".

2954 (c) In IFC, Chapter 6, Section 607.2, a new exception 5 is added as follows: "5. A
2955 Type 1 hood is not required for a cooking appliance in a microenterprise home kitchen, as that
2956 term is defined in Utah Code, Section [~~26-15c-102~~] [26B-7-401](#), for which the operator obtains
2957 a permit in accordance with Utah Code, Title 26, Chapter 15c, Microenterprise Home Kitchen
2958 Act."

2959 (3) For IFC, Chapter 7, Fire and Smoke Protection Features, IFC, Chapter 7, Section
2960 705.2, is amended to add the following: "Exception: In Group E Occupancies, where the
2961 corridor serves an occupant load greater than 30 and the building does not have an automatic
2962 fire sprinkler system installed, the door closers may be of the friction hold-open type on
2963 classrooms' doors with a rating of 20 minutes or less only."

2964 Section 46. Section **17-22-2.5** is amended to read:

2965 **17-22-2.5. Fees of sheriff.**

2966 (1) (a) The legislative body of a county may set a fee for a service described in this
2967 section and charged by the county sheriff:

2968 (i) in an ordinance adopted under Section [17-53-223](#); and

2969 (ii) in an amount reasonably related to, but not exceeding, the actual cost of providing

2970 the service.

2971 (b) If the legislative body of a county does not under Subsection (1)(a) set a fee
2972 charged by the county sheriff, the sheriff shall charge a fee in accordance with Subsections (2)
2973 through (7).

2974 (2) Unless under Subsection (1) the legislative body of a county sets a fee amount for a
2975 fee described in this Subsection (2), the sheriff shall charge the following fees:

2976 (a) for serving a notice, rule, order, subpoena, garnishment, summons, or summons and
2977 complaint, or garnishee execution, or other process by which an action or proceeding is
2978 commenced, on each defendant, including copies when furnished by plaintiff, \$20;

2979 (b) for taking or approving a bond or undertaking in any case in which he is authorized
2980 to take or approve a bond or undertaking, including justification, \$5;

2981 (c) for a copy of any writ, process or other paper when demanded or required by law,
2982 for each folio, 50 cents;

2983 (d) for serving an attachment on property, or levying an execution, or executing an
2984 order of arrest or an order for the delivery of personal property, including copies when
2985 furnished by plaintiff, \$50;

2986 (e) for taking and keeping possession of and preserving property under attachment or
2987 execution or other process, the amount the court orders to a maximum of \$15 per day;

2988 (f) for advertising property for sale on execution, or any judgment, or order of sale,
2989 exclusive of the cost of publication, \$15;

2990 (g) for drawing and executing a sheriff's deed or a certificate of redemption, exclusive
2991 of acknowledgment, \$15, to be paid by the grantee;

2992 (h) for recording each deed, conveyance, or other instrument affecting real estate,
2993 exclusive of the cost of recording, \$10, to be paid by the grantee;

2994 (i) for serving a writ of possession or restitution, and putting any person entitled to
2995 possession into possession of premises, and removing occupant, \$50;

2996 (j) for holding each trial of right of property, to include all services in the matter,
2997 except mileage, \$35;

2998 (k) for conducting, postponing, or canceling a sale of property, \$15;

2999 (l) for taking a prisoner in civil cases from prison before a court or magistrate, for each
3000 mile necessarily traveled, in going only, to a maximum of 100 miles, \$2.50;

3001 (m) for taking a prisoner from the place of arrest to prison, in civil cases, or before a
3002 court or magistrate, for each mile necessarily traveled, in going only, to a maximum of 100
3003 miles, \$2.50;

3004 (n) for receiving and paying over money on execution or other process, as follows:

3005 (i) if the amount collected does not exceed \$1,000, 2% of this amount, with a
3006 minimum of \$1; and

3007 (ii) if the amount collected exceeds \$1,000, 2% on the first \$1,000 and 1-1/2% on the
3008 balance; and

3009 (o) for executing in duplicate a certificate of sale, exclusive of filing it, \$10.

3010 (3) The fees allowed by Subsection (2)(f) for the levy of execution and for advertising
3011 shall be collected from the judgment debtor as part of the execution in the same manner as the
3012 sum directed to be made.

3013 (4) When serving an attachment on property, an order of arrest, or an order for the
3014 delivery of personal property, the sheriff may only collect traveling fees for the distance
3015 actually traveled beyond the distance required to serve the summons if the attachment or those
3016 orders:

3017 (a) accompany the summons in the action; and

3018 (b) may be executed at the time of the service of the summons.

3019 (5) (a) (i) When traveling generally to serve notices, orders, process, or other papers,
3020 the sheriff may receive, except as otherwise provided under Subsection (1)(a), \$2.50 for each
3021 mile necessarily traveled, in going only, computed from the courthouse for each person served,
3022 to a maximum of 100 miles.

3023 (ii) When transmitting notices, orders, process, or other papers by mail, the sheriff may
3024 receive, except as otherwise provided under Subsection (1)(a), \$2.50 for each mile necessarily
3025 traveled, in going only, computed from the post office where received for each person served,
3026 to a maximum of 100 miles.

3027 (b) The sheriff may only charge one mileage fee if any two or more papers are required
3028 to be served in the same action or proceeding at the same time and at the same address.

3029 (c) If it is necessary to make more than one trip to serve any notice, order, process, or
3030 other paper, the sheriff may not collect more than two additional mileage charges.

3031 (6) (a) For transporting a patient to the Utah State Hospital or to or from a hospital or a

3032 mental health facility, as defined in Section [~~62A-15-602~~] 26B-5-301, when the cost of
3033 transportation is payable by private individuals, the sheriff may collect, except as otherwise
3034 provided under Subsection (1)(a), \$2.50 for each mile necessarily traveled, in going only, to a
3035 maximum of 100 miles.

3036 (b) If the sheriff requires assistance to transport the person, the sheriff may also charge
3037 the actual and necessary cost of that assistance.

3038 (7) (a) Subject to Subsection (7)(b), for obtaining a saliva DNA specimen under
3039 Section 53-10-404, the sheriff shall collect the fee of \$150 in accordance with Section
3040 53-10-404.

3041 (b) The fee amount described in Subsection (7)(a) may not be changed by a county
3042 legislative body under Subsection (1).

3043 Section 47. Section **17-27a-103** is amended to read:

3044 **17-27a-103. Definitions.**

3045 As used in this chapter:

3046 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
3047 detached from a primary single-family dwelling and contained on one lot.

3048 (2) "Adversely affected party" means a person other than a land use applicant who:

3049 (a) owns real property adjoining the property that is the subject of a land use
3050 application or land use decision; or

3051 (b) will suffer a damage different in kind than, or an injury distinct from, that of the
3052 general community as a result of the land use decision.

3053 (3) "Affected entity" means a county, municipality, local district, special service
3054 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
3055 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
3056 property owner, property owner's association, public utility, or the [~~Utah~~] Department of
3057 Transportation, if:

3058 (a) the entity's services or facilities are likely to require expansion or significant
3059 modification because of an intended use of land;

3060 (b) the entity has filed with the county a copy of the entity's general or long-range plan;
3061 or

3062 (c) the entity has filed with the county a request for notice during the same calendar

3063 year and before the county provides notice to an affected entity in compliance with a
3064 requirement imposed under this chapter.

3065 (4) "Affected owner" means the owner of real property that is:

3066 (a) a single project;

3067 (b) the subject of a land use approval that sponsors of a referendum timely challenged
3068 in accordance with Subsection 20A-7-601(6); and

3069 (c) determined to be legally referable under Section 20A-7-602.8.

3070 (5) "Appeal authority" means the person, board, commission, agency, or other body
3071 designated by ordinance to decide an appeal of a decision of a land use application or a
3072 variance.

3073 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or
3074 residential property if the sign is designed or intended to direct attention to a business, product,
3075 or service that is not sold, offered, or existing on the property where the sign is located.

3076 (7) (a) "Charter school" means:

3077 (i) an operating charter school;

3078 (ii) a charter school applicant that a charter school authorizer approves in accordance
3079 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

3080 (iii) an entity that is working on behalf of a charter school or approved charter
3081 applicant to develop or construct a charter school building.

3082 (b) "Charter school" does not include a therapeutic school.

3083 (8) "Chief executive officer" means the person or body that exercises the executive
3084 powers of the county.

3085 (9) "Conditional use" means a land use that, because of the unique characteristics or
3086 potential impact of the land use on the county, surrounding neighbors, or adjacent land uses,
3087 may not be compatible in some areas or may be compatible only if certain conditions are
3088 required that mitigate or eliminate the detrimental impacts.

3089 (10) "Constitutional taking" means a governmental action that results in a taking of
3090 private property so that compensation to the owner of the property is required by the:

3091 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

3092 (b) Utah Constitution, Article I, Section 22.

3093 (11) "County utility easement" means an easement that:

3094 (a) a plat recorded in a county recorder's office described as a county utility easement
3095 or otherwise as a utility easement;

3096 (b) is not a protected utility easement or a public utility easement as defined in Section
3097 54-3-27;

3098 (c) the county or the county's affiliated governmental entity owns or creates; and

3099 (d) (i) either:

3100 (A) no person uses or occupies; or

3101 (B) the county or the county's affiliated governmental entity uses and occupies to
3102 provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or
3103 communications or data lines; or

3104 (ii) a person uses or occupies with or without an authorized franchise or other
3105 agreement with the county.

3106 (12) "Culinary water authority" means the department, agency, or public entity with
3107 responsibility to review and approve the feasibility of the culinary water system and sources for
3108 the subject property.

3109 (13) "Development activity" means:

3110 (a) any construction or expansion of a building, structure, or use that creates additional
3111 demand and need for public facilities;

3112 (b) any change in use of a building or structure that creates additional demand and need
3113 for public facilities; or

3114 (c) any change in the use of land that creates additional demand and need for public
3115 facilities.

3116 (14) (a) "Development agreement" means a written agreement or amendment to a
3117 written agreement between a county and one or more parties that regulates or controls the use
3118 or development of a specific area of land.

3119 (b) "Development agreement" does not include an improvement completion assurance.

3120 (15) (a) "Disability" means a physical or mental impairment that substantially limits
3121 one or more of a person's major life activities, including a person having a record of such an
3122 impairment or being regarded as having such an impairment.

3123 (b) "Disability" does not include current illegal use of, or addiction to, any federally
3124 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.

3125 Sec. 802.

3126 (16) "Educational facility":

3127 (a) means:

3128 (i) a school district's building at which pupils assemble to receive instruction in a
3129 program for any combination of grades from preschool through grade 12, including
3130 kindergarten and a program for children with disabilities;

3131 (ii) a structure or facility:

3132 (A) located on the same property as a building described in Subsection (16)(a)(i); and

3133 (B) used in support of the use of that building; and

3134 (iii) a building to provide office and related space to a school district's administrative
3135 personnel; and

3136 (b) does not include:

3137 (i) land or a structure, including land or a structure for inventory storage, equipment
3138 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

3139 (A) not located on the same property as a building described in Subsection (16)(a)(i);
3140 and

3141 (B) used in support of the purposes of a building described in Subsection (16)(a)(i); or

3142 (ii) a therapeutic school.

3143 (17) "Fire authority" means the department, agency, or public entity with responsibility
3144 to review and approve the feasibility of fire protection and suppression services for the subject
3145 property.

3146 (18) "Flood plain" means land that:

3147 (a) is within the 100-year flood plain designated by the Federal Emergency
3148 Management Agency; or

3149 (b) has not been studied or designated by the Federal Emergency Management Agency
3150 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
3151 the land has characteristics that are similar to those of a 100-year flood plain designated by the
3152 Federal Emergency Management Agency.

3153 (19) "Gas corporation" has the same meaning as defined in Section [54-2-1](#).

3154 (20) "General plan" means a document that a county adopts that sets forth general
3155 guidelines for proposed future development of:

- 3156 (a) the unincorporated land within the county; or
- 3157 (b) for a mountainous planning district, the land within the mountainous planning
- 3158 district.
- 3159 (21) "Geologic hazard" means:
- 3160 (a) a surface fault rupture;
- 3161 (b) shallow groundwater;
- 3162 (c) liquefaction;
- 3163 (d) a landslide;
- 3164 (e) a debris flow;
- 3165 (f) unstable soil;
- 3166 (g) a rock fall; or
- 3167 (h) any other geologic condition that presents a risk:
- 3168 (i) to life;
- 3169 (ii) of substantial loss of real property; or
- 3170 (iii) of substantial damage to real property.
- 3171 (22) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 3172 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility
- 3173 system.
- 3174 (23) "Identical plans" means building plans submitted to a county that:
- 3175 (a) are clearly marked as "identical plans";
- 3176 (b) are substantially identical building plans that were previously submitted to and
- 3177 reviewed and approved by the county; and
- 3178 (c) describe a building that:
- 3179 (i) is located on land zoned the same as the land on which the building described in the
- 3180 previously approved plans is located;
- 3181 (ii) is subject to the same geological and meteorological conditions and the same law
- 3182 as the building described in the previously approved plans;
- 3183 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
- 3184 and approved by the county; and
- 3185 (iv) does not require any additional engineering or analysis.
- 3186 (24) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,

3187 Impact Fees Act.

3188 (25) "Improvement completion assurance" means a surety bond, letter of credit,
3189 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
3190 by a county to guaranty the proper completion of landscaping or an infrastructure improvement
3191 required as a condition precedent to:

3192 (a) recording a subdivision plat; or

3193 (b) development of a commercial, industrial, mixed use, or multifamily project.

3194 (26) "Improvement warranty" means an applicant's unconditional warranty that the
3195 applicant's installed and accepted landscaping or infrastructure improvement:

3196 (a) complies with the county's written standards for design, materials, and
3197 workmanship; and

3198 (b) will not fail in any material respect, as a result of poor workmanship or materials,
3199 within the improvement warranty period.

3200 (27) "Improvement warranty period" means a period:

3201 (a) no later than one year after a county's acceptance of required landscaping; or

3202 (b) no later than one year after a county's acceptance of required infrastructure, unless
3203 the county:

3204 (i) determines for good cause that a one-year period would be inadequate to protect the
3205 public health, safety, and welfare; and

3206 (ii) has substantial evidence, on record:

3207 (A) of prior poor performance by the applicant; or

3208 (B) that the area upon which the infrastructure will be constructed contains suspect soil
3209 and the county has not otherwise required the applicant to mitigate the suspect soil.

3210 (28) "Infrastructure improvement" means permanent infrastructure that is essential for
3211 the public health and safety or that:

3212 (a) is required for human consumption; and

3213 (b) an applicant must install:

3214 (i) in accordance with published installation and inspection specifications for public
3215 improvements; and

3216 (ii) as a condition of:

3217 (A) recording a subdivision plat;

- 3218 (B) obtaining a building permit; or
- 3219 (C) developing a commercial, industrial, mixed use, condominium, or multifamily
- 3220 project.
- 3221 (29) "Internal lot restriction" means a platted note, platted demarcation, or platted
- 3222 designation that:
 - 3223 (a) runs with the land; and
 - 3224 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
 - 3225 the plat; or
 - 3226 (ii) designates a development condition that is enclosed within the perimeter of a lot
 - 3227 described on the plat.
- 3228 (30) "Interstate pipeline company" means a person or entity engaged in natural gas
- 3229 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under
- 3230 the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 3231 (31) "Intrastate pipeline company" means a person or entity engaged in natural gas
- 3232 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
- 3233 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 3234 (32) "Land use applicant" means a property owner, or the property owner's designee,
- 3235 who submits a land use application regarding the property owner's land.
- 3236 (33) "Land use application":
 - 3237 (a) means an application that is:
 - 3238 (i) required by a county; and
 - 3239 (ii) submitted by a land use applicant to obtain a land use decision; and
 - 3240 (b) does not mean an application to enact, amend, or repeal a land use regulation.
- 3241 (34) "Land use authority" means:
 - 3242 (a) a person, board, commission, agency, or body, including the local legislative body,
 - 3243 designated by the local legislative body to act upon a land use application; or
 - 3244 (b) if the local legislative body has not designated a person, board, commission,
 - 3245 agency, or body, the local legislative body.
- 3246 (35) "Land use decision" means an administrative decision of a land use authority or
- 3247 appeal authority regarding:
 - 3248 (a) a land use permit;

- 3249 (b) a land use application; or
3250 (c) the enforcement of a land use regulation, land use permit, or development
3251 agreement.
- 3252 (36) "Land use permit" means a permit issued by a land use authority.
3253 (37) "Land use regulation":
3254 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
3255 specification, fee, or rule that governs the use or development of land;
3256 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
3257 and
3258 (c) does not include:
3259 (i) a land use decision of the legislative body acting as the land use authority, even if
3260 the decision is expressed in a resolution or ordinance; or
3261 (ii) a temporary revision to an engineering specification that does not materially:
3262 (A) increase a land use applicant's cost of development compared to the existing
3263 specification; or
3264 (B) impact a land use applicant's use of land.
3265 (38) "Legislative body" means the county legislative body, or for a county that has
3266 adopted an alternative form of government, the body exercising legislative powers.
3267 (39) "Local district" means any entity under Title 17B, Limited Purpose Local
3268 Government Entities - Local Districts, and any other governmental or quasi-governmental
3269 entity that is not a county, municipality, school district, or the state.
3270 (40) "Lot" means a tract of land, regardless of any label, that is created by and shown
3271 on a subdivision plat that has been recorded in the office of the county recorder.
3272 (41) (a) "Lot line adjustment" means a relocation of a lot line boundary between
3273 adjoining lots or between a lot and adjoining parcels in accordance with Section [17-27a-608](#):
3274 (i) whether or not the lots are located in the same subdivision; and
3275 (ii) with the consent of the owners of record.
3276 (b) "Lot line adjustment" does not mean a new boundary line that:
3277 (i) creates an additional lot; or
3278 (ii) constitutes a subdivision.
3279 (c) "Lot line adjustment" does not include a boundary line adjustment made by the

3280 Department of Transportation.

3281 (42) "Major transit investment corridor" means public transit service that uses or
3282 occupies:

3283 (a) public transit rail right-of-way;

3284 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit;

3285 or

3286 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
3287 municipality or county and:

3288 (i) a public transit district as defined in Section [17B-2a-802](#); or

3289 (ii) an eligible political subdivision as defined in Section [59-12-2219](#).

3290 (43) "Moderate income housing" means housing occupied or reserved for occupancy
3291 by households with a gross household income equal to or less than 80% of the median gross
3292 income for households of the same size in the county in which the housing is located.

3293 (44) "Mountainous planning district" means an area designated by a county legislative
3294 body in accordance with Section [17-27a-901](#).

3295 (45) "Nominal fee" means a fee that reasonably reimburses a county only for time spent
3296 and expenses incurred in:

3297 (a) verifying that building plans are identical plans; and

3298 (b) reviewing and approving those minor aspects of identical plans that differ from the
3299 previously reviewed and approved building plans.

3300 (46) "Noncomplying structure" means a structure that:

3301 (a) legally existed before the structure's current land use designation; and

3302 (b) because of one or more subsequent land use ordinance changes, does not conform
3303 to the setback, height restrictions, or other regulations, excluding those regulations that govern
3304 the use of land.

3305 (47) "Nonconforming use" means a use of land that:

3306 (a) legally existed before the current land use designation;

3307 (b) has been maintained continuously since the time the land use ordinance regulation
3308 governing the land changed; and

3309 (c) because of one or more subsequent land use ordinance changes, does not conform
3310 to the regulations that now govern the use of the land.

3311 (48) "Official map" means a map drawn by county authorities and recorded in the
3312 county recorder's office that:

3313 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
3314 highways and other transportation facilities;

3315 (b) provides a basis for restricting development in designated rights-of-way or between
3316 designated setbacks to allow the government authorities time to purchase or otherwise reserve
3317 the land; and

3318 (c) has been adopted as an element of the county's general plan.

3319 (49) "Parcel" means any real property that is not a lot.

3320 (50) (a) "Parcel boundary adjustment" means a recorded agreement between owners of
3321 adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line
3322 agreement in accordance with Section 17-27a-523, if no additional parcel is created and:

3323 (i) none of the property identified in the agreement is a lot; or

3324 (ii) the adjustment is to the boundaries of a single person's parcels.

3325 (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary
3326 line that:

3327 (i) creates an additional parcel; or

3328 (ii) constitutes a subdivision.

3329 (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by
3330 the Department of Transportation.

3331 (51) "Person" means an individual, corporation, partnership, organization, association,
3332 trust, governmental agency, or any other legal entity.

3333 (52) "Plan for moderate income housing" means a written document adopted by a
3334 county legislative body that includes:

3335 (a) an estimate of the existing supply of moderate income housing located within the
3336 county;

3337 (b) an estimate of the need for moderate income housing in the county for the next five
3338 years;

3339 (c) a survey of total residential land use;

3340 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
3341 income housing; and

3342 (e) a description of the county's program to encourage an adequate supply of moderate
3343 income housing.

3344 (53) "Planning advisory area" means a contiguous, geographically defined portion of
3345 the unincorporated area of a county established under this part with planning and zoning
3346 functions as exercised through the planning advisory area planning commission, as provided in
3347 this chapter, but with no legal or political identity separate from the county and no taxing
3348 authority.

3349 (54) "Plat" means an instrument subdividing property into lots as depicted on a map or
3350 other graphical representation of lands that a licensed professional land surveyor makes and
3351 prepares in accordance with Section [17-27a-603](#) or [57-8-13](#).

3352 (55) "Potential geologic hazard area" means an area that:

3353 (a) is designated by a Utah Geological Survey map, county geologist map, or other
3354 relevant map or report as needing further study to determine the area's potential for geologic
3355 hazard; or

3356 (b) has not been studied by the Utah Geological Survey or a county geologist but
3357 presents the potential of geologic hazard because the area has characteristics similar to those of
3358 a designated geologic hazard area.

3359 (56) "Public agency" means:

3360 (a) the federal government;

3361 (b) the state;

3362 (c) a county, municipality, school district, local district, special service district, or other
3363 political subdivision of the state; or

3364 (d) a charter school.

3365 (57) "Public hearing" means a hearing at which members of the public are provided a
3366 reasonable opportunity to comment on the subject of the hearing.

3367 (58) "Public meeting" means a meeting that is required to be open to the public under
3368 Title 52, Chapter 4, Open and Public Meetings Act.

3369 (59) "Public street" means a public right-of-way, including a public highway, public
3370 avenue, public boulevard, public parkway, public road, public lane, public alley, public
3371 viaduct, public subway, public tunnel, public bridge, public byway, other public transportation
3372 easement, or other public way.

3373 (60) "Receiving zone" means an unincorporated area of a county that the county
3374 designates, by ordinance, as an area in which an owner of land may receive a transferable
3375 development right.

3376 (61) "Record of survey map" means a map of a survey of land prepared in accordance
3377 with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

3378 (62) "Residential facility for persons with a disability" means a residence:

3379 (a) in which more than one person with a disability resides; and

3380 ~~[(b) (i) which is licensed or certified by the Department of Human Services under Title~~
3381 ~~62A, Chapter 2, Licensure of Programs and Facilities, or]~~

3382 ~~[(ii) which is licensed or certified by the Department of Health under Title 26, Chapter~~
3383 ~~21, Health Care Facility Licensing and Inspection Act.]~~

3384 (b) which is licensed or certified by the Department of Health and Human Services
3385 under:

3386 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

3387 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

3388 (63) "Rules of order and procedure" means a set of rules that govern and prescribe in a
3389 public meeting:

3390 (a) parliamentary order and procedure;

3391 (b) ethical behavior; and

3392 (c) civil discourse.

3393 (64) "Sanitary sewer authority" means the department, agency, or public entity with
3394 responsibility to review and approve the feasibility of sanitary sewer services or onsite
3395 wastewater systems.

3396 (65) "Sending zone" means an unincorporated area of a county that the county
3397 designates, by ordinance, as an area from which an owner of land may transfer a transferable
3398 development right.

3399 (66) "Site plan" means a document or map that may be required by a county during a
3400 preliminary review preceding the issuance of a building permit to demonstrate that an owner's
3401 or developer's proposed development activity meets a land use requirement.

3402 (67) "Specified public agency" means:

3403 (a) the state;

3404 (b) a school district; or

3405 (c) a charter school.

3406 (68) "Specified public utility" means an electrical corporation, gas corporation, or
3407 telephone corporation, as those terms are defined in Section [54-2-1](#).

3408 (69) "State" includes any department, division, or agency of the state.

3409 (70) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be
3410 divided into two or more lots or other division of land for the purpose, whether immediate or
3411 future, for offer, sale, lease, or development either on the installment plan or upon any and all
3412 other plans, terms, and conditions.

3413 (b) "Subdivision" includes:

3414 (i) the division or development of land, whether by deed, metes and bounds
3415 description, devise and testacy, map, plat, or other recorded instrument, regardless of whether
3416 the division includes all or a portion of a parcel or lot; and

3417 (ii) except as provided in Subsection (70)(c), divisions of land for residential and
3418 nonresidential uses, including land used or to be used for commercial, agricultural, and
3419 industrial purposes.

3420 (c) "Subdivision" does not include:

3421 (i) a bona fide division or partition of agricultural land for agricultural purposes;

3422 (ii) a boundary line agreement recorded with the county recorder's office between
3423 owners of adjoining parcels adjusting the mutual boundary in accordance with Section
3424 [17-27a-523](#) if no new lot is created;

3425 (iii) a recorded document, executed by the owner of record:

3426 (A) revising the legal descriptions of multiple parcels into one legal description
3427 encompassing all such parcels; or

3428 (B) joining a lot to a parcel;

3429 (iv) a bona fide division or partition of land in a county other than a first class county
3430 for the purpose of siting, on one or more of the resulting separate parcels:

3431 (A) an electrical transmission line or a substation;

3432 (B) a natural gas pipeline or a regulation station; or

3433 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
3434 utility service regeneration, transformation, retransmission, or amplification facility;

3435 (v) a boundary line agreement between owners of adjoining subdivided properties
3436 adjusting the mutual lot line boundary in accordance with Sections 17-27a-523 and 17-27a-608

3437 if:

3438 (A) no new dwelling lot or housing unit will result from the adjustment; and

3439 (B) the adjustment will not violate any applicable land use ordinance;

3440 (vi) a bona fide division of land by deed or other instrument if the deed or other

3441 instrument states in writing that the division:

3442 (A) is in anticipation of future land use approvals on the parcel or parcels;

3443 (B) does not confer any land use approvals; and

3444 (C) has not been approved by the land use authority;

3445 (vii) a parcel boundary adjustment;

3446 (viii) a lot line adjustment;

3447 (ix) a road, street, or highway dedication plat;

3448 (x) a deed or easement for a road, street, or highway purpose; or

3449 (xi) any other division of land authorized by law.

3450 (71) "Subdivision amendment" means an amendment to a recorded subdivision in

3451 accordance with Section 17-27a-608 that:

3452 (a) vacates all or a portion of the subdivision;

3453 (b) alters the outside boundary of the subdivision;

3454 (c) changes the number of lots within the subdivision;

3455 (d) alters a public right-of-way, a public easement, or public infrastructure within the
3456 subdivision; or

3457 (e) alters a common area or other common amenity within the subdivision.

3458 (72) "Substantial evidence" means evidence that:

3459 (a) is beyond a scintilla; and

3460 (b) a reasonable mind would accept as adequate to support a conclusion.

3461 (73) "Suspect soil" means soil that has:

3462 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
3463 3% swell potential;

3464 (b) bedrock units with high shrink or swell susceptibility; or

3465 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum

3466 commonly associated with dissolution and collapse features.

3467 (74) "Therapeutic school" means a residential group living facility:

3468 (a) for four or more individuals who are not related to:

3469 (i) the owner of the facility; or

3470 (ii) the primary service provider of the facility;

3471 (b) that serves students who have a history of failing to function:

3472 (i) at home;

3473 (ii) in a public school; or

3474 (iii) in a nonresidential private school; and

3475 (c) that offers:

3476 (i) room and board; and

3477 (ii) an academic education integrated with:

3478 (A) specialized structure and supervision; or

3479 (B) services or treatment related to a disability, an emotional development, a

3480 behavioral development, a familial development, or a social development.

3481 (75) "Transferable development right" means a right to develop and use land that

3482 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer

3483 land use rights from a designated sending zone to a designated receiving zone.

3484 (76) "Unincorporated" means the area outside of the incorporated area of a

3485 municipality.

3486 (77) "Water interest" means any right to the beneficial use of water, including:

3487 (a) each of the rights listed in Section 73-1-11; and

3488 (b) an ownership interest in the right to the beneficial use of water represented by:

3489 (i) a contract; or

3490 (ii) a share in a water company, as defined in Section 73-3-3.5.

3491 (78) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts

3492 land use zones, overlays, or districts.

3493 Section 48. Section 17-27a-519 is amended to read:

3494 **17-27a-519. Licensing of residences for persons with a disability.**

3495 The responsibility to license programs or entities that operate facilities for persons with

3496 a disability, as well as to require and monitor the provision of adequate services to persons

3497 residing in those facilities, shall rest with the Department of Health and Human Services as
3498 provided in:

3499 ~~[(1) for programs or entities licensed or certified by the Department of Human~~
3500 ~~Services, the Department of Human Services as provided in Title 62A, Chapter 5, Services for~~
3501 ~~People with Disabilities; and]~~

3502 ~~[(2) for programs or entities licensed or certified by the Department of Health, the~~
3503 ~~Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and~~
3504 ~~Inspection Act.]~~

3505 (1) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

3506 (2) Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities.

3507 Section 49. Section **17-27a-525** is amended to read:

3508 **17-27a-525. Cannabis production establishments and medical cannabis**

3509 **pharmacies.**

3510 (1) As used in this section:

3511 (a) "Cannabis production establishment" means the same as that term is defined in
3512 Section [4-41a-102](#).

3513 (b) "Industrial hemp producer licensee" means the same as the term "licensee" is
3514 defined in Section [4-41-102](#).

3515 (c) "Medical cannabis pharmacy" means the same as that term is defined in Section
3516 ~~[26-61a-102]~~ [26B-4-201](#).

3517 (2) (a) (i) A county may not regulate a cannabis production establishment in conflict
3518 with:

3519 (A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable
3520 jurisprudence; and

3521 (B) this chapter.

3522 (ii) A county may not regulate a medical cannabis pharmacy in conflict with:

3523 (A) ~~[Title 26, Chapter 61a, Utah Medical Cannabis Act]~~ Title 26B, Chapter 4, Part 2,
3524 Cannabinoid Research and Medical Cannabis, and applicable jurisprudence; and

3525 (B) this chapter.

3526 (iii) A county may not regulate an industrial hemp producer licensee in conflict with:

3527 (A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and

3528 (B) this chapter.

3529 (b) The Department of Agriculture and Food has plenary authority to license programs
3530 or entities that operate a cannabis production establishment.

3531 (c) The Department of Health and Human Services has plenary authority to license
3532 programs or entities that operate a medical cannabis pharmacy.

3533 (3) (a) Within the time period described in Subsection (3)(b), a county shall prepare
3534 and adopt a land use regulation, development agreement, or land use decision in accordance
3535 with this title and:

3536 (i) regarding a cannabis production establishment, Section [4-41a-406](#); or

3537 (ii) regarding a medical cannabis pharmacy, Section [~~26-61a-507~~] [26B-4-235](#).

3538 (b) A county shall take the action described in Subsection (3)(a):

3539 (i) before January 1, 2021, within 45 days after the day on which the county receives a
3540 petition for the action; and

3541 (ii) after January 1, 2021, in accordance with Subsection [17-27a-509.5\(2\)](#).

3542 Section 50. Section **17-27a-1102** is amended to read:

3543 **17-27a-1102. Definitions.**

3544 (1) "Animal feeding operation" means a lot or facility where the following conditions
3545 are met:

3546 (a) animals have been, are, or will be stabled or confined and fed or maintained for a
3547 total of 45 days or more in any 12-month period; and

3548 (b) crops, vegetation, forage growth, or post-harvest residues are not sustained in the
3549 normal growing season over any portion of the lot or facility.

3550 (2) (a) "Commercial enterprise" means a building:

3551 (i) used as a part of a business that manufactures goods, delivers services, or sells
3552 goods or services;

3553 (ii) customarily and regularly used by the general public during the entire calendar
3554 year; and

3555 (iii) connected to electric or water systems.

3556 (b) "Commercial enterprise" does not include an agriculture operation.

3557 (3) "County large concentrated animal feeding operation land use ordinance" means an
3558 ordinance adopted in accordance with Section [17-27a-1103](#).

- 3559 (4) "Education institution" means a building in which any part is used:
3560 (a) for more than three hours each weekday during a school year as a public or private:
3561 (i) elementary school;
3562 (ii) secondary school; or
3563 (iii) kindergarten;
3564 (b) a state institution of higher education as defined in Section [53B-3-102](#); or
3565 (c) a private institution of higher education in the state accredited by a regional or
3566 national accrediting agency recognized by the United States Department of Education.
3567 (5) "Health care facility" means the same as that term is defined in Section [~~26-21-2~~]
3568 [26B-2-201](#).
3569 (6) "Large concentrated animal feeding operation" means an animal feeding operation
3570 that stables or confines as many as or more than the numbers of animals specified in any of the
3571 following categories:
3572 (a) 700 mature dairy cows, whether milked or dry;
3573 (b) 1,000 veal calves;
3574 (c) 1,000 cattle other than mature dairy cows or veal calves, with "cattle" including
3575 heifers, steers, bulls, and cow calf pairs;
3576 (d) 2,500 swine each weighing 55 pounds or more;
3577 (e) 10,000 swine each weighing less than 55 pounds;
3578 (f) 500 horses;
3579 (g) 10,000 sheep or lambs;
3580 (h) 55,000 turkeys;
3581 (i) 30,000 laying hens or broilers, if the animal feeding operation uses a liquid manure
3582 handling system;
3583 (j) 125,000 chickens, other than laying hens, if the animal feeding operation uses other
3584 than a liquid manure handling system;
3585 (k) 82,000 laying hens, if the animal feeding operation uses other than a liquid manure
3586 handling system;
3587 (l) 30,000 ducks, if the animal feeding operation uses other than a liquid manure
3588 handling system; or
3589 (m) 5,000 ducks, if the animal feeding operation uses a liquid manure handling system.

3590 (7) "Manure" includes manure, bedding, compost, a raw material, or other material
3591 commingled with manure or set aside for disposal.

3592 (8) "Public area" means land that:

3593 (a) is owned by the federal government, the state, or a political subdivision with
3594 facilities that attract the public to congregate and remain in the area for significant periods of
3595 time;

3596 (b) (i) is part of a public park, preserve, or recreation area that is owned or managed by
3597 the federal government, the state, a political subdivision, or a nongovernmental entity; and

3598 (ii) has a cultural, archaeological, scientific, or historic significance or contains a rare
3599 or valuable ecological system, including a site recognized as a National Historic Landmark or
3600 Site; or

3601 (c) is a cemetery.

3602 (9) "Religious institution" means a building and grounds used at least monthly for
3603 religious services or ceremonies.

3604 Section 51. Section **17-43-102** is amended to read:

3605 **17-43-102. Definitions.**

3606 As used in this chapter:

3607 (1) "Department" means the Department of Health and Human Services created in
3608 Section [26B-1-201](#).

3609 (2) "Division" means the Division of Integrated Healthcare within the department.

3610 Section 52. Section **17-43-201** is amended to read:

3611 **17-43-201. Local substance abuse authorities -- Responsibilities.**

3612 (1) (a) (i) In each county operating under a county executive-council form of
3613 government under Section [17-52a-203](#), the county legislative body is the local substance abuse
3614 authority, provided however that any contract for plan services shall be administered by the
3615 county executive.

3616 (ii) In each county operating under a council-manager form of government under
3617 Section [17-52a-204](#), the county manager is the local substance abuse authority.

3618 (iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the
3619 county legislative body is the local substance abuse authority.

3620 (b) Within legislative appropriations and county matching funds required by this

3621 section, and under the direction of the division, each local substance abuse authority shall:

- 3622 (i) develop substance ~~[abuse]~~ use prevention and treatment services plans;
- 3623 (ii) provide substance ~~[abuse]~~ use services to residents of the county; and
- 3624 (iii) cooperate with efforts of the division to promote integrated programs that address
- 3625 an individual's substance ~~[abuse]~~ use, mental health, and physical healthcare needs, as
- 3626 described in Section ~~[62A-15-103]~~ 26B-5-102.

3627 (c) Within legislative appropriations and county matching funds required by this

3628 section, each local substance abuse authority shall cooperate with the efforts of the department

3629 to promote a system of care, as defined in Section 26B-1-102, for minors with or at risk for

3630 complex emotional and behavioral needs, as described in Section 26B-1-202.

3631 (2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal

3632 Cooperation Act, two or more counties may join to:

- 3633 (i) provide substance ~~[abuse]~~ use prevention and treatment services; or
- 3634 (ii) create a united local health department that provides substance ~~[abuse]~~ use
- 3635 treatment services, mental health services, and local health department services in accordance
- 3636 with Subsection (3).

3637 (b) The legislative bodies of counties joining to provide services may establish

3638 acceptable ways of apportioning the cost of substance ~~[abuse]~~ use services.

3639 (c) Each agreement for joint substance ~~[abuse]~~ use services shall:

3640 (i) (A) designate the treasurer of one of the participating counties or another person as

3641 the treasurer for the combined substance abuse authorities and as the custodian of money

3642 available for the joint services; and

3643 (B) provide that the designated treasurer, or other disbursing officer authorized by the

3644 treasurer, may make payments from the money for the joint services upon audit of the

3645 appropriate auditing officer or officers representing the participating counties;

3646 (ii) provide for the appointment of an independent auditor or a county auditor of one of

3647 the participating counties as the designated auditing officer for the combined substance abuse

3648 authorities;

3649 (iii) (A) provide for the appointment of the county or district attorney of one of the

3650 participating counties as the designated legal officer for the combined substance abuse

3651 authorities; and

3652 (B) authorize the designated legal officer to request and receive the assistance of the
3653 county or district attorneys of the other participating counties in defending or prosecuting
3654 actions within their counties relating to the combined substance abuse authorities; and

3655 (iv) provide for the adoption of management, clinical, financial, procurement,
3656 personnel, and administrative policies as already established by one of the participating
3657 counties or as approved by the legislative body of each participating county or interlocal board.

3658 (d) An agreement for joint substance [abuse] use services may provide for joint
3659 operation of services and facilities or for operation of services and facilities under contract by
3660 one participating local substance abuse authority for other participating local substance abuse
3661 authorities.

3662 (3) A county governing body may elect to combine the local substance abuse authority
3663 with the local mental health authority created in Part 3, Local Mental Health Authorities, and
3664 the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department
3665 Act, to create a united local health department under Section 26A-1-105.5. A local substance
3666 abuse authority that joins a united local health department shall comply with this part.

3667 (4) (a) Each local substance abuse authority is accountable to the department and the
3668 state with regard to the use of state and federal funds received from those departments for
3669 substance [abuse] use services, regardless of whether the services are provided by a private
3670 contract provider.

3671 (b) Each local substance abuse authority shall comply, and require compliance by its
3672 contract provider, with all directives issued by the department regarding the use and
3673 expenditure of state and federal funds received from those departments for the purpose of
3674 providing substance [abuse] use programs and services. The department shall ensure that those
3675 directives are not duplicative or conflicting, and shall consult and coordinate with local
3676 substance abuse authorities with regard to programs and services.

3677 (5) Each local substance abuse authority shall:

3678 (a) review and evaluate substance [abuse] use prevention and treatment needs and
3679 services, including substance [abuse] use needs and services for individuals incarcerated in a
3680 county jail or other county correctional facility;

3681 (b) annually prepare and submit to the division a plan approved by the county
3682 legislative body for funding and service delivery that includes:

- 3683 (i) provisions for services, either directly by the substance abuse authority or by
3684 contract, for adults, youth, and children, including those incarcerated in a county jail or other
3685 county correctional facility; and
- 3686 (ii) primary prevention, targeted prevention, early intervention, and treatment services;
- 3687 (c) establish and maintain, either directly or by contract, programs licensed under [~~Title~~
3688 ~~62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human
3689 Services Programs and Facilities;
- 3690 (d) appoint directly or by contract a full or part time director for substance [~~abuse~~] use
3691 programs, and prescribe the director's duties;
- 3692 (e) provide input and comment on new and revised rules established by the division;
- 3693 (f) establish and require contract providers to establish administrative, clinical,
3694 procurement, personnel, financial, and management policies regarding substance [~~abuse~~] use
3695 services and facilities, in accordance with the rules of the division, and state and federal law;
- 3696 (g) establish mechanisms allowing for direct citizen input;
- 3697 (h) annually contract with the division to provide substance [~~abuse~~] use programs and
3698 services in accordance with the provisions of [~~Title 62A, Chapter 15, Substance Abuse and~~
3699 ~~Mental Health Act~~] Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;
- 3700 (i) comply with all applicable state and federal statutes, policies, audit requirements,
3701 contract requirements, and any directives resulting from those audits and contract requirements;
- 3702 (j) promote or establish programs for the prevention of substance [~~abuse~~] use within
3703 the community setting through community-based prevention programs;
- 3704 (k) provide funding equal to at least 20% of the state funds that it receives to fund
3705 services described in the plan;
- 3706 (l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
3707 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title
3708 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
3709 Other Local Entities Act;
- 3710 (m) for persons convicted of driving under the influence in violation of Section
3711 [41-6a-502](#) or [41-6a-517](#), conduct the following as defined in Section [41-6a-501](#):
- 3712 (i) a screening;
- 3713 (ii) an assessment;

3714 (iii) an educational series; and
3715 (iv) substance [~~abuse~~] use treatment; and
3716 (n) utilize proceeds of the accounts described in Subsection [~~62A-15-503(1)~~]
3717 26B-5-209(1) to supplement the cost of providing the services described in Subsection (5)(m).
3718 (6) Before disbursing any public funds, each local substance abuse authority shall
3719 require that each entity that receives any public funds from the local substance abuse authority
3720 agrees in writing that:
3721 (a) the entity's financial records and other records relevant to the entity's performance
3722 of the services provided to the local substance abuse authority shall be subject to examination
3723 by:
3724 (i) the division;
3725 (ii) the local substance abuse authority director;
3726 (iii) (A) the county treasurer and county or district attorney; or
3727 (B) if two or more counties jointly provide substance [~~abuse~~] use services under an
3728 agreement under Subsection (2), the designated treasurer and the designated legal officer;
3729 (iv) the county legislative body; and
3730 (v) in a county with a county executive that is separate from the county legislative
3731 body, the county executive;
3732 (b) the county auditor may examine and audit the entity's financial and other records
3733 relevant to the entity's performance of the services provided to the local substance abuse
3734 authority; and
3735 (c) the entity will comply with the provisions of Subsection (4)(b).
3736 (7) A local substance abuse authority may receive property, grants, gifts, supplies,
3737 materials, contributions, and any benefit derived therefrom, for substance abuse services. If
3738 those gifts are conditioned upon their use for a specified service or program, they shall be so
3739 used.
3740 (8) (a) As used in this section, "public funds" means the same as that term is defined in
3741 Section 17-43-203.
3742 (b) Public funds received for the provision of services pursuant to the local substance
3743 abuse plan may not be used for any other purpose except those authorized in the contract
3744 between the local substance [~~abuse~~] use authority and the provider for the provision of plan

3745 services.

3746 (9) Subject to the requirements of the federal Substance Abuse Prevention and
3747 Treatment Block Grant, Pub. L. No. 102-321, a local substance abuse authority shall ensure
3748 that all substance [abuse] use treatment programs that receive public funds:

3749 (a) accept and provide priority for admission to a pregnant woman or a pregnant minor;
3750 and

3751 (b) if admission of a pregnant woman or a pregnant minor is not possible within 24
3752 hours of the time that a request for admission is made, provide a comprehensive referral for
3753 interim services that:

3754 (i) are accessible to the pregnant woman or pregnant minor;

3755 (ii) are best suited to provide services to the pregnant woman or pregnant minor;

3756 (iii) may include:

3757 (A) counseling;

3758 (B) case management; or

3759 (C) a support group; and

3760 (iv) shall include a referral for:

3761 (A) prenatal care; and

3762 (B) counseling on the effects of alcohol and drug use during pregnancy.

3763 (10) If a substance [abuse] use treatment program described in Subsection (9) is not
3764 able to accept and admit a pregnant woman or pregnant minor under Subsection (9) within 48
3765 hours of the time that request for admission is made, the local substance abuse authority shall
3766 contact the Division of Integrated Healthcare for assistance in providing services to the
3767 pregnant woman or pregnant minor.

3768 Section 53. Section **17-43-204** is amended to read:

3769 **17-43-204. Fees for substance abuse services -- Responsibility for cost of service if**
3770 **rendered by authority to nonresident -- Authority may receive funds from other sources.**

3771 (1) Each local substance abuse authority shall charge a fee for substance [abuse] use
3772 services, except that substance [abuse] use services may not be refused to any person because
3773 of inability to pay.

3774 (2) If a local substance abuse authority, through its designated provider, provides a
3775 service described in Subsection **17-43-201(5)** to a person who resides within the jurisdiction of

3776 another local substance abuse authority, the local substance abuse authority in whose
3777 jurisdiction the person resides is responsible for the cost of that service if its designated
3778 provider has authorized the provision of that service.

3779 (3) A local substance abuse authority and entities that contract with a local substance
3780 abuse authority to provide substance ~~[abuse]~~ use services may receive funds made available by
3781 federal, state, or local health, substance ~~[abuse]~~ use, mental health, education, welfare, or other
3782 agencies, in accordance with the provisions of this part and ~~[Title 62A, Chapter 15, Substance~~
3783 ~~Abuse and Mental Health Act]~~ Title 26B, Chapter 5, Health Care - Substance Use and Mental
3784 Health.

3785 Section 54. Section ~~17-43-301~~ is amended to read:

3786 **17-43-301. Local mental health authorities -- Responsibilities.**

3787 (1) As used in this section:

3788 (a) "Assisted outpatient treatment" means the same as that term is defined in Section
3789 ~~[62A-15-602]~~ 26B-5-301.

3790 (b) "Crisis worker" means the same as that term is defined in Section ~~[62A-15-1301]~~
3791 26B-5-610.

3792 (c) "Local mental health crisis line" means the same as that term is defined in Section
3793 ~~[62A-15-1301]~~ 26B-5-610.

3794 (d) "Mental health therapist" means the same as that term is defined in Section
3795 58-60-102.

3796 (e) "Public funds" means the same as that term is defined in Section 17-43-303.

3797 (f) "Statewide mental health crisis line" means the same as that term is defined in
3798 Section ~~[62A-15-1301]~~ 26B-5-610.

3799 (2) (a) (i) In each county operating under a county executive-council form of
3800 government under Section 17-52a-203, the county legislative body is the local mental health
3801 authority, provided however that any contract for plan services shall be administered by the
3802 county executive.

3803 (ii) In each county operating under a council-manager form of government under
3804 Section 17-52a-204, the county manager is the local mental health authority.

3805 (iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the
3806 county legislative body is the local mental health authority.

3807 (b) Within legislative appropriations and county matching funds required by this
3808 section, under the direction of the division, each local mental health authority shall:

3809 (i) provide mental health services to individuals within the county; and

3810 (ii) cooperate with efforts of the division to promote integrated programs that address
3811 an individual's substance [~~abuse~~] use, mental health, and physical healthcare needs, as
3812 described in Section [~~62A-15-103~~] 26B-5-102.

3813 (c) Within legislative appropriations and county matching funds required by this
3814 section, each local mental health authority shall cooperate with the efforts of the department to
3815 promote a system of care, as defined in Section 26B-1-102, for minors with or at risk for
3816 complex emotional and behavioral needs, as described in Section 26B-1-202.

3817 (3) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal
3818 Cooperation Act, two or more counties may join to:

3819 (i) provide mental health prevention and treatment services; or

3820 (ii) create a united local health department that combines substance [~~abuse~~] use
3821 treatment services, mental health services, and local health department services in accordance
3822 with Subsection (4).

3823 (b) The legislative bodies of counties joining to provide services may establish
3824 acceptable ways of apportioning the cost of mental health services.

3825 (c) Each agreement for joint mental health services shall:

3826 (i) (A) designate the treasurer of one of the participating counties or another person as
3827 the treasurer for the combined mental health authorities and as the custodian of money
3828 available for the joint services; and

3829 (B) provide that the designated treasurer, or other disbursing officer authorized by the
3830 treasurer, may make payments from the money available for the joint services upon audit of the
3831 appropriate auditing officer or officers representing the participating counties;

3832 (ii) provide for the appointment of an independent auditor or a county auditor of one of
3833 the participating counties as the designated auditing officer for the combined mental health
3834 authorities;

3835 (iii) (A) provide for the appointment of the county or district attorney of one of the
3836 participating counties as the designated legal officer for the combined mental health
3837 authorities; and

3838 (B) authorize the designated legal officer to request and receive the assistance of the
3839 county or district attorneys of the other participating counties in defending or prosecuting
3840 actions within their counties relating to the combined mental health authorities; and

3841 (iv) provide for the adoption of management, clinical, financial, procurement,
3842 personnel, and administrative policies as already established by one of the participating
3843 counties or as approved by the legislative body of each participating county or interlocal board.

3844 (d) An agreement for joint mental health services may provide for:

3845 (i) joint operation of services and facilities or for operation of services and facilities
3846 under contract by one participating local mental health authority for other participating local
3847 mental health authorities; and

3848 (ii) allocation of appointments of members of the mental health advisory council
3849 between or among participating counties.

3850 (4) A county governing body may elect to combine the local mental health authority
3851 with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities,
3852 and the local health department created in Title 26A, Chapter 1, Part 1, Local Health
3853 Department Act, to create a united local health department under Section [26A-1-105.5](#). A local
3854 mental health authority that joins with a united local health department shall comply with this
3855 part.

3856 (5) (a) Each local mental health authority is accountable to the department and the state
3857 with regard to the use of state and federal funds received from those departments for mental
3858 health services, regardless of whether the services are provided by a private contract provider.

3859 (b) Each local mental health authority shall comply, and require compliance by its
3860 contract provider, with all directives issued by the department regarding the use and
3861 expenditure of state and federal funds received from those departments for the purpose of
3862 providing mental health programs and services. The department shall ensure that those
3863 directives are not duplicative or conflicting, and shall consult and coordinate with local mental
3864 health authorities with regard to programs and services.

3865 (6) (a) Each local mental health authority shall:

3866 (i) review and evaluate mental health needs and services, including mental health needs
3867 and services for:

3868 (A) an individual incarcerated in a county jail or other county correctional facility; and

3869 (B) an individual who is a resident of the county and who is court ordered to receive
3870 assisted outpatient treatment under Section [~~62A-15-630.5~~] 26B-5-351;

3871 (ii) in accordance with Subsection (6)(b), annually prepare and submit to the division a
3872 plan approved by the county legislative body for mental health funding and service delivery,
3873 either directly by the local mental health authority or by contract;

3874 (iii) establish and maintain, either directly or by contract, programs licensed under
3875 [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1,
3876 Human Services Programs and Facilities;

3877 (iv) appoint, directly or by contract, a full-time or part-time director for mental health
3878 programs and prescribe the director's duties;

3879 (v) provide input and comment on new and revised rules established by the division;

3880 (vi) establish and require contract providers to establish administrative, clinical,
3881 personnel, financial, procurement, and management policies regarding mental health services
3882 and facilities, in accordance with the rules of the division, and state and federal law;

3883 (vii) establish mechanisms allowing for direct citizen input;

3884 (viii) annually contract with the division to provide mental health programs and
3885 services in accordance with the provisions of [~~Title 62A, Chapter 15, Substance Abuse and~~
3886 ~~Mental Health Act~~] Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;

3887 (ix) comply with all applicable state and federal statutes, policies, audit requirements,
3888 contract requirements, and any directives resulting from those audits and contract requirements;

3889 (x) provide funding equal to at least 20% of the state funds that it receives to fund
3890 services described in the plan;

3891 (xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
3892 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title
3893 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
3894 Other Local Entities Act; and

3895 (xii) take and retain physical custody of minors committed to the physical custody of
3896 local mental health authorities by a judicial proceeding under [~~Title 62A, Chapter 15, Part 7,~~
3897 ~~Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health~~]
3898 Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.

3899 (b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and

3900 children, which shall include:

3901 (i) inpatient care and services;

3902 (ii) residential care and services;

3903 (iii) outpatient care and services;

3904 (iv) 24-hour crisis care and services;

3905 (v) psychotropic medication management;

3906 (vi) psychosocial rehabilitation, including vocational training and skills development;

3907 (vii) case management;

3908 (viii) community supports, including in-home services, housing, family support
3909 services, and respite services;

3910 (ix) consultation and education services, including case consultation, collaboration
3911 with other county service agencies, public education, and public information; and

3912 (x) services to persons incarcerated in a county jail or other county correctional facility.

3913 (7) (a) If a local mental health authority provides for a local mental health crisis line
3914 under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local
3915 mental health authority shall:

3916 (i) collaborate with the statewide mental health crisis line described in Section
3917 ~~[62A-15-1302]~~ [26B-5-610](#);

3918 (ii) ensure that each individual who answers calls to the local mental health crisis line:

3919 (A) is a mental health therapist or a crisis worker; and

3920 (B) meets the standards of care and practice established by the Division of Integrated
3921 Healthcare, in accordance with Section ~~[62A-15-1302]~~ [26B-5-610](#); and

3922 (iii) ensure that when necessary, based on the local mental health crisis line's capacity,
3923 calls are immediately routed to the statewide mental health crisis line to ensure that when an
3924 individual calls the local mental health crisis line, regardless of the time, date, or number of
3925 individuals trying to simultaneously access the local mental health crisis line, a mental health
3926 therapist or a crisis worker answers the call without the caller first:

3927 (A) waiting on hold; or

3928 (B) being screened by an individual other than a mental health therapist or crisis
3929 worker.

3930 (b) If a local mental health authority does not provide for a local mental health crisis

3931 line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the
3932 local mental health authority shall use the statewide mental health crisis line as a local crisis
3933 line resource.

3934 (8) Before disbursing any public funds, each local mental health authority shall require
3935 that each entity that receives any public funds from a local mental health authority agrees in
3936 writing that:

3937 (a) the entity's financial records and other records relevant to the entity's performance
3938 of the services provided to the mental health authority shall be subject to examination by:

3939 (i) the division;

3940 (ii) the local mental health authority director;

3941 (iii) (A) the county treasurer and county or district attorney; or

3942 (B) if two or more counties jointly provide mental health services under an agreement
3943 under Subsection (3), the designated treasurer and the designated legal officer;

3944 (iv) the county legislative body; and

3945 (v) in a county with a county executive that is separate from the county legislative
3946 body, the county executive;

3947 (b) the county auditor may examine and audit the entity's financial and other records
3948 relevant to the entity's performance of the services provided to the local mental health
3949 authority; and

3950 (c) the entity will comply with the provisions of Subsection (5)(b).

3951 (9) A local mental health authority may receive property, grants, gifts, supplies,
3952 materials, contributions, and any benefit derived therefrom, for mental health services. If those
3953 gifts are conditioned upon their use for a specified service or program, they shall be so used.

3954 (10) Public funds received for the provision of services pursuant to the local mental
3955 health plan may not be used for any other purpose except those authorized in the contract
3956 between the local mental health authority and the provider for the provision of plan services.

3957 (11) A local mental health authority shall provide assisted outpatient treatment
3958 services, as described in Section [~~62A-15-630.4~~] [26B-5-350](#), to a resident of the county who
3959 has been ordered under Section [~~62A-15-630.5~~] [26B-5-351](#) to receive assisted outpatient
3960 treatment.

3961 Section 55. Section **17-43-303** is amended to read:

3962 **17-43-303. Definition of "public funds" -- Responsibility for oversight of public**
3963 **funds -- Mental health programs and services.**

3964 (1) As used in this section, "public funds":

3965 (a) means:

3966 (i) federal money received from the department or the Department of Health and
3967 Human Services; and

3968 (ii) state money appropriated by the Legislature to the department, the Department of
3969 Health and Human Services, a county governing body, or a local mental health authority for the
3970 purposes of providing mental health programs or services; and

3971 (b) includes that federal and state money:

3972 (i) even after the money has been transferred by a local mental health authority to a
3973 private provider under an annual or otherwise ongoing contract to provide comprehensive
3974 mental health programs or services for the local mental health authority; and

3975 (ii) while in the possession of the private provider.

3976 (2) Each local mental health authority is responsible for oversight of all public funds
3977 received by it, to determine that those public funds are utilized in accordance with federal and
3978 state law, the rules and policies of the department and the Department of Health and Human
3979 Services, and the provisions of any contract between the local mental health authority and the
3980 department, the Department of Health and Human Services, or a private provider. That
3981 oversight includes requiring that neither the contract provider, as described in Subsection (1),
3982 nor any of its employees:

3983 (a) violate any applicable federal or state criminal law;

3984 (b) knowingly violate any applicable rule or policy of the department or Department of
3985 Health and Human Services, or any provision of contract between the local mental health
3986 authority and the department, the Department of Health and Human Services, or the private
3987 provider;

3988 (c) knowingly keep any false account or make any false entry or erasure in any account
3989 of or relating to the public funds;

3990 (d) fraudulently alter, falsify, conceal, destroy, or obliterate any account of or relating
3991 to public funds;

3992 (e) fail to ensure competent oversight for lawful disbursement of public funds;

3993 (f) appropriate public funds for an unlawful use or for a use that is not in compliance
3994 with contract provisions; or

3995 (g) knowingly or intentionally use public funds unlawfully or in violation of a
3996 governmental contract provision, or in violation of state policy.

3997 (3) A local mental health authority that knew or reasonably should have known of any
3998 of the circumstances described in Subsection (2), and that fails or refuses to take timely
3999 corrective action in good faith shall, in addition to any other penalties provided by law, be
4000 required to make full and complete repayment to the state of all public funds improperly used
4001 or expended.

4002 (4) Any public funds required to be repaid to the state by a local mental health
4003 authority pursuant to Subsection (3), based upon the actions or failure of the contract provider,
4004 may be recovered by the local mental health authority from its contract provider, in addition to
4005 the local mental health authority's costs and ~~[attorney's]~~ attorney fees.

4006 Section 56. Section ~~17-43-306~~ is amended to read:

4007 **17-43-306. Fees for mental health services -- Responsibility for cost of service if**
4008 **rendered by authority to nonresident -- Authority may receive funds from other sources.**

4009 (1) Each local mental health authority shall charge a fee for mental health services,
4010 except that mental health services may not be refused to any person because of inability to pay.

4011 (2) If a local mental health authority, through its designated provider, provides a
4012 service described in Section ~~17-43-301~~ to a person who resides within the jurisdiction of
4013 another local mental health authority, the local mental health authority in whose jurisdiction the
4014 person resides is responsible for the cost of that service if its designated provider has
4015 authorized the provision of that service.

4016 (3) A local mental health authority and entities that contract with a local mental health
4017 authority to provide mental health services may receive funds made available by federal, state,
4018 or local health, substance ~~[abuse]~~ use, mental health, education, welfare, or other agencies, in
4019 accordance with the provisions of this part and ~~[Title 62A, Chapter 15, Substance Abuse and~~
4020 ~~Mental Health Act]~~ Title 26B, Chapter 5, Health Care - Substance Use and Mental Health.

4021 Section 57. Section ~~17-50-318~~ is amended to read:

4022 **17-50-318. Mental health and substance use services.**

4023 Each county shall provide mental health and substance ~~[abuse]~~ use services in

4024 accordance with [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B,
4025 Chapter 5, Health Care - Substance Use and Mental Health.

4026 Section 58. Section **17-50-333** is amended to read:

4027 **17-50-333. Regulation of retail tobacco specialty business.**

4028 (1) As used in this section:

4029 (a) "Community location" means:

4030 (i) a public or private kindergarten, elementary, middle, junior high, or high school;

4031 (ii) a licensed child-care facility or preschool;

4032 (iii) a trade or technical school;

4033 (iv) a church;

4034 (v) a public library;

4035 (vi) a public playground;

4036 (vii) a public park;

4037 (viii) a youth center or other space used primarily for youth oriented activities;

4038 (ix) a public recreational facility;

4039 (x) a public arcade; or

4040 (xi) for a new license issued on or after July 1, 2018, a homeless shelter.

4041 (b) "Department" means the Department of Health and Human Services created in

4042 Section [26B-1-201](#).

4043 (c) "Electronic cigarette product" means the same as that term is defined in Section

4044 [76-10-101](#).

4045 (d) "Flavored electronic cigarette product" means the same as that term is defined in

4046 Section [76-10-101](#).

4047 (e) "Licensee" means a person licensed under this section to conduct business as a

4048 retail tobacco specialty business.

4049 (f) "Local health department" means the same as that term is defined in Section

4050 [26A-1-102](#).

4051 (g) "Nicotine product" means the same as that term is defined in Section [76-10-101](#).

4052 (h) "Retail tobacco specialty business" means a commercial establishment in which:

4053 (i) sales of tobacco products, electronic cigarette products, and nicotine products

4054 account for more than 35% of the total quarterly gross receipts for the establishment;

- 4055 (ii) 20% or more of the public retail floor space is allocated to the offer, display, or
4056 storage of tobacco products, electronic cigarette products, or nicotine products;
- 4057 (iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of
4058 tobacco products, electronic cigarette products, or nicotine products;
- 4059 (iv) the commercial establishment:
- 4060 (A) holds itself out as a retail tobacco specialty business; and
- 4061 (B) causes a reasonable person to believe the commercial establishment is a retail
4062 tobacco specialty business;
- 4063 (v) any flavored electronic cigarette product is sold; or
- 4064 (vi) the retail space features a self-service display for tobacco products, electronic
4065 cigarette products, or nicotine products.
- 4066 (i) "Self-service display" means the same as that term is defined in Section
4067 [76-10-105.1](#).
- 4068 (j) "Tobacco product" means:
- 4069 (i) the same as that term is defined in Section [76-10-101](#); or
- 4070 (ii) tobacco paraphernalia as defined in Section [76-10-101](#).
- 4071 (2) The regulation of a retail tobacco specialty business is an exercise of the police
4072 powers of the state by the state or by the delegation of the state's police power to other
4073 governmental entities.
- 4074 (3) (a) A person may not operate a retail tobacco specialty business in a county unless
4075 the person obtains a license from the county in which the retail tobacco specialty business is
4076 located.
- 4077 (b) A county may only issue a retail tobacco specialty business license to a person if
4078 the person complies with the provisions of Subsections (4) and (5).
- 4079 (4) (a) Except as provided in Subsection (7), a county may not issue a license for a
4080 person to conduct business as a retail tobacco specialty business if the retail tobacco specialty
4081 business is located within:
- 4082 (i) 1,000 feet of a community location;
- 4083 (ii) 600 feet of another retail tobacco specialty business; or
- 4084 (iii) 600 feet from property used or zoned for:
- 4085 (A) agriculture use; or

4086 (B) residential use.

4087 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in
4088 a straight line from the nearest entrance of the retail tobacco specialty business to the nearest
4089 property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard
4090 to intervening structures or zoning districts.

4091 (5) A county may not issue or renew a license for a person to conduct business as a
4092 retail tobacco specialty business until the person provides the county with proof that the retail
4093 tobacco specialty business has:

4094 (a) a valid permit for a retail tobacco specialty business issued under [~~Title 26, Chapter~~
4095 ~~62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7,
4096 Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health
4097 department having jurisdiction over the area in which the retail tobacco specialty business is
4098 located; and

4099 (b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax
4100 Commission in accordance with Section [59-14-201](#) or [59-14-301](#) to sell a tobacco product; or

4101 (ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid
4102 license issued by the State Tax Commission in accordance with Section [59-14-803](#) to sell an
4103 electronic cigarette product or a nicotine product.

4104 (6) (a) Nothing in this section:

4105 (i) requires a county to issue a retail tobacco specialty business license; or

4106 (ii) prohibits a county from adopting more restrictive requirements on a person seeking
4107 a license or renewal of a license to conduct business as a retail tobacco specialty business.

4108 (b) A county may suspend or revoke a retail tobacco specialty business license issued
4109 under this section:

4110 (i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10,
4111 Part 16, Pattern of Unlawful Activity Act;

4112 (ii) if a licensee violates federal law or federal regulations restricting the sale and
4113 distribution of tobacco products or electronic cigarette products to protect children and
4114 adolescents;

4115 (iii) upon the recommendation of the department or a local health department under
4116 [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit~~] Title

4117 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products; or

4118 (iv) under any other provision of state law or local ordinance.

4119 (7) (a) Except as provided in Subsection (7)(e), a retail tobacco specialty business is
4120 exempt from Subsection (4) if:

4121 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
4122 license to conduct business as a retail tobacco specialty business;

4123 (ii) the retail tobacco specialty business is operating in a county in accordance with all
4124 applicable laws except for the requirement in Subsection (4); and

4125 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
4126 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

4127 (b) A retail tobacco specialty business may maintain an exemption under Subsection
4128 (7)(a) if:

4129 (i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse
4130 or permanent revocation;

4131 (ii) the retail tobacco specialty business does not close for business or otherwise
4132 suspend the sale of tobacco products, electronic cigarette products, or nicotine products for
4133 more than 60 consecutive days;

4134 (iii) the retail tobacco specialty business does not substantially change the business
4135 premises or business operation; and

4136 (iv) the retail tobacco specialty business maintains the right to operate under the terms
4137 of other applicable laws, including:

4138 (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

4139 (B) zoning ordinances;

4140 (C) building codes; and

4141 (D) the requirements of the license described in Subsection (7)(a)(i).

4142 (c) A retail tobacco specialty business that does not qualify for an exemption under
4143 Subsection (7)(a) is exempt from Subsection (4) if:

4144 (i) on or before December 31, 2018, the retail tobacco specialty business was issued a
4145 general tobacco retailer permit or a retail tobacco specialty business permit under Title 26,
4146 Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local
4147 health department having jurisdiction over the area in which the retail tobacco specialty

4148 business is located;

4149 (ii) the retail tobacco specialty business is operating in the county in accordance with
4150 all applicable laws except for the requirement in Subsection (4); and

4151 (iii) beginning July 1, 2022, the retail tobacco specialty business is not located within
4152 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

4153 (d) A retail tobacco specialty business may maintain an exemption under Subsection
4154 (7)(c) if:

4155 (i) on or before December 31, 2020, the retail tobacco specialty business receives a
4156 retail tobacco specialty business permit from the local health department having jurisdiction
4157 over the area in which the retail tobacco specialty business is located;

4158 (ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse
4159 or permanent revocation;

4160 (iii) the retail tobacco specialty business does not close for business or otherwise
4161 suspend the sale of tobacco products, electronic cigarette products, or nicotine products for
4162 more than 60 consecutive days;

4163 (iv) the retail tobacco specialty business does not substantially change the business
4164 premises or business operation as the business existed when the retail tobacco specialty
4165 business received a permit under Subsection (7)(d)(i); and

4166 (v) the retail tobacco specialty business maintains the right to operate under the terms
4167 of other applicable laws, including:

4168 (A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

4169 (B) zoning ordinances;

4170 (C) building codes; and

4171 (D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

4172 (e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is
4173 located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high,
4174 or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco
4175 specialty business:

4176 (i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use
4177 and located within a group of architecturally unified commercial establishments built on a site
4178 that is planned, developed, owned, and managed as an operating unit; and

4179 (ii) continues to meet the requirements described in Subsection (7)(b) that are not
4180 directly related to the relocation described in this Subsection (7)(e).

4181 Section 59. Section **17-50-339** is amended to read:

4182 **17-50-339. Prohibition on licensing or certification of child care programs.**

4183 (1) (a) As used in this section, "child care program" means a child care facility or
4184 program operated by a person who holds a license or certificate from the Department of Health
4185 and Human Services under [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B,
4186 Chapter 2, Part 4, Child Care Licensing.

4187 (b) "Child care program" does not include a child care program for which a county
4188 provides oversight, as described in Subsection [~~26-39-403(2)(e)~~] 26B-2-405(2)(e).

4189 (2) A county may not enact or enforce an ordinance that:

4190 (a) imposes licensing or certification requirements for a child care program; or

4191 (b) governs the manner in which care is provided in a child care program.

4192 (3) This section does not prohibit a county from:

4193 (a) requiring a business license to operate a business within the county; or

4194 (b) imposing requirements related to building, health, and fire codes.

4195 Section 60. Section **17B-2a-818.5** is amended to read:

4196 **17B-2a-818.5. Contracting powers of public transit districts -- Health insurance**
4197 **coverage.**

4198 (1) As used in this section:

4199 (a) "Aggregate" means the sum of all contracts, change orders, and modifications
4200 related to a single project.

4201 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.

4202 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or
4203 "operative" who:

4204 (i) works at least 30 hours per calendar week; and

4205 (ii) meets employer eligibility waiting requirements for health care insurance, which
4206 may not exceed the first day of the calendar month following 60 days after the day on which
4207 the individual is hired.

4208 (d) "Health benefit plan" means:

4209 (i) the same as that term is defined in Section 31A-1-301; or

- 4210 (ii) an employee welfare benefit plan:
- 4211 (A) established under the Employee Retirement Income Security Act of 1974, 29
- 4212 U.S.C. Sec. 1001 et seq.;
- 4213 (B) for an employer with 100 or more employees; and
- 4214 (C) in which the employer establishes a self-funded or partially self-funded group
- 4215 health plan to provide medical care for the employer's employees and dependents of the
- 4216 employees.
- 4217 (e) "Qualified health coverage" means the same as that term is defined in Section
- 4218 ~~[26-40-115]~~ [26B-3-909](#).
- 4219 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).
- 4220 (g) "Third party administrator" or "administrator" means the same as that term is
- 4221 defined in Section [31A-1-301](#).
- 4222 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 4223 (a) a contractor of a design or construction contract entered into by the public transit
- 4224 district on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or
- 4225 greater than \$2,000,000; and
- 4226 (b) a subcontractor of a contractor of a design or construction contract entered into by
- 4227 the public transit district on or after July 1, 2009, if the subcontract is in an aggregate amount
- 4228 equal to or greater than \$1,000,000.
- 4229 (3) The requirements of this section do not apply to a contractor or subcontractor
- 4230 described in Subsection (2) if:
- 4231 (a) the application of this section jeopardizes the receipt of federal funds;
- 4232 (b) the contract is a sole source contract; or
- 4233 (c) the contract is an emergency procurement.
- 4234 (4) A person that intentionally uses change orders, contract modifications, or multiple
- 4235 contracts to circumvent the requirements of this section is guilty of an infraction.
- 4236 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
- 4237 public transit district that the contractor has and will maintain an offer of qualified health
- 4238 coverage for the contractor's employees and the employee's dependents during the duration of
- 4239 the contract by submitting to the public transit district a written statement that:
- 4240 (i) the contractor offers qualified health coverage that complies with Section

4241 [~~26-40-115~~] [26B-3-909](#);

4242 (ii) is from:

4243 (A) an actuary selected by the contractor or the contractor's insurer;

4244 (B) an underwriter who is responsible for developing the employer group's premium
4245 rates; or

4246 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),
4247 an actuary or underwriter selected by a third party administrator; and

4248 (iii) was created within one year before the day on which the statement is submitted.

4249 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)
4250 shall provide the actuary or underwriter selected by an administrator, as described in
4251 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's
4252 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the
4253 requirements of qualified health coverage.

4254 (ii) A contractor may not make a change to the contractor's contribution to the health
4255 benefit plan, unless the contractor provides notice to:

4256 (A) the actuary or underwriter selected by an administrator as described in Subsection
4257 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in
4258 Subsection (5)(a) in compliance with this section; and

4259 (B) the public transit district.

4260 (c) A contractor that is subject to the requirements of this section shall:

4261 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
4262 is subject to the requirements of this section shall obtain and maintain an offer of qualified
4263 health coverage for the subcontractor's employees and the employees' dependents during the
4264 duration of the subcontract; and

4265 (ii) obtain from a subcontractor that is subject to the requirements of this section a
4266 written statement that:

4267 (A) the subcontractor offers qualified health coverage that complies with Section
4268 [~~26-40-115~~] [26B-3-909](#);

4269 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an
4270 underwriter who is responsible for developing the employer group's premium rates, or if the
4271 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or

4272 underwriter selected by an administrator; and

4273 (C) was created within one year before the day on which the contractor obtains the
4274 statement.

4275 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage as
4276 described in Subsection (5)(a) during the duration of the contract is subject to penalties in
4277 accordance with an ordinance adopted by the public transit district under Subsection (6).

4278 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain
4279 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

4280 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health
4281 coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to
4282 penalties in accordance with an ordinance adopted by the public transit district under
4283 Subsection (6).

4284 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain
4285 an offer of qualified health coverage described in Subsection (5)(a).

4286 (6) The public transit district shall adopt ordinances:

4287 (a) in coordination with:

4288 (i) the Department of Environmental Quality in accordance with Section [19-1-206](#);

4289 (ii) the Department of Natural Resources in accordance with Section [79-2-404](#);

4290 (iii) the Division of Facilities Construction and Management in accordance with
4291 Section [63A-5b-607](#);

4292 (iv) the State Capitol Preservation Board in accordance with Section [63C-9-403](#); and

4293 (v) the Department of Transportation in accordance with Section [72-6-107.5](#); and

4294 (b) that establish:

4295 (i) the requirements and procedures a contractor and a subcontractor shall follow to
4296 demonstrate compliance with this section, including:

4297 (A) that a contractor or subcontractor's compliance with this section is subject to an
4298 audit by the public transit district or the Office of the Legislative Auditor General;

4299 (B) that a contractor that is subject to the requirements of this section shall obtain a
4300 written statement described in Subsection (5)(a); and

4301 (C) that a subcontractor that is subject to the requirements of this section shall obtain a
4302 written statement described in Subsection (5)(c)(ii);

4303 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
4304 violates the provisions of this section, which may include:

4305 (A) a three-month suspension of the contractor or subcontractor from entering into
4306 future contracts with the public transit district upon the first violation;

4307 (B) a six-month suspension of the contractor or subcontractor from entering into future
4308 contracts with the public transit district upon the second violation;

4309 (C) an action for debarment of the contractor or subcontractor in accordance with
4310 Section [63G-6a-904](#) upon the third or subsequent violation; and

4311 (D) monetary penalties which may not exceed 50% of the amount necessary to
4312 purchase qualified health coverage for employees and dependents of employees of the
4313 contractor or subcontractor who were not offered qualified health coverage during the duration
4314 of the contract; and

4315 (iii) a website on which the district shall post the commercially equivalent benchmark,
4316 for the qualified health coverage identified in Subsection (1)(e), that is provided by the
4317 Department of Health and Human Services, in accordance with Subsection [~~26-40-115~~(2)]
4318 [26B-3-909](#)(2).

4319 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor
4320 or subcontractor who intentionally violates the provisions of this section is liable to the
4321 employee for health care costs that would have been covered by qualified health coverage.

4322 (ii) An employer has an affirmative defense to a cause of action under Subsection
4323 (7)(a)(i) if:

4324 (A) the employer relied in good faith on a written statement described in Subsection
4325 (5)(a) or (5)(c)(ii); or

4326 (B) a department or division determines that compliance with this section is not
4327 required under the provisions of Subsection (3).

4328 (b) An employee has a private right of action only against the employee's employer to
4329 enforce the provisions of this Subsection (7).

4330 (8) Any penalties imposed and collected under this section shall be deposited into the
4331 Medicaid Restricted Account created in Section [~~26-18-402~~] [26B-1-309](#).

4332 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
4333 required by this section:

4334 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
4335 or contractor under:

4336 (i) Section [63G-6a-1602](#); or

4337 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

4338 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
4339 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
4340 or construction.

4341 (10) An administrator, including an administrator's actuary or underwriter, who
4342 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health
4343 coverage of a contractor or subcontractor who provides a health benefit plan described in
4344 Subsection (1)(d)(ii):

4345 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,
4346 unless the administrator commits gross negligence in preparing the written statement;

4347 (b) is not liable for any error in the written statement if the administrator relied in good
4348 faith on information from the contractor or subcontractor; and

4349 (c) may require as a condition of providing the written statement that a contractor or
4350 subcontractor hold the administrator harmless for an action arising under this section.

4351 Section 61. Section **17B-2a-902** is amended to read:

4352 **17B-2a-902. Provisions applicable to service areas.**

4353 (1) Each service area is governed by and has the powers stated in:

4354 (a) this part; and

4355 (b) except as provided in Subsection (5), Chapter 1, Provisions Applicable to All Local
4356 Districts.

4357 (2) This part applies only to service areas.

4358 (3) A service area is not subject to the provisions of any other part of this chapter.

4359 (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All
4360 Local Districts, and a provision in this part, the provision in this part governs.

4361 (5) (a) Except as provided in Subsection (5)(b), on or after December 31, 2012, a
4362 service area may not charge or collect a fee under Section [17B-1-643](#) for:

4363 (i) law enforcement services;

4364 (ii) fire protection services;

4365 (iii) 911 ambulance or paramedic services as defined in Section ~~[26-8a-102]~~ 26B-4-101
4366 that are provided under a contract in accordance with Section ~~[26-8a-405.2]~~ 26B-4-156; or

4367 (iv) emergency services.

4368 (b) Subsection (5)(a) does not apply to:

4369 (i) a fee charged or collected on an individual basis rather than a general basis;

4370 (ii) a non-911 service as defined in Section ~~[26-8a-102]~~ 26B-4-101 that is provided
4371 under a contract in accordance with Section ~~[26-8a-405.2]~~ 26B-4-156;

4372 (iii) an impact fee charged or collected for a public safety facility as defined in Section
4373 11-36a-102; or

4374 (iv) a service area that includes within the boundary of the service area a county of the
4375 fifth or sixth class.

4376 Section 62. Section **18-1-3** is amended to read:

4377 **18-1-3. Dogs attacking domestic animals, service animals, hoofed protected**
4378 **wildlife, or domestic fowls.**

4379 Any person may injure or kill a dog while:

4380 (1) the dog is attacking, chasing, or worrying:

4381 (a) a domestic animal having a commercial value;

4382 (b) a service animal, as defined in Section ~~[62A-5b-102]~~ 26B-6-801; or

4383 (c) any species of hoofed protected wildlife;

4384 (2) the dog is attacking domestic fowls; or

4385 (3) the dog is being pursued for committing an act described in Subsection (1) or (2).

4386 Section 63. Section **19-1-205** is amended to read:

4387 **19-1-205. Assumption of responsibilities.**

4388 The department assumes all the policymaking functions, regulatory and enforcement
4389 powers, rights, duties, and responsibilities of the Division of Environmental Health, the Air
4390 Conservation Committee, the Solid and Hazardous Waste Committee, the Utah Safe Drinking
4391 Water Committee, and the Water Pollution Control Committee previously vested in the
4392 Department of Health and Human Services and its executive director:

4393 (1) including programs for individual wastewater disposal systems, liquid scavenger
4394 operations, and vault and earthen pit privies; but

4395 (2) excluding all other sanitation programs, which shall be administered by the

4396 Department of Health and Human Services.

4397 Section 64. Section **19-1-206** is amended to read:

4398 **19-1-206. Contracting powers of department -- Health insurance coverage.**

4399 (1) As used in this section:

4400 (a) "Aggregate" means the sum of all contracts, change orders, and modifications
4401 related to a single project.

4402 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

4403 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or
4404 "operative" who:

4405 (i) works at least 30 hours per calendar week; and

4406 (ii) meets employer eligibility waiting requirements for health care insurance, which
4407 may not exceed the first day of the calendar month following 60 days after the day on which
4408 the individual is hired.

4409 (d) "Health benefit plan" means:

4410 (i) the same as that term is defined in Section [31A-1-301](#); or

4411 (ii) an employee welfare benefit plan:

4412 (A) established under the Employee Retirement Income Security Act of 1974, 29
4413 U.S.C. Sec. 1001 et seq.;

4414 (B) for an employer with 100 or more employees; and

4415 (C) in which the employer establishes a self-funded or partially self-funded group
4416 health plan to provide medical care for the employer's employees and dependents of the
4417 employees.

4418 (e) "Qualified health coverage" means the same as that term is defined in Section
4419 [~~26-40-115~~] [26B-3-909](#).

4420 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).

4421 (g) "Third party administrator" or "administrator" means the same as that term is
4422 defined in Section [31A-1-301](#).

4423 (2) Except as provided in Subsection (3), the requirements of this section apply to:

4424 (a) a contractor of a design or construction contract entered into by, or delegated to, the
4425 department, or a division or board of the department, on or after July 1, 2009, if the prime
4426 contract is in an aggregate amount equal to or greater than \$2,000,000; and

4427 (b) a subcontractor of a contractor of a design or construction contract entered into by,
4428 or delegated to, the department, or a division or board of the department, on or after July 1,
4429 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

4430 (3) This section does not apply to contracts entered into by the department or a division
4431 or board of the department if:

4432 (a) the application of this section jeopardizes the receipt of federal funds;

4433 (b) the contract or agreement is between:

4434 (i) the department or a division or board of the department; and

4435 (ii) (A) another agency of the state;

4436 (B) the federal government;

4437 (C) another state;

4438 (D) an interstate agency;

4439 (E) a political subdivision of this state; or

4440 (F) a political subdivision of another state;

4441 (c) the executive director determines that applying the requirements of this section to a
4442 particular contract interferes with the effective response to an immediate health and safety
4443 threat from the environment; or

4444 (d) the contract is:

4445 (i) a sole source contract; or

4446 (ii) an emergency procurement.

4447 (4) A person that intentionally uses change orders, contract modifications, or multiple
4448 contracts to circumvent the requirements of this section is guilty of an infraction.

4449 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
4450 executive director that the contractor has and will maintain an offer of qualified health
4451 coverage for the contractor's employees and the employees' dependents during the duration of
4452 the contract by submitting to the executive director a written statement that:

4453 (i) the contractor offers qualified health coverage that complies with Section
4454 ~~[26-40-115]~~ [26B-3-909](#);

4455 (ii) is from:

4456 (A) an actuary selected by the contractor or the contractor's insurer;

4457 (B) an underwriter who is responsible for developing the employer group's premium

4458 rates; or

4459 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),
4460 an actuary or underwriter selected by a third party administrator; and

4461 (iii) was created within one year before the day on which the statement is submitted.

4462 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)
4463 shall provide the actuary or underwriter selected by an administrator, as described in
4464 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's
4465 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the
4466 requirements of qualified health coverage.

4467 (ii) A contractor may not make a change to the contractor's contribution to the health
4468 benefit plan, unless the contractor provides notice to:

4469 (A) the actuary or underwriter selected by an administrator, as described in Subsection
4470 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in
4471 Subsection (5)(a) in compliance with this section; and

4472 (B) the department.

4473 (c) A contractor that is subject to the requirements of this section shall:

4474 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
4475 is subject to the requirements of this section shall obtain and maintain an offer of qualified
4476 health coverage for the subcontractor's employees and the employees' dependents during the
4477 duration of the subcontract; and

4478 (ii) obtain from a subcontractor that is subject to the requirements of this section a
4479 written statement that:

4480 (A) the subcontractor offers qualified health coverage that complies with Section
4481 ~~[26-40-115]~~ [26B-3-909](#);

4482 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an
4483 underwriter who is responsible for developing the employer group's premium rates, or if the
4484 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or
4485 underwriter selected by an administrator; and

4486 (C) was created within one year before the day on which the contractor obtains the
4487 statement.

4488 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage

4489 described in Subsection (5)(a) during the duration of the contract is subject to penalties in
4490 accordance with administrative rules adopted by the department under Subsection (6).

4491 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain
4492 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

4493 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health
4494 coverage described in Subsection (5)(c) during the duration of the subcontract is subject to
4495 penalties in accordance with administrative rules adopted by the department under Subsection
4496 (6).

4497 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain
4498 an offer of qualified health coverage described in Subsection (5)(a).

4499 (6) The department shall adopt administrative rules:

4500 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

4501 (b) in coordination with:

4502 (i) a public transit district in accordance with Section [17B-2a-818.5](#);

4503 (ii) the Department of Natural Resources in accordance with Section [79-2-404](#);

4504 (iii) the Division of Facilities Construction and Management in accordance with
4505 Section [63A-5b-607](#);

4506 (iv) the State Capitol Preservation Board in accordance with Section [63C-9-403](#);

4507 (v) the Department of Transportation in accordance with Section [72-6-107.5](#); and

4508 (vi) the Legislature's Administrative Rules Review and General Oversight Committee;

4509 and

4510 (c) that establish:

4511 (i) the requirements and procedures a contractor and a subcontractor shall follow to
4512 demonstrate compliance with this section, including:

4513 (A) that a contractor or subcontractor's compliance with this section is subject to an
4514 audit by the department or the Office of the Legislative Auditor General;

4515 (B) that a contractor that is subject to the requirements of this section shall obtain a
4516 written statement described in Subsection (5)(a); and

4517 (C) that a subcontractor that is subject to the requirements of this section shall obtain a
4518 written statement described in Subsection (5)(c)(ii);

4519 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally

4520 violates the provisions of this section, which may include:

4521 (A) a three-month suspension of the contractor or subcontractor from entering into
4522 future contracts with the state upon the first violation;

4523 (B) a six-month suspension of the contractor or subcontractor from entering into future
4524 contracts with the state upon the second violation;

4525 (C) an action for debarment of the contractor or subcontractor in accordance with
4526 Section [63G-6a-904](#) upon the third or subsequent violation; and

4527 (D) notwithstanding Section [19-1-303](#), monetary penalties which may not exceed 50%
4528 of the amount necessary to purchase qualified health coverage for an employee and the
4529 dependents of an employee of the contractor or subcontractor who was not offered qualified
4530 health coverage during the duration of the contract; and

4531 (iii) a website on which the department shall post the commercially equivalent
4532 benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by
4533 the Department of Health and Human Services, in accordance with Subsection [~~26-40-115(2)~~]
4534 [26B-3-909\(2\)](#).

4535 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor
4536 or subcontractor who intentionally violates the provisions of this section is liable to the
4537 employee for health care costs that would have been covered by qualified health coverage.

4538 (ii) An employer has an affirmative defense to a cause of action under Subsection
4539 (7)(a)(i) if:

4540 (A) the employer relied in good faith on a written statement described in Subsection
4541 (5)(a) or (5)(c)(ii); or

4542 (B) the department determines that compliance with this section is not required under
4543 the provisions of Subsection (3).

4544 (b) An employee has a private right of action only against the employee's employer to
4545 enforce the provisions of this Subsection (7).

4546 (8) Any penalties imposed and collected under this section shall be deposited into the
4547 Medicaid Restricted Account created in Section [~~26-18-402~~] [26B-1-309](#).

4548 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
4549 required by this section:

4550 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,

4551 or contractor under:

4552 (i) Section [63G-6a-1602](#); or

4553 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

4554 (b) may not be used by the procurement entity or a prospective bidder, offeror, or

4555 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design

4556 or construction.

4557 (10) An administrator, including an administrator's actuary or underwriter, who

4558 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health

4559 coverage of a contractor or subcontractor who provides a health benefit plan described in

4560 Subsection (1)(d)(ii):

4561 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,

4562 unless the administrator commits gross negligence in preparing the written statement;

4563 (b) is not liable for any error in the written statement if the administrator relied in good

4564 faith on information from the contractor or subcontractor; and

4565 (c) may require as a condition of providing the written statement that a contractor or

4566 subcontractor hold the administrator harmless for an action arising under this section.

4567 Section 65. Section **19-4-115** is amended to read:

4568 **19-4-115. Drinking water quality in schools and child care centers.**

4569 (1) As used in this section:

4570 (a) "Action level" means a lead concentration equal to five parts per billion.

4571 (b) "Certified laboratory" means a laboratory certified by the Department of Health and

4572 Human Services that analyzes drinking water for lead.

4573 (c) "Child care center" means:

4574 (i) a center based child care, as defined in Section ~~[26-39-102]~~ [26B-2-401](#); or

4575 (ii) an exempt provider, as defined in Section ~~[26-39-102]~~ [26B-2-401](#).

4576 (d) "Consumable tap" means a sink or fountain used for consumption of water or food

4577 preparation.

4578 (e) "School" means a public or private:

4579 (i) elementary school or secondary school;

4580 (ii) preschool; or

4581 (iii) kindergarten.

4582 (2) (a) A school shall, and a child care center may test the school's or child care center's
4583 consumable taps for lead by no later than December 31, 2023.

4584 (b) In conducting a test under this Subsection (2), a school or child care center shall:

4585 (i) comply with current state testing guidelines for reducing lead in drinking water in
4586 schools and child care centers; and

4587 (ii) submit a sample to a certified laboratory that has entered into a memorandum of
4588 understanding with the division as described in Subsection (3).

4589 (c) Notwithstanding Subsection (2)(a), if a school or child care center has conducted a
4590 test for lead in drinking water in a consumable tap of the school or child care center on or after
4591 January 1, 2016, but before May 4, 2022, the school or child care center:

4592 (i) is not required to conduct a test under Subsection (2)(a) on the previously sampled
4593 consumable tap;

4594 (ii) if the test described in this Subsection (2)(c) finds a lead level for a consumable tap
4595 equals or exceeds the action level, shall take steps to stop the use of the consumable tap or to
4596 reduce the lead level below the action level as described in Subsection (5); and

4597 (iii) by no later than the end of the time period established under Subsection (4)(c),
4598 shall report to the division:

4599 (A) the findings of the test described in this Subsection (2)(c); and

4600 (B) any steps taken under Subsection (2)(c)(ii).

4601 (3) (a) The division shall enter into a memorandum of understanding with one or more
4602 certified laboratories under which the division pays the costs of testing a sample submitted by a
4603 school or child care center in accordance with Subsection (2).

4604 (b) Subject to appropriations, the division shall pay the costs of testing in the order that
4605 a sample is submitted to the certified laboratory.

4606 (c) A certified laboratory shall report test results for a sample submitted in accordance
4607 with Subsection (2) to:

4608 (i) the school or child care center that submitted the sample; and

4609 (ii) the division.

4610 (4) (a) If after paying the costs of testing under Subsection (3) there remains money
4611 appropriated under this section, the division may issue grants to schools and child care centers
4612 for costs associated with taking action under Subsection (5).

4613 (b) The board may make rules, in accordance with Title 63G, Chapter 3, Utah
4614 Administrative Rulemaking Act:

4615 (i) to establish a procedure for a school or child care center applying for a grant under
4616 Subsection (4)(a); and

4617 (ii) for what constitutes steps to reduce the lead level below the action level as
4618 described in Subsection (5).

4619 (c) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah
4620 Administrative Rulemaking Act, to establish the time period to take steps to reduce the lead
4621 level below the action level as described in Subsection (5).

4622 (5) If a test result of a consumable tap under Subsection (2) results in a lead level that
4623 equals or exceeds the action level, the school or child care center shall:

4624 (a) within the time period established under Subsection (4)(c) take steps to stop the use
4625 of the consumable tap or to reduce the lead level below the action level; and

4626 (b) report the steps taken under Subsection (5)(a) to the division within 30 days after
4627 taking the steps.

4628 (6) After the time period established under Subsection (4)(c) has ended, the division
4629 shall post on a public website for at least five years from the day on which the division receives
4630 the information:

4631 (a) the test results for a test taken under Subsection (2); and

4632 (b) the steps taken as required under Subsection (5).

4633 Section 66. Section **19-6-902** is amended to read:

4634 **19-6-902. Definitions.**

4635 As used in this part:

4636 (1) "Board" means the Waste Management and Radiation Control Board, as defined in
4637 Section [19-1-106](#), within the Department of Environmental Quality.

4638 (2) "Certified decontamination specialist" means an individual who has met the
4639 standards for certification as a decontamination specialist and has been certified by the board
4640 under Subsection [19-6-906\(2\)](#).

4641 (3) "Contaminated" or "contamination" means:

4642 (a) polluted by hazardous materials that cause property to be unfit for human habitation
4643 or use due to immediate or long-term health hazards; or

4644 (b) that a property is polluted by hazardous materials as a result of the use, production,
4645 or presence of methamphetamine in excess of decontamination standards adopted by the
4646 Department of Health and Human Services under Section [~~26-51-201~~] [26B-7-409](#).

4647 (4) "Contamination list" means a list maintained by the local health department of
4648 properties:

4649 (a) reported to the local health department under Section [19-6-903](#); and

4650 (b) determined by the local health department to be contaminated.

4651 (5) (a) "Decontaminated" means property that at one time was contaminated, but the
4652 contaminants have been removed.

4653 (b) "Decontaminated" for a property that was contaminated by the use, production, or
4654 presence of methamphetamine means that the property satisfies decontamination standards
4655 adopted by the Department of Health and Human Services under Section [~~26-51-201~~]
4656 [26B-7-409](#).

4657 (6) "Hazardous materials":

4658 (a) has the same meaning as "hazardous or dangerous material" as defined in Section
4659 [58-37d-3](#); and

4660 (b) includes any illegally manufactured controlled substances.

4661 (7) "Health department" means a local health department under Title 26A, Local
4662 Health Authorities.

4663 (8) "Owner of record":

4664 (a) means the owner of real property as shown on the records of the county recorder in
4665 the county where the property is located; and

4666 (b) may include an individual, financial institution, company, corporation, or other
4667 entity.

4668 (9) "Property":

4669 (a) means any real property, site, structure, part of a structure, or the grounds
4670 surrounding a structure; and

4671 (b) includes single-family residences, outbuildings, garages, units of multiplexes,
4672 condominiums, apartment buildings, warehouses, hotels, motels, boats, motor vehicles, trailers,
4673 manufactured housing, shops, or booths.

4674 (10) "Reported property" means property that is the subject of a law enforcement report

4675 under Section 19-6-903.

4676 Section 67. Section 20A-2-104 is amended to read:

4677 **20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.**

4678 (1) (a) As used in this section:

4679 (i) "Candidate for public office" means an individual:

4680 (A) who files a declaration of candidacy for a public office;

4681 (B) who files a notice of intent to gather signatures under Section 20A-9-408; or

4682 (C) employed by, under contract with, or a volunteer of, an individual described in

4683 Subsection (1)(a)(i)(A) or (B) for political campaign purposes.

4684 (ii) "Dating violence" means the same as that term is defined in Section 78B-7-402 and
4685 the federal Violence Against Women Act of 1994, as amended.

4686 (iii) "Domestic violence" means the same as that term is defined in Section 77-36-1
4687 and the federal Violence Against Women Act of 1994, as amended.

4688 (b) An individual applying for voter registration, or an individual preregistering to
4689 vote, shall complete a voter registration form in substantially the following form:

4690 -----

4691 UTAH ELECTION REGISTRATION FORM

4692 Are you a citizen of the United States of America? Yes No

4693 If you checked "no" to the above question, do not complete this form.

4694 Will you be 18 years of age on or before election day? Yes No

4695 If you checked "no" to the above question, are you 16 or 17 years of age and preregistering to
4696 vote? Yes No

4697 If you checked "no" to both of the prior two questions, do not complete this form.

4698 Name of Voter

4699 _____

4700 First Middle Last

4701 Utah Driver License or Utah Identification Card Number _____

4702 Date of Birth _____

4703 Street Address of Principal Place of Residence

4704 _____

4705 City County State Zip Code

4706 Telephone Number (optional) _____

4707 Email Address (optional) _____

4708 Last four digits of Social Security Number _____

4709 Last former address at which I was registered to vote (if

4710 known) _____

4711 _____

4712	City	County	State	Zip Code
------	------	--------	-------	----------

4713 Political Party

4714 (a listing of each registered political party, as defined in Section 20A-8-101 and maintained by
4715 the lieutenant governor under Section 67-1a-2, with each party's name preceded by a checkbox)

4716 Unaffiliated (no political party preference) Other (Please specify) _____

4717 I do swear (or affirm), subject to penalty of law for false statements, that the
4718 information contained in this form is true, and that I am a citizen of the United States and a
4719 resident of the state of Utah, residing at the above address. Unless I have indicated above that I
4720 am preregistering to vote in a later election, I will be at least 18 years of age and will have
4721 resided in Utah for 30 days immediately before the next election. I am not a convicted felon
4722 currently incarcerated for commission of a felony.

4723 Signed and sworn

4724 _____

4725 Voter's Signature

4726 _____ (month/day/year).

4727 **PRIVACY INFORMATION**

4728 Voter registration records contain some information that is available to the public, such
4729 as your name and address, some information that is available only to government entities, and
4730 some information that is available only to certain third parties in accordance with the
4731 requirements of law.

4732 Your driver license number, identification card number, social security number, email
4733 address, full date of birth, and phone number are available only to government entities. Your
4734 year of birth is available to political parties, candidates for public office, certain third parties,
4735 and their contractors, employees, and volunteers, in accordance with the requirements of law.

4736 You may request that all information on your voter registration records be withheld

4737 from all persons other than government entities, political parties, candidates for public office,
4738 and their contractors, employees, and volunteers, by indicating here:

4739 _____ Yes, I request that all information on my voter registration records be withheld
4740 from all persons other than government entities, political parties, candidates for public office,
4741 and their contractors, employees, and volunteers.

4742 REQUEST FOR ADDITIONAL PRIVACY PROTECTION

4743 In addition to the protections provided above, you may request that all information on
4744 your voter registration records be withheld from all political parties, candidates for public
4745 office, and their contractors, employees, and volunteers, by submitting a withholding request
4746 form, and any required verification, as described in the following paragraphs.

4747 A person may request that all information on the person's voter registration records be
4748 withheld from all political parties, candidates for public office, and their contractors,
4749 employees, and volunteers, by submitting a withholding request form with this registration
4750 record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or
4751 resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

4752 A person may request that all information on the person's voter registration records be
4753 withheld from all political parties, candidates for public office, and their contractors,
4754 employees, and volunteers, by submitting a withholding request form and any required
4755 verification with this registration form, or to the lieutenant governor or a county clerk, if the
4756 person is, or resides with a person who is, a law enforcement officer, a member of the armed
4757 forces, a public figure, or protected by a protective order or a protection order.

4758 CITIZENSHIP AFFIDAVIT

4759 Name:

4760 Name at birth, if different:

4761 Place of birth:

4762 Date of birth:

4763 Date and place of naturalization (if applicable):

4764 I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a
4765 citizen and that to the best of my knowledge and belief the information above is true and
4766 correct.

4767 _____

4768 Signature of Applicant

4769 In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or
4770 allowing yourself to be registered or preregistered to vote if you know you are not entitled to
4771 register or preregister to vote is up to one year in jail and a fine of up to \$2,500.

4772 NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID
4773 VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST
4774 BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND
4775 PHOTOGRAPH; OR
4776 TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND
4777 CURRENT ADDRESS.

4778 FOR OFFICIAL USE ONLY

4779 Type of I.D. _____
4780 Voting Precinct _____
4781 Voting I.D. Number _____

4782 -----
4783 (c) Beginning May 1, 2022, the voter registration form described in Subsection (1)(b)
4784 shall include a section in substantially the following form:

4785 -----
4786 BALLOT NOTIFICATIONS

4787 If you have provided a phone number or email address, you can receive notifications by
4788 text message or email regarding the status of a ballot that is mailed to you or a ballot that you
4789 deposit in the mail or in a ballot drop box, by indicating here:

4790 _____ Yes, I would like to receive electronic notifications regarding the status of my
4791 ballot.

4792 -----
4793 (2) (a) Except as provided under Subsection (2)(b), the county clerk shall retain a copy
4794 of each voter registration form in a permanent countywide alphabetical file, which may be
4795 electronic or some other recognized system.

4796 (b) The county clerk may transfer a superseded voter registration form to the Division
4797 of Archives and Records Service created under Section 63A-12-101.

4798 (3) (a) Each county clerk shall retain lists of currently registered voters.

4799 (b) The lieutenant governor shall maintain a list of registered voters in electronic form.

4800 (c) If there are any discrepancies between the two lists, the county clerk's list is the
4801 official list.

4802 (d) The lieutenant governor and the county clerks may charge the fees established
4803 under the authority of Subsection [63G-2-203](#)(10) to individuals who wish to obtain a copy of
4804 the list of registered voters.

4805 (4) (a) As used in this Subsection (4), "qualified person" means:

4806 (i) a government official or government employee acting in the government official's or
4807 government employee's capacity as a government official or a government employee;

4808 (ii) a health care provider, as defined in Section ~~[26-33a-102]~~ [26B-8-501](#), or an agent,
4809 employee, or independent contractor of a health care provider;

4810 (iii) an insurance company, as defined in Section ~~67-4a-102~~, or an agent, employee, or
4811 independent contractor of an insurance company;

4812 (iv) a financial institution, as defined in Section [7-1-103](#), or an agent, employee, or
4813 independent contractor of a financial institution;

4814 (v) a political party, or an agent, employee, or independent contractor of a political
4815 party;

4816 (vi) a candidate for public office, or an employee, independent contractor, or volunteer
4817 of a candidate for public office; or

4818 (vii) a person, or an agent, employee, or independent contractor of the person, who:

4819 (A) provides the year of birth of a registered voter that is obtained from the list of
4820 registered voters only to a person who is a qualified person;

4821 (B) verifies that a person, described in Subsection (4)(a)(vii)(A), to whom a year of
4822 birth that is obtained from the list of registered voters is provided, is a qualified person;

4823 (C) ensures, using industry standard security measures, that the year of birth of a
4824 registered voter that is obtained from the list of registered voters may not be accessed by a
4825 person other than a qualified person;

4826 (D) verifies that each qualified person, other than a qualified person described in
4827 Subsection (4)(a)(i), (v), or (vi), to whom the person provides the year of birth of a registered
4828 voter that is obtained from the list of registered voters, will only use the year of birth to verify
4829 the accuracy of personal information submitted by an individual or to confirm the identity of a

4830 person in order to prevent fraud, waste, or abuse;

4831 (E) verifies that each qualified person described in Subsection (4)(a)(i), to whom the
4832 person provides the year of birth of a registered voter that is obtained from the list of registered
4833 voters, will only use the year of birth in the qualified person's capacity as a government official
4834 or government employee; and

4835 (F) verifies that each qualified person described in Subsection (4)(a)(v) or (vi), to
4836 whom the person provides the year of birth of a registered voter that is obtained from the list of
4837 registered voters, will only use the year of birth for a political purpose of the political party or
4838 candidate for public office.

4839 (b) Notwithstanding Subsection 63G-2-302(1)(j)(iv), and except as provided in
4840 Subsection 63G-2-302(1)(k) or (l), the lieutenant governor or a county clerk shall, when
4841 providing the list of registered voters to a qualified person under this section, include, with the
4842 list, the years of birth of the registered voters, if:

4843 (i) the lieutenant governor or a county clerk verifies the identity of the person and that
4844 the person is a qualified person; and

4845 (ii) the qualified person signs a document that includes the following:

4846 (A) the name, address, and telephone number of the person requesting the list of
4847 registered voters;

4848 (B) an indication of the type of qualified person that the person requesting the list
4849 claims to be;

4850 (C) a statement regarding the purpose for which the person desires to obtain the years
4851 of birth;

4852 (D) a list of the purposes for which the qualified person may use the year of birth of a
4853 registered voter that is obtained from the list of registered voters;

4854 (E) a statement that the year of birth of a registered voter that is obtained from the list
4855 of registered voters may not be provided or used for a purpose other than a purpose described
4856 under Subsection (4)(b)(ii)(D);

4857 (F) a statement that if the person obtains the year of birth of a registered voter from the
4858 list of registered voters under false pretenses, or provides or uses the year of birth of a
4859 registered voter that is obtained from the list of registered voters in a manner that is prohibited
4860 by law, is guilty of a class A misdemeanor and is subject to a civil fine;

4861 (G) an assertion from the person that the person will not provide or use the year of
4862 birth of a registered voter that is obtained from the list of registered voters in a manner that is
4863 prohibited by law; and

4864 (H) notice that if the person makes a false statement in the document, the person is
4865 punishable by law under Section 76-8-504.

4866 (c) The lieutenant governor or a county clerk may not disclose the year of birth of a
4867 registered voter to a person that the lieutenant governor or county clerk reasonably believes:

4868 (i) is not a qualified person or a person described in Subsection (4)(l); or

4869 (ii) will provide or use the year of birth in a manner prohibited by law.

4870 (d) The lieutenant governor or a county clerk may not disclose the voter registration
4871 form of a person, or information included in the person's voter registration form, whose voter
4872 registration form is classified as private under Subsection (4)(h) to a person other than:

4873 (i) a government official or government employee acting in the government official's or
4874 government employee's capacity as a government official or government employee; or

4875 (ii) except as provided in Subsection (7) and subject to Subsection (4)(e), a person
4876 described in Subsection (4)(a)(v) or (vi) for a political purpose.

4877 (e) When disclosing a record or information under Subsection (4)(d)(ii), the lieutenant
4878 governor or county clerk shall exclude the information described in Subsection
4879 63G-2-302(1)(j), other than the year of birth.

4880 (f) The lieutenant governor or a county clerk may not disclose a withholding request
4881 form, described in Subsections (7) and (8), submitted by an individual, or information obtained
4882 from that form, to a person other than a government official or government employee acting in
4883 the government official's or government employee's capacity as a government official or
4884 government employee.

4885 (g) A person is guilty of a class A misdemeanor if the person:

4886 (i) obtains the year of birth of a registered voter from the list of registered voters under
4887 false pretenses;

4888 (ii) uses or provides the year of birth of a registered voter that is obtained from the list
4889 of registered voters in a manner that is not permitted by law;

4890 (iii) obtains a voter registration record described in Subsection 63G-2-302(1)(k) under
4891 false pretenses;

4892 (iv) uses or provides information obtained from a voter registration record described in
4893 Subsection 63G-2-302(1)(k) in a manner that is not permitted by law;

4894 (v) unlawfully discloses or obtains a voter registration record withheld under
4895 Subsection (7) or a withholding request form described in Subsections (7) and (8); or

4896 (vi) unlawfully discloses or obtains information from a voter registration record
4897 withheld under Subsection (7) or a withholding request form described in Subsections (7) and
4898 (8).

4899 (h) The lieutenant governor or a county clerk shall classify the voter registration record
4900 of a voter as a private record if the voter:

4901 (i) submits a written application, created by the lieutenant governor, requesting that the
4902 voter's voter registration record be classified as private;

4903 (ii) requests on the voter's voter registration form that the voter's voter registration
4904 record be classified as a private record; or

4905 (iii) submits a withholding request form described in Subsection (7) and any required
4906 verification.

4907 (i) The lieutenant governor or a county clerk may not disclose to a person described in
4908 Subsection (4)(a)(v) or (vi) a voter registration record, or information obtained from a voter
4909 registration record, if the record is withheld under Subsection (7).

4910 (j) In addition to any criminal penalty that may be imposed under this section, the
4911 lieutenant governor may impose a civil fine against a person who violates a provision of this
4912 section, in an amount equal to the greater of:

4913 (i) the product of 30 and the square root of the total number of:

4914 (A) records obtained, provided, or used unlawfully, rounded to the nearest whole
4915 dollar; or

4916 (B) records from which information is obtained, provided, or used unlawfully, rounded
4917 to the nearest whole dollar; or

4918 (ii) \$200.

4919 (k) A qualified person may not obtain, provide, or use the year of birth of a registered
4920 voter, if the year of birth is obtained from the list of registered voters or from a voter
4921 registration record, unless the person:

4922 (i) is a government official or government employee who obtains, provides, or uses the

4923 year of birth in the government official's or government employee's capacity as a government
4924 official or government employee;

4925 (ii) is a qualified person described in Subsection (4)(a)(ii), (iii), or (iv) and obtains or
4926 uses the year of birth only to verify the accuracy of personal information submitted by an
4927 individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

4928 (iii) is a qualified person described in Subsection (4)(a)(v) or (vi) and obtains,
4929 provides, or uses the year of birth for a political purpose of the political party or candidate for
4930 public office; or

4931 (iv) is a qualified person described in Subsection (4)(a)(vii) and obtains, provides, or
4932 uses the year of birth to provide the year of birth to another qualified person to verify the
4933 accuracy of personal information submitted by an individual or to confirm the identity of a
4934 person in order to prevent fraud, waste, or abuse.

4935 (l) The lieutenant governor or a county clerk may provide a year of birth to a member
4936 of the media, in relation to an individual designated by the member of the media, in order for
4937 the member of the media to verify the identity of the individual.

4938 (m) A person described in Subsection (4)(a)(v) or (vi) may not use or disclose
4939 information from a voter registration record for a purpose other than a political purpose.

4940 (5) When political parties not listed on the voter registration form qualify as registered
4941 political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the
4942 lieutenant governor shall inform the county clerks of the name of the new political party and
4943 direct the county clerks to ensure that the voter registration form is modified to include that
4944 political party.

4945 (6) Upon receipt of a voter registration form from an applicant, the county clerk or the
4946 clerk's designee shall:

4947 (a) review each voter registration form for completeness and accuracy; and

4948 (b) if the county clerk believes, based upon a review of the form, that an individual
4949 may be seeking to register or preregister to vote who is not legally entitled to register or
4950 preregister to vote, refer the form to the county attorney for investigation and possible
4951 prosecution.

4952 (7) The lieutenant governor or a county clerk shall withhold from a person, other than a
4953 person described in Subsection (4)(a)(i), the voter registration record, and information obtained

4954 from the voter registration record, of an individual:

4955 (a) who submits a withholding request form, with the voter registration record or to the
4956 lieutenant governor or a county clerk, if:

4957 (i) the individual indicates on the form that the individual, or an individual who resides
4958 with the individual, is a victim of domestic violence or dating violence or is likely to be a
4959 victim of domestic violence or dating violence; or

4960 (ii) the individual indicates on the form and provides verification that the individual, or
4961 an individual who resides with the individual, is:

4962 (A) a law enforcement officer;

4963 (B) a member of the armed forces, as defined in Section [20A-1-513](#);

4964 (C) a public figure; or

4965 (D) protected by a protective order or protection order; or

4966 (b) whose voter registration record was classified as a private record at the request of
4967 the individual before May 12, 2020.

4968 (8) (a) The lieutenant governor shall design and distribute the withholding request form
4969 described in Subsection (7) to each election officer and to each agency that provides a voter
4970 registration form.

4971 (b) An individual described in Subsection (7)(a)(i) is not required to provide
4972 verification, other than the individual's attestation and signature on the withholding request
4973 form, that the individual, or an individual who resides with the individual, is a victim of
4974 domestic violence or dating violence or is likely to be a victim of domestic violence or dating
4975 violence.

4976 (c) The director of elections within the Office of the Lieutenant Governor shall make
4977 rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
4978 establishing requirements for providing the verification described in Subsection (7)(a)(ii).

4979 (9) An election officer or an employee of an election officer may not encourage an
4980 individual to submit, or discourage an individual from submitting, a withholding request form.

4981 Section 68. Section **20A-2-306** is amended to read:

4982 **20A-2-306. Removing names from the official register -- Determining and**
4983 **confirming change of residence.**

4984 (1) A county clerk may not remove a voter's name from the official register on the

4985 grounds that the voter has changed residence unless the voter:

4986 (a) confirms in writing that the voter has changed residence to a place outside the
4987 county; or

4988 (b) (i) has not voted in an election during the period beginning on the date of the notice
4989 required by Subsection (3), and ending on the day after the date of the second regular general
4990 election occurring after the date of the notice; and

4991 (ii) has failed to respond to the notice required by Subsection (3).

4992 (2) (a) When a county clerk obtains information that a voter's address has changed and
4993 it appears that the voter still resides within the same county, the county clerk shall:

4994 (i) change the official register to show the voter's new address; and

4995 (ii) send to the voter, by forwardable mail, the notice required by Subsection (3)
4996 printed on a postage prepaid, preaddressed return form.

4997 (b) When a county clerk obtains information that a voter's address has changed and it
4998 appears that the voter now resides in a different county, the county clerk shall verify the
4999 changed residence by sending to the voter, by forwardable mail, the notice required by
5000 Subsection (3) printed on a postage prepaid, preaddressed return form.

5001 (3) (a) Each county clerk shall use substantially the following form to notify voters
5002 whose addresses have changed:

5003 "VOTER REGISTRATION NOTICE

5004 We have been notified that your residence has changed. Please read, complete, and
5005 return this form so that we can update our voter registration records. What is your current
5006 street address?

5007 _____
5008 Street City County State Zip

5009 What is your current phone number (optional)? _____

5010 What is your current email address (optional)? _____

5011 If you have not changed your residence or have moved but stayed within the same
5012 county, you must complete and return this form to the county clerk so that it is received by the
5013 county clerk before 5 p.m. no later than 30 days before the date of the election. If you fail to
5014 return this form within that time:

5015 - you may be required to show evidence of your address to the poll worker before being

5016 allowed to vote in either of the next two regular general elections; or
 5017 - if you fail to vote at least once from the date this notice was mailed until the passing
 5018 of two regular general elections, you will no longer be registered to vote. If you have changed
 5019 your residence and have moved to a different county in Utah, you may register to vote by
 5020 contacting the county clerk in your county.

5021 _____
 5022 Signature of Voter

5023 PRIVACY INFORMATION

5024 Voter registration records contain some information that is available to the public, such
 5025 as your name and address, some information that is available only to government entities, and
 5026 some information that is available only to certain third parties in accordance with the
 5027 requirements of law.

5028 Your driver license number, identification card number, social security number, email
 5029 address, full date of birth, and phone number are available only to government entities. Your
 5030 year of birth is available to political parties, candidates for public office, certain third parties,
 5031 and their contractors, employees, and volunteers, in accordance with the requirements of law.

5032 You may request that all information on your voter registration records be withheld
 5033 from all persons other than government entities, political parties, candidates for public office,
 5034 and their contractors, employees, and volunteers, by indicating here:

5035 _____ Yes, I request that all information on my voter registration records be withheld
 5036 from all persons other than government entities, political parties, candidates for public office,
 5037 and their contractors, employees, and volunteers.

5038 REQUEST FOR ADDITIONAL PRIVACY PROTECTION

5039 In addition to the protections provided above, you may request that all information on
 5040 your voter registration records be withheld from all political parties, candidates for public
 5041 office, and their contractors, employees, and volunteers, by submitting a withholding request
 5042 form, and any required verification, as described in the following paragraphs.

5043 A person may request that all information on the person's voter registration records be
 5044 withheld from all political parties, candidates for public office, and their contractors,
 5045 employees, and volunteers, by submitting a withholding request form with this registration
 5046 record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or

5047 resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

5048 A person may request that all information on the person's voter registration records be
5049 withheld from all political parties, candidates for public office, and their contractors,
5050 employees, and volunteers, by submitting a withholding request form and any required
5051 verification with this registration form, or to the lieutenant governor or a county clerk, if the
5052 person is, or resides with a person who is, a law enforcement officer, a member of the armed
5053 forces, a public figure, or protected by a protective order or a protection order."

5054 (b) Beginning May 1, 2022, the form described in Subsection (3)(a) shall also include a
5055 section in substantially the following form:

5056 -----

5057 **BALLOT NOTIFICATIONS**

5058 If you have provided a phone number or email address, you can receive notifications by
5059 text message or email regarding the status of a ballot that is mailed to you or a ballot that you
5060 deposit in the mail or in a ballot drop box, by indicating here:

5061 _____ Yes, I would like to receive electronic notifications regarding the status of my
5062 ballot.

5063 -----

5064 (4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the
5065 names of any voters from the official register during the 90 days before a regular primary
5066 election and the 90 days before a regular general election.

5067 (b) The county clerk may remove the names of voters from the official register during
5068 the 90 days before a regular primary election and the 90 days before a regular general election
5069 if:

5070 (i) the voter requests, in writing, that the voter's name be removed; or

5071 (ii) the voter has died.

5072 (c) (i) After a county clerk mails a notice as required in this section, the county clerk
5073 may list that voter as inactive.

5074 (ii) If a county clerk receives a returned voter identification card, determines that there
5075 was no clerical error causing the card to be returned, and has no further information to contact
5076 the voter, the county clerk may list that voter as inactive.

5077 (iii) An inactive voter shall be allowed to vote, sign petitions, and have all other

5078 privileges of a registered voter.

5079 (iv) A county is not required to send routine mailings to an inactive voter and is not
5080 required to count inactive voters when dividing precincts and preparing supplies.

5081 (5) Beginning on or before January 1, 2022, the lieutenant governor shall make
5082 available to a county clerk United States Social Security Administration data received by the
5083 lieutenant governor regarding deceased individuals.

5084 (6) A county clerk shall, within ten business days after the day on which the county
5085 clerk receives the information described in Subsection (5) or Subsections [~~26-2-13(11) and~~
5086 ~~(12)~~] 26B-8-114(11) and (12) relating to a decedent whose name appears on the official
5087 register, remove the decedent's name from the official register.

5088 (7) Ninety days before each primary and general election the lieutenant governor shall
5089 compare the information the lieutenant governor has received under Subsection [~~26-2-13(11)~~
5090 26B-8-114(11)] with the official register of voters to ensure that all deceased voters have been
5091 removed from the official register.

5092 Section 69. Section **20A-11-1202** is amended to read:

5093 **20A-11-1202. Definitions.**

5094 As used in this part:

5095 (1) "Applicable election officer" means:

5096 (a) a county clerk, if the email relates only to a local election; or

5097 (b) the lieutenant governor, if the email relates to an election other than a local
5098 election.

5099 (2) "Ballot proposition" means constitutional amendments, initiatives, referenda,
5100 judicial retention questions, opinion questions, bond approvals, or other questions submitted to
5101 the voters for their approval or rejection.

5102 (3) "Campaign contribution" means any of the following when done for a political
5103 purpose or to advocate for or against a ballot proposition:

5104 (a) a gift, subscription, donation, loan, advance, deposit of money, or anything of value
5105 given to a filing entity;

5106 (b) an express, legally enforceable contract, promise, or agreement to make a gift,
5107 subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything
5108 of value to a filing entity;

- 5109 (c) any transfer of funds from another reporting entity to a filing entity;
- 5110 (d) compensation paid by any person or reporting entity other than the filing entity for
- 5111 personal services provided without charge to the filing entity;
- 5112 (e) remuneration from:
- 5113 (i) any organization or the organization's directly affiliated organization that has a
- 5114 registered lobbyist; or
- 5115 (ii) any agency or subdivision of the state, including a school district; or
- 5116 (f) an in-kind contribution.
- 5117 (4) (a) "Commercial interlocal cooperation agency" means an interlocal cooperation
- 5118 agency that receives its revenues from conduct of its commercial operations.
- 5119 (b) "Commercial interlocal cooperation agency" does not mean an interlocal
- 5120 cooperation agency that receives some or all of its revenues from:
- 5121 (i) government appropriations;
- 5122 (ii) taxes;
- 5123 (iii) government fees imposed for regulatory or revenue raising purposes; or
- 5124 (iv) interest earned on public funds or other returns on investment of public funds.
- 5125 (5) "Expenditure" means:
- 5126 (a) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,
- 5127 or anything of value;
- 5128 (b) an express, legally enforceable contract, promise, or agreement to make any
- 5129 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of
- 5130 value;
- 5131 (c) a transfer of funds between a public entity and a candidate's personal campaign
- 5132 committee;
- 5133 (d) a transfer of funds between a public entity and a political issues committee; or
- 5134 (e) goods or services provided to or for the benefit of a candidate, a candidate's
- 5135 personal campaign committee, or a political issues committee for political purposes at less than
- 5136 fair market value.
- 5137 (6) "Filing entity" means the same as that term is defined in Section [20A-11-101](#).
- 5138 (7) "Governmental interlocal cooperation agency" means an interlocal cooperation
- 5139 agency that receives some or all of its revenues from:

- 5140 (a) government appropriations;
- 5141 (b) taxes;
- 5142 (c) government fees imposed for regulatory or revenue raising purposes; or
- 5143 (d) interest earned on public funds or other returns on investment of public funds.
- 5144 (8) "Influence" means to campaign or advocate for or against a ballot proposition.
- 5145 (9) "Interlocal cooperation agency" means an entity created by interlocal agreement
- 5146 under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.
- 5147 (10) "Local district" means an entity under Title 17B, Limited Purpose Local
- 5148 Government Entities - Local Districts, and includes a special service district under Title 17D,
- 5149 Chapter 1, Special Service District Act.
- 5150 (11) "Political purposes" means an act done with the intent or in a way to influence or
- 5151 intend to influence, directly or indirectly, any person to refrain from voting or to vote for or
- 5152 against any:
- 5153 (a) candidate for public office at any caucus, political convention, primary, or election;
- 5154 or
- 5155 (b) judge standing for retention at any election.
- 5156 (12) "Proposed initiative" means an initiative proposed in an application filed under
- 5157 Section [20A-7-202](#) or [20A-7-502](#).
- 5158 (13) "Proposed referendum" means a referendum proposed in an application filed
- 5159 under Section [20A-7-302](#) or [20A-7-602](#).
- 5160 (14) (a) "Public entity" includes the state, each state agency, each county, municipality,
- 5161 school district, local district, governmental interlocal cooperation agency, and each
- 5162 administrative subunit of each of them.
- 5163 (b) "Public entity" does not include a commercial interlocal cooperation agency.
- 5164 (c) "Public entity" includes local health departments created under [~~Title 26, Chapter 1,~~
- 5165 ~~Department of Health Organization~~] [Title 26A, Local Health Authorities](#).
- 5166 (15) (a) "Public funds" means any money received by a public entity from
- 5167 appropriations, taxes, fees, interest, or other returns on investment.
- 5168 (b) "Public funds" does not include money donated to a public entity by a person or
- 5169 entity.
- 5170 (16) (a) "Public official" means an elected or appointed member of government with

5171 authority to make or determine public policy.

5172 (b) "Public official" includes the person or group that:

5173 (i) has supervisory authority over the personnel and affairs of a public entity; and

5174 (ii) approves the expenditure of funds for the public entity.

5175 (17) "Reporting entity" means the same as that term is defined in Section [20A-11-101](#).

5176 (18) (a) "State agency" means each department, commission, board, council, agency,
5177 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
5178 unit, bureau, panel, or other administrative unit of the state.

5179 (b) "State agency" includes the legislative branch, the Utah Board of Higher Education,
5180 each institution of higher education board of trustees, and each higher education institution.

5181 Section 70. Section [23-19-5.5](#) is amended to read:

5182 **[23-19-5.5. Issuance of license, permit, or tag prohibited for failure to pay child](#)**

5183 **support.**

5184 (1) As used in this section:

5185 (a) "Child support" means the same as that term is defined in Section [~~62A-11-401~~]
5186 [26B-9-301](#).

5187 (b) "Delinquent on a child support obligation" means that:

5188 (i) an individual owes at least \$2,500 on an arrearage obligation of child support based
5189 on an administrative or judicial order;

5190 (ii) the individual has not obtained a judicial order staying enforcement of the
5191 individual's obligation on the amount in arrears; and

5192 (iii) the office has obtained a statutory judgment lien pursuant to Section
5193 [~~62A-11-312.5~~] [26B-9-214](#).

5194 (c) "Office" means the Office of Recovery Services created in Section [~~62A-11-102~~]
5195 [26B-9-103](#).

5196 (d) "Wildlife license agent" means a person authorized under Section [23-19-15](#) to sell a
5197 license, permit, or tag in accordance with this chapter.

5198 (2) (a) An individual who is delinquent on a child support obligation may not apply for,
5199 obtain, or attempt to obtain a license, permit, or tag required under this title, by rule made by
5200 the Wildlife Board under this title, or by an order or proclamation issued in accordance with a
5201 rule made by the Wildlife Board under this title.

5202 (b) (i) An individual who applies for, obtains, or attempts to obtain a license, permit, or
5203 tag in violation of Subsection (2)(a) violates Section [23-19-5](#).

5204 (ii) A license, permit, or tag obtained in violation of Subsection (2)(a) is invalid.

5205 (iii) An individual who takes protected wildlife with an invalid license, permit, or tag
5206 violates Section [23-20-3](#).

5207 (3) (a) The license, permit, and tag restrictions in Subsection (2)(a) remain effective
5208 until the office notifies the division that the individual who is delinquent on a child support
5209 obligation has:

5210 (i) paid the delinquency in full; or

5211 (ii) except as provided in Subsection (3)(d), complied for at least 12 consecutive
5212 months with a payment schedule entered into with the office.

5213 (b) A payment schedule under Subsection (3)(a) shall provide that the individual:

5214 (i) pay the current child support obligation in full each month; and

5215 (ii) pays an additional amount as assessed by the office pursuant to Section
5216 [~~62A-11-320~~] [26B-9-219](#) towards the child support arrears.

5217 (c) Except as provided in Subsection (3)(d), if an individual fails to comply with the
5218 payment schedule described in Subsection (3)(b), the office may notify the division and the
5219 individual is considered to be an individual who is delinquent on a child support obligation and
5220 cannot obtain a new license, permit, or tag without complying with this Subsection (3).

5221 (d) If an individual fails to comply with the payment schedule described in Subsection
5222 (3)(b) for one month of the 12-month period because of a transition to new employment, the
5223 individual may obtain a license, permit, or tag and is considered in compliance with this
5224 Subsection (3) if the individual:

5225 (i) provides the office with information regarding the individual's new employer within
5226 30 days from the day on which the missed payment was due;

5227 (ii) pays the missed payment within 30 days from the day on which the missed payment
5228 was due; and

5229 (iii) complies with the payment schedule for all other payments owed for child support
5230 within the 12-month period.

5231 (4) (a) The division or a wildlife license agent may not knowingly issue a license,
5232 permit, or tag under this title to an individual identified by the office as delinquent on a child

5233 support obligation until notified by the office that the individual has complied with Subsection
5234 (3).

5235 (b) The division is not required to hold or reserve a license, permit, or tag opportunity
5236 withheld from an individual pursuant to Subsection (4)(a) for purposes of reissuance to that
5237 individual upon compliance with Subsection (3).

5238 (c) The division may immediately reissue to another qualified person a license, permit,
5239 or tag opportunity withheld from an individual identified by the office as delinquent on a child
5240 support obligation pursuant to Subsection (4)(a).

5241 (5) The office and division shall automate the process for the division or a wildlife
5242 license agent to be notified whether an individual is delinquent on a child support obligation or
5243 has complied with Subsection (3).

5244 (6) The office is responsible to provide any administrative or judicial review required
5245 incident to the division issuing or denying a license, permit, or tag to an individual under
5246 Subsection (4).

5247 (7) The denial or withholding of a license, permit, or tag under this section is not a
5248 suspension or revocation of license and permit privileges for purposes of:

5249 (a) Section [23-19-9](#);

5250 (b) Subsection [23-20-4\(1\)](#); and

5251 (c) Section [23-25-6](#).

5252 (8) This section does not modify a court action to withhold, suspend, or revoke a
5253 recreational license under Sections [~~62A-11-107~~] [26B-9-108](#) and [78B-6-315](#).

5254 Section 71. Section **23-19-14** is amended to read:

5255 **23-19-14. Persons residing in certain institutions authorized to fish without**
5256 **license.**

5257 (1) The Division of Wildlife Resources shall permit a person to fish without a license
5258 if:

5259 (a) (i) the person resides in:

5260 (A) the Utah State Developmental Center in American Fork;

5261 (B) the state hospital;

5262 (C) a veterans hospital;

5263 (D) a veterans nursing home;

- 5264 (E) a mental health center;
- 5265 (F) an intermediate care facility for people with an intellectual disability;
- 5266 (G) a group home licensed by the Department of Health and Human Services and
- 5267 operated under contract with the Division of Services for People with Disabilities;
- 5268 (H) a group home or other community-based placement licensed by the Department of
- 5269 Health and Human Services and operated under contract with the Division of Juvenile Justice
- 5270 and Youth Services;
- 5271 (I) a private residential facility for at-risk youth licensed by the Department of Health
- 5272 and Human Services; or
- 5273 (J) another similar institution approved by the division; or
- 5274 (ii) the person is a youth who participates in a work camp operated by the Division of
- 5275 Juvenile Justice and Youth Services;
- 5276 (b) the person is properly supervised by a representative of the institution; and
- 5277 (c) the institution obtains from the division a certificate of registration that specifies:
- 5278 (i) the date and place where the person will fish; and
- 5279 (ii) the name of the institution's representative who will supervise the person fishing.
- 5280 (2) The institution shall apply for the certificate of registration at least 10 days before
- 5281 the fishing outing.
- 5282 (3) (a) An institution that receives a certificate of registration authorizing at-risk youth
- 5283 to fish shall provide instruction to the youth on fishing laws and regulations.
- 5284 (b) The division shall provide educational materials to the institution to assist it in
- 5285 complying with Subsection (3)(a).
- 5286 Section 72. Section **26-8a-102** is amended to read:
- 5287 **26-8a-102. Reserved for coordination.**
- 5288 Reserved
- 5289 [~~As used in this chapter:~~]
- 5290 [~~(1) (a) "911 ambulance or paramedic services" means:~~]
- 5291 [~~(i) either:~~]
- 5292 [~~(A) 911 ambulance service;~~]
- 5293 [~~(B) 911 paramedic service; or~~]
- 5294 [~~(C) both 911 ambulance and paramedic service; and~~]

5295 ~~[(ii) a response to a 911 call received by a designated dispatch center that receives 911~~
5296 ~~or E911 calls.]~~

5297 ~~[(b) "911 ambulance or paramedic services" does not mean a seven or 10-digit~~
5298 ~~telephone call received directly by an ambulance provider licensed under this chapter.]~~

5299 ~~[(2) "Ambulance" means a ground, air, or water vehicle that:]~~

5300 ~~[(a) transports patients and is used to provide emergency medical services; and]~~
5301 ~~[(b) is required to obtain a permit under Section 26-8a-304 to operate in the state.]~~

5302 ~~[(3) "Ambulance provider" means an emergency medical service provider that:]~~
5303 ~~[(a) transports and provides emergency medical care to patients; and]~~
5304 ~~[(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.]~~

5305 ~~[(4) (a) "Behavioral emergency services" means delivering a behavioral health~~
5306 ~~intervention to a patient in an emergency context within a scope and in accordance with~~
5307 ~~guidelines established by the department.]~~

5308 ~~[(b) "Behavioral emergency services" does not include engaging in the:]~~
5309 ~~[(i) practice of mental health therapy as defined in Section 58-60-102;]~~
5310 ~~[(ii) practice of psychology as defined in Section 58-61-102;]~~
5311 ~~[(iii) practice of clinical social work as defined in Section 58-60-202;]~~
5312 ~~[(iv) practice of certified social work as defined in Section 58-60-202;]~~
5313 ~~[(v) practice of marriage and family therapy as defined in Section 58-60-302;]~~
5314 ~~[(vi) practice of clinical mental health counseling as defined in Section 58-60-402; or]~~
5315 ~~[(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.]~~

5316 ~~[(5) "Committee" means the State Emergency Medical Services Committee created by~~
5317 ~~Section 26B-1-204.]~~

5318 ~~[(6) "Community paramedicine" means medical care:]~~
5319 ~~[(a) provided by emergency medical service personnel; and]~~
5320 ~~[(b) provided to a patient who is not:]~~
5321 ~~[(i) in need of ambulance transportation; or]~~
5322 ~~[(ii) located in a health care facility as defined in Section 26-21-2.]~~

5323 ~~[(7) "Direct medical observation" means in-person observation of a patient by a~~
5324 ~~physician, registered nurse, physician's assistant, or individual licensed under Section~~
5325 ~~26-8a-302.]~~

- 5326 [~~(8) "Emergency medical condition" means:~~]
- 5327 [~~(a) a medical condition that manifests itself by symptoms of sufficient severity,~~
- 5328 ~~including severe pain, that a prudent layperson, who possesses an average knowledge of health~~
- 5329 ~~and medicine, could reasonably expect the absence of immediate medical attention to result in:]~~
- 5330 [~~(i) placing the individual's health in serious jeopardy;~~]
- 5331 [~~(ii) serious impairment to bodily functions; or]~~
- 5332 [~~(iii) serious dysfunction of any bodily organ or part; or]~~
- 5333 [~~(b) a medical condition that in the opinion of a physician or the physician's designee~~
- 5334 ~~requires direct medical observation during transport or may require the intervention of an~~
- 5335 ~~individual licensed under Section 26-8a-302 during transport.]~~
- 5336 [~~(9) (a) "Emergency medical service personnel" means an individual who provides~~
- 5337 ~~emergency medical services or behavioral emergency services to a patient and is required to be~~
- 5338 ~~licensed or certified under Section 26-8a-302.]~~
- 5339 [~~(b) "Emergency medical service personnel" includes a paramedic, medical director of~~
- 5340 ~~a licensed emergency medical service provider, emergency medical service instructor,~~
- 5341 ~~behavioral emergency services technician, other categories established by the committee, and a~~
- 5342 ~~certified emergency medical dispatcher.]~~
- 5343 [~~(10) "Emergency medical service providers" means:~~]
- 5344 [~~(a) licensed ambulance providers and paramedic providers;~~]
- 5345 [~~(b) a facility or provider that is required to be designated under Subsection~~
- 5346 ~~26-8a-303(1)(a); and]~~
- 5347 [~~(c) emergency medical service personnel.]~~
- 5348 [~~(11) "Emergency medical services" means:~~]
- 5349 [~~(a) medical services;~~]
- 5350 [~~(b) transportation services;~~]
- 5351 [~~(c) behavioral emergency services; or]~~
- 5352 [~~(d) any combination of the services described in Subsections (11)(a) through (c).]~~
- 5353 [~~(12) "Emergency medical service vehicle" means a land, air, or water vehicle that is:~~]
- 5354 [~~(a) maintained and used for the transportation of emergency medical personnel,~~
- 5355 ~~equipment, and supplies to the scene of a medical emergency; and]~~
- 5356 [~~(b) required to be permitted under Section 26-8a-304.]~~

5357 ~~[(13) "Governing body":]~~
5358 ~~[(a) means the same as that term is defined in Section 11-42-102; and]~~
5359 ~~[(b) for purposes of a "special service district" under Section 11-42-102, means a~~
5360 ~~special service district that has been delegated the authority to select a provider under this~~
5361 ~~chapter by the special service district's legislative body or administrative control board.]~~
5362 ~~[(14) "Interested party" means:]~~
5363 ~~[(a) a licensed or designated emergency medical services provider that provides~~
5364 ~~emergency medical services within or in an area that abuts an exclusive geographic service area~~
5365 ~~that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic~~
5366 ~~Providers;]~~
5367 ~~[(b) any municipality, county, or fire district that lies within or abuts a geographic~~
5368 ~~service area that is the subject of an application submitted pursuant to Part 4, Ambulance and~~
5369 ~~Paramedic Providers; or]~~
5370 ~~[(c) the department when acting in the interest of the public.]~~
5371 ~~[(15) "Level of service" means the level at which an ambulance provider type of~~
5372 ~~service is licensed as:]~~
5373 ~~[(a) emergency medical technician;]~~
5374 ~~[(b) advanced emergency medical technician; or]~~
5375 ~~[(c) paramedic.]~~
5376 ~~[(16) "Medical control" means a person who provides medical supervision to an~~
5377 ~~emergency medical service provider.]~~
5378 ~~[(17) "Non-911 service" means transport of a patient that is not 911 transport under~~
5379 ~~Subsection (1).]~~
5380 ~~[(18) "Nonemergency secured behavioral health transport" means an entity that:]~~
5381 ~~[(a) provides nonemergency secure transportation services for an individual who:]~~
5382 ~~[(i) is not required to be transported by an ambulance under Section 26-8a-305; and]~~
5383 ~~[(ii) requires behavioral health observation during transport between any of the~~
5384 ~~following facilities:]~~
5385 ~~[(A) a licensed acute care hospital;]~~
5386 ~~[(B) an emergency patient receiving facility;]~~
5387 ~~[(C) a licensed mental health facility; and]~~

5388 ~~[(D) the office of a licensed health care provider; and]~~
5389 ~~[(b) is required to be designated under Section 26-8a-303.]~~
5390 ~~[(19) "Paramedic provider" means an entity that:]~~
5391 ~~[(a) employs emergency medical service personnel; and]~~
5392 ~~[(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.]~~
5393 ~~[(20) "Patient" means an individual who, as the result of illness, injury, or a behavioral~~
5394 ~~emergency condition, meets any of the criteria in Section 26-8a-305.]~~
5395 ~~[(21) "Political subdivision" means:]~~
5396 ~~[(a) a city, town, or metro township;]~~
5397 ~~[(b) a county;]~~
5398 ~~[(c) a special service district created under Title 17D, Chapter 1, Special Service~~
5399 ~~District Act, for the purpose of providing fire protection services under Subsection~~
5400 ~~17D-1-201(9);]~~
5401 ~~[(d) a local district created under Title 17B, Limited Purpose Local Government~~
5402 ~~Entities - Local Districts, for the purpose of providing fire protection, paramedic, and~~
5403 ~~emergency services;]~~
5404 ~~[(e) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii); or]~~
5405 ~~[(f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act.]~~
5406 ~~[(22) "Trauma" means an injury requiring immediate medical or surgical intervention.]~~
5407 ~~[(23) "Trauma system" means a single, statewide system that:]~~
5408 ~~[(a) organizes and coordinates the delivery of trauma care within defined geographic~~
5409 ~~areas from the time of injury through transport and rehabilitative care; and]~~
5410 ~~[(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in~~
5411 ~~delivering care for trauma patients, regardless of severity.]~~
5412 ~~[(24) "Triage" means the sorting of patients in terms of disposition, destination, or~~
5413 ~~priority. For prehospital trauma victims, triage requires a determination of injury severity to~~
5414 ~~assess the appropriate level of care according to established patient care protocols.]~~
5415 ~~[(25) "Triage, treatment, transportation, and transfer guidelines" means written~~
5416 ~~procedures that:]~~
5417 ~~[(a) direct the care of patients; and]~~
5418 ~~[(b) are adopted by the medical staff of an emergency patient receiving facility, trauma~~

5419 center, or an emergency medical service provider.]

5420 [(26) "Type of service" means the category at which an ambulance provider is licensed
5421 as:]

5422 [(a) ground ambulance transport;]

5423 [(b) ground ambulance interfacility transport; or]

5424 [(c) both ground ambulance transport and ground ambulance interfacility transport.]

5425 Section 73. Section **26-8a-104** is amended to read:

5426 **26-8a-104. Reserved for coordination.**

5427 Reserved

5428 [The committee shall adopt rules, with the concurrence of the department, in
5429 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:]

5430 [(1) establish licensure, certification, and reciprocity requirements under Section
5431 ~~26-8a-302~~;

5432 [(2) establish designation requirements under Section ~~26-8a-303~~;

5433 [(3) promote the development of a statewide emergency medical services system under
5434 Section ~~26-8a-203~~;

5435 [(4) establish insurance requirements for ambulance providers;]

5436 [(5) provide guidelines for requiring patient data under Section ~~26-8a-203~~;

5437 [(6) establish criteria for awarding grants under Section ~~26-8a-207~~;

5438 [(7) establish requirements for the coordination of emergency medical services and the
5439 medical supervision of emergency medical service providers under Section ~~26-8a-306~~;

5440 [(8) select appropriate vendors to establish certification requirements for emergency
5441 medical dispatchers;]

5442 [(9) establish the minimum level of service for 911 ambulance services provided under
5443 Section ~~11-48-103~~; and]

5444 [(10) are necessary to carry out the responsibilities of the committee as specified in
5445 other sections of this chapter.]

5446 Section 74. Section **26-8a-204** is amended to read:

5447 **26-8a-204. Reserved for coordination.**

5448 Reserved

5449 [The department shall develop and implement, in cooperation with state, federal, and

5450 ~~local agencies empowered to oversee disaster response activities, plans to provide emergency~~
5451 ~~medical services during times of disaster or emergency.]~~

5452 Section 75. Section **26-8a-205** is amended to read:

5453 **26-8a-205. Reserved for coordination.**

5454 Reserved

5455 ~~[The department shall establish a pediatric quality improvement resource program.]~~

5456 Section 76. Section **26-8a-206** is amended to read:

5457 **26-8a-206. Reserved for coordination.**

5458 Reserved

5459 ~~[(1) The department shall develop and implement a statewide program to provide~~
5460 ~~support and counseling for personnel who have been exposed to one or more stressful incidents~~
5461 ~~in the course of providing emergency services.]~~

5462 ~~[(2) This program shall include:]~~

5463 ~~[(a) ongoing training for agencies providing emergency services and counseling~~
5464 ~~program volunteers;]~~

5465 ~~[(b) critical incident stress debriefing for personnel at no cost to the emergency~~
5466 ~~provider; and]~~

5467 ~~[(c) advising the department on training requirements for licensure as a behavioral~~
5468 ~~emergency services technician.]~~

5469 Section 77. Section **26A-1-102** is amended to read:

5470 **26A-1-102. Definitions.**

5471 As used in this part:

5472 (1) "Board" means a local board of health established under Section [26A-1-109](#).

5473 (2) "County governing body" means one of the types of county government provided
5474 for in Title 17, Chapter 52a, Part 2, Forms of County Government.

5475 (3) "County health department" means a local health department that serves a county
5476 and municipalities located within that county.

5477 (4) "Department" means the Department of Health and Human Services created in
5478 Section [26B-1-201](#).

5479 (5) "Local health department" means:

5480 (a) a single county local health department;

- 5481 (b) a multicounty local health department;
- 5482 (c) a united local health department; or
- 5483 (d) a multicounty united local health department.
- 5484 (6) "Mental health authority" means a local mental health authority created in Section
- 5485 [17-43-301](#).
- 5486 (7) "Multicounty local health department" means a local health department that is
- 5487 formed under Section [26A-1-105](#) and that serves two or more contiguous counties and
- 5488 municipalities within those counties.
- 5489 (8) "Multicounty united local health department" means a united local health
- 5490 department that is formed under Section [26A-1-105.5](#) and that serves two or more contiguous
- 5491 counties and municipalities within those counties.
- 5492 (9) (a) "Order of constraint" means an order, rule, or regulation issued by a local health
- 5493 department in response to a declared public health emergency under this chapter that:
- 5494 (i) applies to all or substantially all:
- 5495 (A) individuals or a certain group of individuals; or
- 5496 (B) public places or certain types of public places; and
- 5497 (ii) for the protection of the public health and in response to the declared public health
- 5498 emergency:
- 5499 (A) establishes, maintains, or enforces isolation or quarantine;
- 5500 (B) establishes, maintains, or enforces a stay-at-home order;
- 5501 (C) exercises physical control over property or individuals;
- 5502 (D) requires an individual to perform a certain action or engage in a certain behavior;
- 5503 or
- 5504 (E) closes theaters, schools, or other public places or prohibits gatherings of people to
- 5505 protect the public health.
- 5506 (b) "Order of constraint" includes a stay-at-home order.
- 5507 (10) "Public health emergency" means the same as that term is defined in Section
- 5508 [\[26-23b-102\] 26B-7-301](#).
- 5509 (11) "Single county local health department" means a local health department that is
- 5510 created by the governing body of one county to provide services to the county and the
- 5511 municipalities within that county.

5512 (12) "Stay-at-home order" means an order of constraint that:

5513 (a) restricts movement of the general population to suppress or mitigate an epidemic or
5514 pandemic disease by directing individuals within a defined geographic area to remain in their
5515 respective residences; and

5516 (b) may include exceptions for certain essential tasks.

5517 (13) "Substance abuse authority" means a local substance abuse authority created in
5518 Section [17-43-201](#).

5519 (14) "United local health department":

5520 (a) means a substance abuse authority, a mental health authority, and a local health
5521 department that join together under Section [26A-1-105.5](#); and

5522 (b) includes a multicounty united local health department.

5523 Section 78. Section **26A-1-114** is amended to read:

5524 **26A-1-114. Powers and duties of departments.**

5525 (1) Subject to Subsections (7), (8), and (11), a local health department may:

5526 (a) subject to the provisions in Section [26A-1-108](#), enforce state laws, local ordinances,
5527 department rules, and local health department standards and regulations relating to public
5528 health and sanitation, including the plumbing code administered by the Division of
5529 Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code
5530 Administration Act, and under [~~Title 26, Chapter 15a, Food Safety Manager Certification Act~~]
5531 Title 26B, Chapter 7, Part 5, General Sanitation and Food Safety, in all incorporated and
5532 unincorporated areas served by the local health department;

5533 (b) establish, maintain, and enforce isolation and quarantine, and exercise physical
5534 control over property and over individuals as the local health department finds necessary for
5535 the protection of the public health;

5536 (c) establish and maintain medical, environmental, occupational, and other laboratory
5537 services considered necessary or proper for the protection of the public health;

5538 (d) establish and operate reasonable health programs or measures not in conflict with
5539 state law which:

5540 (i) are necessary or desirable for the promotion or protection of the public health and
5541 the control of disease; or

5542 (ii) may be necessary to ameliorate the major risk factors associated with the major

5543 causes of injury, sickness, death, and disability in the state;

5544 (e) close theaters, schools, and other public places and prohibit gatherings of people

5545 when necessary to protect the public health;

5546 (f) abate nuisances or eliminate sources of filth and infectious and communicable

5547 diseases affecting the public health and bill the owner or other person in charge of the premises

5548 upon which this nuisance occurs for the cost of abatement;

5549 (g) make necessary sanitary and health investigations and inspections on the local

5550 health department's own initiative or in cooperation with the Department of Health and Human

5551 Services or Environmental Quality, or both, as to any matters affecting the public health;

5552 (h) pursuant to county ordinance or interlocal agreement:

5553 (i) establish and collect appropriate fees for the performance of services and operation

5554 of authorized or required programs and duties;

5555 (ii) accept, use, and administer all federal, state, or private donations or grants of funds,

5556 property, services, or materials for public health purposes; and

5557 (iii) make agreements not in conflict with state law which are conditional to receiving a

5558 donation or grant;

5559 (i) prepare, publish, and disseminate information necessary to inform and advise the

5560 public concerning:

5561 (i) the health and wellness of the population, specific hazards, and risk factors that may

5562 adversely affect the health and wellness of the population; and

5563 (ii) specific activities individuals and institutions can engage in to promote and protect

5564 the health and wellness of the population;

5565 (j) investigate the causes of morbidity and mortality;

5566 (k) issue notices and orders necessary to carry out this part;

5567 (l) conduct studies to identify injury problems, establish injury control systems,

5568 develop standards for the correction and prevention of future occurrences, and provide public

5569 information and instruction to special high risk groups;

5570 (m) cooperate with boards created under Section [19-1-106](#) to enforce laws and rules

5571 within the jurisdiction of the boards;

5572 (n) cooperate with the state health department, the Department of Corrections, the

5573 Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and

5574 the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual
5575 offenders, convicted sexual offenders, and any victims of a sexual offense;

5576 (o) investigate suspected bioterrorism and disease pursuant to Section [~~26-23b-108~~]
5577 [26B-7-321](#); and

5578 (p) provide public health assistance in response to a national, state, or local emergency,
5579 a public health emergency as defined in Section [~~26-23b-102~~] [26B-7-301](#), or a declaration by
5580 the President of the United States or other federal official requesting public health-related
5581 activities.

5582 (2) The local health department shall:

5583 (a) establish programs or measures to promote and protect the health and general
5584 wellness of the people within the boundaries of the local health department;

5585 (b) investigate infectious and other diseases of public health importance and implement
5586 measures to control the causes of epidemic and communicable diseases and other conditions
5587 significantly affecting the public health which may include involuntary testing of alleged sexual
5588 offenders for the HIV infection pursuant to Section [53-10-802](#) and voluntary testing of victims
5589 of sexual offenses for HIV infection pursuant to Section [53-10-803](#);

5590 (c) cooperate with the department in matters pertaining to the public health and in the
5591 administration of state health laws; and

5592 (d) coordinate implementation of environmental programs to maximize efficient use of
5593 resources by developing with the Department of Environmental Quality a Comprehensive
5594 Environmental Service Delivery Plan which:

5595 (i) recognizes that the Department of Environmental Quality and local health
5596 departments are the foundation for providing environmental health programs in the state;

5597 (ii) delineates the responsibilities of the department and each local health department
5598 for the efficient delivery of environmental programs using federal, state, and local authorities,
5599 responsibilities, and resources;

5600 (iii) provides for the delegation of authority and pass through of funding to local health
5601 departments for environmental programs, to the extent allowed by applicable law, identified in
5602 the plan, and requested by the local health department; and

5603 (iv) is reviewed and updated annually.

5604 (3) The local health department has the following duties regarding public and private

5605 schools within the local health department's boundaries:

5606 (a) enforce all ordinances, standards, and regulations pertaining to the public health of
5607 persons attending public and private schools;

5608 (b) exclude from school attendance any person, including teachers, who is suffering
5609 from any communicable or infectious disease, whether acute or chronic, if the person is likely
5610 to convey the disease to those in attendance; and

5611 (c) (i) make regular inspections of the health-related condition of all school buildings
5612 and premises;

5613 (ii) report the inspections on forms furnished by the department to those responsible for
5614 the condition and provide instructions for correction of any conditions that impair or endanger
5615 the health or life of those attending the schools; and

5616 (iii) provide a copy of the report to the department at the time the report is made.

5617 (4) If those responsible for the health-related condition of the school buildings and
5618 premises do not carry out any instructions for corrections provided in a report in Subsection
5619 (3)(c), the local health board shall cause the conditions to be corrected at the expense of the
5620 persons responsible.

5621 (5) The local health department may exercise incidental authority as necessary to carry
5622 out the provisions and purposes of this part.

5623 (6) Nothing in this part may be construed to authorize a local health department to
5624 enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon
5625 monoxide detector in a residential dwelling against anyone other than the occupant of the
5626 dwelling.

5627 (7) (a) Except as provided in Subsection (7)(c), a local health department may not
5628 declare a public health emergency or issue an order of constraint until the local health
5629 department has provided notice of the proposed action to the chief executive officer of the
5630 relevant county no later than 24 hours before the local health department issues the order or
5631 declaration.

5632 (b) The local health department:

5633 (i) shall provide the notice required by Subsection (7)(a) using the best available
5634 method under the circumstances as determined by the local health department;

5635 (ii) may provide the notice required by Subsection (7)(a) in electronic format; and

5636 (iii) shall provide the notice in written form, if practicable.

5637 (c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a
5638 public health emergency or issue an order of constraint without approval of the chief executive
5639 officer of the relevant county if the passage of time necessary to obtain approval of the chief
5640 executive officer of the relevant county as required in Subsection (7)(a) would substantially
5641 increase the likelihood of loss of life due to an imminent threat.

5642 (ii) If a local health department declares a public health emergency or issues an order
5643 of constraint as described in Subsection (7)(c)(i), the local health department shall notify the
5644 chief executive officer of the relevant county before issuing the order of constraint.

5645 (iii) The chief executive officer of the relevant county may terminate a declaration of a
5646 public health emergency or an order of constraint issued as described in Subsection (7)(c)(i)
5647 within 72 hours of declaration of the public health emergency or issuance of the order of
5648 constraint.

5649 (d) (i) The relevant county governing body may at any time terminate a public health
5650 emergency or an order of constraint issued by the local health department by majority vote of
5651 the county governing body in response to a declared public health emergency.

5652 (ii) A vote by the relevant county governing body to terminate a public health
5653 emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto
5654 by the relevant chief executive officer.

5655 (8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by
5656 a local health department expires at the earliest of:

5657 (i) the local health department or the chief executive officer of the relevant county
5658 finding that the threat or danger has passed or the public health emergency reduced to the
5659 extent that emergency conditions no longer exist;

5660 (ii) 30 days after the date on which the local health department declared the public
5661 health emergency; or

5662 (iii) the day on which the public health emergency is terminated by majority vote of the
5663 county governing body.

5664 (b) (i) The relevant county legislative body, by majority vote, may extend a public
5665 health emergency for a time period designated by the county legislative body.

5666 (ii) If the county legislative body extends a public health emergency as described in

5667 Subsection (8)(b)(i), the public health emergency expires on the date designated by the county
5668 legislative body.

5669 (c) Except as provided in Subsection (8)(d), if a public health emergency declared by a
5670 local health department expires as described in Subsection (8)(a), the local health department
5671 may not declare a public health emergency for the same illness or occurrence that precipitated
5672 the previous public health emergency declaration.

5673 (d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local
5674 health department finds that exigent circumstances exist, after providing notice to the county
5675 legislative body, the department may declare a new public health emergency for the same
5676 illness or occurrence that precipitated a previous public health emergency declaration.

5677 (ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in
5678 accordance with Subsection (8)(a) or (b).

5679 (e) For a public health emergency declared by a local health department under this
5680 chapter or under [~~Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~] Title
5681 26B, Chapter 7, Part 4, Treatment, Isolation, and Quarantine Procedures for Communicable
5682 Diseases, the Legislature may terminate by joint resolution a public health emergency that was
5683 declared based on exigent circumstances or that has been in effect for more than 30 days.

5684 (f) If the Legislature or county legislative body terminates a public health emergency
5685 declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health
5686 department may not declare a new public health emergency for the same illness, occurrence, or
5687 exigent circumstances.

5688 (9) (a) During a public health emergency declared under this chapter or under [~~Title 26,~~
5689 ~~Chapter 23b, Detection of Public Health Emergencies Act~~] Title 26B, Chapter 7, Part 4,
5690 Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:

5691 (i) except as provided in Subsection (9)(b), a local health department may not issue an
5692 order of constraint without approval of the chief executive officer of the relevant county;

5693 (ii) the Legislature may at any time terminate by joint resolution an order of constraint
5694 issued by a local health department in response to a declared public health emergency that has
5695 been in effect for more than 30 days; and

5696 (iii) a county governing body may at any time terminate by majority vote of the
5697 governing body an order of constraint issued by a local health department in response to a

5698 declared public health emergency.

5699 (b) (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an
5700 order of constraint without approval of the chief executive officer of the relevant county if the
5701 passage of time necessary to obtain approval of the chief executive officer of the relevant
5702 county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of
5703 life due to an imminent threat.

5704 (ii) If a local health department issues an order of constraint as described in Subsection
5705 (9)(b), the local health department shall notify the chief executive officer of the relevant county
5706 before issuing the order of constraint.

5707 (iii) The chief executive officer of the relevant county may terminate an order of
5708 constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of
5709 constraint.

5710 (c) (i) For a local health department that serves more than one county, the approval
5711 described in Subsection (9)(a)(i) is required for the chief executive officer for which the order
5712 of constraint is applicable.

5713 (ii) For a local health department that serves more than one county, a county governing
5714 body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the
5715 county served by the county governing body.

5716 (10) (a) During a public health emergency declared as described in this title:

5717 (i) the department or a local health department may not impose an order of constraint
5718 on a religious gathering that is more restrictive than an order of constraint that applies to any
5719 other relevantly similar gathering; and

5720 (ii) an individual, while acting or purporting to act within the course and scope of the
5721 individual's official department or local health department capacity, may not:

5722 (A) prevent a religious gathering that is held in a manner consistent with any order of
5723 constraint issued pursuant to this title; or

5724 (B) impose a penalty for a previous religious gathering that was held in a manner
5725 consistent with any order of constraint issued pursuant to this title.

5726 (b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to
5727 prevent the violation of this Subsection (10).

5728 (c) During a public health emergency declared as described in this title, the department

5729 or a local health department shall not issue a public health order or impose or implement a
5730 regulation that substantially burdens an individual's exercise of religion unless the department
5731 or local health department demonstrates that the application of the burden to the individual:

5732 (i) is in furtherance of a compelling government interest; and

5733 (ii) is the least restrictive means of furthering that compelling government interest.

5734 (d) Notwithstanding Subsections (8)(a) and (c), the department or a local health
5735 department shall allow reasonable accommodations for an individual to perform or participate
5736 in a religious practice or rite.

5737 (11) An order of constraint issued by a local health department pursuant to a declared
5738 public health emergency does not apply to a facility, property, or area owned or leased by the
5739 state, including the capitol hill complex, as that term is defined in Section [63C-9-102](#).

5740 Section 79. Section **26A-1-116** is amended to read:

5741 **26A-1-116. Allocation of state funds to local health departments -- Formula.**

5742 (1) (a) The [~~Departments of Health and~~] Department of Health and Human Services
5743 and the Department of Environmental Quality shall each establish by rule a formula for
5744 allocating state funds by contract to local health departments.

5745 (b) This formula shall provide for allocation of funds based on need.

5746 (c) Determination of need shall be based on population unless the department making
5747 the rule establishes by valid and accepted data that other defined factors are relevant and
5748 reliable indicators of need.

5749 (d) The formula shall include a differential to compensate for additional costs of
5750 providing services in rural areas.

5751 (2) (a) The formulas established under Subsection (1) shall be in effect on or before
5752 July 1, 1991.

5753 (b) The formulas apply to all state funds appropriated by the Legislature to the
5754 [~~Departments of Health and~~] Department of Health and Human Services and the Department of
5755 Environmental Quality for local health departments.

5756 (c) The formulas do not apply to funds a local health department receives from:

5757 (i) sources other than the [~~Departments of Health and~~] Department of Health and
5758 Human Services and the Department of Environmental Quality; and

5759 (ii) the [~~Departments of Health and~~] Department of Health and Human Services and

5760 the Department of Environmental Quality:

5761 (A) to operate a specific program within the local health department's boundaries

5762 which program is available to all residents of the state;

5763 (B) to meet a need that exists only within the local health department's boundaries; and

5764 (C) to engage in research projects.

5765 Section 80. Section **26A-1-121** is amended to read:

5766 **26A-1-121. Standards and regulations adopted by local board -- Local standards**

5767 **not more stringent than federal or state standards -- Administrative and judicial review**

5768 **of actions.**

5769 (1) (a) Subject to Subsection (1)(g), the board may make standards and regulations:

5770 (i) not in conflict with rules of the department or the Department of Environmental

5771 Quality; and

5772 (ii) necessary for the promotion of public health, environmental health quality, injury

5773 control, and the prevention of outbreaks and spread of communicable and infectious diseases.

5774 (b) The standards and regulations under Subsection (1)(a):

5775 (i) supersede existing local standards, regulations, and ordinances pertaining to similar

5776 subject matter;

5777 (ii) except where specifically allowed by federal law or state statute, may not be more

5778 stringent than those established by federal law, state statute, or administrative rules adopted by

5779 the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

5780 and

5781 (iii) notwithstanding Subsection (1)(b)(ii), may be more stringent than those

5782 established by federal law, state statute, or administrative rule adopted by the department if the

5783 standard or regulation is:

5784 (A) in effect on February 1, 2022; and

5785 (B) not modified or amended after February 1, 2022.

5786 (c) The board shall provide public hearings prior to the adoption of any regulation or

5787 standard.

5788 (d) Notice of any public hearing shall be published at least twice throughout the county

5789 or counties served by the local health department. The publication may be in one or more

5790 newspapers, if the notice is provided in accordance with this Subsection (1)(d).

5791 (e) The hearings may be conducted by the board at a regular or special meeting, or the
5792 board may appoint hearing officers who may conduct hearings in the name of the board at a
5793 designated time and place.

5794 (f) A record or summary of the proceedings of a hearing shall be taken and filed with
5795 the board.

5796 (g) (i) During a declared public health emergency declared under this chapter or under
5797 [~~Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~] Title 26B, Chapter 7, Part
5798 4, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:

5799 (A) except as provided in Subsection (1)(h), a local health department may not issue an
5800 order of constraint without approval of the chief executive officer of the relevant county;

5801 (B) the Legislature may at any time terminate by joint resolution an order of constraint
5802 issued by a local health department in response to a declared public health emergency that has
5803 been in effect for more than 30 days; and

5804 (C) a county governing body may at any time terminate, by majority vote of the
5805 governing body, an order of constraint issued by a local health department in response to a
5806 declared public health emergency.

5807 (ii) (A) For a local health department that serves more than one county, the approval
5808 described in Subsection (1)(g)(i)(A) is required for the chief executive officer for which the
5809 order of constraint is applicable.

5810 (B) For a local health department that serves more than one county, a county governing
5811 body may only terminate an order of constraint as described in Subsection (1)(g)(i)(C) for the
5812 county served by the county governing body.

5813 (h) (i) Notwithstanding Subsection (1)(g)(i)(A), a local health department may issue an
5814 order of constraint without approval of the chief executive officer of the relevant county if the
5815 passage of time necessary to obtain approval of the chief executive officer of the relevant
5816 county as required in Subsection (1)(g)(i)(A) would substantially increase the likelihood of loss
5817 of life due to an imminent threat.

5818 (ii) If a local health department issues an order of constraint as described in Subsection
5819 (1)(h)(i), the local health department shall notify the chief executive officer of the relevant
5820 county before issuing the order of constraint.

5821 (iii) The chief executive officer of the relevant county may terminate an order of

5822 constraint issued as described in Subsection (1)(h)(i) within 72 hours of issuance of the order
5823 of constraint.

5824 (i) (i) During a public health emergency declared as described in this title:

5825 (A) a local health department may not impose an order of constraint on a public
5826 gathering that applies to a religious gathering differently than the order of constraint applies to
5827 any other relevantly similar gathering; and

5828 (B) an individual, while acting or purporting to act within the course and scope of the
5829 individual's official local health department capacity, may not prevent a religious gathering that
5830 is held in a manner consistent with any order of constraint issued pursuant to this title, or
5831 impose a penalty for a previous religious gathering that was held in a manner consistent with
5832 any order of constraint issued pursuant to this title.

5833 (ii) Upon proper grounds, a court of competent jurisdiction may grant an injunction to
5834 prevent the violation of this Subsection (1)(i).

5835 (iii) During a public health emergency declared as described in this title, the
5836 department or a local health department shall not issue a public health order or impose or
5837 implement a regulation that substantially burdens an individual's exercise of religion unless the
5838 department or local health department demonstrates that the application of the burden to the
5839 individual:

5840 (A) is in furtherance of a compelling government interest; and

5841 (B) is the least restrictive means of furthering that compelling government interest.

5842 (iv) Notwithstanding Subsections (1)(i)(i) and (ii), the department or a local health
5843 department shall allow reasonable accommodations for an individual to perform or participate
5844 in a religious practice or rite.

5845 (j) If a local health department declares a public health emergency as described in this
5846 chapter, and the local health department finds that the public health emergency conditions
5847 warrant an extension of the public health emergency beyond the 30-day term or another date
5848 designated by the local legislative body, the local health department shall provide written
5849 notice to the local legislative body at least 10 days before the expiration of the public health
5850 emergency.

5851 (2) (a) A person aggrieved by an action or inaction of the local health department
5852 relating to the public health shall have an opportunity for a hearing with the local health officer

5853 or a designated representative of the local health department. The board shall grant a
5854 subsequent hearing to the person upon the person's written request.

5855 (b) In an adjudicative hearing, a member of the board or the hearing officer may
5856 administer oaths, examine witnesses, and issue notice of the hearings or subpoenas in the name
5857 of the board requiring the testimony of witnesses and the production of evidence relevant to a
5858 matter in the hearing. The local health department shall make a written record of the hearing,
5859 including findings of facts and conclusions of law.

5860 (c) Judicial review of a final determination of the local board may be secured by a
5861 person adversely affected by the final determination, or by the department or the Department of
5862 Environmental Quality, by filing a petition in the district court within 30 days after receipt of
5863 notice of the board's final determination.

5864 (d) The petition shall be served upon the secretary of the board and shall state the
5865 grounds upon which review is sought.

5866 (e) The board's answer shall certify and file with the court all documents and papers
5867 and a transcript of all testimony taken in the matter together with the board's findings of fact,
5868 conclusions of law, and order.

5869 (f) The appellant and the board are parties to the appeal.

5870 (g) The department and the Department of Environmental Quality may become a party
5871 by intervention as in a civil action upon showing cause.

5872 (h) A further appeal may be taken to the Court of Appeals under Section [78A-4-103](#).

5873 (3) Nothing in the provisions of Subsection (1)(b)(ii) or (c), shall limit the ability of a
5874 local health department board to make standards and regulations in accordance with Subsection
5875 (1)(a) for:

5876 (a) emergency rules made in accordance with Section [63G-3-304](#); or

5877 (b) items not regulated under federal law, state statute, or state administrative rule.

5878 Section 81. Section **26A-1-126** is amended to read:

5879 **26A-1-126. Medical reserve corps.**

5880 (1) In addition to the duties listed in Section [26A-1-114](#), a local health department may
5881 establish a medical reserve corps in accordance with this section.

5882 (2) The purpose of a medical reserve corps is to enable a local health authority to
5883 respond with appropriate health care professionals to a national, state, or local emergency, a

5884 public health emergency as defined in Section [~~26-23b-102~~] [26B-7-301](#), or a declaration by the
5885 president of the United States or other federal official requesting public health related
5886 activities.

5887 (3) (a) A local health department may train health care professionals who participate in
5888 a medical reserve corps to respond to an emergency or declaration for public health related
5889 activities pursuant to Subsection (2).

5890 (b) When an emergency or request for public health related activities has been declared
5891 in accordance with Subsection (2), a local health department may activate a medical reserve
5892 corps for the duration of the emergency or declaration for public health related activities.

5893 (4) For purposes of this section, a medical reserve corps may include persons who:

5894 (a) are licensed under Title 58, Occupations and Professions, and who are operating
5895 within the scope of their practice;

5896 (b) are exempt from licensure, or operating under modified scope of practice
5897 provisions in accordance with Subsections [58-1-307\(4\)](#) and (5); and

5898 (c) within the 10 years preceding the declared emergency, held a valid license, in good
5899 standing in Utah, for one of the occupations described in Subsection [58-13-2\(1\)](#), but the license
5900 is not currently active.

5901 (5) (a) Notwithstanding the provisions of Subsections [58-1-307\(4\)\(a\)](#) and (5)(b) the
5902 local health department may authorize a person described in Subsection (4) to operate in a
5903 modified scope of practice as necessary to respond to the declaration under Subsection (2).

5904 (b) A person operating as a member of an activated medical reserve corps or training as
5905 a member of a medical reserve corps under this section:

5906 (i) shall be volunteering for and supervised by the local health department;

5907 (ii) shall comply with the provisions of this section;

5908 (iii) is exempt from the licensing laws of Title 58, Occupations and Professions; and

5909 (iv) shall carry a certificate issued by the local health department which designates the
5910 individual as a member of the medical reserve corps during the duration of the emergency or
5911 declaration for public health related activities pursuant to Subsection (2).

5912 (6) The local department of health may access the Division of Professional Licensing
5913 database for the purpose of determining if a person's current or expired license to practice in
5914 the state was in good standing.

5915 (7) The local department of health shall maintain a registry of persons who are
5916 members of a medical reserve corps. The registry of the medical reserve corps shall be made
5917 available to the public and to the Division of Professional Licensing.

5918 Section 82. Section **26A-1-128** is amended to read:

5919 **26A-1-128. Tobacco, electronic cigarette, and nicotine product permits --**
5920 **Enforcement.**

5921 A local health department:

5922 (1) shall enforce the requirements of [~~Title 26, Chapter 62, Tobacco, Electronic~~
5923 ~~Cigarette, and Nicotine Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation of
5924 Smoking, Tobacco Products, and Nicotine Products;

5925 (2) may enforce licensing requirements for entities that hold a business license to sell a
5926 tobacco product, an electronic cigarette product, or a nicotine product under Section [10-8-41.6](#)
5927 or Section [17-50-333](#); and

5928 (3) may recommend to a municipality or county that the business license of a retail
5929 tobacco specialty business be suspended or revoked for a violation of Section [10-8-41.6](#),
5930 Section [17-50-333](#), or [~~Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine~~
5931 ~~Product Retail Permit~~] Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products,
5932 and Nicotine Products.

5933 Section 83. Section **30-1-12** is amended to read:

5934 **30-1-12. Clerk to file license and certificate -- Designation as vital record.**

5935 (1) (a) The license, together with the certificate of the individual officiating at the
5936 marriage, shall be filed and preserved by the clerk, and shall be recorded by the clerk in a book
5937 kept for that purpose, or by electronic means.

5938 (b) The record shall be properly indexed in the names of the parties so married.

5939 (2) An individual may use a diacritical mark, as defined in Section [~~26-2-4~~] [26B-8-103](#),
5940 on a marriage license.

5941 (3) A transcript shall be promptly certified and transmitted by the clerk to the state
5942 registrar of vital statistics.

5943 (4) The license and the certificate of the individual officiating at the marriage are vital
5944 records as defined in Section [~~26-2-2~~] [26B-8-101](#) and are subject to the inspection
5945 requirements described in Section [~~26-2-22~~] [26B-8-125](#).

5946 Section 84. Section 30-2-5 is amended to read:

5947 **30-2-5. Separate debts.**

5948 (1) Neither spouse is personally liable for the separate debts, obligations, or liabilities
5949 of the other:

5950 (a) contracted or incurred before marriage;

5951 (b) contracted or incurred during marriage, except family expenses as provided in
5952 Section 30-2-9;

5953 (c) contracted or incurred after divorce or an order for separate maintenance under this
5954 title, except the spouse is personally liable for that portion of the expenses incurred on behalf
5955 of a minor child for reasonable and necessary medical and dental expenses, and other similar
5956 necessities as provided in a court order under Section 30-3-5, 30-4-3, or 78B-12-212, or an
5957 administrative order under Section [~~62A-11-326~~] 26B-9-224; or

5958 (d) ordered by the court to be paid by the other spouse under Section 30-3-5 or 30-4-3
5959 and not in conflict with Section 15-4-6.5 or 15-4-6.7.

5960 (2) The wages, earnings, property, rents, or other income of one spouse may not be
5961 reached by a creditor of the other spouse to satisfy a debt, obligation, or liability of the other
5962 spouse, as described under Subsection (1).

5963 Section 85. Section 30-3-5 is amended to read:

5964 **30-3-5. Disposition of property -- Maintenance and health care of parties and**
5965 **children -- Division of debts -- Court to have continuing jurisdiction -- Custody and**
5966 **parent-time -- Alimony -- Nonmeritorious petition for modification.**

5967 (1) As used in this section:

5968 (a) "Cohabit" means to live together, or to reside together on a regular basis, in the
5969 same residence and in a relationship of a romantic or sexual nature.

5970 (b) "Fault" means any of the following wrongful conduct during the marriage that
5971 substantially contributed to the breakup of the marriage:

5972 (i) engaging in sexual relations with an individual other than the party's spouse;

5973 (ii) knowingly and intentionally causing or attempting to cause physical harm to the
5974 other party or a child;

5975 (iii) knowingly and intentionally causing the other party or a child to reasonably fear
5976 life-threatening harm; or

5977 (iv) substantially undermining the financial stability of the other party or the child.

5978 (c) "Length of the marriage" means, for purposes of alimony, the number of years from
5979 the day on which the parties are legally married to the day on which the petition for divorce is
5980 filed with the court.

5981 (2) When a decree of divorce is rendered, the court may include in the decree of
5982 divorce equitable orders relating to the children, property, debts or obligations, and parties.

5983 (3) The court shall include the following in every decree of divorce:

5984 (a) an order assigning responsibility for the payment of reasonable and necessary
5985 medical and dental expenses of a dependent child, including responsibility for health insurance
5986 out-of-pocket expenses such as co-payments, co-insurance, and deductibles;

5987 (b) (i) if coverage is or becomes available at a reasonable cost, an order requiring the
5988 purchase and maintenance of appropriate health, hospital, and dental care insurance for a
5989 dependent child; and

5990 (ii) a designation of which health, hospital, or dental insurance plan is primary and
5991 which health, hospital, or dental insurance plan is secondary in accordance with Section
5992 30-3-5.4 that will take effect if at any time a dependent child is covered by both parents' health,
5993 hospital, or dental insurance plans;

5994 (c) in accordance with Section 15-4-6.5:

5995 (i) an order specifying which party is responsible for the payment of joint debts,
5996 obligations, or liabilities of the parties contracted or incurred during marriage;

5997 (ii) an order requiring the parties to notify respective creditors or obligees, regarding
5998 the court's division of debts, obligations, or liabilities and regarding the parties' separate,
5999 current addresses; and

6000 (iii) provisions for the enforcement of these orders;

6001 (d) provisions for income withholding in accordance with [~~Title 62A, Chapter 11,~~
6002 ~~Recovery Services~~] Title 26B, Chapter 9, Recovery Services and Administration of Child
6003 Support; and

6004 (e) if either party owns a life insurance policy or an annuity contract, an
6005 acknowledgment by the court that the owner:

6006 (i) has reviewed and updated, where appropriate, the list of beneficiaries;

6007 (ii) has affirmed that those listed as beneficiaries are in fact the intended beneficiaries

6008 after the divorce becomes final; and

6009 (iii) understands that if no changes are made to the policy or contract, the beneficiaries
6010 currently listed will receive any funds paid by the insurance company under the terms of the
6011 policy or contract.

6012 (4) (a) The court may include, in an order determining child support, an order assigning
6013 financial responsibility for all or a portion of child care expenses incurred on behalf of a
6014 dependent child, necessitated by the employment or training of the custodial parent.

6015 (b) If the court determines that the circumstances are appropriate and that the
6016 dependent child would be adequately cared for, the court may include an order allowing the
6017 noncustodial parent to provide child care for the dependent child, necessitated by the
6018 employment or training of the custodial parent.

6019 (5) The court has continuing jurisdiction to make subsequent changes or new orders for
6020 the custody of a child and the child's support, maintenance, health, and dental care, and for
6021 distribution of the property and obligations for debts as is reasonable and necessary.

6022 (6) Child support, custody, visitation, and other matters related to a child born to the
6023 parents after entry of the decree of divorce may be added to the decree by modification.

6024 (7) (a) In determining parent-time rights of parents and visitation rights of grandparents
6025 and other members of the immediate family, the court shall consider the best interest of the
6026 child.

6027 (b) Upon a specific finding by the court of the need for peace officer enforcement, the
6028 court may include in an order establishing a parent-time or visitation schedule a provision,
6029 among other things, authorizing any peace officer to enforce a court-ordered parent-time or
6030 visitation schedule entered under this chapter.

6031 (8) If a petition for modification of child custody or parent-time provisions of a court
6032 order is made and denied, the court shall order the petitioner to pay the reasonable attorney fees
6033 expended by the prevailing party in that action, if the court determines that the petition was
6034 without merit and not asserted or defended against in good faith.

6035 (9) If a motion or petition alleges noncompliance with a parent-time order by a parent,
6036 or a visitation order by a grandparent or other member of the immediate family where a
6037 visitation or parent-time right has been previously granted by the court, the court may award to
6038 the prevailing party:

- 6039 (a) actual attorney fees incurred;
- 6040 (b) the costs incurred by the prevailing party because of the other party's failure to
- 6041 provide or exercise court-ordered visitation or parent-time, which may include:
 - 6042 (i) court costs;
 - 6043 (ii) child care expenses;
 - 6044 (iii) transportation expenses actually incurred;
 - 6045 (iv) lost wages, if ascertainable; and
 - 6046 (v) counseling for a child or parent if ordered or approved by the court;
- 6047 (c) make-up parent time consistent with the best interest of the child; and
- 6048 (d) any other appropriate equitable remedy.
- 6049 (10) (a) The court shall consider at least the following factors in determining alimony:
 - 6050 (i) the financial condition and needs of the recipient spouse;
 - 6051 (ii) the recipient's earning capacity or ability to produce income, including the impact
 - 6052 of diminished workplace experience resulting from primarily caring for a child of the payor
 - 6053 spouse;
 - 6054 (iii) the ability of the payor spouse to provide support;
 - 6055 (iv) the length of the marriage;
 - 6056 (v) whether the recipient spouse has custody of a minor child requiring support;
 - 6057 (vi) whether the recipient spouse worked in a business owned or operated by the payor
 - 6058 spouse; and
 - 6059 (vii) whether the recipient spouse directly contributed to any increase in the payor
 - 6060 spouse's skill by paying for education received by the payor spouse or enabling the payor
 - 6061 spouse to attend school during the marriage.
- 6062 (b) The court may consider the fault of the parties in determining whether to award
- 6063 alimony and the terms of the alimony.
- 6064 (c) The court may, when fault is at issue, close the proceedings and seal the court
- 6065 records.
- 6066 (d) As a general rule, the court should look to the standard of living, existing at the
- 6067 time of separation, in determining alimony in accordance with Subsection (10)(a). However,
- 6068 the court shall consider all relevant facts and equitable principles and may, in the court's
- 6069 discretion, base alimony on the standard of living that existed at the time of trial. In marriages

6070 of short duration, when no child has been conceived or born during the marriage, the court may
6071 consider the standard of living that existed at the time of the marriage.

6072 (e) The court may, under appropriate circumstances, attempt to equalize the parties'
6073 respective standards of living.

6074 (f) When a marriage of long duration dissolves on the threshold of a major change in
6075 the income of one of the spouses due to the collective efforts of both, that change shall be
6076 considered in dividing the marital property and in determining the amount of alimony. If one
6077 spouse's earning capacity has been greatly enhanced through the efforts of both spouses during
6078 the marriage, the court may make a compensating adjustment in dividing the marital property
6079 and awarding alimony.

6080 (g) In determining alimony when a marriage of short duration dissolves, and no child
6081 has been conceived or born during the marriage, the court may consider restoring each party to
6082 the condition which existed at the time of the marriage.

6083 (11) (a) The court has continuing jurisdiction to make substantive changes and new
6084 orders regarding alimony based on a substantial material change in circumstances not expressly
6085 stated in the divorce decree or in the findings that the court entered at the time of the divorce
6086 decree.

6087 (b) A party's retirement is a substantial material change in circumstances that is subject
6088 to a petition to modify alimony, unless the divorce decree, or the findings that the court entered
6089 at the time of the divorce decree, expressly states otherwise.

6090 (c) The court may not modify alimony or issue a new order for alimony to address
6091 needs of the recipient that did not exist at the time the decree was entered, unless the court
6092 finds extenuating circumstances that justify that action.

6093 (d) (i) In determining alimony, the income of any subsequent spouse of the payor may
6094 not be considered, except as provided in Subsection (10) or this Subsection (11).

6095 (ii) The court may consider the subsequent spouse's financial ability to share living
6096 expenses.

6097 (iii) The court may consider the income of a subsequent spouse if the court finds that
6098 the payor's improper conduct justifies that consideration.

6099 (e) (i) Except as provided in Subsection (11)(e)(iii), the court may not order alimony
6100 for a period of time longer than the length of the marriage.

6101 (ii) If a party is ordered to pay temporary alimony during the pendency of the divorce
6102 action, the period of time that the party pays temporary alimony shall be counted towards the
6103 period of time for which the party is ordered to pay alimony.

6104 (iii) At any time before the termination of alimony, the court may find extenuating
6105 circumstances or good cause that justify the payment of alimony for a longer period of time
6106 than the length of the marriage.

6107 (12) (a) Except as provided in Subsection (12)(b), unless a decree of divorce
6108 specifically provides otherwise, any order of the court that a party pay alimony to a former
6109 spouse automatically terminates upon the remarriage or death of that former spouse.

6110 (b) If the remarriage of the former spouse is annulled and found to be void ab initio,
6111 payment of alimony shall resume if the party paying alimony is made a party to the action of
6112 annulment and the payor party's rights are determined.

6113 (13) If a party establishes that a current spouse cohabits with another individual during
6114 the pendency of the divorce action, the court:

6115 (a) may not order the party to pay temporary alimony to the current spouse; and

6116 (b) shall terminate any order that the party pay temporary alimony to the current
6117 spouse.

6118 (14) (a) Subject to Subsection (14)(b), the court shall terminate an order that a party
6119 pay alimony to a former spouse if the party establishes that, after the order for alimony is
6120 issued, the former spouse cohabits with another individual even if the former spouse is not
6121 cohabiting with the individual when the party paying alimony files the motion to terminate
6122 alimony.

6123 (b) A party paying alimony to a former spouse may not seek termination of alimony
6124 under Subsection (14)(a), later than one year from the day on which the party knew or should
6125 have known that the former spouse has cohabited with another individual.

6126 Section 86. Section **30-3-5.1** is amended to read:

6127 **30-3-5.1. Provision for income withholding in child support order.**

6128 Whenever a court enters an order for child support, it shall include in the order a
6129 provision for withholding income as a means of collecting child support as provided in [~~Title~~
6130 ~~62A, Chapter 11, Recovery Services~~] Title 26B, Chapter 9, Recovery Services and
6131 Administration of Child Support.

6132 Section 87. Section 30-3-5.4 is amended to read:

6133 **30-3-5.4. Designation of primary and secondary health, dental, or hospital**
6134 **insurance coverage.**

6135 (1) As used in this section, "health, hospital, or dental insurance plan" has the same
6136 meaning as "health care insurance" as defined in Section 31A-1-301.

6137 (2) (a) A decree of divorce rendered in accordance with Section 30-3-5, an order for
6138 medical expenses rendered in accordance with Section 78B-12-212, and an administrative
6139 order under Section [~~62A-11-326~~] 26B-9-224 shall, in accordance with Subsection (2)(b)(ii),
6140 designate which parent's health, hospital, or dental insurance plan is primary coverage and
6141 which parent's health, hospital, or dental insurance plan is secondary coverage for a dependent
6142 child.

6143 (b) The provisions of the court order required by Subsection (2)(a) shall:

6144 (i) take effect if at any time a dependent child is covered by both parents' health,
6145 hospital, or dental insurance plans; and

6146 (ii) include the following language:

6147 "If, at any point in time, a dependent child is covered by the health, hospital, or dental
6148 insurance plans of both parents, the health, hospital, or dental insurance plan of (Parent's
6149 Name) shall be primary coverage for the dependent child and the health, hospital, or dental
6150 insurance plan of (Other Parent's Name) shall be secondary coverage for the dependent child.
6151 If a parent remarries and his or her dependent child is not covered by that parent's health,
6152 hospital, or dental insurance plan but is covered by a step-parent's plan, the health, hospital, or
6153 dental insurance plan of the step-parent shall be treated as if it is the plan of the remarried
6154 parent and shall retain the same designation as the primary or secondary plan of the dependent
6155 child."

6156 (c) A decree of divorce or related court order may not modify the language required by
6157 Subsection (2)(b)(ii).

6158 (d) Notwithstanding Subsection (2)(c), a court may allocate the payment of medical
6159 expenses including co-payments, deductibles, and co-insurance not covered by health insurance
6160 between the parents in accordance with Subsections 30-3-5(3)(a) and 78B-12-212(7).

6161 (3) In designating primary coverage pursuant to Subsection (2), a court may take into
6162 account:

- 6163 (a) the birth dates of the parents;
- 6164 (b) a requirement in a court order, if any, for one of the parents to maintain health
- 6165 insurance coverage for a dependent child;
- 6166 (c) the parent with physical custody of the dependent child; or
- 6167 (d) any other factor the court considers relevant.

6168 Section 88. Section **30-3-10** is amended to read:

6169 **30-3-10. Custody of a child -- Custody factors.**

6170 (1) If a married couple having one or more minor children are separated, or the married

6171 couple's marriage is declared void or dissolved, the court shall enter, and has continuing

6172 jurisdiction to modify, an order of custody and parent-time.

6173 (2) In determining any form of custody and parent-time under Subsection (1), the court

6174 shall consider the best interest of the child and may consider among other factors the court

6175 finds relevant, the following for each parent:

6176 (a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional

6177 abuse, involving the child, the parent, or a household member of the parent;

6178 (b) the parent's demonstrated understanding of, responsiveness to, and ability to meet

6179 the developmental needs of the child, including the child's:

- 6180 (i) physical needs;
- 6181 (ii) emotional needs;
- 6182 (iii) educational needs;
- 6183 (iv) medical needs; and
- 6184 (v) any special needs;

6185 (c) the parent's capacity and willingness to function as a parent, including:

- 6186 (i) parenting skills;
- 6187 (ii) co-parenting skills, including:
 - 6188 (A) ability to appropriately communicate with the other parent;
 - 6189 (B) ability to encourage the sharing of love and affection; and

6190 (C) willingness to allow frequent and continuous contact between the child and the

6191 other parent, except that, if the court determines that the parent is acting to protect the child

6192 from domestic violence, neglect, or abuse, the parent's protective actions may be taken into

6193 consideration; and

- 6194 (iii) ability to provide personal care rather than surrogate care;
- 6195 (d) in accordance with Subsection (10), the past conduct and demonstrated moral
- 6196 character of the parent;
- 6197 (e) the emotional stability of the parent;
- 6198 (f) the parent's inability to function as a parent because of drug abuse, excessive
- 6199 drinking, or other causes;
- 6200 (g) whether the parent has intentionally exposed the child to pornography or material
- 6201 harmful to minors, as "material" and "harmful to minors" are defined in Section [76-10-1201](#);
- 6202 (h) the parent's reasons for having relinquished custody or parent-time in the past;
- 6203 (i) duration and depth of desire for custody or parent-time;
- 6204 (j) the parent's religious compatibility with the child;
- 6205 (k) the parent's financial responsibility;
- 6206 (l) the child's interaction and relationship with step-parents, extended family members
- 6207 of other individuals who may significantly affect the child's best interests;
- 6208 (m) who has been the primary caretaker of the child;
- 6209 (n) previous parenting arrangements in which the child has been happy and
- 6210 well-adjusted in the home, school, and community;
- 6211 (o) the relative benefit of keeping siblings together;
- 6212 (p) the stated wishes and concerns of the child, taking into consideration the child's
- 6213 cognitive ability and emotional maturity;
- 6214 (q) the relative strength of the child's bond with the parent, meaning the depth, quality,
- 6215 and nature of the relationship between the parent and the child; and
- 6216 (r) any other factor the court finds relevant.
- 6217 (3) There is a rebuttable presumption that joint legal custody, as defined in Section
- 6218 [30-3-10.1](#), is in the best interest of the child, except in cases when there is:
- 6219 (a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional
- 6220 abuse involving the child, a parent, or a household member of the parent;
- 6221 (b) special physical or mental needs of a parent or child, making joint legal custody
- 6222 unreasonable;
- 6223 (c) physical distance between the residences of the parents, making joint decision
- 6224 making impractical in certain circumstances; or

6225 (d) any other factor the court considers relevant including those listed in this section
6226 and Section 30-3-10.2.

6227 (4) (a) The person who desires joint legal custody shall file a proposed parenting plan
6228 in accordance with Sections 30-3-10.8 and 30-3-10.9.

6229 (b) A presumption for joint legal custody may be rebutted by a showing by a
6230 preponderance of the evidence that it is not in the best interest of the child.

6231 (5) (a) A child may not be required by either party to testify unless the trier of fact
6232 determines that extenuating circumstances exist that would necessitate the testimony of the
6233 child be heard and there is no other reasonable method to present the child's testimony.

6234 (b) (i) The court may inquire of the child's and take into consideration the child's
6235 desires regarding future custody or parent-time schedules, but the expressed desires are not
6236 controlling and the court may determine the child's custody or parent-time otherwise.

6237 (ii) The desires of a child 14 years [~~of age~~] old or older shall be given added weight,
6238 but is not the single controlling factor.

6239 (c) (i) If an interview with a child is conducted by the court pursuant to Subsection
6240 (5)(b), the interview shall be conducted by the judge in camera.

6241 (ii) The prior consent of the parties may be obtained but is not necessary if the court
6242 finds that an interview with a child is the only method to ascertain the child's desires regarding
6243 custody.

6244 (6) (a) Except as provided in Subsection (6)(b), a court may not discriminate against a
6245 parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining
6246 whether a substantial change has occurred for the purpose of modifying an award of custody.

6247 (b) The court may not consider the disability of a parent as a factor in awarding custody
6248 or modifying an award of custody based on a determination of a substantial change in
6249 circumstances, unless the court makes specific findings that:

6250 (i) the disability significantly or substantially inhibits the parent's ability to provide for
6251 the physical and emotional needs of the child at issue; and

6252 (ii) the parent with a disability lacks sufficient human, monetary, or other resources
6253 available to supplement the parent's ability to provide for the physical and emotional needs of
6254 the child at issue.

6255 (c) Nothing in this section may be construed to apply to adoption proceedings under

6256 Title 78B, Chapter 6, Part 1, Utah Adoption Act.

6257 (7) This section does not establish a preference for either parent solely because of the
6258 gender of the parent.

6259 (8) This section establishes neither a preference nor a presumption for or against joint
6260 physical custody or sole physical custody, but allows the court and the family the widest
6261 discretion to choose a parenting plan that is in the best interest of the child.

6262 (9) When an issue before the court involves custodial responsibility in the event of a
6263 deployment of one or both parents who are servicemembers, and the servicemember has not yet
6264 been notified of deployment, the court shall resolve the issue based on the standards in Sections
6265 [78B-20-306](#) through [78B-20-309](#).

6266 (10) In considering the past conduct and demonstrated moral standards of each party
6267 under Subsection (2)(d) or any other factor a court finds relevant, the court may not:

6268 (a) consider or treat a parent's lawful possession or use of cannabis in a medicinal
6269 dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in
6270 accordance with Title 4, Chapter 41a, Cannabis Production Establishments, [~~Title 26, Chapter~~
6271 ~~61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and
6272 Medical Cannabis, or Subsection [58-37-3.7](#)(2) or (3) any differently than the court would
6273 consider or treat the lawful possession or use of any prescribed controlled substance; or

6274 (b) discriminate against a parent because of the parent's status as a:

6275 (i) cannabis production establishment agent, as that term is defined in Section
6276 [4-41a-102](#);

6277 (ii) medical cannabis pharmacy agent, as that term is defined in Section [~~26-61a-102~~]
6278 [26B-4-201](#);

6279 (iii) medical cannabis courier agent, as that term is defined in Section [~~26-61a-102~~]
6280 [26B-4-201](#); or

6281 (iv) medical cannabis cardholder in accordance with [~~Title 26, Chapter 61a, Utah~~
6282 ~~Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical
6283 Cannabis.

6284 Section 89. Section **30-3-10.5** is amended to read:

6285 **30-3-10.5. Payments of support, maintenance, and alimony.**

6286 (1) All monthly payments of support, maintenance, or alimony provided for in the

6287 order or decree shall be due on the first day of each month for purposes of Section 78B-12-112,
6288 child support services pursuant to [~~Title 62A, Chapter 11, Part 3, Child Support Services Act~~]
6289 Title 26B, Chapter 9, Part 2, Child Support Services, income withholding services pursuant to
6290 [~~Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases~~] Title 26B, Chapter 9, Part
6291 3, Income Withholding in IV-D Cases, and other income withholding procedures pursuant to
6292 [~~Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases~~] Title 26B, Chapter 9,
6293 Part 4, Income Withholding in Non IV-D Cases.

6294 (2) For purposes of child support services and income withholding pursuant to [~~Title~~
6295 ~~62A, Chapter 11, Part 3, Child Support Services Act, and Part 4, Income Withholding in IV-D~~
6296 ~~Cases~~] Title 26B, Chapter 9, Part 2, Child Support Services, and Title 26B, Chapter 9, Part 3,
6297 Income Withholding in IV-D Cases, child support is not considered past due until the first day
6298 of the following month.

6299 (3) For purposes other than those specified in Subsections (1) and (2), support shall be
6300 payable 1/2 by the 5th day of each month and 1/2 by the 20th day of that month, unless the
6301 order or decree provides for a different time for payment.

6302 Section 90. Section **30-3-38** is amended to read:

6303 **30-3-38. Expedited Parent-time Enforcement Program.**

6304 (1) There is established an Expedited Parent-time Enforcement Program in the third
6305 judicial district to be administered by the Administrative Office of the Courts.

6306 (2) As used in this section:

6307 (a) "Mediator" means a person who:

6308 (i) is qualified to mediate parent-time disputes under criteria established by the
6309 Administrative Office of the Courts; and

6310 (ii) agrees to follow billing guidelines established by the Administrative Office of the
6311 Courts and this section.

6312 (b) "Services to facilitate parent-time" or "services" means services designed to assist
6313 families in resolving parent-time problems through:

6314 (i) counseling;

6315 (ii) supervised parent-time;

6316 (iii) neutral drop-off and pick-up;

6317 (iv) educational classes; and

6318 (v) other related activities.

6319 (3) (a) If a parent files a motion in the third district court alleging that court-ordered
6320 parent-time rights are being violated, the clerk of the court, after assigning the case to a judge,
6321 shall refer the case to the administrator of this program for assignment to a mediator, unless a
6322 parent is incarcerated or otherwise unavailable. Unless the court rules otherwise, a parent
6323 residing outside of the state is not unavailable. The director of the program for the courts, the
6324 court, or the mediator may excuse either party from the requirement to mediate for good cause.

6325 (b) Upon receipt of a case, the mediator shall:

6326 (i) meet with the parents to address parent-time issues within 15 days of the motion
6327 being filed;

6328 (ii) assess the situation;

6329 (iii) facilitate an agreement on parent-time between the parents; and

6330 (iv) determine whether a referral to a service provider under Subsection (3)(c) is
6331 warranted.

6332 (c) While a case is in mediation, a mediator may refer the parents to a service provider
6333 designated by the Department of Health and Human Services for services to facilitate
6334 parent-time if:

6335 (i) the services may be of significant benefit to the parents; or

6336 (ii) (A) a mediated agreement between the parents is unlikely; and

6337 (B) the services may facilitate an agreement.

6338 (d) At any time during mediation, a mediator shall terminate mediation and transfer the
6339 case to the administrator of the program for referral to the judge or court commissioner to
6340 whom the case was assigned under Subsection (3)(a) if:

6341 (i) a written agreement between the parents is reached; or

6342 (ii) the parents are unable to reach an agreement through mediation and:

6343 (A) the parents have received services to facilitate parent-time;

6344 (B) both parents object to receiving services to facilitate parent-time; or

6345 (C) the parents are unlikely to benefit from receiving services to facilitate parent-time.

6346 (e) Upon receiving a case from the administrator of the program, a judge or court
6347 commissioner may:

6348 (i) review the agreement of the parents and, if acceptable, sign it as an order;

6349 (ii) order the parents to receive services to facilitate parent-time;

6350 (iii) proceed with the case; or

6351 (iv) take other appropriate action.

6352 (4) (a) If a parent makes a particularized allegation of physical or sexual abuse of a
6353 child who is the subject of a parent-time order against the other parent or a member of the other
6354 parent's household to a mediator or service provider, the mediator or service provider shall
6355 immediately report that information to:

6356 (i) the judge assigned to the case who may immediately issue orders and take other
6357 appropriate action to resolve the allegation and protect the child; and

6358 (ii) the Division of Child and Family Services within the Department of Health and
6359 Human Services in the manner required by Title 80, Chapter 2, Part 6, Child Abuse and
6360 Neglect Reports.

6361 (b) If an allegation under Subsection (4)(a) is made against a parent with parent-time
6362 rights or a member of that parent's household, parent-time by that parent shall, pursuant to an
6363 order of the court, be supervised until:

6364 (i) the allegation has been resolved; or

6365 (ii) a court orders otherwise.

6366 (c) Notwithstanding an allegation under Subsection (4)(a), a mediator may continue to
6367 mediate parent-time problems and a service provider may continue to provide services to
6368 facilitate parent-time unless otherwise ordered by a court.

6369 (5) (a) The Department of Health and Human Services may contract with one or more
6370 entities in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to provide:

6371 (i) services to facilitate parent-time;

6372 (ii) case management services; and

6373 (iii) administrative services.

6374 (b) An entity who contracts with the Department of Health and Human Services under
6375 Subsection (5)(a) shall:

6376 (i) be qualified to provide one or more of the services listed in Subsection (5)(a); and

6377 (ii) agree to follow billing guidelines established by the Department of Health and
6378 Human Services and this section.

6379 (6) (a) Except as provided in Subsection (6)(b), the cost of mediation shall be:

6380 (i) reduced to a sum certain;
6381 (ii) divided equally between the parents; and
6382 (iii) charged against each parent taking into account the ability of that parent to pay
6383 under billing guidelines adopted in accordance with this section.

6384 (b) A judge may order a parent to pay an amount in excess of that provided for in
6385 Subsection (6)(a) if the parent:

6386 (i) failed to participate in good faith in mediation or services to facilitate parent-time;
6387 or

6388 (ii) made an unfounded assertion or claim of physical or sexual abuse of a child.

6389 (c) (i) The cost of mediation and services to facilitate parent-time may be charged to
6390 parents at periodic intervals.

6391 (ii) Mediation and services to facilitate parent-time may only be terminated on the
6392 ground of nonpayment if both parents are delinquent.

6393 (7) (a) The Judicial Council may make rules to implement and administer the
6394 provisions of this program related to mediation.

6395 (b) The Department of Health and Human Services may make rules to implement and
6396 administer the provisions of this program related to services to facilitate parent-time.

6397 (8) (a) The Administrative Office of the Courts shall adopt outcome measures to
6398 evaluate the effectiveness of the mediation component of this program. Progress reports shall
6399 be provided to the Judiciary Interim Committee as requested by the committee.

6400 (b) The Department of Health and Human Services shall adopt outcome measures to
6401 evaluate the effectiveness of the services component of this program. Progress reports shall be
6402 provided to the Judiciary Interim Committee as requested by the committee.

6403 (c) The Administrative Office of the Courts and the Department of Health and Human
6404 Services may adopt joint outcome measures and file joint reports to satisfy the requirements of
6405 Subsections (7)(a) and (b).

6406 (9) The Department of Health and Human Services shall, by following the procedures
6407 and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, apply for federal
6408 funds as available.

6409 Section 91. Section **31A-1-301** is amended to read:

6410 **31A-1-301. Definitions.**

- 6411 As used in this title, unless otherwise specified:
- 6412 (1) (a) "Accident and health insurance" means insurance to provide protection against
- 6413 economic losses resulting from:
- 6414 (i) a medical condition including:
- 6415 (A) a medical care expense; or
- 6416 (B) the risk of disability;
- 6417 (ii) accident; or
- 6418 (iii) sickness.
- 6419 (b) "Accident and health insurance":
- 6420 (i) includes a contract with disability contingencies including:
- 6421 (A) an income replacement contract;
- 6422 (B) a health care contract;
- 6423 (C) a fixed indemnity contract;
- 6424 (D) a credit accident and health contract;
- 6425 (E) a continuing care contract; and
- 6426 (F) a long-term care contract; and
- 6427 (ii) may provide:
- 6428 (A) hospital coverage;
- 6429 (B) surgical coverage;
- 6430 (C) medical coverage;
- 6431 (D) loss of income coverage;
- 6432 (E) prescription drug coverage;
- 6433 (F) dental coverage; or
- 6434 (G) vision coverage.
- 6435 (c) "Accident and health insurance" does not include workers' compensation insurance.
- 6436 (d) For purposes of a national licensing registry, "accident and health insurance" is the
- 6437 same as "accident and health or sickness insurance."
- 6438 (2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title
- 6439 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 6440 (3) "Administrator" means the same as that term is defined in Subsection (182).
- 6441 (4) "Adult" means an individual who is 18 years old or older.

6442 (5) "Affiliate" means a person who controls, is controlled by, or is under common
6443 control with, another person. A corporation is an affiliate of another corporation, regardless of
6444 ownership, if substantially the same group of individuals manage the corporations.

6445 (6) "Agency" means:

6446 (a) a person other than an individual, including a sole proprietorship by which an
6447 individual does business under an assumed name; and

6448 (b) an insurance organization licensed or required to be licensed under Section
6449 [31A-23a-301](#), [31A-25-207](#), or [31A-26-209](#).

6450 (7) "Alien insurer" means an insurer domiciled outside the United States.

6451 (8) "Amendment" means an endorsement to an insurance policy or certificate.

6452 (9) "Annuity" means an agreement to make periodical payments for a period certain or
6453 over the lifetime of one or more individuals if the making or continuance of all or some of the
6454 series of the payments, or the amount of the payment, is dependent upon the continuance of
6455 human life.

6456 (10) "Application" means a document:

6457 (a) (i) completed by an applicant to provide information about the risk to be insured;
6458 and

6459 (ii) that contains information that is used by the insurer to evaluate risk and decide
6460 whether to:

6461 (A) insure the risk under:

6462 (I) the coverage as originally offered; or

6463 (II) a modification of the coverage as originally offered; or

6464 (B) decline to insure the risk; or

6465 (b) used by the insurer to gather information from the applicant before issuance of an
6466 annuity contract.

6467 (11) "Articles" or "articles of incorporation" means:

6468 (a) the original articles;

6469 (b) a special law;

6470 (c) a charter;

6471 (d) an amendment;

6472 (e) restated articles;

- 6473 (f) articles of merger or consolidation;
- 6474 (g) a trust instrument;
- 6475 (h) another constitutive document for a trust or other entity that is not a corporation;
- 6476 and
- 6477 (i) an amendment to an item listed in Subsections (11)(a) through (h).
- 6478 (12) "Bail bond insurance" means a guarantee that a person will attend court when
- 6479 required, up to and including surrender of the person in execution of a sentence imposed under
- 6480 Subsection [77-20-501](#)(1), as a condition to the release of that person from confinement.
- 6481 (13) "Binder" means the same as that term is defined in Section [31A-21-102](#).
- 6482 (14) "Blanket insurance policy" or "blanket contract" means a group insurance policy
- 6483 covering a defined class of persons:
- 6484 (a) without individual underwriting or application; and
- 6485 (b) that is determined by definition without designating each person covered.
- 6486 (15) "Board," "board of trustees," or "board of directors" means the group of persons
- 6487 with responsibility over, or management of, a corporation, however designated.
- 6488 (16) "Bona fide office" means a physical office in this state:
- 6489 (a) that is open to the public;
- 6490 (b) that is staffed during regular business hours on regular business days; and
- 6491 (c) at which the public may appear in person to obtain services.
- 6492 (17) "Business entity" means:
- 6493 (a) a corporation;
- 6494 (b) an association;
- 6495 (c) a partnership;
- 6496 (d) a limited liability company;
- 6497 (e) a limited liability partnership; or
- 6498 (f) another legal entity.
- 6499 (18) "Business of insurance" means the same as that term is defined in Subsection (95).
- 6500 (19) "Business plan" means the information required to be supplied to the
- 6501 commissioner under Subsections [31A-5-204](#)(2)(i) and (j), including the information required
- 6502 when these subsections apply by reference under:
- 6503 (a) Section [31A-8-205](#); or

- 6504 (b) Subsection 31A-9-205(2).
- 6505 (20) (a) "Bylaws" means the rules adopted for the regulation or management of a
- 6506 corporation's affairs, however designated.
- 6507 (b) "Bylaws" includes comparable rules for a trust or other entity that is not a
- 6508 corporation.
- 6509 (21) "Captive insurance company" means:
- 6510 (a) an insurer:
- 6511 (i) owned by a parent organization; and
- 6512 (ii) whose purpose is to insure risks of the parent organization and other risks as
- 6513 authorized under:
- 6514 (A) Chapter 37, Captive Insurance Companies Act; and
- 6515 (B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; or
- 6516 (b) in the case of a group or association, an insurer:
- 6517 (i) owned by the insureds; and
- 6518 (ii) whose purpose is to insure risks of:
- 6519 (A) a member organization;
- 6520 (B) a group member; or
- 6521 (C) an affiliate of:
- 6522 (I) a member organization; or
- 6523 (II) a group member.
- 6524 (22) "Casualty insurance" means liability insurance.
- 6525 (23) "Certificate" means evidence of insurance given to:
- 6526 (a) an insured under a group insurance policy; or
- 6527 (b) a third party.
- 6528 (24) "Certificate of authority" is included within the term "license."
- 6529 (25) "Claim," unless the context otherwise requires, means a request or demand on an
- 6530 insurer for payment of a benefit according to the terms of an insurance policy.
- 6531 (26) "Claims-made coverage" means an insurance contract or provision limiting
- 6532 coverage under a policy insuring against legal liability to claims that are first made against the
- 6533 insured while the policy is in force.
- 6534 (27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance

6535 commissioner.

6536 (b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent
6537 supervisory official of another jurisdiction.

6538 (28) (a) "Continuing care insurance" means insurance that:

6539 (i) provides board and lodging;

6540 (ii) provides one or more of the following:

6541 (A) a personal service;

6542 (B) a nursing service;

6543 (C) a medical service; or

6544 (D) any other health-related service; and

6545 (iii) provides the coverage described in this Subsection (28)(a) under an agreement
6546 effective:

6547 (A) for the life of the insured; or

6548 (B) for a period in excess of one year.

6549 (b) Insurance is continuing care insurance regardless of whether or not the board and
6550 lodging are provided at the same location as a service described in Subsection (28)(a)(ii).

6551 (29) (a) "Control," "controlling," "controlled," or "under common control" means the
6552 direct or indirect possession of the power to direct or cause the direction of the management
6553 and policies of a person. This control may be:

6554 (i) by contract;

6555 (ii) by common management;

6556 (iii) through the ownership of voting securities; or

6557 (iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

6558 (b) There is no presumption that an individual holding an official position with another
6559 person controls that person solely by reason of the position.

6560 (c) A person having a contract or arrangement giving control is considered to have
6561 control despite the illegality or invalidity of the contract or arrangement.

6562 (d) There is a rebuttable presumption of control in a person who directly or indirectly
6563 owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the
6564 voting securities of another person.

6565 (30) "Controlled insurer" means a licensed insurer that is either directly or indirectly

6566 controlled by a producer.

6567 (31) "Controlling person" means a person that directly or indirectly has the power to
6568 direct or cause to be directed, the management, control, or activities of a reinsurance
6569 intermediary.

6570 (32) "Controlling producer" means a producer who directly or indirectly controls an
6571 insurer.

6572 (33) "Corporate governance annual disclosure" means a report an insurer or insurance
6573 group files in accordance with the requirements of Chapter 16b, Corporate Governance Annual
6574 Disclosure Act.

6575 (34) (a) "Corporation" means an insurance corporation, except when referring to:

6576 (i) a corporation doing business:

6577 (A) as:

6578 (I) an insurance producer;

6579 (II) a surplus lines producer;

6580 (III) a limited line producer;

6581 (IV) a consultant;

6582 (V) a managing general agent;

6583 (VI) a reinsurance intermediary;

6584 (VII) a third party administrator; or

6585 (VIII) an adjuster; and

6586 (B) under:

6587 (I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and
6588 Reinsurance Intermediaries;

6589 (II) Chapter 25, Third Party Administrators; or

6590 (III) Chapter 26, Insurance Adjusters; or

6591 (ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance
6592 Holding Companies.

6593 (b) "Mutual" or "mutual corporation" means a mutual insurance corporation.

6594 (c) "Stock corporation" means a stock insurance corporation.

6595 (35) (a) "Creditable coverage" has the same meaning as provided in federal regulations
6596 adopted pursuant to the Health Insurance Portability and Accountability Act.

6597 (b) "Creditable coverage" includes coverage that is offered through a public health plan
6598 such as:

6599 (i) the Primary Care Network Program under a Medicaid primary care network
6600 demonstration waiver obtained subject to Section [~~26-18-3~~] [26B-3-108](#);

6601 (ii) the Children's Health Insurance Program under Section [~~26-40-106~~] [26B-3-904](#); or

6602 (iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L.
6603 No. 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. No.
6604 109-415.

6605 (36) "Credit accident and health insurance" means insurance on a debtor to provide
6606 indemnity for payments coming due on a specific loan or other credit transaction while the
6607 debtor has a disability.

6608 (37) (a) "Credit insurance" means insurance offered in connection with an extension of
6609 credit that is limited to partially or wholly extinguishing that credit obligation.

6610 (b) "Credit insurance" includes:

6611 (i) credit accident and health insurance;

6612 (ii) credit life insurance;

6613 (iii) credit property insurance;

6614 (iv) credit unemployment insurance;

6615 (v) guaranteed automobile protection insurance;

6616 (vi) involuntary unemployment insurance;

6617 (vii) mortgage accident and health insurance;

6618 (viii) mortgage guaranty insurance; and

6619 (ix) mortgage life insurance.

6620 (38) "Credit life insurance" means insurance on the life of a debtor in connection with
6621 an extension of credit that pays a person if the debtor dies.

6622 (39) "Creditor" means a person, including an insured, having a claim, whether:

6623 (a) matured;

6624 (b) unmatured;

6625 (c) liquidated;

6626 (d) unliquidated;

6627 (e) secured;

- 6628 (f) unsecured;
- 6629 (g) absolute;
- 6630 (h) fixed; or
- 6631 (i) contingent.
- 6632 (40) "Credit property insurance" means insurance:
- 6633 (a) offered in connection with an extension of credit; and
- 6634 (b) that protects the property until the debt is paid.
- 6635 (41) "Credit unemployment insurance" means insurance:
- 6636 (a) offered in connection with an extension of credit; and
- 6637 (b) that provides indemnity if the debtor is unemployed for payments coming due on a:
- 6638 (i) specific loan; or
- 6639 (ii) credit transaction.
- 6640 (42) (a) "Crop insurance" means insurance providing protection against damage to
- 6641 crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation,
- 6642 disease, or other yield-reducing conditions or perils that is:
- 6643 (i) provided by the private insurance market; or
- 6644 (ii) subsidized by the Federal Crop Insurance Corporation.
- 6645 (b) "Crop insurance" includes multiperil crop insurance.
- 6646 (43) (a) "Customer service representative" means a person that provides an insurance
- 6647 service and insurance product information:
- 6648 (i) for the customer service representative's:
- 6649 (A) producer;
- 6650 (B) surplus lines producer; or
- 6651 (C) consultant employer; and
- 6652 (ii) to the customer service representative's employer's:
- 6653 (A) customer;
- 6654 (B) client; or
- 6655 (C) organization.
- 6656 (b) A customer service representative may only operate within the scope of authority of
- 6657 the customer service representative's producer, surplus lines producer, or consultant employer.
- 6658 (44) "Deadline" means a final date or time:

6659 (a) imposed by:

6660 (i) statute;

6661 (ii) rule; or

6662 (iii) order; and

6663 (b) by which a required filing or payment must be received by the department.

6664 (45) "Deemer clause" means a provision under this title under which upon the
6665 occurrence of a condition precedent, the commissioner is considered to have taken a specific
6666 action. If the statute so provides, a condition precedent may be the commissioner's failure to
6667 take a specific action.

6668 (46) "Degree of relationship" means the number of steps between two persons
6669 determined by counting the generations separating one person from a common ancestor and
6670 then counting the generations to the other person.

6671 (47) "Department" means the Insurance Department.

6672 (48) "Director" means a member of the board of directors of a corporation.

6673 (49) "Disability" means a physiological or psychological condition that partially or
6674 totally limits an individual's ability to:

6675 (a) perform the duties of:

6676 (i) that individual's occupation; or

6677 (ii) an occupation for which the individual is reasonably suited by education, training,
6678 or experience; or

6679 (b) perform two or more of the following basic activities of daily living:

6680 (i) eating;

6681 (ii) toileting;

6682 (iii) transferring;

6683 (iv) bathing; or

6684 (v) dressing.

6685 (50) "Disability income insurance" means the same as that term is defined in
6686 Subsection (86).

6687 (51) "Domestic insurer" means an insurer organized under the laws of this state.

6688 (52) "Domiciliary state" means the state in which an insurer:

6689 (a) is incorporated;

- 6690 (b) is organized; or
- 6691 (c) in the case of an alien insurer, enters into the United States.
- 6692 (53) (a) "Eligible employee" means:
- 6693 (i) an employee who:
- 6694 (A) works on a full-time basis; and
- 6695 (B) has a normal work week of 30 or more hours; or
- 6696 (ii) a person described in Subsection (53)(b).
- 6697 (b) "Eligible employee" includes:
- 6698 (i) an owner, sole proprietor, or partner who:
- 6699 (A) works on a full-time basis;
- 6700 (B) has a normal work week of 30 or more hours; and
- 6701 (C) employs at least one common employee; and
- 6702 (ii) an independent contractor if the individual is included under a health benefit plan
- 6703 of a small employer.
- 6704 (c) "Eligible employee" does not include, unless eligible under Subsection (53)(b):
- 6705 (i) an individual who works on a temporary or substitute basis for a small employer;
- 6706 (ii) an employer's spouse who does not meet the requirements of Subsection (53)(a)(i);
- 6707 or
- 6708 (iii) a dependent of an employer who does not meet the requirements of Subsection
- 6709 (53)(a)(i).
- 6710 (54) "Emergency medical condition" means a medical condition that:
- 6711 (a) manifests itself by acute symptoms, including severe pain; and
- 6712 (b) would cause a prudent layperson possessing an average knowledge of medicine and
- 6713 health to reasonably expect the absence of immediate medical attention through a hospital
- 6714 emergency department to result in:
- 6715 (i) placing the layperson's health or the layperson's unborn child's health in serious
- 6716 jeopardy;
- 6717 (ii) serious impairment to bodily functions; or
- 6718 (iii) serious dysfunction of any bodily organ or part.
- 6719 (55) "Employee" means:
- 6720 (a) an individual employed by an employer; or

- 6721 (b) an individual who meets the requirements of Subsection (53)(b).
- 6722 (56) "Employee benefits" means one or more benefits or services provided to:
- 6723 (a) an employee; or
- 6724 (b) a dependent of an employee.
- 6725 (57) (a) "Employee welfare fund" means a fund:
- 6726 (i) established or maintained, whether directly or through a trustee, by:
- 6727 (A) one or more employers;
- 6728 (B) one or more labor organizations; or
- 6729 (C) a combination of employers and labor organizations; and
- 6730 (ii) that provides employee benefits paid or contracted to be paid, other than income
- 6731 from investments of the fund:
- 6732 (A) by or on behalf of an employer doing business in this state; or
- 6733 (B) for the benefit of a person employed in this state.
- 6734 (b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax
- 6735 revenues.
- 6736 (58) "Endorsement" means a written agreement attached to a policy or certificate to
- 6737 modify the policy or certificate coverage.
- 6738 (59) (a) "Enrollee" means:
- 6739 (i) a policyholder;
- 6740 (ii) a certificate holder;
- 6741 (iii) a subscriber; or
- 6742 (iv) a covered individual:
- 6743 (A) who has entered into a contract with an organization for health care; or
- 6744 (B) on whose behalf an arrangement for health care has been made.
- 6745 (b) "Enrollee" includes an insured.
- 6746 (60) "Enrollment date," with respect to a health benefit plan, means:
- 6747 (a) the first day of coverage; or
- 6748 (b) if there is a waiting period, the first day of the waiting period.
- 6749 (61) "Enterprise risk" means an activity, circumstance, event, or series of events
- 6750 involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a
- 6751 material adverse effect upon the financial condition or liquidity of the insurer or its insurance

6752 holding company system as a whole, including anything that would cause:

6753 (a) the insurer's risk-based capital to fall into an action or control level as set forth in

6754 Sections 31A-17-601 through 31A-17-613; or

6755 (b) the insurer to be in hazardous financial condition set forth in Section 31A-27a-101.

6756 (62) (a) "Escrow" means:

6757 (i) a transaction that effects the sale, transfer, encumbering, or leasing of real property,

6758 when a person not a party to the transaction, and neither having nor acquiring an interest in the

6759 title, performs, in accordance with the written instructions or terms of the written agreement

6760 between the parties to the transaction, any of the following actions:

6761 (A) the explanation, holding, or creation of a document; or

6762 (B) the receipt, deposit, and disbursement of money;

6763 (ii) a settlement or closing involving:

6764 (A) a mobile home;

6765 (B) a grazing right;

6766 (C) a water right; or

6767 (D) other personal property authorized by the commissioner.

6768 (b) "Escrow" does not include:

6769 (i) the following notarial acts performed by a notary within the state:

6770 (A) an acknowledgment;

6771 (B) a copy certification;

6772 (C) jurat; and

6773 (D) an oath or affirmation;

6774 (ii) the receipt or delivery of a document; or

6775 (iii) the receipt of money for delivery to the escrow agent.

6776 (63) "Escrow agent" means an agency title insurance producer meeting the

6777 requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through an

6778 individual title insurance producer licensed with an escrow subline of authority.

6779 (64) (a) "Excludes" is not exhaustive and does not mean that another thing is not also

6780 excluded.

6781 (b) The items listed in a list using the term "excludes" are representative examples for

6782 use in interpretation of this title.

6783 (65) "Exclusion" means for the purposes of accident and health insurance that an
6784 insurer does not provide insurance coverage, for whatever reason, for one of the following:

- 6785 (a) a specific physical condition;
- 6786 (b) a specific medical procedure;
- 6787 (c) a specific disease or disorder; or
- 6788 (d) a specific prescription drug or class of prescription drugs.

6789 (66) "Fidelity insurance" means insurance guaranteeing the fidelity of a person holding
6790 a position of public or private trust.

6791 (67) (a) "Filed" means that a filing is:

6792 (i) submitted to the department as required by and in accordance with applicable
6793 statute, rule, or filing order;

6794 (ii) received by the department within the time period provided in applicable statute,
6795 rule, or filing order; and

6796 (iii) accompanied by the appropriate fee in accordance with:

6797 (A) Section [31A-3-103](#); or

6798 (B) rule.

6799 (b) "Filed" does not include a filing that is rejected by the department because it is not
6800 submitted in accordance with Subsection (67)(a).

6801 (68) "Filing," when used as a noun, means an item required to be filed with the
6802 department including:

6803 (a) a policy;

6804 (b) a rate;

6805 (c) a form;

6806 (d) a document;

6807 (e) a plan;

6808 (f) a manual;

6809 (g) an application;

6810 (h) a report;

6811 (i) a certificate;

6812 (j) an endorsement;

6813 (k) an actuarial certification;

6814 (l) a licensee annual statement;

6815 (m) a licensee renewal application;

6816 (n) an advertisement;

6817 (o) a binder; or

6818 (p) an outline of coverage.

6819 (69) "First party insurance" means an insurance policy or contract in which the insurer
6820 agrees to pay a claim submitted to it by the insured for the insured's losses.

6821 (70) (a) "Fixed indemnity insurance" means accident and health insurance written to
6822 provide a fixed amount for a specified event relating to or resulting from an illness or injury.

6823 (b) "Fixed indemnity insurance" includes hospital confinement indemnity insurance.

6824 (71) "Foreign insurer" means an insurer domiciled outside of this state, including an
6825 alien insurer.

6826 (72) (a) "Form" means one of the following prepared for general use:

6827 (i) a policy;

6828 (ii) a certificate;

6829 (iii) an application;

6830 (iv) an outline of coverage; or

6831 (v) an endorsement.

6832 (b) "Form" does not include a document specially prepared for use in an individual
6833 case.

6834 (73) "Franchise insurance" means an individual insurance policy provided through a
6835 mass marketing arrangement involving a defined class of persons related in some way other
6836 than through the purchase of insurance.

6837 (74) "General lines of authority" include:

6838 (a) the general lines of insurance in Subsection (75);

6839 (b) title insurance under one of the following sublines of authority:

6840 (i) title examination, including authority to act as a title marketing representative;

6841 (ii) escrow, including authority to act as a title marketing representative; and

6842 (iii) title marketing representative only;

6843 (c) surplus lines;

6844 (d) workers' compensation; and

6845 (e) another line of insurance that the commissioner considers necessary to recognize in
6846 the public interest.

6847 (75) "General lines of insurance" include:

6848 (a) accident and health;

6849 (b) casualty;

6850 (c) life;

6851 (d) personal lines;

6852 (e) property; and

6853 (f) variable contracts, including variable life and annuity.

6854 (76) "Group health plan" means an employee welfare benefit plan to the extent that the
6855 plan provides medical care:

6856 (a) (i) to an employee; or

6857 (ii) to a dependent of an employee; and

6858 (b) (i) directly;

6859 (ii) through insurance reimbursement; or

6860 (iii) through another method.

6861 (77) (a) "Group insurance policy" means a policy covering a group of persons that is
6862 issued:

6863 (i) to a policyholder on behalf of the group; and

6864 (ii) for the benefit of a member of the group who is selected under a procedure defined

6865 in:

6866 (A) the policy; or

6867 (B) an agreement that is collateral to the policy.

6868 (b) A group insurance policy may include a member of the policyholder's family or a
6869 dependent.

6870 (78) "Group-wide supervisor" means the commissioner or other regulatory official
6871 designated as the group-wide supervisor for an internationally active insurance group under
6872 Section [31A-16-108.6](#).

6873 (79) "Guaranteed automobile protection insurance" means insurance offered in
6874 connection with an extension of credit that pays the difference in amount between the
6875 insurance settlement and the balance of the loan if the insured automobile is a total loss.

6876 (80) (a) "Health benefit plan" means a policy, contract, certificate, or agreement offered
6877 or issued by an insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of
6878 health care, including major medical expense coverage.

6879 (b) "Health benefit plan" does not include:

6880 (i) coverage only for accident or disability income insurance, or any combination
6881 thereof;

6882 (ii) coverage issued as a supplement to liability insurance;

6883 (iii) liability insurance, including general liability insurance and automobile liability
6884 insurance;

6885 (iv) workers' compensation or similar insurance;

6886 (v) automobile medical payment insurance;

6887 (vi) credit-only insurance;

6888 (vii) coverage for on-site medical clinics;

6889 (viii) other similar insurance coverage, specified in federal regulations issued pursuant
6890 to Pub. L. No. 104-191, under which benefits for health care services are secondary or
6891 incidental to other insurance benefits;

6892 (ix) the following benefits if they are provided under a separate policy, certificate, or
6893 contract of insurance or are otherwise not an integral part of the plan:

6894 (A) limited scope dental or vision benefits;

6895 (B) benefits for long-term care, nursing home care, home health care,
6896 community-based care, or any combination thereof; or

6897 (C) other similar limited benefits, specified in federal regulations issued pursuant to
6898 Pub. L. No. 104-191;

6899 (x) the following benefits if the benefits are provided under a separate policy,
6900 certificate, or contract of insurance, there is no coordination between the provision of benefits
6901 and any exclusion of benefits under any health plan, and the benefits are paid with respect to an
6902 event without regard to whether benefits are provided under any health plan:

6903 (A) coverage only for specified disease or illness; or

6904 (B) fixed indemnity insurance;

6905 (xi) the following if offered as a separate policy, certificate, or contract of insurance:

6906 (A) Medicare supplemental health insurance as defined under the Social Security Act,

6907 42 U.S.C. Sec. 1395ss(g)(1);
6908 (B) coverage supplemental to the coverage provided under United States Code, Title
6909 10, Chapter 55, Civilian Health and Medical Program of the Uniformed Services
6910 (CHAMPUS); or
6911 (C) similar supplemental coverage provided to coverage under a group health insurance
6912 plan;
6913 (xii) short-term limited duration health insurance; and
6914 (xiii) student health insurance, except as required under 45 C.F.R. Sec. 147.145.
6915 (81) "Health care" means any of the following intended for use in the diagnosis,
6916 treatment, mitigation, or prevention of a human ailment or impairment:
6917 (a) a professional service;
6918 (b) a personal service;
6919 (c) a facility;
6920 (d) equipment;
6921 (e) a device;
6922 (f) supplies; or
6923 (g) medicine.
6924 (82) (a) "Health care insurance" or "health insurance" means insurance providing:
6925 (i) a health care benefit; or
6926 (ii) payment of an incurred health care expense.
6927 (b) "Health care insurance" or "health insurance" does not include accident and health
6928 insurance providing a benefit for:
6929 (i) replacement of income;
6930 (ii) short-term accident;
6931 (iii) fixed indemnity;
6932 (iv) credit accident and health;
6933 (v) supplements to liability;
6934 (vi) workers' compensation;
6935 (vii) automobile medical payment;
6936 (viii) no-fault automobile;
6937 (ix) equivalent self-insurance; or

6938 (x) a type of accident and health insurance coverage that is a part of or attached to
6939 another type of policy.

6940 (83) "Health care provider" means the same as that term is defined in Section
6941 [78B-3-403](#).

6942 (84) "Health insurance exchange" means an exchange as defined in 45 C.F.R. Sec.
6943 155.20.

6944 (85) "Health Insurance Portability and Accountability Act" means the Health Insurance
6945 Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

6946 (86) "Income replacement insurance" or "disability income insurance" means insurance
6947 written to provide payments to replace income lost from accident or sickness.

6948 (87) "Indemnity" means the payment of an amount to offset all or part of an insured
6949 loss.

6950 (88) "Independent adjuster" means an insurance adjuster required to be licensed under
6951 Section [31A-26-201](#) who engages in insurance adjusting as a representative of an insurer.

6952 (89) "Independently procured insurance" means insurance procured under Section
6953 [31A-15-104](#).

6954 (90) "Individual" means a natural person.

6955 (91) "Inland marine insurance" includes insurance covering:

6956 (a) property in transit on or over land;

6957 (b) property in transit over water by means other than boat or ship;

6958 (c) bailee liability;

6959 (d) fixed transportation property such as bridges, electric transmission systems, radio
6960 and television transmission towers and tunnels; and

6961 (e) personal and commercial property floaters.

6962 (92) "Insolvency" or "insolvent" means that:

6963 (a) an insurer is unable to pay the insurer's obligations as the obligations are due;

6964 (b) an insurer's total adjusted capital is less than the insurer's mandatory control level
6965 RBC under Subsection [31A-17-601](#)(8)(c); or

6966 (c) an insurer's admitted assets are less than the insurer's liabilities.

6967 (93) (a) "Insurance" means:

6968 (i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more

6969 persons to one or more other persons; or

6970 (ii) an arrangement, contract, or plan for the distribution of a risk or risks among a
6971 group of persons that includes the person seeking to distribute that person's risk.

6972 (b) "Insurance" includes:

6973 (i) a risk distributing arrangement providing for compensation or replacement for
6974 damages or loss through the provision of a service or a benefit in kind;

6975 (ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a
6976 business and not as merely incidental to a business transaction; and

6977 (iii) a plan in which the risk does not rest upon the person who makes an arrangement,
6978 but with a class of persons who have agreed to share the risk.

6979 (94) "Insurance adjuster" means a person who directs or conducts the investigation,
6980 negotiation, or settlement of a claim under an insurance policy other than life insurance or an
6981 annuity, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

6982 (95) "Insurance business" or "business of insurance" includes:

6983 (a) providing health care insurance by an organization that is or is required to be
6984 licensed under this title;

6985 (b) providing a benefit to an employee in the event of a contingency not within the
6986 control of the employee, in which the employee is entitled to the benefit as a right, which
6987 benefit may be provided either:

6988 (i) by a single employer or by multiple employer groups; or

6989 (ii) through one or more trusts, associations, or other entities;

6990 (c) providing an annuity:

6991 (i) including an annuity issued in return for a gift; and

6992 (ii) except an annuity provided by a person specified in Subsections [31A-22-1305\(2\)](#)

6993 and (3);

6994 (d) providing the characteristic services of a motor club;

6995 (e) providing another person with insurance;

6996 (f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor,
6997 or surety, a contract or policy offering title insurance;

6998 (g) transacting or proposing to transact any phase of title insurance, including:

6999 (i) solicitation;

- 7000 (ii) negotiation preliminary to execution;
- 7001 (iii) execution of a contract of title insurance;
- 7002 (iv) insuring; and
- 7003 (v) transacting matters subsequent to the execution of the contract and arising out of
- 7004 the contract, including reinsurance;
- 7005 (h) transacting or proposing a life settlement; and
- 7006 (i) doing, or proposing to do, any business in substance equivalent to Subsections
- 7007 (95)(a) through (h) in a manner designed to evade this title.
- 7008 (96) "Insurance consultant" or "consultant" means a person who:
- 7009 (a) advises another person about insurance needs and coverages;
- 7010 (b) is compensated by the person advised on a basis not directly related to the insurance
- 7011 placed; and
- 7012 (c) except as provided in Section [31A-23a-501](#), is not compensated directly or
- 7013 indirectly by an insurer or producer for advice given.
- 7014 (97) "Insurance group" means the persons that comprise an insurance holding company
- 7015 system.
- 7016 (98) "Insurance holding company system" means a group of two or more affiliated
- 7017 persons, at least one of whom is an insurer.
- 7018 (99) (a) "Insurance producer" or "producer" means a person licensed or required to be
- 7019 licensed under the laws of this state to sell, solicit, or negotiate insurance.
- 7020 (b) (i) "Producer for the insurer" means a producer who is compensated directly or
- 7021 indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that
- 7022 insurer.
- 7023 (ii) "Producer for the insurer" may be referred to as an "agent."
- 7024 (c) (i) "Producer for the insured" means a producer who:
- 7025 (A) is compensated directly and only by an insurance customer or an insured; and
- 7026 (B) receives no compensation directly or indirectly from an insurer for selling,
- 7027 soliciting, or negotiating an insurance product of that insurer to an insurance customer or
- 7028 insured.
- 7029 (ii) "Producer for the insured" may be referred to as a "broker."
- 7030 (100) (a) "Insured" means a person to whom or for whose benefit an insurer makes a

7031 promise in an insurance policy and includes:

7032 (i) a policyholder;

7033 (ii) a subscriber;

7034 (iii) a member; and

7035 (iv) a beneficiary.

7036 (b) The definition in Subsection (100)(a):

7037 (i) applies only to this title;

7038 (ii) does not define the meaning of "insured" as used in an insurance policy or

7039 certificate; and

7040 (iii) includes an enrollee.

7041 (101) (a) "Insurer," "carrier," "insurance carrier," or "insurance company" means a

7042 person doing an insurance business as a principal including:

7043 (i) a fraternal benefit society;

7044 (ii) an issuer of a gift annuity other than an annuity specified in Subsections

7045 [31A-22-1305](#)(2) and (3);

7046 (iii) a motor club;

7047 (iv) an employee welfare plan;

7048 (v) a person purporting or intending to do an insurance business as a principal on that

7049 person's own account; and

7050 (vi) a health maintenance organization.

7051 (b) "Insurer," "carrier," "insurance carrier," or "insurance company" does not include a

7052 governmental entity.

7053 (102) "Interinsurance exchange" means the same as that term is defined in Subsection

7054 (163).

7055 (103) "Internationally active insurance group" means an insurance holding company

7056 system:

7057 (a) that includes an insurer registered under Section [31A-16-105](#);

7058 (b) that has premiums written in at least three countries;

7059 (c) whose percentage of gross premiums written outside the United States is at least

7060 10% of its total gross written premiums; and

7061 (d) that, based on a three-year rolling average, has:

- 7062 (i) total assets of at least \$50,000,000,000; or
7063 (ii) total gross written premiums of at least \$10,000,000,000.
7064 (104) "Involuntary unemployment insurance" means insurance:
7065 (a) offered in connection with an extension of credit; and
7066 (b) that provides indemnity if the debtor is involuntarily unemployed for payments
7067 coming due on a:
7068 (i) specific loan; or
7069 (ii) credit transaction.
7070 (105) "Large employer," in connection with a health benefit plan, means an employer
7071 who, with respect to a calendar year and to a plan year:
7072 (a) employed an average of at least 51 employees on business days during the
7073 preceding calendar year; and
7074 (b) employs at least one employee on the first day of the plan year.
7075 (106) "Late enrollee," with respect to an employer health benefit plan, means an
7076 individual whose enrollment is a late enrollment.
7077 (107) "Late enrollment," with respect to an employer health benefit plan, means
7078 enrollment of an individual other than:
7079 (a) on the earliest date on which coverage can become effective for the individual
7080 under the terms of the plan; or
7081 (b) through special enrollment.
7082 (108) (a) Except for a retainer contract or legal assistance described in Section
7083 [31A-1-103](#), "legal expense insurance" means insurance written to indemnify or pay for a
7084 specified legal expense.
7085 (b) "Legal expense insurance" includes an arrangement that creates a reasonable
7086 expectation of an enforceable right.
7087 (c) "Legal expense insurance" does not include the provision of, or reimbursement for,
7088 legal services incidental to other insurance coverage.
7089 (109) (a) "Liability insurance" means insurance against liability:
7090 (i) for death, injury, or disability of a human being, or for damage to property,
7091 exclusive of the coverages under:
7092 (A) medical malpractice insurance;

- 7093 (B) professional liability insurance; and
- 7094 (C) workers' compensation insurance;
- 7095 (ii) for a medical, hospital, surgical, and funeral benefit to a person other than the
- 7096 insured who is injured, irrespective of legal liability of the insured, when issued with or
- 7097 supplemental to insurance against legal liability for the death, injury, or disability of a human
- 7098 being, exclusive of the coverages under:
- 7099 (A) medical malpractice insurance;
- 7100 (B) professional liability insurance; and
- 7101 (C) workers' compensation insurance;
- 7102 (iii) for loss or damage to property resulting from an accident to or explosion of a
- 7103 boiler, pipe, pressure container, machinery, or apparatus;
- 7104 (iv) for loss or damage to property caused by:
- 7105 (A) the breakage or leakage of a sprinkler, water pipe, or water container; or
- 7106 (B) water entering through a leak or opening in a building; or
- 7107 (v) for other loss or damage properly the subject of insurance not within another kind
- 7108 of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.
- 7109 (b) "Liability insurance" includes:
- 7110 (i) vehicle liability insurance;
- 7111 (ii) residential dwelling liability insurance; and
- 7112 (iii) making inspection of, and issuing a certificate of inspection upon, an elevator,
- 7113 boiler, machinery, or apparatus of any kind when done in connection with insurance on the
- 7114 elevator, boiler, machinery, or apparatus.
- 7115 (110) (a) "License" means authorization issued by the commissioner to engage in an
- 7116 activity that is part of or related to the insurance business.
- 7117 (b) "License" includes a certificate of authority issued to an insurer.
- 7118 (111) (a) "Life insurance" means:
- 7119 (i) insurance on a human life; and
- 7120 (ii) insurance pertaining to or connected with human life.
- 7121 (b) The business of life insurance includes:
- 7122 (i) granting a death benefit;
- 7123 (ii) granting an annuity benefit;

- 7124 (iii) granting an endowment benefit;
- 7125 (iv) granting an additional benefit in the event of death by accident;
- 7126 (v) granting an additional benefit to safeguard the policy against lapse; and
- 7127 (vi) providing an optional method of settlement of proceeds.
- 7128 (112) "Limited license" means a license that:
- 7129 (a) is issued for a specific product of insurance; and
- 7130 (b) limits an individual or agency to transact only for that product or insurance.
- 7131 (113) "Limited line credit insurance" includes the following forms of insurance:
- 7132 (a) credit life;
- 7133 (b) credit accident and health;
- 7134 (c) credit property;
- 7135 (d) credit unemployment;
- 7136 (e) involuntary unemployment;
- 7137 (f) mortgage life;
- 7138 (g) mortgage guaranty;
- 7139 (h) mortgage accident and health;
- 7140 (i) guaranteed automobile protection; and
- 7141 (j) another form of insurance offered in connection with an extension of credit that:
- 7142 (i) is limited to partially or wholly extinguishing the credit obligation; and
- 7143 (ii) the commissioner determines by rule should be designated as a form of limited line
- 7144 credit insurance.
- 7145 (114) "Limited line credit insurance producer" means a person who sells, solicits, or
- 7146 negotiates one or more forms of limited line credit insurance coverage to an individual through
- 7147 a master, corporate, group, or individual policy.
- 7148 (115) "Limited line insurance" includes:
- 7149 (a) bail bond;
- 7150 (b) limited line credit insurance;
- 7151 (c) legal expense insurance;
- 7152 (d) motor club insurance;
- 7153 (e) car rental related insurance;
- 7154 (f) travel insurance;

7155 (g) crop insurance;
7156 (h) self-service storage insurance;
7157 (i) guaranteed asset protection waiver;
7158 (j) portable electronics insurance; and
7159 (k) another form of limited insurance that the commissioner determines by rule should
7160 be designated a form of limited line insurance.

7161 (116) "Limited lines authority" includes the lines of insurance listed in Subsection
7162 (115).

7163 (117) "Limited lines producer" means a person who sells, solicits, or negotiates limited
7164 lines insurance.

7165 (118) (a) "Long-term care insurance" means an insurance policy or rider advertised,
7166 marketed, offered, or designated to provide coverage:

7167 (i) in a setting other than an acute care unit of a hospital;
7168 (ii) for not less than 12 consecutive months for a covered person on the basis of:

7169 (A) expenses incurred;

7170 (B) indemnity;

7171 (C) prepayment; or

7172 (D) another method;

7173 (iii) for one or more necessary or medically necessary services that are:

7174 (A) diagnostic;

7175 (B) preventative;

7176 (C) therapeutic;

7177 (D) rehabilitative;

7178 (E) maintenance; or

7179 (F) personal care; and

7180 (iv) that may be issued by:

7181 (A) an insurer;

7182 (B) a fraternal benefit society;

7183 (C) (I) a nonprofit health hospital; and

7184 (II) a medical service corporation;

7185 (D) a prepaid health plan;

- 7186 (E) a health maintenance organization; or
- 7187 (F) an entity similar to the entities described in Subsections (118)(a)(iv)(A) through (E)
- 7188 to the extent that the entity is otherwise authorized to issue life or health care insurance.
- 7189 (b) "Long-term care insurance" includes:
- 7190 (i) any of the following that provide directly or supplement long-term care insurance:
- 7191 (A) a group or individual annuity or rider; or
- 7192 (B) a life insurance policy or rider;
- 7193 (ii) a policy or rider that provides for payment of benefits on the basis of:
- 7194 (A) cognitive impairment; or
- 7195 (B) functional capacity; or
- 7196 (iii) a qualified long-term care insurance contract.
- 7197 (c) "Long-term care insurance" does not include:
- 7198 (i) a policy that is offered primarily to provide basic Medicare supplement coverage;
- 7199 (ii) basic hospital expense coverage;
- 7200 (iii) basic medical/surgical expense coverage;
- 7201 (iv) hospital confinement indemnity coverage;
- 7202 (v) major medical expense coverage;
- 7203 (vi) income replacement or related asset-protection coverage;
- 7204 (vii) accident only coverage;
- 7205 (viii) coverage for a specified:
- 7206 (A) disease; or
- 7207 (B) accident;
- 7208 (ix) limited benefit health coverage;
- 7209 (x) a life insurance policy that accelerates the death benefit to provide the option of a
- 7210 lump sum payment:
- 7211 (A) if the following are not conditioned on the receipt of long-term care:
- 7212 (I) benefits; or
- 7213 (II) eligibility; and
- 7214 (B) the coverage is for one or more the following qualifying events:
- 7215 (I) terminal illness;
- 7216 (II) medical conditions requiring extraordinary medical intervention; or

- 7217 (III) permanent institutional confinement; or
- 7218 (xi) limited long-term care as defined in Section [31A-22-2002](#).
- 7219 (119) "Managed care organization" means a person:
- 7220 (a) licensed as a health maintenance organization under Chapter 8, Health Maintenance
- 7221 Organizations and Limited Health Plans; or
- 7222 (b) (i) licensed under:
- 7223 (A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
- 7224 (B) Chapter 7, Nonprofit Health Service Insurance Corporations; or
- 7225 (C) Chapter 14, Foreign Insurers; and
- 7226 (ii) that requires an enrollee to use, or offers incentives, including financial incentives,
- 7227 for an enrollee to use, network providers.
- 7228 (120) "Medical malpractice insurance" means insurance against legal liability incident
- 7229 to the practice and provision of a medical service other than the practice and provision of a
- 7230 dental service.
- 7231 (121) "Member" means a person having membership rights in an insurance
- 7232 corporation.
- 7233 (122) "Minimum capital" or "minimum required capital" means the capital that must be
- 7234 constantly maintained by a stock insurance corporation as required by statute.
- 7235 (123) "Mortgage accident and health insurance" means insurance offered in connection
- 7236 with an extension of credit that provides indemnity for payments coming due on a mortgage
- 7237 while the debtor has a disability.
- 7238 (124) "Mortgage guaranty insurance" means surety insurance under which a mortgagee
- 7239 or other creditor is indemnified against losses caused by the default of a debtor.
- 7240 (125) "Mortgage life insurance" means insurance on the life of a debtor in connection
- 7241 with an extension of credit that pays if the debtor dies.
- 7242 (126) "Motor club" means a person:
- 7243 (a) licensed under:
- 7244 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
- 7245 (ii) Chapter 11, Motor Clubs; or
- 7246 (iii) Chapter 14, Foreign Insurers; and
- 7247 (b) that promises for an advance consideration to provide for a stated period of time

7248 one or more:

7249 (i) legal services under Subsection 31A-11-102(1)(b);

7250 (ii) bail services under Subsection 31A-11-102(1)(c); or

7251 (iii) (A) trip reimbursement;

7252 (B) towing services;

7253 (C) emergency road services;

7254 (D) stolen automobile services;

7255 (E) a combination of the services listed in Subsections (126)(b)(iii)(A) through (D); or

7256 (F) other services given in Subsections 31A-11-102(1)(b) through (f).

7257 (127) "Mutual" means a mutual insurance corporation.

7258 (128) "NAIC" means the National Association of Insurance Commissioners.

7259 (129) "NAIC liquidity stress test framework" means a NAIC publication that includes:

7260 (a) a history of the NAIC's development of regulatory liquidity stress testing;

7261 (b) the scope criteria applicable for a specific data year; and

7262 (c) the liquidity stress test instructions and reporting templates for a specific data year,

7263 as adopted by the NAIC and as amended by the NAIC in accordance with NAIC procedures.

7264 (130) "Network plan" means health care insurance:

7265 (a) that is issued by an insurer; and

7266 (b) under which the financing and delivery of medical care is provided, in whole or in
7267 part, through a defined set of providers under contract with the insurer, including the financing
7268 and delivery of an item paid for as medical care.

7269 (131) "Network provider" means a health care provider who has an agreement with a
7270 managed care organization to provide health care services to an enrollee with an expectation of
7271 receiving payment, other than coinsurance, copayments, or deductibles, directly from the
7272 managed care organization.

7273 (132) "Nonparticipating" means a plan of insurance under which the insured is not
7274 entitled to receive a dividend representing a share of the surplus of the insurer.

7275 (133) "Ocean marine insurance" means insurance against loss of or damage to:

7276 (a) ships or hulls of ships;

7277 (b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money,
7278 securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia

7279 interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

7280 (c) earnings such as freight, passage money, commissions, or profits derived from
7281 transporting goods or people upon or across the oceans or inland waterways; or

7282 (d) a vessel owner or operator as a result of liability to employees, passengers, bailors,
7283 owners of other vessels, owners of fixed objects, customs or other authorities, or other persons
7284 in connection with maritime activity.

7285 (134) "Order" means an order of the commissioner.

7286 (135) "ORSA guidance manual" means the current version of the Own Risk and
7287 Solvency Assessment Guidance Manual developed and adopted by the National Association of
7288 Insurance Commissioners and as amended from time to time.

7289 (136) "ORSA summary report" means a confidential high-level summary of an insurer
7290 or insurance group's own risk and solvency assessment.

7291 (137) "Outline of coverage" means a summary that explains an accident and health
7292 insurance policy.

7293 (138) "Own risk and solvency assessment" means an insurer or insurance group's
7294 confidential internal assessment:

7295 (a) (i) of each material and relevant risk associated with the insurer or insurance group;

7296 (ii) of the insurer or insurance group's current business plan to support each risk
7297 described in Subsection (138)(a)(i); and

7298 (iii) of the sufficiency of capital resources to support each risk described in Subsection
7299 (138)(a)(i); and

7300 (b) that is appropriate to the nature, scale, and complexity of an insurer or insurance
7301 group.

7302 (139) "Participating" means a plan of insurance under which the insured is entitled to
7303 receive a dividend representing a share of the surplus of the insurer.

7304 (140) "Participation," as used in a health benefit plan, means a requirement relating to
7305 the minimum percentage of eligible employees that must be enrolled in relation to the total
7306 number of eligible employees of an employer reduced by each eligible employee who
7307 voluntarily declines coverage under the plan because the employee:

7308 (a) has other group health care insurance coverage; or

7309 (b) receives:

- 7310 (i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social
7311 Security Amendments of 1965; or
7312 (ii) another government health benefit.
- 7313 (141) "Person" includes:
7314 (a) an individual;
7315 (b) a partnership;
7316 (c) a corporation;
7317 (d) an incorporated or unincorporated association;
7318 (e) a joint stock company;
7319 (f) a trust;
7320 (g) a limited liability company;
7321 (h) a reciprocal;
7322 (i) a syndicate; or
7323 (j) another similar entity or combination of entities acting in concert.
- 7324 (142) "Personal lines insurance" means property and casualty insurance coverage sold
7325 for primarily noncommercial purposes to:
7326 (a) an individual; or
7327 (b) a family.
- 7328 (143) "Plan sponsor" means the same as that term is defined in 29 U.S.C. Sec.
7329 1002(16)(B).
- 7330 (144) "Plan year" means:
7331 (a) the year that is designated as the plan year in:
7332 (i) the plan document of a group health plan; or
7333 (ii) a summary plan description of a group health plan;
7334 (b) if the plan document or summary plan description does not designate a plan year or
7335 there is no plan document or summary plan description:
7336 (i) the year used to determine deductibles or limits;
7337 (ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis;
7338 or
7339 (iii) the employer's taxable year if:
7340 (A) the plan does not impose deductibles or limits on a yearly basis; and

7341 (B) (I) the plan is not insured; or
7342 (II) the insurance policy is not renewed on an annual basis; or
7343 (c) in a case not described in Subsection (144)(a) or (b), the calendar year.
7344 (145) (a) "Policy" means a document, including an attached endorsement or application
7345 that:
7346 (i) purports to be an enforceable contract; and
7347 (ii) memorializes in writing some or all of the terms of an insurance contract.
7348 (b) "Policy" includes a service contract issued by:
7349 (i) a motor club under Chapter 11, Motor Clubs;
7350 (ii) a service contract provided under Chapter 6a, Service Contracts; and
7351 (iii) a corporation licensed under:
7352 (A) Chapter 7, Nonprofit Health Service Insurance Corporations; or
7353 (B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.
7354 (c) "Policy" does not include:
7355 (i) a certificate under a group insurance contract; or
7356 (ii) a document that does not purport to have legal effect.
7357 (146) "Policyholder" means a person who controls a policy, binder, or oral contract by
7358 ownership, premium payment, or otherwise.
7359 (147) "Policy illustration" means a presentation or depiction that includes
7360 nonguaranteed elements of a policy offering life insurance over a period of years.
7361 (148) "Policy summary" means a synopsis describing the elements of a life insurance
7362 policy.
7363 (149) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L. No.
7364 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and
7365 related federal regulations and guidance.
7366 (150) "Preexisting condition," with respect to health care insurance:
7367 (a) means a condition that was present before the effective date of coverage, whether or
7368 not medical advice, diagnosis, care, or treatment was recommended or received before that day;
7369 and
7370 (b) does not include a condition indicated by genetic information unless an actual
7371 diagnosis of the condition by a physician has been made.

- 7372 (151) (a) "Premium" means the monetary consideration for an insurance policy.
- 7373 (b) "Premium" includes, however designated:
- 7374 (i) an assessment;
- 7375 (ii) a membership fee;
- 7376 (iii) a required contribution; or
- 7377 (iv) monetary consideration.
- 7378 (c) (i) "Premium" does not include consideration paid to a third party administrator for
- 7379 the third party administrator's services.
- 7380 (ii) "Premium" includes an amount paid by a third party administrator to an insurer for
- 7381 insurance on the risks administered by the third party administrator.
- 7382 (152) "Principal officers" for a corporation means the officers designated under
- 7383 Subsection [31A-5-203\(3\)](#).
- 7384 (153) "Proceeding" includes an action or special statutory proceeding.
- 7385 (154) "Professional liability insurance" means insurance against legal liability incident
- 7386 to the practice of a profession and provision of a professional service.
- 7387 (155) (a) "Property insurance" means insurance against loss or damage to real or
- 7388 personal property of every kind and any interest in that property:
- 7389 (i) from all hazards or causes; and
- 7390 (ii) against loss consequential upon the loss or damage including vehicle
- 7391 comprehensive and vehicle physical damage coverages.
- 7392 (b) "Property insurance" does not include:
- 7393 (i) inland marine insurance; and
- 7394 (ii) ocean marine insurance.
- 7395 (156) "Qualified long-term care insurance contract" or "federally tax qualified
- 7396 long-term care insurance contract" means:
- 7397 (a) an individual or group insurance contract that meets the requirements of Section
- 7398 7702B(b), Internal Revenue Code; or
- 7399 (b) the portion of a life insurance contract that provides long-term care insurance:
- 7400 (i) (A) by rider; or
- 7401 (B) as a part of the contract; and
- 7402 (ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue

7403 Code.

7404 (157) "Qualified United States financial institution" means an institution that:

7405 (a) is:

7406 (i) organized under the laws of the United States or any state; or

7407 (ii) in the case of a United States office of a foreign banking organization, licensed
7408 under the laws of the United States or any state;

7409 (b) is regulated, supervised, and examined by a United States federal or state authority
7410 having regulatory authority over a bank or trust company; and

7411 (c) meets the standards of financial condition and standing that are considered
7412 necessary and appropriate to regulate the quality of a financial institution whose letters of credit
7413 will be acceptable to the commissioner as determined by:

7414 (i) the commissioner by rule; or

7415 (ii) the Securities Valuation Office of the National Association of Insurance

7416 Commissioners.

7417 (158) (a) "Rate" means:

7418 (i) the cost of a given unit of insurance; or

7419 (ii) for property or casualty insurance, that cost of insurance per exposure unit either
7420 expressed as:

7421 (A) a single number; or

7422 (B) a pure premium rate, adjusted before the application of individual risk variations
7423 based on loss or expense considerations to account for the treatment of:

7424 (I) expenses;

7425 (II) profit; and

7426 (III) individual insurer variation in loss experience.

7427 (b) "Rate" does not include a minimum premium.

7428 (159) (a) "Rate service organization" means a person who assists an insurer in rate
7429 making or filing by:

7430 (i) collecting, compiling, and furnishing loss or expense statistics;

7431 (ii) recommending, making, or filing rates or supplementary rate information; or

7432 (iii) advising about rate questions, except as an attorney giving legal advice.

7433 (b) "Rate service organization" does not include:

- 7434 (i) an employee of an insurer;
- 7435 (ii) a single insurer or group of insurers under common control;
- 7436 (iii) a joint underwriting group; or
- 7437 (iv) an individual serving as an actuarial or legal consultant.
- 7438 (160) "Rating manual" means any of the following used to determine initial and
- 7439 renewal policy premiums:
 - 7440 (a) a manual of rates;
 - 7441 (b) a classification;
 - 7442 (c) a rate-related underwriting rule; and
 - 7443 (d) a rating formula that describes steps, policies, and procedures for determining
 - 7444 initial and renewal policy premiums.
- 7445 (161) (a) "Rebate" means a licensee paying, allowing, giving, or offering to pay, allow,
- 7446 or give, directly or indirectly:
 - 7447 (i) a refund of premium or portion of premium;
 - 7448 (ii) a refund of commission or portion of commission;
 - 7449 (iii) a refund of all or a portion of a consultant fee; or
 - 7450 (iv) providing services or other benefits not specified in an insurance or annuity
 - 7451 contract.
- 7452 (b) "Rebate" does not include:
 - 7453 (i) a refund due to termination or changes in coverage;
 - 7454 (ii) a refund due to overcharges made in error by the licensee; or
 - 7455 (iii) savings or wellness benefits as provided in the contract by the licensee.
- 7456 (162) "Received by the department" means:
 - 7457 (a) the date delivered to and stamped received by the department, if delivered in
 - 7458 person;
 - 7459 (b) the post mark date, if delivered by mail;
 - 7460 (c) the delivery service's post mark or pickup date, if delivered by a delivery service;
 - 7461 (d) the received date recorded on an item delivered, if delivered by:
 - 7462 (i) facsimile;
 - 7463 (ii) email; or
 - 7464 (iii) another electronic method; or

7465 (e) a date specified in:

7466 (i) a statute;

7467 (ii) a rule; or

7468 (iii) an order.

7469 (163) "Reciprocal" or "interinsurance exchange" means an unincorporated association
7470 of persons:

7471 (a) operating through an attorney-in-fact common to all of the persons; and

7472 (b) exchanging insurance contracts with one another that provide insurance coverage
7473 on each other.

7474 (164) "Reinsurance" means an insurance transaction where an insurer, for
7475 consideration, transfers any portion of the risk it has assumed to another insurer. In referring to
7476 reinsurance transactions, this title sometimes refers to:

7477 (a) the insurer transferring the risk as the "ceding insurer"; and

7478 (b) the insurer assuming the risk as the:

7479 (i) "assuming insurer"; or

7480 (ii) "assuming reinsurer."

7481 (165) "Reinsurer" means a person licensed in this state as an insurer with the authority
7482 to assume reinsurance.

7483 (166) "Residential dwelling liability insurance" means insurance against liability
7484 resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is
7485 a detached single family residence or multifamily residence up to four units.

7486 (167) (a) "Retrocession" means reinsurance with another insurer of a liability assumed
7487 under a reinsurance contract.

7488 (b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a
7489 liability assumed under a reinsurance contract.

7490 (168) "Rider" means an endorsement to:

7491 (a) an insurance policy; or

7492 (b) an insurance certificate.

7493 (169) "Scope criteria" means the designated exposure bases and minimum magnitudes
7494 for a specified data year that are used to establish a preliminary list of insurers considered
7495 scoped into the NAIC liquidity stress test framework for that data year.

7496 (170) "Secondary medical condition" means a complication related to an exclusion
7497 from coverage in accident and health insurance.

7498 (171) (a) "Security" means a:

7499 (i) note;

7500 (ii) stock;

7501 (iii) bond;

7502 (iv) debenture;

7503 (v) evidence of indebtedness;

7504 (vi) certificate of interest or participation in a profit-sharing agreement;

7505 (vii) collateral-trust certificate;

7506 (viii) preorganization certificate or subscription;

7507 (ix) transferable share;

7508 (x) investment contract;

7509 (xi) voting trust certificate;

7510 (xii) certificate of deposit for a security;

7511 (xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in
7512 payments out of production under such a title or lease;

7513 (xiv) commodity contract or commodity option;

7514 (xv) certificate of interest or participation in, temporary or interim certificate for,
7515 receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed
7516 in Subsections (171)(a)(i) through (xiv); or

7517 (xvi) another interest or instrument commonly known as a security.

7518 (b) "Security" does not include:

7519 (i) any of the following under which an insurance company promises to pay money in a
7520 specific lump sum or periodically for life or some other specified period:

7521 (A) insurance;

7522 (B) an endowment policy; or

7523 (C) an annuity contract; or

7524 (ii) a burial certificate or burial contract.

7525 (172) "Securityholder" means a specified person who owns a security of a person,
7526 including:

7527 (a) common stock;
7528 (b) preferred stock;
7529 (c) debt obligations; and
7530 (d) any other security convertible into or evidencing the right of any of the items listed
7531 in this Subsection (172).

7532 (173) (a) "Self-insurance" means an arrangement under which a person provides for
7533 spreading the person's own risks by a systematic plan.

7534 (b) "Self-insurance" includes:

7535 (i) an arrangement under which a governmental entity undertakes to indemnify an
7536 employee for liability arising out of the employee's employment; and

7537 (ii) an arrangement under which a person with a managed program of self-insurance
7538 and risk management undertakes to indemnify the person's affiliate, subsidiary, director,
7539 officer, or employee for liability or risk that arises out of the person's relationship with the
7540 affiliate, subsidiary, director, officer, or employee.

7541 (c) "Self-insurance" does not include:

7542 (i) an arrangement under which a number of persons spread their risks among
7543 themselves; or

7544 (ii) an arrangement with an independent contractor.

7545 (174) "Sell" means to exchange a contract of insurance:

7546 (a) by any means;

7547 (b) for money or its equivalent; and

7548 (c) on behalf of an insurance company.

7549 (175) "Short-term limited duration health insurance" means a health benefit product
7550 that:

7551 (a) after taking into account any renewals or extensions, has a total duration of no more
7552 than 36 months; and

7553 (b) has an expiration date specified in the contract that is less than 12 months after the
7554 original effective date of coverage under the health benefit product.

7555 (176) "Significant break in coverage" means a period of 63 consecutive days during
7556 each of which an individual does not have creditable coverage.

7557 (177) (a) "Small employer" means, in connection with a health benefit plan and with

7558 respect to a calendar year and to a plan year, an employer who:

7559 (i) (A) employed at least one but not more than 50 eligible employees on business days
7560 during the preceding calendar year; or

7561 (B) if the employer did not exist for the entirety of the preceding calendar year,
7562 reasonably expects to employ an average of at least one but not more than 50 eligible
7563 employees on business days during the current calendar year;

7564 (ii) employs at least one employee on the first day of the plan year; and

7565 (iii) for an employer who has common ownership with one or more other employers, is
7566 treated as a single employer under 26 U.S.C. Sec. 414(b), (c), (m), or (o).

7567 (b) "Small employer" does not include an owner or a sole proprietor that does not
7568 employ at least one employee.

7569 (178) "Special enrollment period," in connection with a health benefit plan, has the
7570 same meaning as provided in federal regulations adopted pursuant to the Health Insurance
7571 Portability and Accountability Act.

7572 (179) (a) "Subsidiary" of a person means an affiliate controlled by that person either
7573 directly or indirectly through one or more affiliates or intermediaries.

7574 (b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting
7575 shares are owned by that person either alone or with its affiliates, except for the minimum
7576 number of shares the law of the subsidiary's domicile requires to be owned by directors or
7577 others.

7578 (180) Subject to Subsection (92)(b), "surety insurance" includes:

7579 (a) a guarantee against loss or damage resulting from the failure of a principal to pay or
7580 perform the principal's obligations to a creditor or other obligee;

7581 (b) bail bond insurance; and

7582 (c) fidelity insurance.

7583 (181) (a) "Surplus" means the excess of assets over the sum of paid-in capital and
7584 liabilities.

7585 (b) (i) "Permanent surplus" means the surplus of an insurer or organization that is
7586 designated by the insurer or organization as permanent.

7587 (ii) Sections [31A-5-211](#), [31A-7-201](#), [31A-8-209](#), [31A-9-209](#), and [31A-14-205](#) require
7588 that insurers or organizations doing business in this state maintain specified minimum levels of

7589 permanent surplus.

7590 (iii) Except for assessable mutuals, the minimum permanent surplus requirement is the
7591 same as the minimum required capital requirement that applies to stock insurers.

7592 (c) "Excess surplus" means:

7593 (i) for a life insurer, accident and health insurer, health organization, or property and
7594 casualty insurer as defined in Section 31A-17-601, the lesser of:

7595 (A) that amount of an insurer's or health organization's total adjusted capital that
7596 exceeds the product of:

7597 (I) 2.5; and

7598 (II) the sum of the insurer's or health organization's minimum capital or permanent
7599 surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

7600 (B) that amount of an insurer's or health organization's total adjusted capital that
7601 exceeds the product of:

7602 (I) 3.0; and

7603 (II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

7604 (ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer
7605 that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

7606 (A) 1.5; and

7607 (B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

7608 (182) "Third party administrator" or "administrator" means a person who collects
7609 charges or premiums from, or who, for consideration, adjusts or settles claims of residents of
7610 the state in connection with insurance coverage, annuities, or service insurance coverage,
7611 except:

7612 (a) a union on behalf of its members;

7613 (b) a person administering a:

7614 (i) pension plan subject to the federal Employee Retirement Income Security Act of
7615 1974;

7616 (ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

7617 (iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

7618 (c) an employer on behalf of the employer's employees or the employees of one or
7619 more of the subsidiary or affiliated corporations of the employer;

7620 (d) an insurer licensed under the following, but only for a line of insurance for which
7621 the insurer holds a license in this state:

7622 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

7623 (ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

7624 (iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

7625 (iv) Chapter 9, Insurance Fraternal; or

7626 (v) Chapter 14, Foreign Insurers;

7627 (e) a person:

7628 (i) licensed or exempt from licensing under:

7629 (A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and

7630 Reinsurance Intermediaries; or

7631 (B) Chapter 26, Insurance Adjusters; and

7632 (ii) whose activities are limited to those authorized under the license the person holds
7633 or for which the person is exempt; or

7634 (f) an institution, bank, or financial institution:

7635 (i) that is:

7636 (A) an institution whose deposits and accounts are to any extent insured by a federal
7637 deposit insurance agency, including the Federal Deposit Insurance Corporation or National
7638 Credit Union Administration; or

7639 (B) a bank or other financial institution that is subject to supervision or examination by
7640 a federal or state banking authority; and

7641 (ii) that does not adjust claims without a third party administrator license.

7642 (183) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner
7643 of real or personal property or the holder of liens or encumbrances on that property, or others
7644 interested in the property against loss or damage suffered by reason of liens or encumbrances
7645 upon, defects in, or the unmarketability of the title to the property, or invalidity or
7646 unenforceability of any liens or encumbrances on the property.

7647 (184) "Total adjusted capital" means the sum of an insurer's or health organization's
7648 statutory capital and surplus as determined in accordance with:

7649 (a) the statutory accounting applicable to the annual financial statements required to be
7650 filed under Section [31A-4-113](#); and

7651 (b) another item provided by the RBC instructions, as RBC instructions is defined in
7652 Section 31A-17-601.

7653 (185) (a) "Trustee" means "director" when referring to the board of directors of a
7654 corporation.

7655 (b) "Trustee," when used in reference to an employee welfare fund, means an
7656 individual, firm, association, organization, joint stock company, or corporation, whether acting
7657 individually or jointly and whether designated by that name or any other, that is charged with
7658 or has the overall management of an employee welfare fund.

7659 (186) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer"
7660 means an insurer:

7661 (i) not holding a valid certificate of authority to do an insurance business in this state;

7662 or

7663 (ii) transacting business not authorized by a valid certificate.

7664 (b) "Admitted insurer" or "authorized insurer" means an insurer:

7665 (i) holding a valid certificate of authority to do an insurance business in this state; and

7666 (ii) transacting business as authorized by a valid certificate.

7667 (187) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

7668 (188) "Vehicle liability insurance" means insurance against liability resulting from or
7669 incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle
7670 comprehensive or vehicle physical damage coverage described in Subsection (155).

7671 (189) "Voting security" means a security with voting rights, and includes a security
7672 convertible into a security with a voting right associated with the security.

7673 (190) "Waiting period" for a health benefit plan means the period that must pass before
7674 coverage for an individual, who is otherwise eligible to enroll under the terms of the health
7675 benefit plan, can become effective.

7676 (191) "Workers' compensation insurance" means:

7677 (a) insurance for indemnification of an employer against liability for compensation
7678 based on:

7679 (i) a compensable accidental injury; and

7680 (ii) occupational disease disability;

7681 (b) employer's liability insurance incidental to workers' compensation insurance and

7682 written in connection with workers' compensation insurance; and

7683 (c) insurance assuring to a person entitled to workers' compensation benefits the
7684 compensation provided by law.

7685 Section 92. Section **31A-4-106** is amended to read:

7686 **31A-4-106. Provision of health care.**

7687 (1) As used in this section, "health care provider" has the same definition as in Section
7688 [78B-3-403](#).

7689 (2) Except under Subsection (3) or (4), unless authorized to do so or employed by
7690 someone authorized to do so under Chapter 5, Domestic Stock and Mutual Insurance
7691 Corporations, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health
7692 Maintenance Organizations and Limited Health Plans, Chapter 9, Insurance Fraternal, or
7693 Chapter 14, Foreign Insurers, a person may not:

7694 (a) directly or indirectly provide health care;

7695 (b) arrange for health care;

7696 (c) manage or administer the provision or arrangement of health care;

7697 (d) collect advance payments for health care; or

7698 (e) compensate a provider of health care.

7699 (3) Subsection (2) does not apply to:

7700 (a) a natural person or professional corporation that alone or with others professionally
7701 associated with the natural person or professional corporation, and except as provided in
7702 Subsection (3)(e), without receiving consideration for services in advance of the need for a
7703 particular service, provides the service personally with the aid of nonprofessional assistants;

7704 (b) a health care facility as defined in Section ~~[26-21-2]~~ [26B-2-201](#) that:

7705 (i) is licensed or exempt from licensing under ~~[Title 26, Chapter 21, Health Care~~
7706 ~~Facility Licensing and Inspection Act]~~ Title 26B, Chapter 2, Part 2, Health Care Facility
7707 Licensing and Inspection; and

7708 (ii) does not engage in health care insurance as defined under Section [31A-1-301](#);

7709 (c) a person who files with the commissioner a certificate from the United States
7710 Department of Labor, or other evidence satisfactory to the commissioner, showing that the laws
7711 of Utah are preempted under Section 514 of the Employee Retirement Income Security Act of
7712 1974 or other federal law;

7713 (d) a person licensed under Chapter 23a, Insurance Marketing - Licensing Producers,
7714 Consultants, and Reinsurance Intermediaries, who arranges for the insurance of all services
7715 under:

7716 (i) Subsection (2) by an insurer authorized to do business in Utah; or

7717 (ii) Section [31A-15-103](#); or

7718 (e) notwithstanding the provisions of Subsection (3)(a), a natural person or
7719 professional corporation that alone or with others professionally associated with the natural
7720 person or professional corporation enters into a medical retainer agreement in accordance with
7721 Section [31A-4-106.5](#).

7722 (4) A person may not provide administrative or management services for another
7723 person subject to Subsection (2) and not exempt under Subsection (3) unless the person:

7724 (a) is an authorized insurer under Chapter 5, Domestic Stock and Mutual Insurance
7725 Corporations, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health
7726 Maintenance Organizations and Limited Health Plans, Chapter 9, Insurance Fraternal, or
7727 Chapter 14, Foreign Insurers; or

7728 (b) complies with Chapter 25, Third Party Administrators.

7729 (5) An insurer or person who provides, administers, or manages health care insurance
7730 under Chapter 5, Domestic Stock and Mutual Insurance Corporations, Chapter 7, Nonprofit
7731 Health Service Insurance Corporations, Chapter 8, Health Maintenance Organizations and
7732 Limited Health Plans, Chapter 9, Insurance Fraternal, or Chapter 14, Foreign Insurers, may not
7733 enter into a contract that limits a health care provider's ability to advise the health care
7734 provider's patients or clients fully about treatment options or other issues that affect the health
7735 care of the health care provider's patients or clients.

7736 Section 93. Section [31A-4-107.5](#) is amended to read:

7737 **31A-4-107.5. Penalty for failure of a regulated health insurance entity to fulfill**
7738 **duties related to state claims for Medicaid payment or recovery.**

7739 (1) For purposes of this section, "regulated health insurance entity" means a health
7740 insurance entity, as defined in Section [~~26-19-102~~] [26B-3-1001](#), that is subject to regulation by
7741 the department.

7742 (2) If a regulated health insurance entity fails to comply with the provisions of Section
7743 [~~26-19-301~~] [26B-3-1004](#):

7744 (a) the commissioner may revoke or suspend, in whole or in part, a license, certificate
7745 of authority, registration, or other authority that is granted by the commissioner to the regulated
7746 health insurance entity; and

7747 (b) the regulated health insurance entity is subject to the penalties and procedures
7748 provided for in Section 31A-2-308.

7749 Section 94. Section 31A-8-104 is amended to read:

7750 **31A-8-104. Determination of ability to provide services.**

7751 (1) The commissioner may not issue a certificate of authority to an applicant for a
7752 certificate of authority under this chapter unless the applicant demonstrates to the
7753 commissioner that the applicant has:

7754 (a) the willingness and potential ability to furnish the proposed health care services in a
7755 manner to assure both availability and accessibility of adequate personnel and facilities and
7756 continuity of service; and

7757 (b) arrangements for an ongoing quality of health care assurance program concerning
7758 health care processes and outcomes.

7759 (2) (a) In accordance with Sections 31A-2-203 and 31A-2-204, the commissioner may
7760 order an independent audit or examination by one or more technical experts to determine an
7761 applicant's ability to provide the proposed health care services as described in Subsection (1).

7762 (b) In accordance with Section 31A-2-205, an applicant shall reimburse the
7763 commissioner for the reasonable cost of an independent audit or examination.

7764 (3) Licensing under this chapter does not exempt an organization from any licensing
7765 requirement applicable under [~~Title 26, Chapter 21, Health Care Facility Licensing and~~
7766 ~~Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

7767 Section 95. Section 31A-15-103 is amended to read:

7768 **31A-15-103. Surplus lines insurance -- Unauthorized insurers.**

7769 (1) Notwithstanding Section 31A-15-102, when this state is the home state as defined
7770 in Section 31A-3-305, a nonadmitted insurer may make an insurance contract for coverage of a
7771 person in this state and on a risk located in this state, subject to the limitations and
7772 requirements of this section.

7773 (2) (a) For a contract made under this section, the insurer may, in this state:

7774 (i) inspect the risks to be insured;

- 7775 (ii) collect premiums;
- 7776 (iii) adjust losses; and
- 7777 (iv) do another act reasonably incidental to the contract.
- 7778 (b) An act described in Subsection (2)(a) may be done through:
- 7779 (i) an employee; or
- 7780 (ii) an independent contractor.
- 7781 (3) (a) Subsections (1) and (2) do not permit a person to solicit business in this state on
- 7782 behalf of an insurer that has no certificate of authority.
- 7783 (b) Insurance placed with a nonadmitted insurer shall be placed by a surplus lines
- 7784 producer licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants,
- 7785 and Reinsurance Intermediaries.
- 7786 (c) The commissioner may by rule prescribe how a surplus lines producer may:
- 7787 (i) pay or permit the payment, commission, or other remuneration on insurance placed
- 7788 by the surplus lines producer under authority of the surplus lines producer's license to one
- 7789 holding a license to act as an insurance producer; and
- 7790 (ii) advertise the availability of the surplus lines producer's services in procuring, on
- 7791 behalf of a person seeking insurance, a contract with a nonadmitted insurer.
- 7792 (4) For a contract made under this section, a nonadmitted insurer is subject to Sections
- 7793 [31A-23a-402](#), [31A-23a-402.5](#), and [31A-23a-403](#) and the rules adopted under those sections.
- 7794 (5) A nonadmitted insurer may not issue workers' compensation insurance coverage to
- 7795 an employer located in this state, except:
- 7796 (a) for stop loss coverage issued to an employer securing workers' compensation under
- 7797 Subsection [34A-2-201\(2\)](#);
- 7798 (b) a cannabis production establishment as defined in Section [4-41a-102](#); or
- 7799 (c) a medical cannabis pharmacy as defined in Section [~~26-61a-102~~] [26B-4-201](#).
- 7800 (6) (a) The commissioner may by rule prohibit making a contract under Subsection (1)
- 7801 for a specified class of insurance if authorized insurers provide an established market for the
- 7802 class in this state that is adequate and reasonably competitive.
- 7803 (b) The commissioner may by rule place a restriction or a limitation on and create
- 7804 special procedures for making a contract under Subsection (1) for a specified class of insurance
- 7805 if:

- 7806 (i) there have been abuses of placements in the class; or
7807 (ii) the policyholders in the class, because of limited financial resources, business
7808 experience, or knowledge, cannot protect their own interests adequately.
- 7809 (c) The commissioner may prohibit an individual insurer from making a contract under
7810 Subsection (1) and all insurance producers from dealing with the insurer if:
- 7811 (i) the insurer willfully violates:
- 7812 (A) this section;
- 7813 (B) Section [31A-4-102](#), [31A-23a-402](#), [31A-23a-402.5](#), or [31A-26-303](#); or
- 7814 (C) a rule adopted under a section listed in Subsection (6)(c)(i)(A) or (B);
- 7815 (ii) the insurer fails to pay the fees and taxes specified under Section [31A-3-301](#); or
- 7816 (iii) the commissioner has reason to believe that the insurer is:
- 7817 (A) in an unsound condition;
- 7818 (B) operated in a fraudulent, dishonest, or incompetent manner; or
- 7819 (C) in violation of the law of its domicile.
- 7820 (d) (i) The commissioner may issue one or more lists of nonadmitted foreign insurers
7821 whose:
- 7822 (A) solidity the commissioner doubts; or
- 7823 (B) practices the commissioner considers objectionable.
- 7824 (ii) The commissioner shall issue one or more lists of nonadmitted foreign insurers the
7825 commissioner considers to be reliable and solid.
- 7826 (iii) In addition to the lists described in Subsections (6)(d)(i) and (ii), the commissioner
7827 may issue other relevant evaluations of nonadmitted insurers.
- 7828 (iv) An action may not lie against the commissioner or an employee of the department
7829 for a written or oral communication made in, or in connection with the issuance of, a list or
7830 evaluation described in this Subsection (6)(d).
- 7831 (e) A foreign nonadmitted insurer shall be listed on the commissioner's "reliable" list
7832 only if the nonadmitted insurer:
- 7833 (i) delivers a request to the commissioner to be on the list;
- 7834 (ii) establishes satisfactory evidence of good reputation and financial integrity;
- 7835 (iii) (A) delivers to the commissioner a copy of the nonadmitted insurer's current
7836 annual statement certified by the insurer and, each subsequent year, delivers to the

7837 commissioner a copy of the nonadmitted insurer's annual statement within 60 days after the day
7838 on which the nonadmitted insurer files the annual statement with the insurance regulatory
7839 authority where the nonadmitted insurer is domiciled; or

7840 (B) files the nonadmitted insurer's annual statements with the National Association of
7841 Insurance Commissioners and the nonadmitted insurer's annual statements are available
7842 electronically from the National Association of Insurance Commissioners;

7843 (iv) (A) is in substantial compliance with the solvency standards in Chapter 17, Part 6,
7844 Risk-Based Capital, or maintains capital and surplus of at least \$15,000,000, whichever is
7845 greater; or

7846 (B) in the case of any "Lloyd's" or other similar incorporated or unincorporated group
7847 of alien individual insurers, maintains a trust fund that:

7848 (I) shall be in an amount not less than \$50,000,000 as security to its full amount for all
7849 policyholders and creditors in the United States of each member of the group;

7850 (II) may consist of cash, securities, or investments of substantially the same character
7851 and quality as those which are "qualified assets" under Section 31A-17-201; and

7852 (III) may include as part of this trust arrangement a letter of credit that qualifies as
7853 acceptable security under Section 31A-17-404.1; and

7854 (v) for an alien insurer not domiciled in the United States or a territory of the United
7855 States, is listed on the Quarterly Listing of Alien Insurers maintained by the National
7856 Association of Insurance Commissioners International Insurers Department.

7857 (7) (a) Subject to Subsection (7)(b), a surplus lines producer may not, either knowingly
7858 or without reasonable investigation of the financial condition and general reputation of the
7859 insurer, place insurance under this section with:

- 7860 (i) a financially unsound insurer;
- 7861 (ii) an insurer engaging in unfair practices; or
- 7862 (iii) an otherwise substandard insurer.

7863 (b) A surplus line producer may place insurance under this section with an insurer
7864 described in Subsection (7)(a) if the surplus line producer:

- 7865 (i) gives the applicant notice in writing of the known deficiencies of the insurer or the
7866 limitations on the surplus line producer's investigation; and
- 7867 (ii) explains the need to place the business with that insurer.

7868 (c) A copy of the notice described in Subsection (7)(b) shall be kept in the office of the
7869 surplus line producer for at least five years.

7870 (d) To be financially sound, an insurer shall satisfy standards that are comparable to
7871 those applied under the laws of this state to an authorized insurer.

7872 (e) An insurer on the "doubtful or objectionable" list under Subsection (6)(d) or an
7873 insurer not on the commissioner's "reliable" list under Subsection (6)(e) is presumed
7874 substandard.

7875 (8) (a) A policy issued under this section shall:

7876 (i) include a description of the subject of the insurance; and

7877 (ii) indicate:

7878 (A) the coverage, conditions, and term of the insurance;

7879 (B) the premium charged the policyholder;

7880 (C) the premium taxes to be collected from the policyholder; and

7881 (D) the name and address of the policyholder and insurer.

7882 (b) If the direct risk is assumed by more than one insurer, the policy shall state:

7883 (i) the names and addresses of all insurers; and

7884 (ii) the portion of the entire direct risk each assumes.

7885 (c) A policy issued under this section shall have attached or affixed to the policy the
7886 following statement: "The insurer issuing this policy does not hold a certificate of authority to
7887 do business in this state and thus is not fully subject to regulation by the Utah insurance
7888 commissioner. This policy receives no protection from any of the guaranty associations created
7889 under Title 31A, Chapter 28, Guaranty Associations."

7890 (9) Upon placing a new or renewal coverage under this section, a surplus lines
7891 producer shall promptly deliver to the policyholder or the policyholder's agent evidence of the
7892 insurance consisting either of:

7893 (a) the policy as issued by the insurer; or

7894 (b) if the policy is not available upon placing the coverage, a certificate, cover note, or
7895 other confirmation of insurance complying with Subsection (8).

7896 (10) If the commissioner finds it necessary to protect the interests of insureds and the
7897 public in this state, the commissioner may by rule subject a policy issued under this section to
7898 as much of the regulation provided by this title as is required for a comparable policy written

7899 by an authorized foreign insurer.

7900 (11) (a) A surplus lines transaction in this state shall be examined to determine whether
7901 it complies with:

7902 (i) the surplus lines tax levied under Chapter 3, Department Funding, Fees, and Taxes;

7903 (ii) the solicitation limitations of Subsection (3);

7904 (iii) the requirement of Subsection (3) that placement be through a surplus lines
7905 producer;

7906 (iv) placement limitations imposed under Subsections (6)(a), (b), and (c); and

7907 (v) the policy form requirements of Subsections (8) and (10).

7908 (b) The examination described in Subsection (11)(a) shall take place as soon as
7909 practicable after the transaction. The surplus lines producer shall submit to the examiner
7910 information necessary to conduct the examination within a period specified by rule.

7911 (c) (i) The examination described in Subsection (11)(a) may be conducted by the
7912 commissioner or by an advisory organization created under Section [31A-15-111](#) and authorized
7913 by the commissioner to conduct these examinations. The commissioner is not required to
7914 authorize an additional advisory organization to conduct an examination under this Subsection
7915 (11)(c).

7916 (ii) The commissioner's authorization of one or more advisory organizations to act as
7917 examiners under this Subsection (11)(c) shall be:

7918 (A) by rule; and

7919 (B) evidenced by a contract, on a form provided by the commissioner, between the
7920 authorized advisory organization and the department.

7921 (d) (i) (A) A person conducting the examination described in Subsection (11)(a) shall
7922 collect a stamping fee of an amount not to exceed 1% of the policy premium payable in
7923 connection with the transaction.

7924 (B) A stamping fee collected by the commissioner shall be deposited in the General
7925 Fund.

7926 (C) The commissioner shall establish a stamping fee by rule.

7927 (ii) A stamping fee collected by an advisory organization is the property of the advisory
7928 organization to be used in paying the expenses of the advisory organization.

7929 (iii) Liability for paying a stamping fee is as required under Subsection [31A-3-303\(1\)](#)

7930 for taxes imposed under Section 31A-3-301.

7931 (iv) The commissioner shall adopt a rule dealing with the payment of stamping fees. If
7932 a stamping fee is not paid when due, the commissioner or advisory organization may impose a
7933 penalty of 25% of the stamping fee due, plus 1-1/2% per month from the time of default until
7934 full payment of the stamping fee.

7935 (e) The commissioner, representatives of the department, advisory organizations,
7936 representatives and members of advisory organizations, authorized insurers, and surplus lines
7937 insurers are not liable for damages on account of statements, comments, or recommendations
7938 made in good faith in connection with their duties under this Subsection (11)(e) or under
7939 Section 31A-15-111.

7940 (f) An examination conducted under this Subsection (11) and a document or materials
7941 related to the examination are confidential.

7942 (12) (a) For a surplus lines insurance transaction in the state entered into on or after
7943 May 13, 2014, if an audit is required by the surplus lines insurance policy, a surplus lines
7944 insurer:

7945 (i) shall exercise due diligence to initiate an audit of an insured, to determine whether
7946 additional premium is owed by the insured, by no later than six months after the expiration of
7947 the term for which premium is paid; and

7948 (ii) may not audit an insured more than three years after the surplus lines insurance
7949 policy expires.

7950 (b) A surplus lines insurer that does not comply with this Subsection (12) may not
7951 charge or collect additional premium in excess of the premium agreed to under the surplus
7952 lines insurance policy.

7953 Section 96. Section 31A-22-305 is amended to read:

7954 **31A-22-305. Uninsured motorist coverage.**

7955 (1) As used in this section, "covered persons" includes:

7956 (a) the named insured;

7957 (b) for a claim arising on or after May 13, 2014, the named insured's dependent minor
7958 children;

7959 (c) persons related to the named insured by blood, marriage, adoption, or guardianship,
7960 who are residents of the named insured's household, including those who usually make their

7961 home in the same household but temporarily live elsewhere;

7962 (d) any person occupying or using a motor vehicle:

7963 (i) referred to in the policy; or

7964 (ii) owned by a self-insured; and

7965 (e) any person who is entitled to recover damages against the owner or operator of the
7966 uninsured or underinsured motor vehicle because of bodily injury to or death of persons under
7967 Subsection (1)(a), (b), (c), or (d).

7968 (2) As used in this section, "uninsured motor vehicle" includes:

7969 (a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered
7970 under a liability policy at the time of an injury-causing occurrence; or

7971 (ii) (A) a motor vehicle covered with lower liability limits than required by Section
7972 [31A-22-304](#); and

7973 (B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of
7974 the deficiency;

7975 (b) an unidentified motor vehicle that left the scene of an accident proximately caused
7976 by the motor vehicle operator;

7977 (c) a motor vehicle covered by a liability policy, but coverage for an accident is
7978 disputed by the liability insurer for more than 60 days or continues to be disputed for more than
7979 60 days; or

7980 (d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of
7981 the motor vehicle is declared insolvent by a court of competent jurisdiction; and

7982 (ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent
7983 that the claim against the insolvent insurer is not paid by a guaranty association or fund.

7984 (3) Uninsured motorist coverage under Subsection [31A-22-302\(1\)\(b\)](#) provides
7985 coverage for covered persons who are legally entitled to recover damages from owners or
7986 operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

7987 (4) (a) For new policies written on or after January 1, 2001, the limits of uninsured
7988 motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle
7989 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
7990 under the named insured's motor vehicle policy, unless a named insured rejects or purchases
7991 coverage in a lesser amount by signing an acknowledgment form that:

- 7992 (i) is filed with the department;
- 7993 (ii) is provided by the insurer;
- 7994 (iii) waives the higher coverage;
- 7995 (iv) need only state in this or similar language that uninsured motorist coverage
- 7996 provides benefits or protection to you and other covered persons for bodily injury resulting
- 7997 from an accident caused by the fault of another party where the other party has no liability
- 7998 insurance; and
- 7999 (v) discloses the additional premiums required to purchase uninsured motorist
- 8000 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
- 8001 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
- 8002 under the named insured's motor vehicle policy.
- 8003 (b) Any selection or rejection under this Subsection (4) continues for that issuer of the
- 8004 liability coverage until the insured requests, in writing, a change of uninsured motorist
- 8005 coverage from that liability insurer.
- 8006 (c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after
- 8007 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for
- 8008 arbitration or filed a complaint in a court of competent jurisdiction.
- 8009 (ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b)
- 8010 clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.
- 8011 (d) For purposes of this Subsection (4), "new policy" means:
- 8012 (i) any policy that is issued which does not include a renewal or reinstatement of an
- 8013 existing policy; or
- 8014 (ii) a change to an existing policy that results in:
- 8015 (A) a named insured being added to or deleted from the policy; or
- 8016 (B) a change in the limits of the named insured's motor vehicle liability coverage.
- 8017 (e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change
- 8018 that increases the total number of vehicles insured by the policy, and does not include
- 8019 replacement, substitute, or temporary vehicles.
- 8020 (ii) The adding of an additional motor vehicle to an existing personal lines or
- 8021 commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).
- 8022 (iii) If an additional motor vehicle is added to a personal lines policy where uninsured

8023 motorist coverage has been rejected, or where uninsured motorist limits are lower than the
8024 named insured's motor vehicle liability limits, the insurer shall provide a notice to a named
8025 insured within 30 days that:

8026 (A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of
8027 uninsured motorist coverage; and

8028 (B) encourages the named insured to contact the insurance company or insurance
8029 producer for quotes as to the additional premiums required to purchase uninsured motorist
8030 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
8031 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
8032 under the named insured's motor vehicle policy.

8033 (f) A change in policy number resulting from any policy change not identified under
8034 Subsection (4)(d)(ii) does not constitute a new policy.

8035 (g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1,
8036 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration
8037 or filed a complaint in a court of competent jurisdiction.

8038 (ii) The Legislature finds that the retroactive application of Subsection (4):

8039 (A) does not enlarge, eliminate, or destroy vested rights; and

8040 (B) clarifies legislative intent.

8041 (h) A self-insured, including a governmental entity, may elect to provide uninsured
8042 motorist coverage in an amount that is less than its maximum self-insured retention under
8043 Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from
8044 the chief financial officer or chief risk officer that declares the:

8045 (i) self-insured entity's coverage level; and

8046 (ii) process for filing an uninsured motorist claim.

8047 (i) Uninsured motorist coverage may not be sold with limits that are less than the
8048 minimum bodily injury limits for motor vehicle liability policies under Section [31A-22-304](#).

8049 (j) The acknowledgment under Subsection (4)(a) continues for that issuer of the
8050 uninsured motorist coverage until the named insured requests, in writing, different uninsured
8051 motorist coverage from the insurer.

8052 (k) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for
8053 policies existing on that date, the insurer shall disclose in the same medium as the premium

8054 renewal notice, an explanation of:

8055 (A) the purpose of uninsured motorist coverage in the same manner as described in
8056 Subsection (4)(a)(iv); and

8057 (B) a disclosure of the additional premiums required to purchase uninsured motorist
8058 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
8059 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
8060 under the named insured's motor vehicle policy.

8061 (ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named
8062 insureds that carry uninsured motorist coverage limits in an amount less than the named
8063 insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage
8064 limits available by the insurer under the named insured's motor vehicle policy.

8065 (1) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in
8066 a household constitutes notice or disclosure to all insureds within the household.

8067 (5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject
8068 uninsured motorist coverage by an express writing to the insurer that provides liability
8069 coverage under Subsection [31A-22-302\(1\)\(a\)](#).

8070 (ii) This rejection shall be on a form provided by the insurer that includes a reasonable
8071 explanation of the purpose of uninsured motorist coverage.

8072 (iii) This rejection continues for that issuer of the liability coverage until the insured in
8073 writing requests uninsured motorist coverage from that liability insurer.

8074 (b) (i) All persons, including governmental entities, that are engaged in the business of,
8075 or that accept payment for, transporting natural persons by motor vehicle, and all school
8076 districts that provide transportation services for their students, shall provide coverage for all
8077 motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance,
8078 uninsured motorist coverage of at least \$25,000 per person and \$500,000 per accident.

8079 (ii) This coverage is secondary to any other insurance covering an injured covered
8080 person.

8081 (c) Uninsured motorist coverage:

8082 (i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'
8083 Compensation Act, except that the covered person is credited an amount described in
8084 Subsection [34A-2-106\(5\)](#);

8085 (ii) may not be subrogated by the workers' compensation insurance carrier, workers'
8086 compensation insurance, uninsured employer, the Uninsured Employers Fund created in
8087 Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

8088 (iii) may not be reduced by any benefits provided by workers' compensation insurance,
8089 uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the
8090 Employers' Reinsurance Fund created in Section 34A-2-702;

8091 (iv) may be reduced by health insurance subrogation only after the covered person has
8092 been made whole;

8093 (v) may not be collected for bodily injury or death sustained by a person:

8094 (A) while committing a violation of Section 41-1a-1314;

8095 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated
8096 in violation of Section 41-1a-1314; or

8097 (C) while committing a felony; and

8098 (vi) notwithstanding Subsection (5)(c)(v), may be recovered:

8099 (A) for a person under 18 years old who is injured within the scope of Subsection
8100 (5)(c)(v) but limited to medical and funeral expenses; or

8101 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured
8102 within the course and scope of the law enforcement officer's duties.

8103 (d) As used in this Subsection (5), "motor vehicle" has the same meaning as under
8104 Section 41-1a-102.

8105 (6) When a covered person alleges that an uninsured motor vehicle under Subsection
8106 (2)(b) proximately caused an accident without touching the covered person or the motor
8107 vehicle occupied by the covered person, the covered person shall show the existence of the
8108 uninsured motor vehicle by clear and convincing evidence consisting of more than the covered
8109 person's testimony.

8110 (7) (a) The limit of liability for uninsured motorist coverage for two or more motor
8111 vehicles may not be added together, combined, or stacked to determine the limit of insurance
8112 coverage available to an injured person for any one accident.

8113 (b) (i) Subsection (7)(a) applies to all persons except a covered person as defined under
8114 Subsection (8)(b).

8115 (ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest

8116 limits of uninsured motorist coverage afforded for any one motor vehicle that the covered
8117 person is the named insured or an insured family member.

8118 (iii) This coverage shall be in addition to the coverage on the motor vehicle the covered
8119 person is occupying.

8120 (iv) Neither the primary nor the secondary coverage may be set off against the other.

8121 (c) Coverage on a motor vehicle occupied at the time of an accident shall be primary
8122 coverage, and the coverage elected by a person described under Subsections (1)(a), (b), and (c)
8123 shall be secondary coverage.

8124 (8) (a) Uninsured motorist coverage under this section applies to bodily injury,
8125 sickness, disease, or death of covered persons while occupying or using a motor vehicle only if
8126 the motor vehicle is described in the policy under which a claim is made, or if the motor
8127 vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy.
8128 Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a
8129 motor vehicle described in a policy that includes uninsured motorist benefits may not elect to
8130 collect uninsured motorist coverage benefits from any other motor vehicle insurance policy
8131 under which the person is a covered person.

8132 (b) Each of the following persons may also recover uninsured motorist benefits under
8133 any one other policy in which they are described as a "covered person" as defined in Subsection
8134 (1):

8135 (i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

8136 (ii) except as provided in Subsection (8)(c), a covered person injured while occupying
8137 or using a motor vehicle that is not owned, leased, or furnished:

8138 (A) to the covered person;

8139 (B) to the covered person's spouse; or

8140 (C) to the covered person's resident parent or resident sibling.

8141 (c) (i) A covered person may recover benefits from no more than two additional
8142 policies, one additional policy from each parent's household if the covered person is:

8143 (A) a dependent minor of parents who reside in separate households; and

8144 (B) injured while occupying or using a motor vehicle that is not owned, leased, or
8145 furnished:

8146 (I) to the covered person;

8147 (II) to the covered person's resident parent; or

8148 (III) to the covered person's resident sibling.

8149 (ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of
8150 the damages that the limit of liability of each parent's policy of uninsured motorist coverage
8151 bears to the total of both parents' uninsured coverage applicable to the accident.

8152 (d) A covered person's recovery under any available policies may not exceed the full
8153 amount of damages.

8154 (e) A covered person in Subsection (8)(b) is not barred against making subsequent
8155 elections if recovery is unavailable under previous elections.

8156 (f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a
8157 single incident of loss under more than one insurance policy.

8158 (ii) Except to the extent permitted by Subsection (7) and this Subsection (8),
8159 interpolicy stacking is prohibited for uninsured motorist coverage.

8160 (9) (a) When a claim is brought by a named insured or a person described in
8161 Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the
8162 claimant may elect to resolve the claim:

8163 (i) by submitting the claim to binding arbitration; or

8164 (ii) through litigation.

8165 (b) Unless otherwise provided in the policy under which uninsured benefits are
8166 claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that
8167 if the policy under which insured benefits are claimed provides that either an insured or the
8168 insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to
8169 arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

8170 (c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii),
8171 the claimant may not elect to resolve the claim through binding arbitration under this section
8172 without the written consent of the uninsured motorist carrier.

8173 (d) For purposes of the statute of limitations applicable to a claim described in
8174 Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the
8175 claim is considered filed when the claimant submits the claim to binding arbitration in
8176 accordance with this Subsection (9).

8177 (e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to

8178 binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

8179 (ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).

8180 (iii) If the parties are unable to agree on a single arbitrator as required under Subsection

8181 (9)(e)(ii), the parties shall select a panel of three arbitrators.

8182 (f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):

8183 (i) each side shall select one arbitrator; and

8184 (ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional

8185 arbitrator to be included in the panel.

8186 (g) Unless otherwise agreed to in writing:

8187 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected

8188 under Subsection (9)(e)(i); or

8189 (ii) if an arbitration panel is selected under Subsection (9)(e)(iii):

8190 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and

8191 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected

8192 under Subsection (9)(f)(ii).

8193 (h) Except as otherwise provided in this section or unless otherwise agreed to in

8194 writing by the parties, an arbitration proceeding conducted under this section shall be governed

8195 by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

8196 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),

8197 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of

8198 Subsections (10)(a) through (c) are satisfied.

8199 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure

8200 shall be determined based on the claimant's specific monetary amount in the written demand

8201 for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

8202 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to

8203 arbitration claims under this part.

8204 (j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

8205 (k) A written decision by a single arbitrator or by a majority of the arbitration panel

8206 shall constitute a final decision.

8207 (l) (i) Except as provided in Subsection (10), the amount of an arbitration award may

8208 not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies,

8209 including applicable uninsured motorist umbrella policies.

8210 (ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all
8211 applicable uninsured motorist policies, the arbitration award shall be reduced to an amount
8212 equal to the combined uninsured motorist policy limits of all applicable uninsured motorist
8213 policies.

8214 (m) The arbitrator or arbitration panel may not decide the issues of coverage or
8215 extra-contractual damages, including:

8216 (i) whether the claimant is a covered person;

8217 (ii) whether the policy extends coverage to the loss; or

8218 (iii) any allegations or claims asserting consequential damages or bad faith liability.

8219 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or
8220 class-representative basis.

8221 (o) If the arbitrator or arbitration panel finds that the action was not brought, pursued,
8222 or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees
8223 and costs against the party that failed to bring, pursue, or defend the claim in good faith.

8224 (p) An arbitration award issued under this section shall be the final resolution of all
8225 claims not excluded by Subsection (9)(m) between the parties unless:

8226 (i) the award was procured by corruption, fraud, or other undue means; or

8227 (ii) either party, within 20 days after service of the arbitration award:

8228 (A) files a complaint requesting a trial de novo in the district court; and

8229 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo
8230 under Subsection (9)(p)(ii)(A).

8231 (q) (i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim
8232 shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules
8233 of Evidence in the district court.

8234 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
8235 request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

8236 (r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection
8237 (9)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the
8238 arbitration award, the claimant is responsible for all of the nonmoving party's costs.

8239 (ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested

8240 under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the arbitration
8241 award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

8242 (iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r)
8243 shall include:

8244 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

8245 (B) the costs of expert witnesses and depositions.

8246 (iv) An award of costs under this Subsection (9)(r) may not exceed \$2,500 unless
8247 Subsection (10)(h)(iii) applies.

8248 (s) For purposes of determining whether a party's verdict is greater or less than the
8249 arbitration award under Subsection (9)(r), a court may not consider any recovery or other relief
8250 granted on a claim for damages if the claim for damages:

8251 (i) was not fully disclosed in writing prior to the arbitration proceeding; or

8252 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil
8253 Procedure.

8254 (t) If a district court determines, upon a motion of the nonmoving party, that the
8255 moving party's use of the trial de novo process was filed in bad faith in accordance with
8256 Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving
8257 party.

8258 (u) Nothing in this section is intended to limit any claim under any other portion of an
8259 applicable insurance policy.

8260 (v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the
8261 claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist
8262 carriers.

8263 (10) (a) Within 30 days after a covered person elects to submit a claim for uninsured
8264 motorist benefits to binding arbitration or files litigation, the covered person shall provide to
8265 the uninsured motorist carrier:

8266 (i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

8267 (A) subject to Subsection [~~(10)(m)~~] (10)(l), the specific monetary amount of the
8268 demand, including a computation of the covered person's claimed past medical expenses,
8269 claimed past lost wages, and the other claimed past economic damages; and

8270 (B) the factual and legal basis and any supporting documentation for the demand;

8271 (ii) a written statement under oath disclosing:

8272 (A) (I) the names and last known addresses of all health care providers who have
8273 rendered health care services to the covered person that are material to the claims for which
8274 uninsured motorist benefits are sought for a period of five years preceding the date of the event
8275 giving rise to the claim for uninsured motorist benefits up to the time the election for
8276 arbitration or litigation has been exercised; and

8277 (II) the names and last known addresses of the health care providers who have rendered
8278 health care services to the covered person, which the covered person claims are immaterial to
8279 the claims for which uninsured motorist benefits are sought, for a period of five years
8280 preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the
8281 time the election for arbitration or litigation has been exercised that have not been disclosed
8282 under Subsection (10)(a)(ii)(A)(I);

8283 (B) (I) the names and last known addresses of all health insurers or other entities to
8284 whom the covered person has submitted claims for health care services or benefits material to
8285 the claims for which uninsured motorist benefits are sought, for a period of five years
8286 preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the
8287 time the election for arbitration or litigation has been exercised; and

8288 (II) the names and last known addresses of the health insurers or other entities to whom
8289 the covered person has submitted claims for health care services or benefits, which the covered
8290 person claims are immaterial to the claims for which uninsured motorist benefits are sought,
8291 for a period of five years preceding the date of the event giving rise to the claim for uninsured
8292 motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

8293 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all
8294 employers of the covered person for a period of five years preceding the date of the event
8295 giving rise to the claim for uninsured motorist benefits up to the time the election for
8296 arbitration or litigation has been exercised;

8297 (D) other documents to reasonably support the claims being asserted; and

8298 (E) all state and federal statutory lienholders including a statement as to whether the
8299 covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health
8300 Insurance Program benefits under [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~]
8301 Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is

8302 subject to any other state or federal statutory liens; and

8303 (iii) signed authorizations to allow the uninsured motorist carrier to only obtain records
8304 and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I),
8305 (B)(I), and (C).

8306 (b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed
8307 health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably
8308 necessary, the uninsured motorist carrier may:

8309 (A) make a request for the disclosure of the identity of the health care providers or
8310 health care insurers; and

8311 (B) make a request for authorizations to allow the uninsured motorist carrier to only
8312 obtain records and billings from the individuals or entities not disclosed.

8313 (ii) If the covered person does not provide the requested information within 10 days:

8314 (A) the covered person shall disclose, in writing, the legal or factual basis for the
8315 failure to disclose the health care providers or health care insurers; and

8316 (B) either the covered person or the uninsured motorist carrier may request the
8317 arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be
8318 provided if the covered person has elected arbitration.

8319 (iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of
8320 the dispute concerning the disclosure and production of records of the health care providers or
8321 health care insurers.

8322 (c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice
8323 of filing litigation and the demand for payment of uninsured motorist benefits under Subsection
8324 (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and
8325 receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

8326 (A) provide a written response to the written demand for payment provided for in
8327 Subsection (10)(a)(i);

8328 (B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the
8329 uninsured motorist carrier's determination of the amount owed to the covered person; and

8330 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
8331 Children's Health Insurance Program benefits under [~~Title 26, Chapter 40, Utah Children's~~
8332 ~~Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program,

8333 or if the claim is subject to any other state or federal statutory liens, tender the amount, if any,
8334 of the uninsured motorist carrier's determination of the amount owed to the covered person
8335 less:

8336 (I) if the amount of the state or federal statutory lien is established, the amount of the
8337 lien; or

8338 (II) if the amount of the state or federal statutory lien is not established, two times the
8339 amount of the medical expenses subject to the state or federal statutory lien until such time as
8340 the amount of the state or federal statutory lien is established.

8341 (ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i)
8342 is the total amount of the uninsured motorist policy limits, the tendered amount shall be
8343 accepted by the covered person.

8344 (d) A covered person who receives a written response from an uninsured motorist
8345 carrier as provided for in Subsection (10)(c)(i), may:

8346 (i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all
8347 uninsured motorist claims; or

8348 (ii) elect to:

8349 (A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all
8350 uninsured motorist claims; and

8351 (B) continue to litigate or arbitrate the remaining claim in accordance with the election
8352 made under Subsections (9)(a), (b), and (c).

8353 (e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i)
8354 as partial payment of all uninsured motorist claims, the final award obtained through
8355 arbitration, litigation, or later settlement shall be reduced by any payment made by the
8356 uninsured motorist carrier under Subsection (10)(c)(i).

8357 (f) In an arbitration proceeding on the remaining uninsured claims:

8358 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid
8359 under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

8360 (ii) the parties may not disclose the amount of the limits of uninsured motorist benefits
8361 provided by the policy.

8362 (g) If the final award obtained through arbitration or litigation is greater than the
8363 average of the covered person's initial written demand for payment provided for in Subsection

8364 (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in
8365 Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

8366 (i) the final award obtained through arbitration or litigation, except that if the award
8367 exceeds the policy limits of the subject uninsured motorist policy by more than \$15,000, the
8368 amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

8369 (ii) any of the following applicable costs:

8370 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

8371 (B) the arbitrator or arbitration panel's fee; and

8372 (C) the reasonable costs of expert witnesses and depositions used in the presentation of
8373 evidence during arbitration or litigation.

8374 (h) (i) The covered person shall provide an affidavit of costs within five days of an
8375 arbitration award.

8376 (ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to
8377 which the uninsured motorist carrier objects.

8378 (B) The objection shall be resolved by the arbitrator or arbitration panel.

8379 (iii) The award of costs by the arbitrator or arbitration panel under Subsection
8380 (10)(g)(ii) may not exceed \$5,000.

8381 (i) (i) A covered person shall disclose all material information, other than rebuttal
8382 evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist
8383 coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

8384 (ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person
8385 may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

8386 (j) This Subsection (10) does not limit any other cause of action that arose or may arise
8387 against the uninsured motorist carrier from the same dispute.

8388 (k) The provisions of this Subsection (10) only apply to motor vehicle accidents that
8389 occur on or after March 30, 2010.

8390 (l) (i) The written demand requirement in Subsection (10)(a)(i)(A) does not affect the
8391 covered person's requirement to provide a computation of any other economic damages
8392 claimed, and the one or more respondents shall have a reasonable time after the receipt of the
8393 computation of any other economic damages claimed to conduct fact and expert discovery as to
8394 any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290,

8395 Section 10, and Chapter 300, Section 10, to this Subsection (10)(l) and Subsection
8396 (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after
8397 May 13, 2014.

8398 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter
8399 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to
8400 binding arbitration or through litigation on or after May 13, 2014.

8401 (11) (a) Notwithstanding Section 31A-21-313, an action on a written policy or contract
8402 for uninsured motorist coverage shall be commenced within four years after the inception of
8403 loss.

8404 (b) Subsection (11)(a) shall apply to all claims that have not been time barred by
8405 Subsection 31A-21-313(1)(a) as of May 14, 2019.

8406 Section 97. Section 31A-22-305.3 is amended to read:

8407 **31A-22-305.3. Underinsured motorist coverage.**

8408 (1) As used in this section:

8409 (a) "Covered person" has the same meaning as defined in Section 31A-22-305.

8410 (b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation,
8411 maintenance, or use of which is covered under a liability policy at the time of an injury-causing
8412 occurrence, but which has insufficient liability coverage to compensate fully the injured party
8413 for all special and general damages.

8414 (ii) The term "underinsured motor vehicle" does not include:

8415 (A) a motor vehicle that is covered under the liability coverage of the same policy that
8416 also contains the underinsured motorist coverage;

8417 (B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

8418 (C) a motor vehicle owned or leased by:

8419 (I) a named insured;

8420 (II) a named insured's spouse; or

8421 (III) a dependent of a named insured.

8422 (2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides
8423 coverage for a covered person who is legally entitled to recover damages from an owner or
8424 operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.

8425 (b) A covered person occupying or using a motor vehicle owned, leased, or furnished

8426 to the covered person, the covered person's spouse, or covered person's resident relative may
8427 recover underinsured benefits only if the motor vehicle is:

8428 (i) described in the policy under which a claim is made; or
8429 (ii) a newly acquired or replacement motor vehicle covered under the terms of the
8430 policy.

8431 (3) (a) For purposes of this Subsection (3), "new policy" means:

8432 (i) any policy that is issued that does not include a renewal or reinstatement of an
8433 existing policy; or

8434 (ii) a change to an existing policy that results in:

8435 (A) a named insured being added to or deleted from the policy; or

8436 (B) a change in the limits of the named insured's motor vehicle liability coverage.

8437 (b) For new policies written on or after January 1, 2001, the limits of underinsured
8438 motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle
8439 liability coverage or the maximum underinsured motorist coverage limits available by the
8440 insurer under the named insured's motor vehicle policy, unless a named insured rejects or
8441 purchases coverage in a lesser amount by signing an acknowledgment form that:

8442 (i) is filed with the department;

8443 (ii) is provided by the insurer;

8444 (iii) waives the higher coverage;

8445 (iv) need only state in this or similar language that "underinsured motorist coverage
8446 provides benefits or protection to you and other covered persons for bodily injury resulting
8447 from an accident caused by the fault of another party where the other party has insufficient
8448 liability insurance"; and

8449 (v) discloses the additional premiums required to purchase underinsured motorist
8450 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
8451 liability coverage or the maximum underinsured motorist coverage limits available by the
8452 insurer under the named insured's motor vehicle policy.

8453 (c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the
8454 liability coverage until the insured requests, in writing, a change of underinsured motorist
8455 coverage from that liability insurer.

8456 (d) (i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after

8457 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for
8458 arbitration or filed a complaint in a court of competent jurisdiction.

8459 (ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c)
8460 clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

8461 (e) (i) As used in this Subsection (3)(e), "additional motor vehicle" means a change
8462 that increases the total number of vehicles insured by the policy, and does not include
8463 replacement, substitute, or temporary vehicles.

8464 (ii) The adding of an additional motor vehicle to an existing personal lines or
8465 commercial lines policy does not constitute a new policy for purposes of Subsection (3)(a).

8466 (iii) If an additional motor vehicle is added to a personal lines policy where
8467 underinsured motorist coverage has been rejected, or where underinsured motorist limits are
8468 lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice
8469 to a named insured within 30 days that:

8470 (A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of
8471 underinsured motorist coverage; and

8472 (B) encourages the named insured to contact the insurance company or insurance
8473 producer for quotes as to the additional premiums required to purchase underinsured motorist
8474 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
8475 liability coverage or the maximum underinsured motorist coverage limits available by the
8476 insurer under the named insured's motor vehicle policy.

8477 (f) A change in policy number resulting from any policy change not identified under
8478 Subsection (3)(a)(ii) does not constitute a new policy.

8479 (g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1,
8480 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or
8481 filed a complaint in a court of competent jurisdiction.

8482 (ii) The Legislature finds that the retroactive application of Subsection (3)(a):

8483 (A) does not enlarge, eliminate, or destroy vested rights; and

8484 (B) clarifies legislative intent.

8485 (h) A self-insured, including a governmental entity, may elect to provide underinsured
8486 motorist coverage in an amount that is less than its maximum self-insured retention under
8487 Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy statement from the

8488 chief financial officer or chief risk officer that declares the:

8489 (i) self-insured entity's coverage level; and

8490 (ii) process for filing an underinsured motorist claim.

8491 (i) Underinsured motorist coverage may not be sold with limits that are less than:

8492 (i) \$10,000 for one person in any one accident; and

8493 (ii) at least \$20,000 for two or more persons in any one accident.

8494 (j) An acknowledgment under Subsection (3)(b) continues for that issuer of the

8495 underinsured motorist coverage until the named insured, in writing, requests different

8496 underinsured motorist coverage from the insurer.

8497 (k) (i) The named insured's underinsured motorist coverage, as described in Subsection

8498 (2), is secondary to the liability coverage of an owner or operator of an underinsured motor

8499 vehicle, as described in Subsection (1).

8500 (ii) Underinsured motorist coverage may not be set off against the liability coverage of

8501 the owner or operator of an underinsured motor vehicle, but shall be added to, combined with,

8502 or stacked upon the liability coverage of the owner or operator of the underinsured motor

8503 vehicle to determine the limit of coverage available to the injured person.

8504 (l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for

8505 policies existing on that date, the insurer shall disclose in the same medium as the premium

8506 renewal notice, an explanation of:

8507 (A) the purpose of underinsured motorist coverage in the same manner as described in

8508 Subsection (3)(b)(iv); and

8509 (B) a disclosure of the additional premiums required to purchase underinsured motorist

8510 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle

8511 liability coverage or the maximum underinsured motorist coverage limits available by the

8512 insurer under the named insured's motor vehicle policy.

8513 (ii) The disclosure required under this Subsection (3)(l) shall be sent to all named

8514 insureds that carry underinsured motorist coverage limits in an amount less than the named

8515 insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage

8516 limits available by the insurer under the named insured's motor vehicle policy.

8517 (m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured

8518 in a household constitutes notice or disclosure to all insureds within the household.

8519 (4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a
8520 motor vehicle described in a policy that includes underinsured motorist benefits may not elect
8521 to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

8522 (ii) The limit of liability for underinsured motorist coverage for two or more motor
8523 vehicles may not be added together, combined, or stacked to determine the limit of insurance
8524 coverage available to an injured person for any one accident.

8525 (iii) Subsection (4)(a)(ii) applies to all persons except a covered person described
8526 under Subsections (4)(b)(i) and (ii).

8527 (b) (i) A covered person injured as a pedestrian by an underinsured motor vehicle may
8528 recover underinsured motorist benefits under any one other policy in which they are described
8529 as a covered person.

8530 (ii) Except as provided in Subsection (4)(b)(iii), a covered person injured while
8531 occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the
8532 covered person, the covered person's spouse, or the covered person's resident parent or resident
8533 sibling, may also recover benefits under any one other policy under which the covered person is
8534 also a covered person.

8535 (iii) (A) A covered person may recover benefits from no more than two additional
8536 policies, one additional policy from each parent's household if the covered person is:

8537 (I) a dependent minor of parents who reside in separate households; and

8538 (II) injured while occupying or using a motor vehicle that is not owned, leased, or
8539 furnished to the covered person, the covered person's resident parent, or the covered person's
8540 resident sibling.

8541 (B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the
8542 percentage of the damages that the limit of liability of each parent's policy of underinsured
8543 motorist coverage bears to the total of both parents' underinsured coverage applicable to the
8544 accident.

8545 (iv) A covered person's recovery under any available policies may not exceed the full
8546 amount of damages.

8547 (v) Underinsured coverage on a motor vehicle occupied at the time of an accident is
8548 primary coverage, and the coverage elected by a person described under Subsections
8549 [31A-22-305\(1\)\(a\), \(b\), and \(c\)](#) is secondary coverage.

- 8550 (vi) The primary and the secondary coverage may not be set off against the other.
- 8551 (vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the
8552 highest limits of underinsured motorist coverage under only one additional policy per
8553 household applicable to that covered person as a named insured, spouse, or relative.
- 8554 (viii) A covered injured person is not barred against making subsequent elections if
8555 recovery is unavailable under previous elections.
- 8556 (ix) (A) As used in this section, "interpolicy stacking" means recovering benefits for a
8557 single incident of loss under more than one insurance policy.
- 8558 (B) Except to the extent permitted by this Subsection (4), interpolicy stacking is
8559 prohibited for underinsured motorist coverage.
- 8560 (c) Underinsured motorist coverage:
- 8561 (i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'
8562 Compensation Act, except that the covered person is credited an amount described in
8563 Subsection [34A-2-106\(5\)](#);
- 8564 (ii) may not be subrogated by a workers' compensation insurance carrier, workers'
8565 compensation insurance, uninsured employer, the Uninsured Employers Fund created in
8566 Section [34A-2-704](#), or the Employers' Reinsurance Fund created in Section [34A-2-702](#);
- 8567 (iii) may not be reduced by benefits provided by workers' compensation insurance,
8568 uninsured employer, the Uninsured Employers Fund created in Section [34A-2-704](#), or the
8569 Employers' Reinsurance Fund created in Section [34A-2-702](#);
- 8570 (iv) may be reduced by health insurance subrogation only after the covered person is
8571 made whole;
- 8572 (v) may not be collected for bodily injury or death sustained by a person:
- 8573 (A) while committing a violation of Section [41-1a-1314](#);
- 8574 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated
8575 in violation of Section [41-1a-1314](#); or
- 8576 (C) while committing a felony; and
- 8577 (vi) notwithstanding Subsection (4)(c)(v), may be recovered:
- 8578 (A) for a person younger than 18 years old who is injured within the scope of
8579 Subsection (4)(c)(v), but is limited to medical and funeral expenses; or
- 8580 (B) by a law enforcement officer as defined in Section [53-13-103](#), who is injured

8581 within the course and scope of the law enforcement officer's duties.

8582 (5) The inception of the loss under Subsection 31A-21-313(1) for underinsured
8583 motorist claims occurs upon the date of the last liability policy payment.

8584 (6) An underinsured motorist insurer does not have a right of reimbursement against a
8585 person liable for the damages resulting from an injury-causing occurrence if the person's
8586 liability insurer has tendered the policy limit and the limits have been accepted by the claimant.

8587 (7) Except as otherwise provided in this section, a covered person may seek, subject to
8588 the terms and conditions of the policy, additional coverage under any policy:

8589 (a) that provides coverage for damages resulting from motor vehicle accidents; and

8590 (b) that is not required to conform to Section 31A-22-302.

8591 (8) (a) When a claim is brought by a named insured or a person described in
8592 Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist
8593 carrier, the claimant may elect to resolve the claim:

8594 (i) by submitting the claim to binding arbitration; or

8595 (ii) through litigation.

8596 (b) Unless otherwise provided in the policy under which underinsured benefits are
8597 claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that
8598 if the policy under which insured benefits are claimed provides that either an insured or the
8599 insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to
8600 arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

8601 (c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the
8602 claimant may not elect to resolve the claim through binding arbitration under this section
8603 without the written consent of the underinsured motorist coverage carrier.

8604 (d) For purposes of the statute of limitations applicable to a claim described in
8605 Subsection (8)(a), if the claimant does not elect to resolve the claim through litigation, the
8606 claim is considered filed when the claimant submits the claim to binding arbitration in
8607 accordance with this Subsection (8).

8608 (e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
8609 binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

8610 (ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).

8611 (iii) If the parties are unable to agree on a single arbitrator as required under Subsection

8612 (8)(e)(ii), the parties shall select a panel of three arbitrators.

8613 (f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):

8614 (i) each side shall select one arbitrator; and

8615 (ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional
8616 arbitrator to be included in the panel.

8617 (g) Unless otherwise agreed to in writing:

8618 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected
8619 under Subsection (8)(e)(i); or

8620 (ii) if an arbitration panel is selected under Subsection (8)(e)(iii):

8621 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and

8622 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected
8623 under Subsection (8)(f)(ii).

8624 (h) Except as otherwise provided in this section or unless otherwise agreed to in
8625 writing by the parties, an arbitration proceeding conducted under this section is governed by
8626 Title 78B, Chapter 11, Utah Uniform Arbitration Act.

8627 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),
8628 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of
8629 Subsections (9)(a) through (c) are satisfied.

8630 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure
8631 shall be determined based on the claimant's specific monetary amount in the written demand
8632 for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

8633 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to
8634 arbitration claims under this part.

8635 (j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

8636 (k) A written decision by a single arbitrator or by a majority of the arbitration panel
8637 constitutes a final decision.

8638 (l) (i) Except as provided in Subsection (9), the amount of an arbitration award may not
8639 exceed the underinsured motorist policy limits of all applicable underinsured motorist policies,
8640 including applicable underinsured motorist umbrella policies.

8641 (ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all
8642 applicable underinsured motorist policies, the arbitration award shall be reduced to an amount

8643 equal to the combined underinsured motorist policy limits of all applicable underinsured
8644 motorist policies.

8645 (m) The arbitrator or arbitration panel may not decide an issue of coverage or
8646 extra-contractual damages, including:

8647 (i) whether the claimant is a covered person;

8648 (ii) whether the policy extends coverage to the loss; or

8649 (iii) an allegation or claim asserting consequential damages or bad faith liability.

8650 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or
8651 class-representative basis.

8652 (o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued,
8653 or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees
8654 and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.

8655 (p) An arbitration award issued under this section shall be the final resolution of all
8656 claims not excluded by Subsection (8)(m) between the parties unless:

8657 (i) the award is procured by corruption, fraud, or other undue means; or

8658 (ii) either party, within 20 days after service of the arbitration award:

8659 (A) files a complaint requesting a trial de novo in the district court; and

8660 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo
8661 under Subsection (8)(p)(ii)(A).

8662 (q) (i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall
8663 proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of
8664 Evidence in the district court.

8665 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
8666 request a jury trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

8667 (r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection
8668 (8)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the
8669 arbitration award, the claimant is responsible for all of the nonmoving party's costs.

8670 (ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested
8671 under Subsection (8)(p), does not obtain a verdict that is at least 20% less than the arbitration
8672 award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

8673 (iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r)

8674 shall include:

8675 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

8676 (B) the costs of expert witnesses and depositions.

8677 (iv) An award of costs under this Subsection (8)(r) may not exceed \$2,500 unless

8678 Subsection (9)(h)(iii) applies.

8679 (s) For purposes of determining whether a party's verdict is greater or less than the
8680 arbitration award under Subsection (8)(r), a court may not consider any recovery or other relief
8681 granted on a claim for damages if the claim for damages:

8682 (i) was not fully disclosed in writing prior to the arbitration proceeding; or

8683 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil
8684 Procedure.

8685 (t) If a district court determines, upon a motion of the nonmoving party, that a moving
8686 party's use of the trial de novo process is filed in bad faith in accordance with Section
8687 [78B-5-825](#), the district court may award reasonable attorney fees to the nonmoving party.

8688 (u) Nothing in this section is intended to limit a claim under another portion of an
8689 applicable insurance policy.

8690 (v) If there are multiple underinsured motorist policies, as set forth in Subsection (4),
8691 the claimant may elect to arbitrate in one hearing the claims against all the underinsured
8692 motorist carriers.

8693 (9) (a) Within 30 days after a covered person elects to submit a claim for underinsured
8694 motorist benefits to binding arbitration or files litigation, the covered person shall provide to
8695 the underinsured motorist carrier:

8696 (i) a written demand for payment of underinsured motorist coverage benefits, setting
8697 forth:

8698 (A) subject to Subsection (9)(l), the specific monetary amount of the demand,
8699 including a computation of the covered person's claimed past medical expenses, claimed past
8700 lost wages, and all other claimed past economic damages; and

8701 (B) the factual and legal basis and any supporting documentation for the demand;

8702 (ii) a written statement under oath disclosing:

8703 (A) (I) the names and last known addresses of all health care providers who have
8704 rendered health care services to the covered person that are material to the claims for which the

8705 underinsured motorist benefits are sought for a period of five years preceding the date of the
8706 event giving rise to the claim for underinsured motorist benefits up to the time the election for
8707 arbitration or litigation has been exercised; and

8708 (II) the names and last known addresses of the health care providers who have rendered
8709 health care services to the covered person, which the covered person claims are immaterial to
8710 the claims for which underinsured motorist benefits are sought, for a period of five years
8711 preceding the date of the event giving rise to the claim for underinsured motorist benefits up to
8712 the time the election for arbitration or litigation has been exercised that have not been disclosed
8713 under Subsection (9)(a)(ii)(A)(I);

8714 (B) (I) the names and last known addresses of all health insurers or other entities to
8715 whom the covered person has submitted claims for health care services or benefits material to
8716 the claims for which underinsured motorist benefits are sought, for a period of five years
8717 preceding the date of the event giving rise to the claim for underinsured motorist benefits up to
8718 the time the election for arbitration or litigation has been exercised; and

8719 (II) the names and last known addresses of the health insurers or other entities to whom
8720 the covered person has submitted claims for health care services or benefits, which the covered
8721 person claims are immaterial to the claims for which underinsured motorist benefits are sought,
8722 for a period of five years preceding the date of the event giving rise to the claim for
8723 underinsured motorist benefits up to the time the election for arbitration or litigation have not
8724 been disclosed;

8725 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all
8726 employers of the covered person for a period of five years preceding the date of the event
8727 giving rise to the claim for underinsured motorist benefits up to the time the election for
8728 arbitration or litigation has been exercised;

8729 (D) other documents to reasonably support the claims being asserted; and

8730 (E) all state and federal statutory lienholders including a statement as to whether the
8731 covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health
8732 Insurance Program benefits under [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~]
8733 Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is
8734 subject to any other state or federal statutory liens; and

8735 (iii) signed authorizations to allow the underinsured motorist carrier to only obtain

8736 records and billings from the individuals or entities disclosed under Subsections
8737 (9)(a)(ii)(A)(I), (B)(I), and (C).

8738 (b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed
8739 health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary,
8740 the underinsured motorist carrier may:

8741 (A) make a request for the disclosure of the identity of the health care providers or
8742 health care insurers; and

8743 (B) make a request for authorizations to allow the underinsured motorist carrier to only
8744 obtain records and billings from the individuals or entities not disclosed.

8745 (ii) If the covered person does not provide the requested information within 10 days:

8746 (A) the covered person shall disclose, in writing, the legal or factual basis for the
8747 failure to disclose the health care providers or health care insurers; and

8748 (B) either the covered person or the underinsured motorist carrier may request the
8749 arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be
8750 provided if the covered person has elected arbitration.

8751 (iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of
8752 the dispute concerning the disclosure and production of records of the health care providers or
8753 health care insurers.

8754 (c) (i) An underinsured motorist carrier that receives an election for arbitration or a
8755 notice of filing litigation and the demand for payment of underinsured motorist benefits under
8756 Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the
8757 demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

8758 (A) provide a written response to the written demand for payment provided for in
8759 Subsection (9)(a)(i);

8760 (B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the
8761 underinsured motorist carrier's determination of the amount owed to the covered person; and

8762 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
8763 Children's Health Insurance Program benefits under [~~Title 26, Chapter 40, Utah Children's~~
8764 ~~Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program,
8765 or if the claim is subject to any other state or federal statutory liens, tender the amount, if any,
8766 of the underinsured motorist carrier's determination of the amount owed to the covered person

8767 less:

8768 (I) if the amount of the state or federal statutory lien is established, the amount of the
8769 lien; or

8770 (II) if the amount of the state or federal statutory lien is not established, two times the
8771 amount of the medical expenses subject to the state or federal statutory lien until such time as
8772 the amount of the state or federal statutory lien is established.

8773 (ii) If the amount tendered by the underinsured motorist carrier under Subsection
8774 (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount
8775 shall be accepted by the covered person.

8776 (d) A covered person who receives a written response from an underinsured motorist
8777 carrier as provided for in Subsection (9)(c)(i), may:

8778 (i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all
8779 underinsured motorist claims; or

8780 (ii) elect to:

8781 (A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all
8782 underinsured motorist claims; and

8783 (B) continue to litigate or arbitrate the remaining claim in accordance with the election
8784 made under Subsections (8)(a), (b), and (c).

8785 (e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i)
8786 as partial payment of all underinsured motorist claims, the final award obtained through
8787 arbitration, litigation, or later settlement shall be reduced by any payment made by the
8788 underinsured motorist carrier under Subsection (9)(c)(i).

8789 (f) In an arbitration proceeding on the remaining underinsured claims:

8790 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid
8791 under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

8792 (ii) the parties may not disclose the amount of the limits of underinsured motorist
8793 benefits provided by the policy.

8794 (g) If the final award obtained through arbitration or litigation is greater than the
8795 average of the covered person's initial written demand for payment provided for in Subsection
8796 (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in
8797 Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

8798 (i) the final award obtained through arbitration or litigation, except that if the award
8799 exceeds the policy limits of the subject underinsured motorist policy by more than \$15,000, the
8800 amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

8801 (ii) any of the following applicable costs:

8802 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

8803 (B) the arbitrator or arbitration panel's fee; and

8804 (C) the reasonable costs of expert witnesses and depositions used in the presentation of
8805 evidence during arbitration or litigation.

8806 (h) (i) The covered person shall provide an affidavit of costs within five days of an
8807 arbitration award.

8808 (ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to
8809 which the underinsured motorist carrier objects.

8810 (B) The objection shall be resolved by the arbitrator or arbitration panel.

8811 (iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii)
8812 may not exceed \$5,000.

8813 (i) (i) A covered person shall disclose all material information, other than rebuttal
8814 evidence, within 30 days after a covered person elects to submit a claim for underinsured
8815 motorist coverage benefits to binding arbitration or files litigation as specified in Subsection
8816 (9)(a).

8817 (ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person
8818 may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

8819 (j) This Subsection (9) does not limit any other cause of action that arose or may arise
8820 against the underinsured motorist carrier from the same dispute.

8821 (k) The provisions of this Subsection (9) only apply to motor vehicle accidents that
8822 occur on or after March 30, 2010.

8823 (l) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the
8824 covered person's requirement to provide a computation of any other economic damages
8825 claimed, and the one or more respondents shall have a reasonable time after the receipt of the
8826 computation of any other economic damages claimed to conduct fact and expert discovery as to
8827 any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290,
8828 Section 11, and Chapter 300, Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A)

8829 apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

8830 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter
8831 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to
8832 binding arbitration or through litigation on or after May 13, 2014.

8833 Section 98. Section **31A-22-604** is amended to read:

8834 **31A-22-604. Reimbursement by insurers of Medicaid benefits.**

8835 (1) As used in this section, "Medicaid" means the program under Title XIX of the
8836 federal Social Security Act.

8837 (2) Any accident and health insurer, including a group accident and health insurance
8838 plan, as defined in Section 607(1), Federal Employee Retirement Income Security Act of 1974,
8839 or health maintenance organization as defined in Section **31A-8-101**, is prohibited from
8840 considering the availability or eligibility for medical assistance in this or any other state under
8841 Medicaid, when considering eligibility for coverage or making payments under its plan for
8842 eligible enrollees, subscribers, policyholders, or certificate holders.

8843 (3) To the extent that payment for covered expenses has been made under the state
8844 Medicaid program for health care items or services furnished to an individual in any case when
8845 a third party has a legal liability to make payments, the state is considered to have acquired the
8846 rights of the individual to payment by any other party for those health care items or services.

8847 (4) [~~Title 26, Chapter 19, Medical Benefits Recovery Act~~] Title 26B, Chapter 3, Part
8848 10, Medical Benefits Recovery, applies to reimbursement of insurers of Medicaid benefits.

8849 Section 99. Section **31A-22-610** is amended to read:

8850 **31A-22-610. Dependent coverage from moment of birth or adoption.**

8851 (1) As used in this section:

8852 (a) "Child" means, in connection with any adoption, or placement for adoption of the
8853 child, an individual who is younger than 18 years [~~of age~~] old as of the date of the adoption or
8854 placement for adoption.

8855 (b) "Placement for adoption" means the assumption and retention by a person of a legal
8856 obligation for total or partial support of a child in anticipation of the adoption of the child.

8857 (2) (a) Except as provided in Subsection (5), if an accident and health insurance policy
8858 provides coverage for any members of the policyholder's or certificate holder's family, the
8859 policy shall provide that any health insurance benefits applicable to dependents of the insured

8860 are applicable on the same basis to:

8861 (i) a newly born child from the moment of birth; and

8862 (ii) an adopted child:

8863 (A) beginning from the moment of birth, if placement for adoption occurs within 30

8864 days of the child's birth; or

8865 (B) beginning from the date of placement, if placement for adoption occurs 30 days or

8866 more after the child's birth.

8867 (b) The coverage described in this Subsection (2):

8868 (i) is not subject to any preexisting conditions; and

8869 (ii) includes any injury or sickness, including the necessary care and treatment of

8870 medically diagnosed:

8871 (A) congenital defects;

8872 (B) birth abnormalities; or

8873 (C) prematurity.

8874 (c) (i) Subject to Subsection (2)(c)(ii), a claim for services for a newly born child or an

8875 adopted child may be denied until the child is enrolled.

8876 (ii) Notwithstanding Subsection (2)(c)(i), an otherwise eligible claim denied under

8877 Subsection (2)(c)(i) is eligible for payment and may be resubmitted or reprocessed once a child

8878 is enrolled pursuant to Subsection (2)(d) or (e).

8879 (d) If the payment of a specific premium is required to provide coverage for a child of a

8880 policyholder or certificate holder, for there to be coverage for the child, the policyholder or

8881 certificate holder shall enroll:

8882 (i) a newly born child within 30 days after the date of birth of the child; or

8883 (ii) an adopted child within 30 days after the day of placement of adoption.

8884 (e) If the payment of a specific premium is not required to provide coverage for a child

8885 of a policyholder or certificate holder, for the child to receive coverage the policyholder or

8886 certificate holder shall enroll a newly born child or an adopted child no later than 30 days after

8887 the first notification of denial of a claim for services for that child.

8888 (3) (a) The coverage required by Subsection (2) as to children placed for the purpose of

8889 adoption with a policyholder or certificate holder continues in the same manner as it would

8890 with respect to a child of the policyholder or certificate holder unless:

8891 (i) the placement is disrupted prior to legal adoption; and

8892 (ii) the child is removed from placement.

8893 (b) The coverage required by Subsection (2) ends if the child is removed from
8894 placement prior to being legally adopted.

8895 (4) The provisions of this section apply to employee welfare benefit plans as defined in
8896 Section [~~26-19-102~~] [26B-3-1001](#).

8897 (5) If an accident and health insurance policy that is not subject to the special
8898 enrollment rights described in 45 C.F.R. Sec. 146.117(b) provides coverage for one individual,
8899 the insurer may choose to:

8900 (a) provide coverage according to this section; or

8901 (b) allow application, subject to the insurer's underwriting criteria for:

8902 (i) a newborn;

8903 (ii) an adopted child; or

8904 (iii) a child placed for adoption.

8905 Section 100. Section **31A-22-610.5** is amended to read:

8906 **31A-22-610.5. Dependent coverage.**

8907 (1) As used in this section, "child" has the same meaning as defined in Section
8908 [78B-12-102](#).

8909 (2) (a) Any individual or group accident and health insurance policy or managed care
8910 organization contract that provides coverage for a policyholder's or certificate holder's
8911 dependent:

8912 (i) may not terminate coverage of an unmarried dependent by reason of the dependent's
8913 age before the dependent's 26th birthday; and

8914 (ii) shall, upon application, provide coverage for all unmarried dependents up to age
8915 26.

8916 (b) The cost of coverage for unmarried dependents 19 to 26 years [~~of age~~] old shall be
8917 included in the premium on the same basis as other dependent coverage.

8918 (c) This section does not prohibit the employer from requiring the employee to pay all
8919 or part of the cost of coverage for unmarried dependents.

8920 (d) An individual or group health insurance policy or managed care organization shall
8921 continue in force coverage for a dependent through the last day of the month in which the

8922 dependent ceases to be a dependent:

8923 (i) if premiums are paid; and

8924 (ii) notwithstanding Sections [31A-22-618.6](#) and [31A-22-618.7](#).

8925 (3) (a) When a parent is required by a court or administrative order to provide health
8926 insurance coverage for a child, an accident and health insurer may not deny enrollment of a
8927 child under the accident and health insurance plan of the child's parent on the grounds the
8928 child:

8929 (i) was born out of wedlock and is entitled to coverage under Subsection (4);

8930 (ii) was born out of wedlock and the custodial parent seeks enrollment for the child
8931 under the custodial parent's policy;

8932 (iii) is not claimed as a dependent on the parent's federal tax return;

8933 (iv) does not reside with the parent; or

8934 (v) does not reside in the insurer's service area.

8935 (b) A child enrolled as required under Subsection (3)(a)(iv) is subject to the terms of
8936 the accident and health insurance plan contract pertaining to services received outside of an
8937 insurer's service area.

8938 (4) When a child has accident and health coverage through an insurer of a noncustodial
8939 parent, and when requested by the noncustodial or custodial parent, the insurer shall:

8940 (a) provide information to the custodial parent as necessary for the child to obtain
8941 benefits through that coverage, but the insurer or employer, or the agents or employees of either
8942 of them, are not civilly or criminally liable for providing information in compliance with this
8943 Subsection (4)(a), whether the information is provided pursuant to a verbal or written request;

8944 (b) permit the custodial parent or the service provider, with the custodial parent's
8945 approval, to submit claims for covered services without the approval of the noncustodial
8946 parent; and

8947 (c) make payments on claims submitted in accordance with Subsection (4)(b) directly
8948 to the custodial parent, the child who obtained benefits, the provider, or the state Medicaid
8949 agency.

8950 (5) When a parent is required by a court or administrative order to provide health
8951 coverage for a child, and the parent is eligible for family health coverage, the insurer shall:

8952 (a) permit the parent to enroll, under the family coverage, a child who is otherwise

8953 eligible for the coverage without regard to an enrollment season restrictions;

8954 (b) if the parent is enrolled but fails to make application to obtain coverage for the
8955 child, enroll the child under family coverage upon application of the child's other parent, the
8956 state agency administering the Medicaid program, or the state agency administering 42 U.S.C.
8957 Sec. 651 through 669, the child support enforcement program; and

8958 (c) (i) when the child is covered by an individual policy, not disenroll or eliminate
8959 coverage of the child unless the insurer is provided satisfactory written evidence that:

8960 (A) the court or administrative order is no longer in effect; or

8961 (B) the child is or will be enrolled in comparable accident and health coverage through
8962 another insurer which will take effect not later than the effective date of disenrollment; or

8963 (ii) when the child is covered by a group policy, not disenroll or eliminate coverage of
8964 the child unless the employer is provided with satisfactory written evidence, which evidence is
8965 also provided to the insurer, that Subsection (8)(c)(i), (ii), or (iii) has happened.

8966 (6) An insurer may not impose requirements on a state agency that has been assigned
8967 the rights of an individual eligible for medical assistance under Medicaid and covered for
8968 accident and health benefits from the insurer that are different from requirements applicable to
8969 an agent or assignee of any other individual so covered.

8970 (7) Insurers may not reduce their coverage of pediatric vaccines below the benefit level
8971 in effect on May 1, 1993.

8972 (8) When a parent is required by a court or administrative order to provide health
8973 coverage, which is available through an employer doing business in this state, the employer
8974 shall:

8975 (a) permit the parent to enroll under family coverage any child who is otherwise
8976 eligible for coverage without regard to any enrollment season restrictions;

8977 (b) if the parent is enrolled but fails to make application to obtain coverage of the child,
8978 enroll the child under family coverage upon application by the child's other parent, by the state
8979 agency administering the Medicaid program, or the state agency administering 42 U.S.C. Sec.
8980 651 through 669, the child support enforcement program;

8981 (c) not disenroll or eliminate coverage of the child unless the employer is provided
8982 satisfactory written evidence that:

8983 (i) the court order is no longer in effect;

8984 (ii) the child is or will be enrolled in comparable coverage which will take effect no
8985 later than the effective date of disenrollment; or

8986 (iii) the employer has eliminated family health coverage for all of its employees; and

8987 (d) withhold from the employee's compensation the employee's share, if any, of
8988 premiums for health coverage and to pay this amount to the insurer.

8989 (9) An order issued under Section [~~62A-11-326.1~~] 26B-9-225 may be considered a
8990 "qualified medical support order" for the purpose of enrolling a dependent child in a group
8991 accident and health insurance plan as defined in Section 609(a), Federal Employee Retirement
8992 Income Security Act of 1974.

8993 (10) This section does not affect any insurer's ability to require as a precondition of any
8994 child being covered under any policy of insurance that:

8995 (a) the parent continues to be eligible for coverage;

8996 (b) the child shall be identified to the insurer with adequate information to comply with
8997 this section; and

8998 (c) the premium shall be paid when due.

8999 (11) This section applies to employee welfare benefit plans as defined in Section
9000 [~~26-19-102~~] 26B-3-1001.

9001 (12) (a) A policy that provides coverage to a child of a group member may not deny
9002 eligibility for coverage to a child solely because:

9003 (i) the child does not reside with the insured; or

9004 (ii) the child is solely dependent on a former spouse of the insured rather than on the
9005 insured.

9006 (b) A child who does not reside with the insured may be excluded on the same basis as
9007 a child who resides with the insured.

9008 Section 101. Section **31A-22-610.6** is amended to read:

9009 **31A-22-610.6. Special enrollment for individuals receiving premium assistance.**

9010 (1) As used in this section:

9011 (a) "Premium assistance" means assistance under [~~Title 26, Chapter 18, Medical~~
9012 ~~Assistance Act~~] Title 26B, Chapter 3, Health Care - Administration and Assistance, in the
9013 payment of premium.

9014 (b) "Qualified beneficiary" means an individual who is approved to receive premium

9015 assistance.

9016 (2) Subject to the other provisions in this section, an individual may enroll under this
9017 section at a time outside of an employer health benefit plan open enrollment period, regardless
9018 of previously waiving coverage, if the individual is:

9019 (a) a qualified beneficiary who is eligible for coverage as an employee under the
9020 employer health benefit plan; or

9021 (b) a dependent of the qualified beneficiary who is eligible for coverage under the
9022 employer health benefit plan.

9023 (3) To be eligible to enroll outside of an open enrollment period, an individual
9024 described in Subsection (2) shall enroll in the employer health benefit plan by no later than 30
9025 days from the day on which the qualified beneficiary receives initial written notification, after
9026 July 1, 2008, that the qualified beneficiary is eligible to receive premium assistance.

9027 (4) An individual described in Subsection (2) may enroll under this section only in an
9028 employer health benefit plan that is available at the time of enrollment to similarly situated
9029 eligible employees or dependents of eligible employees.

9030 (5) Coverage under an employer health benefit plan for an individual described in
9031 Subsection (2) may begin as soon as the first day of the month immediately following
9032 enrollment of the individual in accordance with this section.

9033 (6) This section does not modify any requirement related to premiums that applies
9034 under an employer health benefit plan to a similarly situated eligible employee or dependent of
9035 an eligible employee under the employer health benefit plan.

9036 (7) An employer health benefit plan may require an individual described in Subsection
9037 (2) to satisfy a preexisting condition waiting period that:

9038 (a) is allowed under the Health Insurance Portability and Accountability Act; and

9039 (b) is not longer than 12 months.

9040 Section 102. Section **31A-22-613.5** is amended to read:

9041 **31A-22-613.5. Price and value comparisons of health insurance.**

9042 (1) (a) This section applies to all health benefit plans.

9043 (b) Subsection (2) applies to:

9044 (i) all health benefit plans; and

9045 (ii) coverage offered to state employees under Subsection [49-20-202\(1\)\(a\)](#).

- 9046 (2) The commissioner shall promote informed consumer behavior and responsible
9047 health benefit plans by requiring an insurer issuing a health benefit plan to provide to all
9048 enrollees, before enrollment in the health benefit plan, written disclosure of:
- 9049 (a) restrictions or limitations on prescription drugs and biologics, including:
- 9050 (i) the use of a formulary;
- 9051 (ii) co-payments and deductibles for prescription drugs; and
- 9052 (iii) requirements for generic substitution;
- 9053 (b) coverage limits under the plan;
- 9054 (c) any limitation or exclusion of coverage, including:
- 9055 (i) a limitation or exclusion for a secondary medical condition related to a limitation or
9056 exclusion from coverage; and
- 9057 (ii) easily understood examples of a limitation or exclusion of coverage for a secondary
9058 medical condition;
- 9059 (d) (i) (A) each drug, device, and covered service that is subject to a preauthorization
9060 requirement as defined in Section [31A-22-650](#); or
- 9061 (B) if listing each device or covered service in accordance with Subsection (2)(d)(i)(A)
9062 is too numerous to list separately, all devices or covered services in a particular category where
9063 all devices or covered services have the same preauthorization requirement;
- 9064 (ii) each requirement for authorization as defined in Section [31A-22-650](#) for:
- 9065 (A) each drug, device, or covered service described in Subsection (2)(d)(i)(A); and
- 9066 (B) each category of devices or covered services described in Subsection (2)(d)(i)(B);
- 9067 and
- 9068 (iii) sufficient information to allow a network provider or enrollee to submit all of the
9069 information to the insurer necessary to meet each requirement for authorization described in
9070 Subsection (2)(d)(ii);
- 9071 (e) whether the insurer permits an exchange of the adoption indemnity benefit in
9072 Section [31A-22-610.1](#) for infertility treatments, in accordance with Subsection
9073 [31A-22-610.1\(1\)\(c\)\(ii\)](#) and the terms associated with the exchange of benefits; and
- 9074 (f) whether the insurer provides coverage for telehealth services in accordance with
9075 Section ~~[26-18-13.5]~~ [26B-3-123](#) and terms associated with that coverage.
- 9076 (3) An insurer shall provide the disclosure required by Subsection (2) in writing to the

9077 commissioner:

9078 (a) upon commencement of operations in the state; and

9079 (b) anytime the insurer amends any of the following described in Subsection (2):

9080 (i) treatment policies;

9081 (ii) practice standards;

9082 (iii) restrictions;

9083 (iv) coverage limits of the insurer's health benefit plan or health insurance policy; or

9084 (v) limitations or exclusions of coverage including a limitation or exclusion for a

9085 secondary medical condition related to a limitation or exclusion of the insurer's health

9086 insurance plan.

9087 (4) (a) An insurer shall provide the enrollee with notice of an increase in costs for
9088 prescription drug coverage due to a change in benefit design under Subsection (2)(a):

9089 (i) either:

9090 (A) in writing; or

9091 (B) on the insurer's website; and

9092 (ii) at least 30 days prior to the date of the implementation of the increase in cost, or as
9093 soon as reasonably possible.

9094 (b) If under Subsection (2)(a) a formulary is used, the insurer shall make available to
9095 prospective enrollees and maintain evidence of the fact of the disclosure of:

9096 (i) the drugs included;

9097 (ii) the patented drugs not included;

9098 (iii) any conditions that exist as a precedent to coverage; and

9099 (iv) any exclusion from coverage for secondary medical conditions that may result
9100 from the use of an excluded drug.

9101 (c) The commissioner shall develop examples of limitations or exclusions of a
9102 secondary medical condition that an insurer may use under Subsection (2)(c).

9103 (5) Examples of a limitation or exclusion of coverage provided under this section or
9104 otherwise are for illustrative purposes only, and the failure of a particular fact situation to fall
9105 within the description of an example does not, by itself, support a finding of coverage.

9106 (6) An insurer shall:

9107 (a) post the information described in Subsection (2)(d) on the insurer's website and

9108 provider portal;

9109 (b) if requested by an enrollee, provide the enrollee with the information required by
9110 this section by mail or email; and

9111 (c) if requested by a network provider for a specific drug, device, or covered service,
9112 provide the network provider with the information described in Subsection (2)(d) for the drug,
9113 device, or covered service by mail or email.

9114 Section 103. **Effective date.**

9115 (1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

9116 (2) The actions affecting Section [13-61-101](#) (Effective 12/31/23) take effect on
9117 December 31, 2023.

9118 Section 104. **Coordinating S.B. 206 with H.B. 72 -- Renumbering and**
9119 **superseding.**

9120 If this S.B. 206 and H.B. 72, Medical Cannabis Governance Revisions, both pass and
9121 become law, the Legislature intends that the Office of Legislative Research and General
9122 Counsel prepare the Utah Code database for publication on July 1, 2023, as follows:

9123 (1) changes in H.B. 72 supersede the changes in this bill, as those changes went into
9124 effect on May 3, 2023, in the following sections:

9125 (a) Section [4-41a-201](#);

9126 (b) Section [10-9a-528](#); and

9127 (c) Section [17-27a-525](#);

9128 (2) changing the reference to "Section [26-61a-102](#)" in Subsection [10-9a-528\(1\)\(c\)](#) in
9129 this bill to "Section [26B-4-201](#)"; and

9130 (3) changing the reference to "Section [26-61a-102](#)" in Subsection [17-27a-525\(1\)\(c\)](#) in
9131 this bill to "Section [26B-4-201](#)".

9132 Section 105. **Coordinating S.B. 206 with S.B. 64 -- Technical amendments.**

9133 If this S.B. 206 and S.B. 64, Bureau of Emergency Medical Services Amendments, both
9134 pass and become law, the Legislature intends that the Office of Legislative Research and
9135 General Counsel prepare the Utah Code database for publication on July 1, 2024, by having
9136 changes in S.B. 64 supersede the changes in this bill, as those changes went into effect on May
9137 3, 2023, in the following sections:

9138 (1) Section [53-2d-101](#) (renumbered from Section [26-8a-102](#)) in S.B. 64;

- 9139 (2) Section 53-2d-105 (renumbered from Section 26-8a-104) in S.B. 64;
- 9140 (3) Section 53-2d-204 (renumbered from Section 26-8a-204) in S.B. 64;
- 9141 (4) Section 53-2d-205 (renumbered from Section 26-8a-205) in S.B. 64;
- 9142 (5) Section 53-2d-206 (renumbered from Section 26-8a-206) in S.B. 64, subject to the
- 9143 instructions in Section 106 of this bill; and
- 9144 (6) Section 53-2d-210 (renumbered from Section 26-8a-211) in S.B. 64.

9145 Section 106. **Coordinating S.B. 206 with H.B. 59 and S.B. 64 -- Technical**

9146 **amendments.**

9147 If this S.B. 40, H.B. 59, First Responder Mental Health Amendments, and S.B. 64,

9148 Bureau of Emergency Medical Services Amendments, all pass and become law, it is the intent

9149 of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah

9150 Code database for publication, on July 1, 2024, by:

- 9151 (1) renumbering Section 26-8a-206 in this bill to Section 53-2d-206; and
- 9152 (2) amending Section 53-2d-206 in S.B. 64 to read:

9153 "(1) The [~~department~~] bureau shall develop and implement a statewide program to

9154 provide support and counseling for personnel who have been exposed to one or more stressful

9155 incidents in the course of providing emergency services.

9156 (2) This program shall include:

9157 (a) ongoing training for agencies providing emergency services and counseling

9158 program volunteers;

9159 (b) critical incident stress debriefing for personnel at no cost to the emergency

9160 provider; and

9161 (c) advising the department on training requirements for licensure as a behavioral

9162 emergency services technician.

9163 (3) The department shall reimburse reasonable actual expenses, including mileage,

9164 incurred by a volunteer during the course of the volunteer's provision of critical incident stress

9165 services under this section."

9166 Section 107. **Revisor instructions.**

9167 The Legislature intends that the Office of Legislative Research and General Counsel, in

9168 preparing the Utah Code database for publication, not enroll this bill if any of the following

9169 bills do not pass:

- 9170 (a) S.B. 38, Health and Human Services Recodification - Administration, Licensing,
9171 and Recovery Services;
- 9172 (b) S.B. 39, Health and Human Services Recodification - Health Care Assistance and
9173 Data;
- 9174 (c) S.B. 40, Health and Human Services Recodification - Health Care Delivery and
9175 Repeals; or
- 9176 (d) S.B. 41, Health and Human Services Recodification - Prevention, Supports,
9177 Substance Use and Mental Health.