

1 **HEALTH AND HUMAN SERVICES FUNDING AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Robert M. Spendlove

Senate Sponsor: Michael S. Kennedy

3 **LONG TITLE**

4 **General Description:**

5 This bill addresses risk analysis and budgetary buffers related to the Medicaid program.

6 **Highlighted Provisions:**

7 This bill:

8 ▸ directs the Office of the Legislative Fiscal Analyst, in consultation with the Governor's
9 Office of Planning and Budget, to analyze risks associated with the funding of the Medicaid
10 program and to recommend budgetary actions based on that analysis;

11 ▸ renames the Medicaid Expansion Fund as the Medicaid ACA Fund and extends that
12 fund's sunset date;

13 ▸ merges the Medicaid Restricted Account into the Medicaid Growth Reduction and
14 Budget Stabilization Account;

15 ▸ allows the Legislature to appropriate money to and from the Medicaid Growth
16 Reduction and Budget Stabilization Account, with certain conditions; and

17 ▸ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19 This bill appropriates in fiscal year 2024:

20 ▸ to Department of Health and Human Services - General Fund Restricted -- Medicaid
21 Growth Reduction and Budget Stabilization Account as a one-time appropriation:

- 22 • from the General Fund Restricted - Medicaid Restricted Account, One-time, \$23,700,000

23 **Other Special Clauses:**

24 This bill provides a special effective date.

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **17B-2a-818.5 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 327

28 **19-1-206 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 327
29 **26B-1-315 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 471 and
30 renumbered and amended by Laws of Utah 2023, Chapter 305
31 **26B-3-113 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2023,
32 Chapter 306
33 **26B-3-210 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2023,
34 Chapter 306
35 **26B-3-211 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2023,
36 Chapter 306
37 **26B-3-504 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2023,
38 Chapter 306
39 **26B-3-508 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2023,
40 Chapter 306
41 **26B-3-512 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2023,
42 Chapter 306
43 **26B-3-601 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2023,
44 Chapter 306
45 **26B-3-604 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2023,
46 Chapter 306
47 **26B-3-605 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2023,
48 Chapter 306
49 **26B-3-608 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2023,
50 Chapter 306
51 **26B-3-612 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2023,
52 Chapter 306
53 **36-12-13 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapters 16, 430
54 **59-12-103 (Effective 05/01/24) (Contingently Superseded 01/01/25)**, as last amended by
55 Laws of Utah 2023, Chapters 22, 213, 329, 361, and 471
56 **59-12-103 (Contingently Effective 01/01/25)**, as last amended by Laws of Utah 2023,
57 Chapters 22, 213, 329, 361, 459, and 471
58 **63A-5b-607 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 329
59 **63C-9-403 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 329
60 **63I-1-226 (Effective 05/01/24) (Superseded 07/01/24)**, as last amended by Laws of Utah
61 2023, Chapters 249, 269, 270, 275, 332, 335, 420, and 495 and repealed and reenacted by

62 Laws of Utah 2023, Chapter 329
 63 **63I-1-226 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 249, 269,
 64 270, 275, 310, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023,
 65 Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapters 329, 332
 66 **63I-2-226 (Effective 05/01/24) (Superseded 07/01/24)**, as last amended by Laws of Utah
 67 2023, Chapters 33, 139, 249, 295, and 465 and repealed and reenacted by Laws of Utah 2023,
 68 Chapter 329
 69 **63I-2-226 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 33, 139,
 70 249, 295, 310, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and
 71 last amended by Coordination Clause, Laws of Utah 2023, Chapter 329
 72 **63J-1-315 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 329
 73 **72-6-107.5 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 330
 74 **79-2-404 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 330

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

77 Section 1. Section **17B-2a-818.5** is amended to read:

78 **17B-2a-818.5 (Effective 07/01/24). Contracting powers of public transit districts**

79 -- **Health insurance coverage.**

80 (1) As used in this section:

81 (a) "Aggregate" means the sum of all contracts, change orders, and modifications related
 82 to a single project.

83 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.

84 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or
 85 "operative" who:

86 (i) works at least 30 hours per calendar week; and

87 (ii) meets employer eligibility waiting requirements for health care insurance, which
 88 may not exceed the first day of the calendar month following 60 days after the day
 89 on which the individual is hired.

90 (d) "Health benefit plan" means:

91 (i) the same as that term is defined in Section 31A-1-301; or

92 (ii) an employee welfare benefit plan:

93 (A) established under the Employee Retirement Income Security Act of 1974, 29
 94 U.S.C. Sec. 1001 et seq.;

95 (B) for an employer with 100 or more employees; and

96 (C) in which the employer establishes a self-funded or partially self-funded group
97 health plan to provide medical care for the employer's employees and
98 dependents of the employees.

99 (e) "Qualified health coverage" means the same as that term is defined in Section
100 26B-3-909.

101 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

102 (g) "Third party administrator" or "administrator" means the same as that term is defined
103 in Section 31A-1-301.

104 (2) Except as provided in Subsection (3), the requirements of this section apply to:

105 (a) a contractor of a design or construction contract entered into by the public transit
106 district on or after July 1, 2009, if the prime contract is in an aggregate amount equal
107 to or greater than \$2,000,000; and

108 (b) a subcontractor of a contractor of a design or construction contract entered into by
109 the public transit district on or after July 1, 2009, if the subcontract is in an aggregate
110 amount equal to or greater than \$1,000,000.

111 (3) The requirements of this section do not apply to a contractor or subcontractor described
112 in Subsection (2) if:

113 (a) the application of this section jeopardizes the receipt of federal funds;

114 (b) the contract is a sole source contract; or

115 (c) the contract is an emergency procurement.

116 (4) A person that intentionally uses change orders, contract modifications, or multiple
117 contracts to circumvent the requirements of this section is guilty of an infraction.

118 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
119 public transit district that the contractor has and will maintain an offer of qualified
120 health coverage for the contractor's employees and the employee's dependents during
121 the duration of the contract by submitting to the public transit district a written
122 statement that:

123 (i) the contractor offers qualified health coverage that complies with Section
124 26B-3-909;

125 (ii) is from:

126 (A) an actuary selected by the contractor or the contractor's insurer;

127 (B) an underwriter who is responsible for developing the employer group's
128 premium rates; or

129 (C) if the contractor provides a health benefit plan described in Subsection

- 130 (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and
131 (iii) was created within one year before the day on which the statement is submitted.
- 132 (b) (i) A contractor that provides a health benefit plan described in Subsection
133 (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as
134 described in Subsection (5)(a)(ii)(C), sufficient information to determine whether
135 the contractor's contribution to the health benefit plan and the actuarial value of
136 the health benefit plan meet the requirements of qualified health coverage.
- 137 (ii) A contractor may not make a change to the contractor's contribution to the health
138 benefit plan, unless the contractor provides notice to:
- 139 (A) the actuary or underwriter selected by an administrator as described in
140 Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written
141 statement described in Subsection (5)(a) in compliance with this section; and
142 (B) the public transit district.
- 143 (c) A contractor that is subject to the requirements of this section shall:
- 144 (i) place a requirement in each of the contractor's subcontracts that a subcontractor
145 that is subject to the requirements of this section shall obtain and maintain an offer
146 of qualified health coverage for the subcontractor's employees and the employees'
147 dependents during the duration of the subcontract; and
- 148 (ii) obtain from a subcontractor that is subject to the requirements of this section a
149 written statement that:
- 150 (A) the subcontractor offers qualified health coverage that complies with Section
151 26B-3-909;
- 152 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer,
153 an underwriter who is responsible for developing the employer group's
154 premium rates, or if the subcontractor provides a health benefit plan described
155 in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator;
156 and
- 157 (C) was created within one year before the day on which the contractor obtains the
158 statement.
- 159 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage
160 as described in Subsection (5)(a) during the duration of the contract is subject
161 to penalties in accordance with an ordinance adopted by the public transit
162 district under Subsection (6).
- 163 (B) A contractor is not subject to penalties for the failure of a subcontractor to

- 164 obtain and maintain an offer of qualified health coverage described in
165 Subsection (5)(c)(i).
- 166 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified
167 health coverage described in Subsection (5)(c)(i) during the duration of the
168 subcontract is subject to penalties in accordance with an ordinance adopted by
169 the public transit district under Subsection (6).
- 170 (B) A subcontractor is not subject to penalties for the failure of a contractor to
171 maintain an offer of qualified health coverage described in Subsection (5)(a).
- 172 (6) The public transit district shall adopt ordinances:
- 173 (a) in coordination with:
- 174 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
175 (ii) the Department of Natural Resources in accordance with Section 79-2-404;
176 (iii) the Division of Facilities Construction and Management in accordance with
177 Section 63A-5b-607;
- 178 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403; and
179 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- 180 (b) that establish:
- 181 (i) the requirements and procedures a contractor and a subcontractor shall follow to
182 demonstrate compliance with this section, including:
- 183 (A) that a contractor or subcontractor's compliance with this section is subject to
184 an audit by the public transit district or the Office of the Legislative Auditor
185 General;
- 186 (B) that a contractor that is subject to the requirements of this section shall obtain
187 a written statement described in Subsection (5)(a); and
- 188 (C) that a subcontractor that is subject to the requirements of this section shall
189 obtain a written statement described in Subsection (5)(c)(ii);
- 190 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
191 violates the provisions of this section, which may include:
- 192 (A) a three-month suspension of the contractor or subcontractor from entering into
193 future contracts with the public transit district upon the first violation;
- 194 (B) a six-month suspension of the contractor or subcontractor from entering into
195 future contracts with the public transit district upon the second violation;
- 196 (C) an action for debarment of the contractor or subcontractor in accordance with
197 Section 63G-6a-904 upon the third or subsequent violation; and

- 198 (D) monetary penalties which may not exceed 50% of the amount necessary to
199 purchase qualified health coverage for employees and dependents of
200 employees of the contractor or subcontractor who were not offered qualified
201 health coverage during the duration of the contract; and
- 202 (iii) a website on which the district shall post the commercially equivalent
203 benchmark, for the qualified health coverage identified in Subsection (1)(e), that
204 is provided by the Department of Health and Human Services, in accordance with
205 Subsection 26B-3-909(2).
- 206 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a
207 contractor or subcontractor who intentionally violates the provisions of this
208 section is liable to the employee for health care costs that would have been
209 covered by qualified health coverage.
- 210 (ii) An employer has an affirmative defense to a cause of action under Subsection
211 (7)(a)(i) if:
- 212 (A) the employer relied in good faith on a written statement described in
213 Subsection (5)(a) or (5)(c)(ii); or
- 214 (B) a department or division determines that compliance with this section is not
215 required under the provisions of Subsection (3).
- 216 (b) An employee has a private right of action only against the employee's employer to
217 enforce the provisions of this Subsection (7).
- 218 (8) Any penalties imposed and collected under this section shall be deposited into the
219 Medicaid [~~Restricted~~] Growth Reduction and Budget Stabilization Account created in
220 Section [~~26B-1-309~~] 63J-1-315.
- 221 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
222 required by this section:
- 223 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
224 or contractor under:
- 225 (i) Section 63G-6a-1602; or
- 226 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
- 227 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
228 contractor as a basis for any action or suit that would suspend, disrupt, or terminate
229 the design or construction.
- 230 (10) An administrator, including an administrator's actuary or underwriter, who provides a
231 written statement under Subsection (5)(a) or (c) regarding the qualified health coverage

- 232 of a contractor or subcontractor who provides a health benefit plan described in
233 Subsection (1)(d)(ii):
- 234 (a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless
235 the administrator commits gross negligence in preparing the written statement;
 - 236 (b) is not liable for any error in the written statement if the administrator relied in good
237 faith on information from the contractor or subcontractor; and
 - 238 (c) may require as a condition of providing the written statement that a contractor or
239 subcontractor hold the administrator harmless for an action arising under this section.

240 Section 2. Section **19-1-206** is amended to read:

241 **19-1-206 (Effective 07/01/24). Contracting powers of department -- Health**
242 **insurance coverage.**

243 (1) As used in this section:

- 244 (a) "Aggregate" means the sum of all contracts, change orders, and modifications related
245 to a single project.
- 246 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.
- 247 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or
248 "operative" who:
 - 249 (i) works at least 30 hours per calendar week; and
 - 250 (ii) meets employer eligibility waiting requirements for health care insurance, which
251 may not exceed the first day of the calendar month following 60 days after the day
252 on which the individual is hired.
- 253 (d) "Health benefit plan" means:
 - 254 (i) the same as that term is defined in Section 31A-1-301; or
 - 255 (ii) an employee welfare benefit plan:
 - 256 (A) established under the Employee Retirement Income Security Act of 1974, 29
257 U.S.C. Sec. 1001 et seq.;
 - 258 (B) for an employer with 100 or more employees; and
 - 259 (C) in which the employer establishes a self-funded or partially self-funded group
260 health plan to provide medical care for the employer's employees and
261 dependents of the employees.
- 262 (e) "Qualified health coverage" means the same as that term is defined in Section
263 26B-3-909.
- 264 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
- 265 (g) "Third party administrator" or "administrator" means the same as that term is defined

- 266 in Section 31A-1-301.
- 267 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 268 (a) a contractor of a design or construction contract entered into by, or delegated to, the
- 269 department, or a division or board of the department, on or after July 1, 2009, if the
- 270 prime contract is in an aggregate amount equal to or greater than \$2,000,000; and
- 271 (b) a subcontractor of a contractor of a design or construction contract entered into by, or
- 272 delegated to, the department, or a division or board of the department, on or after July
- 273 1, 2009, if the subcontract is in an aggregate amount equal to or greater than
- 274 \$1,000,000.
- 275 (3) This section does not apply to contracts entered into by the department or a division or
- 276 board of the department if:
- 277 (a) the application of this section jeopardizes the receipt of federal funds;
- 278 (b) the contract or agreement is between:
- 279 (i) the department or a division or board of the department; and
- 280 (ii) (A) another agency of the state;
- 281 (B) the federal government;
- 282 (C) another state;
- 283 (D) an interstate agency;
- 284 (E) a political subdivision of this state; or
- 285 (F) a political subdivision of another state;
- 286 (c) the executive director determines that applying the requirements of this section to a
- 287 particular contract interferes with the effective response to an immediate health and
- 288 safety threat from the environment; or
- 289 (d) the contract is:
- 290 (i) a sole source contract; or
- 291 (ii) an emergency procurement.
- 292 (4) A person that intentionally uses change orders, contract modifications, or multiple
- 293 contracts to circumvent the requirements of this section is guilty of an infraction.
- 294 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
- 295 executive director that the contractor has and will maintain an offer of qualified
- 296 health coverage for the contractor's employees and the employees' dependents during
- 297 the duration of the contract by submitting to the executive director a written
- 298 statement that:
- 299 (i) the contractor offers qualified health coverage that complies with Section

- 300 26B-3-909;
- 301 (ii) is from:
- 302 (A) an actuary selected by the contractor or the contractor's insurer;
- 303 (B) an underwriter who is responsible for developing the employer group's
- 304 premium rates; or
- 305 (C) if the contractor provides a health benefit plan described in Subsection
- 306 (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and
- 307 (iii) was created within one year before the day on which the statement is submitted.
- 308 (b) (i) A contractor that provides a health benefit plan described in Subsection
- 309 (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as
- 310 described in Subsection (5)(a)(ii)(C), sufficient information to determine whether
- 311 the contractor's contribution to the health benefit plan and the actuarial value of
- 312 the health benefit plan meet the requirements of qualified health coverage.
- 313 (ii) A contractor may not make a change to the contractor's contribution to the health
- 314 benefit plan, unless the contractor provides notice to:
- 315 (A) the actuary or underwriter selected by an administrator, as described in
- 316 Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written
- 317 statement described in Subsection (5)(a) in compliance with this section; and
- 318 (B) the department.
- 319 (c) A contractor that is subject to the requirements of this section shall:
- 320 (i) place a requirement in each of the contractor's subcontracts that a subcontractor
- 321 that is subject to the requirements of this section shall obtain and maintain an offer
- 322 of qualified health coverage for the subcontractor's employees and the employees'
- 323 dependents during the duration of the subcontract; and
- 324 (ii) obtain from a subcontractor that is subject to the requirements of this section a
- 325 written statement that:
- 326 (A) the subcontractor offers qualified health coverage that complies with Section
- 327 26B-3-909;
- 328 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer,
- 329 an underwriter who is responsible for developing the employer group's
- 330 premium rates, or if the subcontractor provides a health benefit plan described
- 331 in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator;
- 332 and
- 333 (C) was created within one year before the day on which the contractor obtains the

- 334 statement.
- 335 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage
336 described in Subsection (5)(a) during the duration of the contract is subject to
337 penalties in accordance with administrative rules adopted by the department
338 under Subsection (6).
- 339 (B) A contractor is not subject to penalties for the failure of a subcontractor to
340 obtain and maintain an offer of qualified health coverage described in
341 Subsection (5)(c)(i).
- 342 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified
343 health coverage described in Subsection (5)(c) during the duration of the
344 subcontract is subject to penalties in accordance with administrative rules
345 adopted by the department under Subsection (6).
- 346 (B) A subcontractor is not subject to penalties for the failure of a contractor to
347 maintain an offer of qualified health coverage described in Subsection (5)(a).
- 348 (6) The department shall adopt administrative rules:
- 349 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 350 (b) in coordination with:
- 351 (i) a public transit district in accordance with Section 17B-2a-818.5;
- 352 (ii) the Department of Natural Resources in accordance with Section 79-2-404;
- 353 (iii) the Division of Facilities Construction and Management in accordance with
354 Section 63A-5b-607;
- 355 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;
- 356 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- 357 (vi) the Legislature's Administrative Rules Review and General Oversight
358 Committee; and
- 359 (c) that establish:
- 360 (i) the requirements and procedures a contractor and a subcontractor shall follow to
361 demonstrate compliance with this section, including:
- 362 (A) that a contractor or subcontractor's compliance with this section is subject to
363 an audit by the department or the Office of the Legislative Auditor General;
- 364 (B) that a contractor that is subject to the requirements of this section shall obtain
365 a written statement described in Subsection (5)(a); and
- 366 (C) that a subcontractor that is subject to the requirements of this section shall
367 obtain a written statement described in Subsection (5)(c)(ii);

- 368 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
369 violates the provisions of this section, which may include:
- 370 (A) a three-month suspension of the contractor or subcontractor from entering into
371 future contracts with the state upon the first violation;
- 372 (B) a six-month suspension of the contractor or subcontractor from entering into
373 future contracts with the state upon the second violation;
- 374 (C) an action for debarment of the contractor or subcontractor in accordance with
375 Section 63G-6a-904 upon the third or subsequent violation; and
- 376 (D) notwithstanding Section 19-1-303, monetary penalties which may not exceed
377 50% of the amount necessary to purchase qualified health coverage for an
378 employee and the dependents of an employee of the contractor or subcontractor
379 who was not offered qualified health coverage during the duration of the
380 contract; and
- 381 (iii) a website on which the department shall post the commercially equivalent
382 benchmark, for the qualified health coverage identified in Subsection (1)(e), that
383 is provided by the Department of Health and Human Services, in accordance with
384 Subsection 26B-3-909(2).
- 385 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a
386 contractor or subcontractor who intentionally violates the provisions of this
387 section is liable to the employee for health care costs that would have been
388 covered by qualified health coverage.
- 389 (ii) An employer has an affirmative defense to a cause of action under Subsection
390 (7)(a)(i) if:
- 391 (A) the employer relied in good faith on a written statement described in
392 Subsection (5)(a) or (5)(c)(ii); or
- 393 (B) the department determines that compliance with this section is not required
394 under the provisions of Subsection (3).
- 395 (b) An employee has a private right of action only against the employee's employer to
396 enforce the provisions of this Subsection (7).
- 397 (8) Any penalties imposed and collected under this section shall be deposited into the
398 Medicaid [~~Restricted~~] Growth Reduction and Budget Stabilization Account created in
399 Section [~~26B-1-309~~] 63J-1-315.
- 400 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
401 required by this section:

- 402 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
403 or contractor under:
- 404 (i) Section 63G-6a-1602; or
405 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
- 406 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
407 contractor as a basis for any action or suit that would suspend, disrupt, or terminate
408 the design or construction.
- 409 (10) An administrator, including an administrator's actuary or underwriter, who provides a
410 written statement under Subsection (5)(a) or (c) regarding the qualified health coverage
411 of a contractor or subcontractor who provides a health benefit plan described in
412 Subsection (1)(d)(ii):
- 413 (a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless
414 the administrator commits gross negligence in preparing the written statement;
- 415 (b) is not liable for any error in the written statement if the administrator relied in good
416 faith on information from the contractor or subcontractor; and
- 417 (c) may require as a condition of providing the written statement that a contractor or
418 subcontractor hold the administrator harmless for an action arising under this section.
- 419 Section 3. Section **26B-1-315** is amended to read:
- 420 **26B-1-315 (Effective 05/01/24). Medicaid ACA Fund.**
- 421 (1) There is created an expendable special revenue fund known as the "Medicaid [~~Expansion~~
422 ACA Fund."
- 423 (2) The fund consists of:
- 424 (a) assessments collected under Chapter 3, Part 5, Inpatient Hospital Assessment;
425 (b) intergovernmental transfers under Section 26B-3-508;
426 (c) savings attributable to the health coverage improvement program, as defined in
427 Section 26B-3-501, as determined by the department;
- 428 (d) savings attributable to the enhancement waiver program, as defined in Section
429 26B-3-501, as determined by the department;
- 430 (e) savings attributable to the Medicaid waiver expansion, as defined in Section
431 26B-3-501, as determined by the department;
- 432 (f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list
433 under Subsection 26B-3-105(3) as determined by the department;
- 434 (g) revenues collected from the sales tax described in Subsection 59-12-103(11);
435 (h) gifts, grants, donations, or any other conveyance of money that may be made to the

- 436 fund from private sources;
- 437 (i) interest earned on money in the fund; and
- 438 (j) additional amounts as appropriated by the Legislature.
- 439 (3) (a) The fund shall earn interest.
- 440 (b) All interest earned on fund money shall be deposited into the fund.
- 441 (4) (a) A state agency administering the provisions of Chapter 3, Part 5, Inpatient
- 442 Hospital Assessment, may use money from the fund to pay the costs, not otherwise
- 443 paid for with federal funds or other revenue sources, of:
- 444 (i) the health coverage improvement program as defined in Section 26B-3-501;
- 445 (ii) the enhancement waiver program as defined in Section 26B-3-501;
- 446 (iii) a Medicaid waiver expansion as defined in Section 26B-3-501; and
- 447 (iv) the outpatient upper payment limit supplemental payments under Section
- 448 26B-3-511.
- 449 (b) A state agency administering the provisions of Chapter 3, Part 5, Inpatient Hospital
- 450 Assessment, may not use:
- 451 (i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper
- 452 payment limit supplemental payments; or
- 453 (ii) money in the fund for any purpose not described in Subsection (4)(a).
- 454 Section 4. Section **26B-3-113** is amended to read:
- 455 **26B-3-113 (Effective 05/01/24). Expanding the Medicaid program.**
- 456 (1) As used in this section:
- 457 (a) "Federal poverty level" means the same as that term is defined in Section 26B-3-207.
- 458 [~~(b) "Medicaid expansion" means an expansion of the Medicaid program in accordance~~
- 459 ~~with this section.]~~
- 460 [(e)] (b) "Medicaid [Expansion] ACA Fund" means the Medicaid [Expansion] ACA Fund
- 461 created in Section 26B-1-315.
- 462 (c) "Medicaid expansion" means an expansion of the Medicaid program in accordance
- 463 with this section.
- 464 (2) (a) As set forth in Subsections (2) through (5), eligibility criteria for the Medicaid
- 465 program shall be expanded to cover additional low-income individuals.
- 466 (b) The department shall continue to seek approval from CMS to implement the
- 467 Medicaid waiver expansion as defined in Section [~~26B-1-112~~] 26B-3-210.
- 468 (c) The department may implement any provision described in Subsections [~~26B-3-112~~
- 469 ~~(2)(b)(iii) through (viii)] 26B-3-210(2)(b)(iii) through (viii) in a Medicaid expansion~~

- 470 if the department receives approval from CMS to implement that provision.
- 471 (3) The department shall expand the Medicaid program in accordance with this Subsection
- 472 (3) if the department:
- 473 (a) receives approval from CMS to:
- 474 (i) expand Medicaid coverage to eligible individuals whose income is below 95% of
- 475 the federal poverty level;
- 476 (ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(b) for
- 477 enrolling an individual in the Medicaid expansion under this Subsection (3); and
- 478 (iii) permit the state to close enrollment in the Medicaid expansion under this
- 479 Subsection (3) if the department has insufficient funds to provide services to new
- 480 enrollment under the Medicaid expansion under this Subsection (3);
- 481 (b) pays the state portion of costs for the Medicaid expansion under this Subsection (3)
- 482 with funds from:
- 483 (i) the Medicaid [~~Expansion~~] ACA Fund;
- 484 (ii) county contributions to the nonfederal share of Medicaid expenditures; or
- 485 (iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid
- 486 expenditures; and
- 487 (c) closes the Medicaid program to new enrollment under the Medicaid expansion under
- 488 this Subsection (3) if the department projects that the cost of the Medicaid expansion
- 489 under this Subsection (3) will exceed the appropriations for the fiscal year that are
- 490 authorized by the Legislature through an appropriations act adopted in accordance
- 491 with Title 63J, Chapter 1, Budgetary Procedures Act.
- 492 (4) (a) The department shall expand the Medicaid program in accordance with this
- 493 Subsection (4) if the department:
- 494 (i) receives approval from CMS to:
- 495 (A) expand Medicaid coverage to eligible individuals whose income is below 95%
- 496 of the federal poverty level;
- 497 (B) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y)
- 498 for enrolling an individual in the Medicaid expansion under this Subsection
- 499 (4); and
- 500 (C) permit the state to close enrollment in the Medicaid expansion under this
- 501 Subsection (4) if the department has insufficient funds to provide services to
- 502 new enrollment under the Medicaid expansion under this Subsection (4);
- 503 (ii) pays the state portion of costs for the Medicaid expansion under this Subsection

- 504 (4) with funds from:
- 505 (A) the Medicaid [~~Expansion~~] ACA Fund;
- 506 (B) county contributions to the nonfederal share of Medicaid expenditures; or
- 507 (C) any other contributions, funds, or transfers from a nonstate agency for
- 508 Medicaid expenditures; and
- 509 (iii) closes the Medicaid program to new enrollment under the Medicaid expansion
- 510 under this Subsection (4) if the department projects that the cost of the Medicaid
- 511 expansion under this Subsection (4) will exceed the appropriations for the fiscal
- 512 year that are authorized by the Legislature through an appropriations act adopted
- 513 in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.
- 514 (b) The department shall submit a waiver, an amendment to an existing waiver, or a state
- 515 plan amendment to CMS to:
- 516 (i) administer federal funds for the Medicaid expansion under this Subsection (4)
- 517 according to a per capita cap developed by the department that includes an annual
- 518 inflationary adjustment, accounts for differences in cost among categories of
- 519 Medicaid expansion enrollees, and provides greater flexibility to the state than the
- 520 current Medicaid payment model;
- 521 (ii) limit, in certain circumstances as defined by the department, the ability of a
- 522 qualified entity to determine presumptive eligibility for Medicaid coverage for an
- 523 individual enrolled in a Medicaid expansion under this Subsection (4);
- 524 (iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under
- 525 this Subsection (4) violates certain program requirements as defined by the
- 526 department;
- 527 (iv) allow an individual enrolled in a Medicaid expansion under this Subsection (4) to
- 528 remain in the Medicaid program for up to a 12-month certification period as
- 529 defined by the department; and
- 530 (v) allow federal Medicaid funds to be used for housing support for eligible enrollees
- 531 in the Medicaid expansion under this Subsection (4).
- 532 (5) (a) (i) If CMS does not approve a waiver to expand the Medicaid program in
- 533 accordance with Subsection (4)(a) on or before January 1, 2020, the department
- 534 shall develop proposals to implement additional flexibilities and cost controls,
- 535 including cost sharing tools, within a Medicaid expansion under this Subsection
- 536 (5) through a request to CMS for a waiver or state plan amendment.
- 537 (ii) The request for a waiver or state plan amendment described in Subsection

- 538 (5)(a)(i) shall include:
- 539 (A) a path to self-sufficiency for qualified adults in the Medicaid expansion that
- 540 includes employment and training as defined in 7 U.S.C. Sec. 2015(d)(4); and
- 541 (B) a requirement that an individual who is offered a private health benefit plan by
- 542 an employer to enroll in the employer's health plan.
- 543 (iii) The department shall submit the request for a waiver or state plan amendment
- 544 developed under Subsection (5)(a)(i) on or before March 15, 2020.
- 545 (b) Notwithstanding Sections 26B-3-127 and 63J-5-204, and in accordance with this
- 546 Subsection (5), eligibility for the Medicaid program shall be expanded to include all
- 547 persons in the optional Medicaid expansion population under PPACA and the Health
- 548 Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal
- 549 regulations and guidance, on the earlier of:
- 550 (i) the day on which CMS approves a waiver to implement the provisions described
- 551 in Subsections (5)(a)(ii)(A) and (B); or
- 552 (ii) July 1, 2020.
- 553 (c) The department shall seek a waiver, or an amendment to an existing waiver, from
- 554 federal law to:
- 555 (i) implement each provision described in Subsections 26B-3-210(2)(b)(iii) through
- 556 (viii) in a Medicaid expansion under this Subsection (5);
- 557 (ii) limit, in certain circumstances as defined by the department, the ability of a
- 558 qualified entity to determine presumptive eligibility for Medicaid coverage for an
- 559 individual enrolled in a Medicaid expansion under this Subsection (5); and
- 560 (iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under
- 561 this Subsection (5) violates certain program requirements as defined by the
- 562 department.
- 563 (d) The eligibility criteria in this Subsection (5) shall be construed to include all
- 564 individuals eligible for the health coverage improvement program under Section
- 565 26B-3-207.
- 566 (e) The department shall pay the state portion of costs for a Medicaid expansion under
- 567 this Subsection (5) entirely from:
- 568 (i) the Medicaid [~~Expansion~~] ACA Fund;
- 569 (ii) county contributions to the nonfederal share of Medicaid expenditures; or
- 570 (iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid
- 571 expenditures.

- 572 (f) If the costs of the Medicaid expansion under this Subsection (5) exceed the funds
573 available under Subsection (5)(e):
- 574 (i) the department may reduce or eliminate optional Medicaid services under this
575 chapter;
- 576 (ii) savings, as determined by the department, from the reduction or elimination of
577 optional Medicaid services under Subsection (5)(f)(i) shall be deposited into the
578 Medicaid [~~Expansion~~] ACA Fund; and
- 579 (iii) the department may submit to CMS a request for waivers, or an amendment of
580 existing waivers, from federal law necessary to implement budget controls within
581 the Medicaid program to address the deficiency.
- 582 (g) If the costs of the Medicaid expansion under this Subsection (5) are projected by the
583 department to exceed the funds available in the current fiscal year under Subsection
584 (5)(e), including savings resulting from any action taken under Subsection (5)(f):
- 585 (i) the governor shall direct the department and Department of Workforce Services to
586 reduce commitments and expenditures by an amount sufficient to offset the
587 deficiency:
- 588 (A) proportionate to the share of total current fiscal year General Fund
589 appropriations for each of those agencies; and
- 590 (B) up to 10% of each agency's total current fiscal year General Fund
591 appropriations;
- 592 (ii) the Division of Finance shall reduce allotments to the department and Department
593 of Workforce Services by a percentage:
- 594 (A) proportionate to the amount of the deficiency; and
595 (B) up to 10% of each agency's total current fiscal year General Fund
596 appropriations; and
- 597 (iii) the Division of Finance shall deposit the total amount from the reduced
598 allotments described in Subsection (5)(g)(ii) into the Medicaid [~~Expansion~~] ACA
599 Fund.
- 600 (6) The department shall maximize federal financial participation in implementing this
601 section, including by seeking to obtain any necessary federal approvals or waivers.
- 602 (7) Notwithstanding Sections 17-43-201 and 17-43-301, a county does not have to provide
603 matching funds to the state for the cost of providing Medicaid services to newly enrolled
604 individuals who qualify for Medicaid coverage under a Medicaid expansion.
- 605 (8) The department shall report to the Social Services Appropriations Subcommittee on or

- 606 before November 1 of each year that a Medicaid expansion is operational:
- 607 (a) the number of individuals who enrolled in the Medicaid expansion;
- 608 (b) costs to the state for the Medicaid expansion;
- 609 (c) estimated costs to the state for the Medicaid expansion for the current and following
- 610 fiscal years;
- 611 (d) recommendations to control costs of the Medicaid expansion; and
- 612 (e) as calculated in accordance with Subsections 26B-3-506(4) and 26B-3-606(2), the
- 613 state's net cost of the qualified Medicaid expansion.

614 Section 5. Section **26B-3-210** is amended to read:

615 **26B-3-210 (Effective 05/01/24). Medicaid waiver expansion.**

- 616 (1) As used in this section:
- 617 (a) "Federal poverty level" means the same as that term is defined in Section 26B-3-207.
- 618 (b) "Medicaid waiver expansion" means an expansion of the Medicaid program in
- 619 accordance with this section.
- 620 (2) (a) Before January 1, 2019, the department shall apply to CMS for approval of a
- 621 waiver or state plan amendment to implement the Medicaid waiver expansion.
- 622 (b) The Medicaid waiver expansion shall:
- 623 (i) expand Medicaid coverage to eligible individuals whose income is below 95% of
- 624 the federal poverty level;
- 625 (ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for
- 626 enrolling an individual in the Medicaid program;
- 627 (iii) provide Medicaid benefits through the state's Medicaid accountable care
- 628 organizations in areas where a Medicaid accountable care organization is
- 629 implemented;
- 630 (iv) integrate the delivery of behavioral health services and physical health services
- 631 with Medicaid accountable care organizations in select geographic areas of the
- 632 state that choose an integrated model;
- 633 (v) include a path to self-sufficiency, including work activities as defined in 42
- 634 U.S.C. Sec. 607(d), for qualified adults;
- 635 (vi) require an individual who is offered a private health benefit plan by an employer
- 636 to enroll in the employer's health plan;
- 637 (vii) sunset in accordance with Subsection (5)(a); and
- 638 (viii) permit the state to close enrollment in the Medicaid waiver expansion if the
- 639 department has insufficient funding to provide services to additional eligible

- 640 individuals.
- 641 (3) If the Medicaid waiver described in Subsection (2)(a) is approved, the department may
642 only pay the state portion of costs for the Medicaid waiver expansion with
643 appropriations from:
- 644 (a) the Medicaid [~~Expansion~~] ACA Fund, created in Section 26B-1-315;
- 645 (b) county contributions to the non-federal share of Medicaid expenditures; and
- 646 (c) any other contributions, funds, or transfers from a non-state agency for Medicaid
647 expenditures.
- 648 (4) (a) In consultation with the department, Medicaid accountable care organizations and
649 counties that elect to integrate care under Subsection (2)(b)(iv) shall collaborate on
650 enrollment, engagement of patients, and coordination of services.
- 651 (b) As part of the provision described in Subsection (2)(b)(iv), the department shall
652 apply for a waiver to permit the creation of an integrated delivery system:
- 653 (i) for any geographic area that expresses interest in integrating the delivery of
654 services under Subsection (2)(b)(iv); and
- 655 (ii) in which the department:
- 656 (A) may permit a local mental health authority to integrate the delivery of
657 behavioral health services and physical health services;
- 658 (B) may permit a county, local mental health authority, or Medicaid accountable
659 care organization to integrate the delivery of behavioral health services and
660 physical health services to select groups within the population that are newly
661 eligible under the Medicaid waiver expansion; and
- 662 (C) may make rules in accordance with Title 63G, Chapter 3, Utah Administrative
663 Rulemaking Act, to integrate payments for behavioral health services and
664 physical health services to plans or providers.
- 665 (5) (a) If federal financial participation for the Medicaid waiver expansion is reduced
666 below 90%, the authority of the department to implement the Medicaid waiver
667 expansion shall sunset no later than the next July 1 after the date on which the federal
668 financial participation is reduced.
- 669 (b) The department shall close the program to new enrollment if the cost of the Medicaid
670 waiver expansion is projected to exceed the appropriations for the fiscal year that are
671 authorized by the Legislature through an appropriations act adopted in accordance
672 with Title 63J, Chapter 1, Budgetary Procedures Act.
- 673 (6) If the Medicaid waiver expansion is approved by CMS, the department shall report to

674 the Social Services Appropriations Subcommittee on or before November 1 of each year
675 that the Medicaid waiver expansion is operational:

- 676 (a) the number of individuals who enrolled in the Medicaid waiver program;
677 (b) costs to the state for the Medicaid waiver program;
678 (c) estimated costs for the current and following state fiscal year; and
679 (d) recommendations to control costs of the Medicaid waiver expansion.

680 Section 6. Section **26B-3-211** is amended to read:

681 **26B-3-211 (Effective 05/01/24). Primary Care Network enhancement waiver**
682 **program.**

683 (1) As used in this section:

- 684 (a) "Enhancement waiver program" means the Primary Care Network enhancement
685 waiver program described in this section.
686 (b) "Federal poverty level" means the poverty guidelines established by the secretary of
687 the United States Department of Health and Human Services under 42 U.S.C. Sec.
688 9902(2).
689 (c) "Health coverage improvement program" means the same as that term is defined in
690 Section 26B-3-207.
691 (d) "Income eligibility ceiling" means the percentage of federal poverty level:
692 (i) established by the Legislature in an appropriations act adopted pursuant to Title
693 63J, Chapter 1, Budgetary Procedures Act; and
694 (ii) under which an individual may qualify for coverage in the enhancement waiver
695 program in accordance with this section.
696 (e) "Optional population" means the optional expansion population under PPACA if the
697 expansion provides coverage for individuals at or above 95% of the federal poverty
698 level.
699 (f) "Primary Care Network" means the state Primary Care Network program created by
700 the Medicaid primary care network demonstration waiver obtained under Section
701 26B-3-108.

702 (2) The department shall continue to implement the Primary Care Network program for
703 qualified individuals under the Primary Care Network program.

704 (3) (a) The division shall apply for a Medicaid waiver or a state plan amendment with
705 CMS to implement, within the state Medicaid program, the enhancement waiver
706 program described in this section within six months after the day on which:

- 707 (i) the division receives a notice from CMS that the waiver for the Medicaid waiver

- 708 expansion submitted under Section 26B-3-210, Medicaid waiver expansion, will
709 not be approved; or
- 710 (ii) the division withdraws the waiver for the Medicaid waiver expansion submitted
711 under Section 26B-3-210, Medicaid waiver expansion.
- 712 (b) The division may not apply for a waiver under Subsection (3)(a) while a waiver
713 request under Section 26B-3-210, Medicaid waiver expansion, is pending with CMS.
- 714 (4) An individual who is eligible for the enhancement waiver program may receive the
715 following benefits under the enhancement waiver program:
- 716 (a) the benefits offered under the Primary Care Network program;
- 717 (b) diagnostic testing and procedures;
- 718 (c) medical specialty care;
- 719 (d) inpatient hospital services;
- 720 (e) outpatient hospital services;
- 721 (f) outpatient behavioral health care, including outpatient substance use care; and
- 722 (g) for an individual who qualifies for the health coverage improvement program, as
723 approved by CMS, temporary residential treatment for substance use in a short term,
724 non-institutional, 24-hour facility, without a bed capacity limit, that provides
725 rehabilitation services that are medically necessary and in accordance with an
726 individualized treatment plan.
- 727 (5) An individual is eligible for the enhancement waiver program if, at the time of
728 enrollment:
- 729 (a) the individual is qualified to enroll in the Primary Care Network or the health
730 coverage improvement program;
- 731 (b) the individual's annual income is below the income eligibility ceiling established by
732 the Legislature under Subsection (1)(d); and
- 733 (c) the individual meets the eligibility criteria established by the department under
734 Subsection (6).
- 735 (6) (a) Based on available funding and approval from CMS, the department shall
736 determine the criteria for an individual to qualify for the enhancement waiver
737 program, based on the following priority:
- 738 (i) adults in the expansion population, as defined in Section 26B-3-207, who qualify
739 for the health coverage improvement program;
- 740 (ii) adults with dependent children who qualify for the health coverage improvement
741 program under Subsection 26B-3-207(3) ;

- 742 (iii) adults with dependent children who do not qualify for the health coverage
743 improvement program; and
744 (iv) if funding is available, adults without dependent children.
- 745 (b) The number of individuals enrolled in the enhancement waiver program may not
746 exceed 105% of the number of individuals who were enrolled in the Primary Care
747 Network on December 31, 2017.
- 748 (c) The department may only use appropriations from the Medicaid [~~Expansion~~] ACA
749 Fund created in Section 26B-1-315 to fund the state portion of the enhancement
750 waiver program.
- 751 (7) The department may request a modification of the income eligibility ceiling and the
752 eligibility criteria under Subsection (6) from CMS each fiscal year based on enrollment
753 in the enhancement waiver program, projected enrollment in the enhancement waiver
754 program, costs to the state, and the state budget.
- 755 (8) The department may implement the enhancement waiver program by contracting with
756 Medicaid accountable care organizations to administer the enhancement waiver program.
- 757 (9) In accordance with Subsections 26B-3-207(10) and (11), the department may use funds
758 that have been appropriated for the health coverage improvement program to implement
759 the enhancement waiver program.
- 760 (10) If the department expands the state Medicaid program to the optional population, the
761 department:
- 762 (a) except as provided in Subsection (11), may not accept any new enrollees into the
763 enhancement waiver program after the day on which the expansion to the optional
764 population is effective;
- 765 (b) shall suspend the enhancement waiver program within one year after the day on
766 which the expansion to the optional population is effective; and
- 767 (c) shall work with CMS to maintain the waiver for the enhancement waiver program
768 submitted under Subsection (3) while the enhancement waiver program is suspended
769 under Subsection (10)(b).
- 770 (11) If, after the expansion to the optional population described in Subsection (10) takes
771 effect, the expansion to the optional population is repealed by either the state or the
772 federal government, the department shall reinstate the enhancement waiver program and
773 continue to accept new enrollees into the enhancement waiver program in accordance
774 with the provisions of this section.

775 Section 7. Section **26B-3-504** is amended to read:

776 **26B-3-504 (Effective 05/01/24). Collection of assessment -- Deposit of revenue --**
 777 **Rulemaking.**

- 778 (1) The collecting agent for the assessment imposed under Section 26B-3-503 is the
 779 department.
- 780 (2) The department is vested with the administration and enforcement of this part, and may
 781 make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
 782 Act, necessary to:
- 783 (a) collect the assessment, intergovernmental transfers, and penalties imposed under this
 784 part;
- 785 (b) audit records of a facility that:
- 786 (i) is subject to the assessment imposed by this part; and
 787 (ii) does not file a Medicare cost report; and
- 788 (c) select a report similar to the Medicare cost report if Medicare no longer uses a
 789 Medicare cost report.
- 790 (3) The department shall:
- 791 (a) administer the assessment in this part separately from the assessment in Part 7,
 792 Hospital Provider Assessment; and
- 793 (b) deposit assessments collected under this part into the Medicaid [~~Expansion~~] ACA
 794 Fund created by Section 26B-1-315.

795 Section 8. Section **26B-3-508** is amended to read:

796 **26B-3-508 (Effective 05/01/24). State teaching hospital and non-state**
 797 **government hospital mandatory intergovernmental transfer.**

- 798 (1) The state teaching hospital and a non-state government hospital shall make an
 799 intergovernmental transfer to the Medicaid [~~Expansion~~] ACA Fund created in Section
 800 26B-1-315, in accordance with this section.
- 801 (2) The hospitals described in Subsection (1) shall pay the intergovernmental transfer
 802 beginning on the later of CMS approval of:
- 803 (a) the health improvement program waiver under Section 26B-3-207; or
 804 (b) the assessment for private hospitals in this part.
- 805 (3) The intergovernmental transfer is apportioned as follows:
- 806 (a) the state teaching hospital is responsible for:
- 807 (i) 30% of the portion of the hospital share specified in Subsections 26B-3-506(1)(a)
 808 through (c); and
- 809 (ii) 0% of the hospital share specified in Subsection 26B-3-506(1)(d); and

- 810 (b) non-state government hospitals are responsible for:
- 811 (i) 1% of the portion of the hospital share specified in Subsections 26B-3-506(1)(a)
- 812 through (c); and
- 813 (ii) 0% of the hospital share specified in Subsection 26B-3-506(1)(d).
- 814 (4) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah
- 815 Administrative Rulemaking Act, designate:
- 816 (a) the method of calculating the amounts designated in Subsection (3); and
- 817 (b) the schedule for the intergovernmental transfers.
- 818 Section 9. Section **26B-3-512** is amended to read:
- 819 **26B-3-512 (Effective 05/01/24). Repeal of assessment.**
- 820 (1) The assessment imposed by this part shall be repealed when:
- 821 (a) the executive director certifies that:
- 822 (i) action by Congress is in effect that disqualifies the assessment imposed by this
- 823 part from counting toward state Medicaid funds available to be used to determine
- 824 the amount of federal financial participation;
- 825 (ii) a decision, enactment, or other determination by the Legislature or by any court,
- 826 officer, department, or agency of the state, or of the federal government, is in
- 827 effect that:
- 828 (A) disqualifies the assessment from counting toward state Medicaid funds
- 829 available to be used to determine federal financial participation for Medicaid
- 830 matching funds; or
- 831 (B) creates for any reason a failure of the state to use the assessments for at least
- 832 one of the Medicaid programs described in this part; or
- 833 (iii) a change is in effect that reduces the aggregate hospital inpatient and outpatient
- 834 payment rate below the aggregate hospital inpatient and outpatient payment rate
- 835 for July 1, 2015; or
- 836 (b) this part is repealed in accordance with Section 63I-1-226.
- 837 (2) If the assessment is repealed under Subsection (1):
- 838 (a) the division may not collect any assessment or intergovernmental transfer under this
- 839 part;
- 840 (b) the department shall disburse money in the special Medicaid [~~Expansion~~] ACA Fund
- 841 in accordance with the requirements in Subsection 26B-1-315(4), to the extent
- 842 federal matching is not reduced by CMS due to the repeal of the assessment;
- 843 (c) any money remaining in the Medicaid [~~Expansion~~] ACA Fund after the disbursement

844 described in Subsection (2)(b) that was derived from assessments imposed by this
 845 part shall be refunded to the hospitals in proportion to the amount paid by each
 846 hospital for the last three fiscal years; and

847 (d) any money remaining in the Medicaid [~~Expansion~~] ACA Fund after the
 848 disbursements described in Subsections (2)(b) and (c) shall be deposited into the
 849 General Fund by the end of the fiscal year that the assessment is suspended.

850 Section 10. Section **26B-3-601** is amended to read:

851 **26B-3-601 (Effective 05/01/24). Definitions.**

852 As used in this part:

- 853 (1) "Assessment" means the Medicaid expansion hospital assessment established by this
 854 part.
- 855 (2) "CMS" means the Centers for Medicare and Medicaid Services within the United States
 856 Department of Health and Human Services.
- 857 (3) "Discharges" means the number of total hospital discharges reported on:
 858 (a) Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare cost
 859 report for the applicable assessment year; or
 860 (b) a similar report adopted by the department by administrative rule, if the report under
 861 Subsection (3)(a) is no longer available.
- 862 (4) "Division" means the Division of Integrated Healthcare within the department.
- 863 (5) "Hospital share" means the hospital share described in Section 26B-3-605.
- 864 (6) "Medicaid accountable care organization" means a managed care organization, as
 865 defined in 42 C.F.R. Sec. 438, that contracts with the department under the provisions of
 866 Section 26B-3-202.
- 867 (7) "Medicaid [~~Expansion~~] ACA Fund" means the Medicaid [~~Expansion~~] ACA Fund created
 868 in Section 26B-1-315.
- 869 (8) "Medicaid waiver expansion" means the same as that term is defined in Section
 870 26B-3-210.
- 871 (9) "Medicare cost report" means CMS-2552-10, the cost report for electronic filing of
 872 hospitals.
- 873 (10) (a) "Non-state government hospital" means a hospital owned by a non-state
 874 government entity.
- 875 (b) "Non-state government hospital" does not include:
 876 (i) the Utah State Hospital; or
 877 (ii) a hospital owned by the federal government, including the Veterans

- 878 Administration Hospital.
- 879 (11) (a) "Private hospital" means:
- 880 (i) a privately owned general acute hospital operating in the state as defined in
- 881 Section 26B-2-201; or
- 882 (ii) a privately owned specialty hospital operating in the state, including a privately
- 883 owned hospital for which inpatient admissions are predominantly:
- 884 (A) rehabilitation;
- 885 (B) psychiatric;
- 886 (C) chemical dependency; or
- 887 (D) long-term acute care services.
- 888 (b) "Private hospital" does not include a facility for residential treatment as defined in
- 889 Section 26B-2-101.
- 890 (12) "Qualified Medicaid expansion" means an expansion of the Medicaid program in
- 891 accordance with Subsection 26B-3-113(5).
- 892 (13) "State teaching hospital" means a state owned teaching hospital that is part of an
- 893 institution of higher education.
- 894 Section 11. Section **26B-3-604** is amended to read:
- 895 **26B-3-604 (Effective 05/01/24). Collection of assessment -- Deposit of revenue --**
- 896 **Rulemaking.**
- 897 (1) The department shall act as the collecting agent for the assessment imposed under
- 898 Section 26B-3-603.
- 899 (2) The department shall administer and enforce the provisions of this part, and may make
- 900 rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 901 necessary to:
- 902 (a) collect the assessment, intergovernmental transfers, and penalties imposed under this
- 903 part;
- 904 (b) audit records of a facility that:
- 905 (i) is subject to the assessment imposed under this part; and
- 906 (ii) does not file a Medicare cost report; and
- 907 (c) select a report similar to the Medicare cost report if Medicare no longer uses a
- 908 Medicare cost report.
- 909 (3) The department shall:
- 910 (a) administer the assessment in this part separately from the assessments in Part 7,
- 911 Hospital Provider Assessment, and Part 5, Inpatient Hospital Assessment; and

912 (b) deposit assessments collected under this part into the Medicaid [~~Expansion~~] ACA
913 Fund.

914 (4) (a) Hospitals shall pay the quarterly assessments imposed by this part to the division
915 within 15 business days after the original invoice date that appears on the invoice
916 issued by the division.

917 (b) The department may make rules creating requirements to allow the time for paying
918 the assessment to be extended.

919 Section 12. Section **26B-3-605** is amended to read:

920 **26B-3-605 (Effective 05/01/24). Hospital share.**

921 (1) The hospital share is:

922 (a) for the period from April 1, 2019, through June 30, 2020, \$15,000,000; and

923 (b) beginning July 1, 2020, 100% of the state's net cost of the qualified Medicaid
924 expansion, after deducting appropriate offsets and savings expected as a result of
925 implementing the qualified Medicaid expansion, including:

926 (i) savings from:

927 (A) the Primary Care Network program;

928 (B) the health coverage improvement program, as defined in Section 26B-3-207;

929 (C) the state portion of inpatient prison medical coverage;

930 (D) behavioral health coverage; and

931 (E) county contributions to the non-federal share of Medicaid expenditures; and

932 (ii) any funds appropriated to the Medicaid [~~Expansion~~] ACA Fund.

933 (2) (a) Beginning July 1, 2020, the hospital share is capped at no more than \$15,000,000
934 annually.

935 (b) Beginning July 1, 2020, the division shall prorate the cap specified in Subsection
936 (2)(a) in any year in which the qualified Medicaid expansion is not in effect for the
937 full fiscal year.

938 Section 13. Section **26B-3-608** is amended to read:

939 **26B-3-608 (Effective 05/01/24). State teaching hospital and non-state**
940 **government hospital mandatory intergovernmental transfer.**

941 (1) A state teaching hospital and a non-state government hospital shall make an
942 intergovernmental transfer to the Medicaid [~~Expansion~~] ACA Fund, in accordance with
943 this section.

944 (2) The hospitals described in Subsection (1) shall pay the intergovernmental transfer
945 beginning on the later of:

- 946 (a) April 1, 2019; or
947 (b) CMS approval of the assessment for private hospitals in this part.
- 948 (3) The intergovernmental transfer is apportioned between the non-state government
949 hospitals as follows:
950 (a) the state teaching hospital shall pay for the portion of the hospital share described in
951 Section 26B-3-611; and
952 (b) non-state government hospitals shall pay for the portion of the hospital share
953 described in Section 26B-3-611.
- 954 (4) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah
955 Administrative Rulemaking Act, designate:
956 (a) the method of calculating the amounts designated in Subsection (3); and
957 (b) the schedule for the intergovernmental transfers.
- 958 Section 14. Section **26B-3-612** is amended to read:
959 **26B-3-612 (Effective 05/01/24). Suspension of assessment.**
- 960 (1) The department shall suspend the assessment imposed by this part when the executive
961 director certifies that:
962 (a) action by Congress is in effect that disqualifies the assessment imposed by this part
963 from counting toward state Medicaid funds available to be used to determine the
964 amount of federal financial participation;
965 (b) a decision, enactment, or other determination by the Legislature or by any court,
966 officer, department, or agency of the state, or of the federal government, is in effect
967 that:
968 (i) disqualifies the assessment from counting toward state Medicaid funds available
969 to be used to determine federal financial participation for Medicaid matching
970 funds; or
971 (ii) creates for any reason a failure of the state to use the assessments for at least one
972 of the Medicaid programs described in this part; or
973 (c) a change is in effect that reduces the aggregate hospital inpatient and outpatient
974 payment rate below the aggregate hospital inpatient and outpatient payment rate for
975 July 1, 2015.
- 976 (2) If the assessment is suspended under Subsection (1):
977 (a) the division may not collect any assessment or intergovernmental transfer under this
978 part;
979 (b) the division shall disburse money in the Medicaid ~~[Expansion]~~ ACA Fund that was

980 derived from assessments imposed by this part in accordance with the requirements
 981 in Subsection 26B-1-315(4), to the extent federal matching is not reduced by CMS
 982 due to the repeal of the assessment; and
 983 (c) the division shall refund any money remaining in the Medicaid [~~Expansion~~] ACA
 984 Fund after the disbursement described in Subsection (2)(b) that was derived from
 985 assessments imposed by this part to the hospitals in proportion to the amount paid by
 986 each hospital for the last three fiscal years.

987 Section 15. Section **36-12-13** is amended to read:

988 **36-12-13 (Effective 05/01/24). Office of the Legislative Fiscal Analyst established**
 989 **-- Powers, functions, and duties -- Qualifications.**

- 990 (1) There is established an Office of the Legislative Fiscal Analyst as a permanent staff
 991 office for the Legislature.
- 992 (2) The powers, functions, and duties of the Office of the Legislative Fiscal Analyst under
 993 the supervision of the fiscal analyst are:
- 994 (a) (i) to estimate general revenue collections, including comparisons of:
- 995 (A) current estimates for each major tax type to long-term trends for that tax type;
 996 (B) current estimates for federal fund receipts to long-term federal fund trends; and
 997 (C) current estimates for tax collections and federal fund receipts to long-term
 998 trends deflated for the inflationary effects of debt monetization; and
- 999 (ii) to report the analysis required under Subsection (2)(a)(i) to the Legislature's
 1000 Executive Appropriations Committee before each annual general session of the
 1001 Legislature;
- 1002 (b) to analyze in detail the state budget before the convening of each legislative session
 1003 and make recommendations to the Legislature on each item or program appearing in
 1004 the budget, including:
- 1005 (i) funding for and performance of programs, acquisitions, and services currently
 1006 undertaken by state government to determine whether each department, agency,
 1007 institution, or program should:
- 1008 (A) continue at its current level of expenditure;
 1009 (B) continue at a different level of expenditure; or
 1010 (C) be terminated; and
- 1011 (ii) increases or decreases to spending authority and other resource allocations for the
 1012 current and future fiscal years;
- 1013 (c) to prepare on all proposed bills fiscal estimates that reflect:

- 1014 (i) potential state government revenue impacts;
- 1015 (ii) anticipated state government expenditure changes;
- 1016 (iii) anticipated expenditure changes for county, municipal, special district, or special
1017 service district governments;
- 1018 (iv) anticipated direct expenditure by Utah residents and businesses, including the
1019 unit cost, number of units, and total cost to all impacted residents and businesses;
1020 and
- 1021 (v) if the proposed bill changes retirement benefits under a system or plan governed
1022 by Title 49, Utah State Retirement and Insurance Benefit Act, the anticipated
1023 effect on:
- 1024 (A) each affected system's or plan's unfunded actuarial accrued liability and
1025 actuarial funded ratio, based on current employer contributions;
- 1026 (B) employer contributions and member contributions;
- 1027 (C) a retiree's retirement allowance;
- 1028 (D) the total cost to active members and retirees; and
- 1029 (E) the total cost to employers for all active members and retirees;
- 1030 (d) to indicate whether each proposed bill will impact the regulatory burden for Utah
1031 residents or businesses, and if so:
- 1032 (i) whether the impact increases or decreases the regulatory burden; and
- 1033 (ii) whether the change in burden is high, medium, or low;
- 1034 (e) beginning in 2017 and repeating every three years after 2017, to prepare the
1035 following cycle of analyses of long-term fiscal sustainability:
- 1036 (i) in year one, the joint revenue volatility report required under Section 63J-1-205;
- 1037 (ii) in year two, a long-term budget for programs appropriated from major funds and
1038 tax types; and
- 1039 (iii) in year three, a budget stress test that, in consultation with the Governor's Office
1040 of Planning and Budget:
- 1041 (A) [~~comparing~~] compares estimated future revenue to and expenditure from major
1042 funds and tax types under various potential economic conditions;
- 1043 (B) analyzes the economic and policy risks associated with funding for the
1044 Medicaid program and expansions of the Medicaid program;
- 1045 (C) measures value at risk; and
- 1046 (D) recommends budgetary actions to manage risk;
- 1047 (f) to report instances in which the administration may be failing to carry out the

- 1048 expressed intent of the Legislature;
- 1049 (g) to propose and analyze statutory changes for more effective operational economies
1050 or more effective administration;
- 1051 (h) to prepare, before each annual general session of the Legislature, a summary
1052 showing the current status of the following as compared to the past nine fiscal years:
- 1053 (i) debt;
- 1054 (ii) long-term liabilities;
- 1055 (iii) contingent liabilities;
- 1056 (iv) General Fund borrowing;
- 1057 (v) reserves;
- 1058 (vi) fund and nonlapsing balances; and
- 1059 (vii) cash funded capital investments;
- 1060 (i) to make recommendations for addressing the items described in Subsection (2)(h) in
1061 the upcoming annual general session of the Legislature;
- 1062 (j) to prepare, after each session of the Legislature, a summary showing the effect of the
1063 final legislative program on the financial condition of the state;
- 1064 (k) to conduct organizational and management improvement studies in accordance with
1065 Title 63J, Chapter 1, Part 9, Government Performance Reporting and Efficiency
1066 Process, and legislative rule;
- 1067 (l) to prepare and deliver upon request of any interim committee or the Legislative
1068 Management Committee, reports on the finances of the state and on anticipated or
1069 proposed requests for appropriations;
- 1070 (m) to recommend areas for research studies by the executive department or the interim
1071 committees;
- 1072 (n) to appoint and develop a professional staff within budget limitations;
- 1073 (o) to prepare and submit the annual budget request for the office;
- 1074 (p) to develop a taxpayer receipt:
- 1075 (i) available to taxpayers through a website; and
- 1076 (ii) that allows a taxpayer to view on the website an estimate of how the taxpayer's
1077 tax dollars are expended for government purposes; and
- 1078 (q) to publish or provide other information on taxation and government expenditures that
1079 may be accessed by the public.
- 1080 (3) The legislative fiscal analyst shall have a master's degree in public administration,
1081 political science, economics, accounting, or the equivalent in academic or practical

1082 experience.

1083 (4) In carrying out the duties provided for in this section, the legislative fiscal analyst may
1084 obtain access to all records, documents, and reports necessary to the scope of the
1085 legislative fiscal analyst's duties according to the procedures contained in Title 36,
1086 Chapter 14, Legislative Subpoena Powers.

1087 (5) The Office of the Legislative Fiscal Analyst shall provide any information the State
1088 Board of Education reports in accordance with Subsection 53E-3-507(7) to:

1089 (a) the chief sponsor of the proposed bill; and

1090 (b) upon request, any legislator.

1091 Section 16. Section **59-12-103** is amended to read:

1092 **59-12-103 (Effective 05/01/24) (Contingently Superseded 01/01/25). Sales and use**
1093 **tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.**

1094 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales
1095 price for amounts paid or charged for the following transactions:

1096 (a) retail sales of tangible personal property made within the state;

1097 (b) amounts paid for:

1098 (i) telecommunications service, other than mobile telecommunications service, that
1099 originates and terminates within the boundaries of this state;

1100 (ii) mobile telecommunications service that originates and terminates within the
1101 boundaries of one state only to the extent permitted by the Mobile
1102 Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1103 (iii) an ancillary service associated with a:

1104 (A) telecommunications service described in Subsection (1)(b)(i); or

1105 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

1106 (c) sales of the following for commercial use:

1107 (i) gas;

1108 (ii) electricity;

1109 (iii) heat;

1110 (iv) coal;

1111 (v) fuel oil; or

1112 (vi) other fuels;

1113 (d) sales of the following for residential use:

1114 (i) gas;

1115 (ii) electricity;

- 1116 (iii) heat;
- 1117 (iv) coal;
- 1118 (v) fuel oil; or
- 1119 (vi) other fuels;
- 1120 (e) sales of prepared food;
- 1121 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 1122 user fees for theaters, movies, operas, museums, planetariums, shows of any type or
- 1123 nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses,
- 1124 menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling
- 1125 matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling
- 1126 lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts,
- 1127 ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides,
- 1128 river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or
- 1129 any other amusement, entertainment, recreation, exhibition, cultural, or athletic
- 1130 activity;
- 1131 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 1132 property, unless Section 59-12-104 provides for an exemption from sales and use tax
- 1133 for:
- 1134 (i) the tangible personal property; and
- 1135 (ii) parts used in the repairs or renovations of the tangible personal property described
- 1136 in Subsection (1)(g)(i), regardless of whether:
- 1137 (A) any parts are actually used in the repairs or renovations of that tangible
- 1138 personal property; or
- 1139 (B) the particular parts used in the repairs or renovations of that tangible personal
- 1140 property are exempt from a tax under this chapter;
- 1141 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted
- 1142 cleaning or washing of tangible personal property;
- 1143 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 1144 accommodations and services that are regularly rented for less than 30 consecutive
- 1145 days;
- 1146 (j) amounts paid or charged for laundry or dry cleaning services;
- 1147 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 1148 this state the tangible personal property is:
- 1149 (i) stored;

- 1150 (ii) used; or
1151 (iii) otherwise consumed;
- 1152 (l) amounts paid or charged for tangible personal property if within this state the tangible
1153 personal property is:
1154 (i) stored;
1155 (ii) used; or
1156 (iii) consumed;
- 1157 (m) amounts paid or charged for a sale:
1158 (i) (A) of a product transferred electronically; or
1159 (B) of a repair or renovation of a product transferred electronically; and
1160 (ii) regardless of whether the sale provides:
1161 (A) a right of permanent use of the product; or
1162 (B) a right to use the product that is less than a permanent use, including a right:
1163 (I) for a definite or specified length of time; and
1164 (II) that terminates upon the occurrence of a condition; and
- 1165 (n) sales of leased tangible personal property from the lessor to the lessee made in the
1166 state.
- 1167 (2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax
1168 are imposed on a transaction described in Subsection (1) equal to the sum of:
1169 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
1170 (A) 4.70% plus the rate specified in Subsection (11)(a); and
1171 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional
1172 State Sales and Use Tax Act, if the location of the transaction as determined
1173 under Sections 59-12-211 through 59-12-215 is in a county in which the
1174 state imposes the tax under Part 18, Additional State Sales and Use Tax Act;
1175 and
1176 (II) the tax rate the state imposes in accordance with Part 20, Supplemental
1177 State Sales and Use Tax Act, if the location of the transaction as determined
1178 under Sections 59-12-211 through 59-12-215 is in a city, town, or the
1179 unincorporated area of a county in which the state imposes the tax under
1180 Part 20, Supplemental State Sales and Use Tax Act; and
1181 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1182 transaction under this chapter other than this part.
- 1183 (b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state

- 1184 tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal
1185 to the sum of:
- 1186 (i) a state tax imposed on the transaction at a tax rate of 2%; and
1187 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1188 transaction under this chapter other than this part.
- 1189 (c) Except as provided in Subsection (2)(f) or (g), a state tax and a local tax are imposed
1190 on amounts paid or charged for food and food ingredients equal to the sum of:
- 1191 (i) a state tax imposed on the amounts paid or charged for food and food ingredients
1192 at a tax rate of 1.75%; and
1193 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1194 amounts paid or charged for food and food ingredients under this chapter other
1195 than this part.
- 1196 (d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid
1197 or charged for fuel to a common carrier that is a railroad for use in a locomotive
1198 engine at a rate of 4.85%.
- 1199 (e) (i) (A) If a shared vehicle owner certifies to the commission, on a form
1200 prescribed by the commission, that the shared vehicle is an individual-owned
1201 shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to
1202 car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle
1203 owner.
- 1204 (B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is
1205 required once during the time that the shared vehicle owner owns the shared
1206 vehicle.
- 1207 (C) The commission shall verify that a shared vehicle is an individual-owned
1208 shared vehicle by verifying that the applicable Utah taxes imposed under this
1209 chapter were paid on the purchase of the shared vehicle.
- 1210 (D) The exception under Subsection (2)(e)(i)(A) applies to a certified
1211 individual-owned shared vehicle shared through a car-sharing program even if
1212 non-certified shared vehicles are also available to be shared through the same
1213 car-sharing program.
- 1214 (ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.
- 1215 (iii) (A) A car-sharing program may rely in good faith on a shared vehicle owner's
1216 representation that the shared vehicle is an individual-owned shared vehicle
1217 certified with the commission as described in Subsection (2)(e)(i).

- 1218 (B) If a car-sharing program relies in good faith on a shared vehicle owner's
1219 representation that the shared vehicle is an individual-owned shared vehicle
1220 certified with the commission as described in Subsection (2)(e)(i), the
1221 car-sharing program is not liable for any tax, penalty, fee, or other sanction
1222 imposed on the shared vehicle owner.
- 1223 (iv) If all shared vehicles shared through a car-sharing program are certified as
1224 described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has
1225 no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax
1226 period.
- 1227 (v) [~~(A)~~] A car-sharing program is not required to list or otherwise identify an
1228 individual-owned shared vehicle on a return or an attachment to a return.
- 1229 (vi) A car-sharing program shall:
- 1230 (A) retain tax information for each car-sharing program transaction; and
1231 (B) provide the information described in Subsection (2)(e)(vi)(A) to the
1232 commission at the commission's request.
- 1233 (f) (i) For a bundled transaction that is attributable to food and food ingredients and
1234 tangible personal property other than food and food ingredients, a state tax and a
1235 local tax is imposed on the entire bundled transaction equal to the sum of:
- 1236 (A) a state tax imposed on the entire bundled transaction equal to the sum of:
- 1237 (I) the tax rate described in Subsection (2)(a)(i)(A); and
1238 (II) (Aa) the tax rate the state imposes in accordance with Part 18,
1239 Additional State Sales and Use Tax Act, if the location of the transaction
1240 as determined under Sections 59-12-211 through 59-12-215 is in a
1241 county in which the state imposes the tax under Part 18, Additional State
1242 Sales and Use Tax Act; and
1243 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental
1244 State Sales and Use Tax Act, if the location of the transaction as
1245 determined under Sections 59-12-211 through 59-12-215 is in a city,
1246 town, or the unincorporated area of a county in which the state imposes
1247 the tax under Part 20, Supplemental State Sales and Use Tax Act; and
- 1248 (B) a local tax imposed on the entire bundled transaction at the sum of the tax
1249 rates described in Subsection (2)(a)(ii).
- 1250 (ii) If an optional computer software maintenance contract is a bundled transaction
1251 that consists of taxable and nontaxable products that are not separately itemized

1252 on an invoice or similar billing document, the purchase of the optional computer
1253 software maintenance contract is 40% taxable under this chapter and 60%
1254 nontaxable under this chapter.

1255 (iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled
1256 transaction described in Subsection (2)(f)(i) or (ii):

1257 (A) if the sales price of the bundled transaction is attributable to tangible personal
1258 property, a product, or a service that is subject to taxation under this chapter
1259 and tangible personal property, a product, or service that is not subject to
1260 taxation under this chapter, the entire bundled transaction is subject to taxation
1261 under this chapter unless:

1262 (I) the seller is able to identify by reasonable and verifiable standards the
1263 tangible personal property, product, or service that is not subject to taxation
1264 under this chapter from the books and records the seller keeps in the seller's
1265 regular course of business; or

1266 (II) state or federal law provides otherwise; or

1267 (B) if the sales price of a bundled transaction is attributable to two or more items
1268 of tangible personal property, products, or services that are subject to taxation
1269 under this chapter at different rates, the entire bundled transaction is subject to
1270 taxation under this chapter at the higher tax rate unless:

1271 (I) the seller is able to identify by reasonable and verifiable standards the
1272 tangible personal property, product, or service that is subject to taxation
1273 under this chapter at the lower tax rate from the books and records the seller
1274 keeps in the seller's regular course of business; or

1275 (II) state or federal law provides otherwise.

1276 (iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the
1277 seller's regular course of business includes books and records the seller keeps in
1278 the regular course of business for nontax purposes.

1279 (g) (i) Except as otherwise provided in this chapter and subject to Subsections
1280 (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible
1281 personal property, a product, or a service that is subject to taxation under this
1282 chapter, and the sale, lease, or rental of tangible personal property, other property,
1283 a product, or a service that is not subject to taxation under this chapter, the entire
1284 transaction is subject to taxation under this chapter unless the seller, at the time of
1285 the transaction:

- 1286 (A) separately states the portion of the transaction that is not subject to taxation
1287 under this chapter on an invoice, bill of sale, or similar document provided to
1288 the purchaser; or
- 1289 (B) is able to identify by reasonable and verifiable standards, from the books and
1290 records the seller keeps in the seller's regular course of business, the portion of
1291 the transaction that is not subject to taxation under this chapter.
- 1292 (ii) A purchaser and a seller may correct the taxability of a transaction if:
- 1293 (A) after the transaction occurs, the purchaser and the seller discover that the
1294 portion of the transaction that is not subject to taxation under this chapter was
1295 not separately stated on an invoice, bill of sale, or similar document provided
1296 to the purchaser because of an error or ignorance of the law; and
- 1297 (B) the seller is able to identify by reasonable and verifiable standards, from the
1298 books and records the seller keeps in the seller's regular course of business, the
1299 portion of the transaction that is not subject to taxation under this chapter.
- 1300 (iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller
1301 keeps in the seller's regular course of business includes books and records the
1302 seller keeps in the regular course of business for nontax purposes.
- 1303 (h) (i) If the sales price of a transaction is attributable to two or more items of
1304 tangible personal property, products, or services that are subject to taxation under
1305 this chapter at different rates, the entire purchase is subject to taxation under this
1306 chapter at the higher tax rate unless the seller, at the time of the transaction:
- 1307 (A) separately states the items subject to taxation under this chapter at each of the
1308 different rates on an invoice, bill of sale, or similar document provided to the
1309 purchaser; or
- 1310 (B) is able to identify by reasonable and verifiable standards the tangible personal
1311 property, product, or service that is subject to taxation under this chapter at the
1312 lower tax rate from the books and records the seller keeps in the seller's regular
1313 course of business.
- 1314 (ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the
1315 seller's regular course of business includes books and records the seller keeps in
1316 the regular course of business for nontax purposes.
- 1317 (i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate
1318 imposed under the following shall take effect on the first day of a calendar quarter:
- 1319 (i) Subsection (2)(a)(i)(A);

- 1320 (ii) Subsection (2)(b)(i);
- 1321 (iii) Subsection (2)(c)(i); or
- 1322 (iv) Subsection (2)(f)(i)(A)(I).
- 1323 (j) (i) A tax rate increase takes effect on the first day of the first billing period that
- 1324 begins on or after the effective date of the tax rate increase if the billing period for
- 1325 the transaction begins before the effective date of a tax rate increase imposed
- 1326 under:
- 1327 (A) Subsection (2)(a)(i)(A);
- 1328 (B) Subsection (2)(b)(i);
- 1329 (C) Subsection (2)(c)(i); or
- 1330 (D) Subsection (2)(f)(i)(A)(I).
- 1331 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
- 1332 statement for the billing period is rendered on or after the effective date of the
- 1333 repeal of the tax or the tax rate decrease imposed under:
- 1334 (A) Subsection (2)(a)(i)(A);
- 1335 (B) Subsection (2)(b)(i);
- 1336 (C) Subsection (2)(c)(i); or
- 1337 (D) Subsection (2)(f)(i)(A)(I).
- 1338 (k) (i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale
- 1339 is computed on the basis of sales and use tax rates published in the catalogue, a
- 1340 tax rate repeal or change in a tax rate takes effect:
- 1341 (A) on the first day of a calendar quarter; and
- 1342 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate
- 1343 change.
- 1344 (ii) Subsection (2)(k)(i) applies to the tax rates described in the following:
- 1345 (A) Subsection (2)(a)(i)(A);
- 1346 (B) Subsection (2)(b)(i);
- 1347 (C) Subsection (2)(c)(i); or
- 1348 (D) Subsection (2)(f)(i)(A)(I).
- 1349 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 1350 the commission may by rule define the term "catalogue sale."
- 1351 (l) (i) For a location described in Subsection (2)(l)(ii), the commission shall
- 1352 determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or
- 1353 other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil,

- 1354 or other fuel at the location.
- 1355 (ii) Subsection (2)(1)(i) applies to a location where gas, electricity, heat, coal, fuel oil,
1356 or other fuel is furnished through a single meter for two or more of the following
1357 uses:
- 1358 (A) a commercial use;
- 1359 (B) an industrial use; or
- 1360 (C) a residential use.
- 1361 (3) (a) The following state taxes shall be deposited into the General Fund:
- 1362 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 1363 (ii) the tax imposed by Subsection (2)(b)(i);
- 1364 (iii) the tax imposed by Subsection (2)(c)(i); and
- 1365 (iv) the tax imposed by Subsection (2)(f)(i)(A)(I).
- 1366 (b) The following local taxes shall be distributed to a county, city, or town as provided
1367 in this chapter:
- 1368 (i) the tax imposed by Subsection (2)(a)(ii);
- 1369 (ii) the tax imposed by Subsection (2)(b)(ii);
- 1370 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 1371 (iv) the tax imposed by Subsection (2)(f)(i)(B).
- 1372 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.
- 1373 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1374 2003, the lesser of the following amounts shall be expended as provided in
1375 Subsections (4)(b) through (g):
- 1376 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 1377 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 1378 (B) for the fiscal year; or
- 1379 (ii) \$17,500,000.
- 1380 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
1381 described in Subsection (4)(a) shall be transferred each year as designated sales
1382 and use tax revenue to the Department of Natural Resources to:
- 1383 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d)
1384 to protect sensitive plant and animal species; or
- 1385 (B) award grants, up to the amount authorized by the Legislature in an
1386 appropriations act, to political subdivisions of the state to implement the
1387 measures described in Subsections 79-2-303(3)(a) through (d) to protect

- 1388 sensitive plant and animal species.
- 1389 (ii) Money transferred to the Department of Natural Resources under Subsection
1390 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or
1391 any other person to list or attempt to have listed a species as threatened or
1392 endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et
1393 seq.
- 1394 (iii) At the end of each fiscal year:
- 1395 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to
1396 the Water Resources Conservation and Development Fund created in Section
1397 73-10-24;
- 1398 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the
1399 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and
- 1400 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the
1401 Drinking Water Loan Program Subaccount created in Section 73-10c-5.
- 1402 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1403 Subsection (4)(a) shall be deposited each year in the Agriculture Resource
1404 Development Fund created in Section 4-18-106.
- 1405 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount
1406 described in Subsection (4)(a) shall be transferred each year as designated sales
1407 and use tax revenue to the Division of Water Rights to cover the costs incurred in
1408 hiring legal and technical staff for the adjudication of water rights.
- 1409 (ii) At the end of each fiscal year:
- 1410 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to
1411 the Water Resources Conservation and Development Fund created in Section
1412 73-10-24;
- 1413 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the
1414 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and
- 1415 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the
1416 Drinking Water Loan Program Subaccount created in Section 73-10c-5.
- 1417 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount
1418 described in Subsection (4)(a) shall be deposited into the Water Resources
1419 Conservation and Development Fund created in Section 73-10-24 for use by the
1420 Division of Water Resources.
- 1421 (ii) In addition to the uses allowed of the Water Resources Conservation and

- 1422 Development Fund under Section 73-10-24, the Water Resources Conservation
1423 and Development Fund may also be used to:
- 1424 (A) conduct hydrologic and geotechnical investigations by the Division of Water
1425 Resources in a cooperative effort with other state, federal, or local entities, for
1426 the purpose of quantifying surface and ground water resources and describing
1427 the hydrologic systems of an area in sufficient detail so as to enable local and
1428 state resource managers to plan for and accommodate growth in water use
1429 without jeopardizing the resource;
- 1430 (B) fund state required dam safety improvements; and
- 1431 (C) protect the state's interest in interstate water compact allocations, including the
1432 hiring of technical and legal staff.
- 1433 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in
1434 Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program
1435 Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund
1436 wastewater projects.
- 1437 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1438 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program
1439 Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:
- 1440 (i) provide for the installation and repair of collection, treatment, storage, and
1441 distribution facilities for any public water system, as defined in Section 19-4-102;
- 1442 (ii) develop underground sources of water, including springs and wells; and
- 1443 (iii) develop surface water sources.
- 1444 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1445 2006, the difference between the following amounts shall be expended as provided in
1446 this Subsection (5), if that difference is greater than \$1:
- 1447 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for
1448 the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1);
1449 and
- 1450 (ii) \$17,500,000.
- 1451 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:
- 1452 (A) transferred each fiscal year to the Department of Natural Resources as
1453 designated sales and use tax revenue; and
- 1454 (B) expended by the Department of Natural Resources for watershed rehabilitation
1455 or restoration.

- 1456 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use
1457 tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources
1458 Conservation and Development Fund created in Section 73-10-24.
- 1459 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
1460 remaining difference described in Subsection (5)(a) shall be:
- 1461 (A) transferred each fiscal year to the Division of Water Resources as designated
1462 sales and use tax revenue; and
- 1463 (B) expended by the Division of Water Resources for cloud-seeding projects
1464 authorized by Title 73, Chapter 15, Modification of Weather.
- 1465 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use
1466 tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources
1467 Conservation and Development Fund created in Section 73-10-24.
- 1468 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
1469 remaining difference described in Subsection (5)(a) shall be deposited into the Water
1470 Resources Conservation and Development Fund created in Section 73-10-24 for use
1471 by the Division of Water Resources for:
- 1472 (i) preconstruction costs:
- 1473 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73,
1474 Chapter 26, Bear River Development Act; and
- 1475 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
1476 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;
- 1477 (ii) the cost of employing a civil engineer to oversee any project authorized by Title
1478 73, Chapter 26, Bear River Development Act;
- 1479 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline
1480 project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development
1481 Act; and
- 1482 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
1483 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i)
1484 through (iii).
- 1485 (e) After making the transfers required by Subsections (5)(b) and (c), 15% of the
1486 remaining difference described in Subsection (5)(a) shall be deposited each year into
1487 the Water Rights Restricted Account created by Section 73-2-1.6.
- 1488 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each
1489 fiscal year, the commission shall deposit into the Water Infrastructure Restricted

- 1490 Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax
1491 rate on the transactions described in Subsection (1) for the fiscal year.
- 1492 (7) (a) Notwithstanding Subsection (3)(a) and subject to Subsection (7)(b), for a fiscal
1493 year beginning on or after July 1, 2023, the commission shall deposit into the
1494 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the
1495 taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the
1496 following sales and use taxes:
- 1497 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
 - 1498 (ii) the tax imposed by Subsection (2)(b)(i);
 - 1499 (iii) the tax imposed by Subsection (2)(c)(i); and
 - 1500 (iv) the tax imposed by Subsection (2)(f)(i)(A)(I).
- 1501 (b) (i) As used in this Subsection (7)(b):
- 1502 (A) "Additional growth revenue" means the amount of relevant revenue collected
1503 in the current fiscal year that exceeds by more than 3% the relevant revenue
1504 collected in the previous fiscal year.
 - 1505 (B) "Combined amount" means the combined total amount of money deposited
1506 into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii)
1507 in any single fiscal year.
 - 1508 (C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation
1509 Investment Fund created in Subsection 72-2-124(10).
 - 1510 (D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a)
1511 that equals 17% of the revenue collected from taxes described in Subsections
1512 (7)(a)(i) through (iv).
- 1513 (ii) For a fiscal year beginning on or after July 1, 2020, the commission shall
1514 annually reduce the deposit under Subsection (7)(a) into the Transportation
1515 Investment Fund of 2005 by an amount equal to the amount of the deposit under
1516 this Subsection (7)(b) to the Cottonwood Canyons fund in the previous fiscal year
1517 plus 25% of additional growth revenue, subject to the limit in Subsection
1518 (7)(b)(iii).
- 1519 (iii) The commission shall annually deposit the amount described in Subsection
1520 (7)(b)(ii) into the Cottonwood Canyons fund, subject to an annual maximum
1521 combined amount for any single fiscal year of \$20,000,000.
- 1522 (iv) If the amount of relevant revenue declines in a fiscal year compared to the
1523 previous fiscal year, the commission shall decrease the amount of the contribution

- 1524 to the Cottonwood Canyons fund under this Subsection (7)(b) in the same
1525 proportion as the decline in relevant revenue.
- 1526 (c) (i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1,
1527 2023, the commission shall annually reduce the deposit into the Transportation
1528 Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is
1529 equal to 5% of:
- 1530 (A) the amount of revenue generated in the current fiscal year by the portion of
1531 taxes listed under Subsection (3)(a) that equals 20.68% of the revenue
1532 collected from taxes described in Subsections (7)(a)(i) through (iv);
 - 1533 (B) the amount of revenue generated in the current fiscal year by registration fees
1534 designated under Section 41-1a-1201 to be deposited into the Transportation
1535 Investment Fund of 2005; and
 - 1536 (C) revenues transferred by the Division of Finance to the Transportation
1537 Investment Fund of 2005 in accordance with Section 72-2-106 in the current
1538 fiscal year.
- 1539 (ii) The amount described in Subsection (7)(c)(i) may not exceed \$45,000,000 in a
1540 given fiscal year.
- 1541 (iii) The commission shall annually deposit the amount described in Subsection
1542 (7)(c)(i) into the Active Transportation Investment Fund created in Subsection
1543 72-2-124(11).
- 1544 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
1545 Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year
1546 beginning on or after July 1, 2018, the commission shall annually deposit into the
1547 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the
1548 taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues
1549 collected from the following taxes:
- 1550 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
 - 1551 (ii) the tax imposed by Subsection (2)(b)(i);
 - 1552 (iii) the tax imposed by Subsection (2)(c)(i); and
 - 1553 (iv) the tax imposed by Subsection (2)(f)(i)(A)(I).
- 1554 (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
1555 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection
1556 (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the
1557 current fiscal year by the portion of the tax imposed on motor and special fuel that is

- 1558 sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.
- 1559 (c) The commission shall annually deposit the amount described in Subsection (8)(b)
- 1560 into the Transit Transportation Investment Fund created in Section 72-2-124.
- 1561 (d) (i) As used in this Subsection (8)(d):
- 1562 (A) "Additional growth revenue" means the amount of relevant revenue collected
- 1563 in the current fiscal year that exceeds by more than 3% the relevant revenue
- 1564 collected in the previous fiscal year.
- 1565 (B) "Combined amount" means the combined total amount of money deposited
- 1566 into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii)
- 1567 in any single fiscal year.
- 1568 (C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation
- 1569 Investment Fund created in Subsection 72-2-124(10).
- 1570 (D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a)
- 1571 that equals 3.68% of the revenue collected from taxes described in Subsections
- 1572 (8)(a)(i) through (iv).
- 1573 (ii) For a fiscal year beginning on or after July 1, 2020, the commission shall
- 1574 annually reduce the deposit under Subsection (8)(a) into the Transportation
- 1575 Investment Fund of 2005 by an amount equal to the amount of the deposit under
- 1576 this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year
- 1577 plus 25% of additional growth revenue, subject to the limit in Subsection
- 1578 (8)(d)(iii).
- 1579 (iii) The commission shall annually deposit the amount described in Subsection
- 1580 (8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum
- 1581 combined amount for any single fiscal year of \$20,000,000.
- 1582 (iv) If the amount of relevant revenue declines in a fiscal year compared to the
- 1583 previous fiscal year, the commission shall decrease the amount of the contribution
- 1584 to the Cottonwood Canyons fund under this Subsection (8)(d) in the same
- 1585 proportion as the decline in relevant revenue.
- 1586 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
- 1587 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies
- 1588 Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.
- 1589 (10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal
- 1590 year during which the commission receives notice under Section 63N-2-510 that
- 1591 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the

- 1592 commission shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the
1593 revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact
1594 Mitigation Fund, created in Section 63N-2-512.
- 1595 (11) (a) The rate specified in this subsection is 0.15%.
- 1596 (b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning
1597 on or after July 1, 2019, annually transfer the amount of revenue collected from the
1598 rate described in Subsection (11)(a) on the transactions that are subject to the sales
1599 and use tax under Subsection (2)(a)(i)(A) into the Medicaid [Expansion] ACA Fund
1600 created in Section 26B-1-315.
- 1601 (12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
1602 2020-21, the commission shall deposit \$200,000 into the General Fund as a dedicated
1603 credit solely for use of the Search and Rescue Financial Assistance Program created in,
1604 and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.
- 1605 (13) (a) For each fiscal year beginning with fiscal year 2020-21, the commission shall
1606 annually transfer \$1,813,400 of the revenue deposited into the Transportation
1607 Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.
- 1608 (b) If the total revenue deposited into the Transportation Investment Fund of 2005 under
1609 Subsections (7) and (8) is less than \$1,813,400 for a fiscal year, the commission shall
1610 transfer the total revenue deposited into the Transportation Investment Fund of 2005
1611 under Subsections (7) and (8) during the fiscal year to the General Fund.
- 1612 (14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning
1613 the first day of the calendar quarter one year after the sales and use tax boundary for a
1614 housing and transit reinvestment zone is established, the commission, at least annually,
1615 shall transfer an amount equal to 15% of the sales and use tax increment within an
1616 established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit
1617 Transportation Investment Fund created in Section 72-2-124.
- 1618 (15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning
1619 on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted
1620 Account, created in Section 51-9-902, a portion of the taxes listed under Subsection
1621 (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:
- 1622 (a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
- 1623 (b) the tax imposed by Subsection (2)(b)(i);
- 1624 (c) the tax imposed by Subsection (2)(c)(i); and
- 1625 (d) the tax imposed by Subsection (2)(f)(i)(A)(I).

1626 Section 17. Section **59-12-103** is amended to read:

1627 **59-12-103 (Contingently Effective 01/01/25). Sales and use tax base -- Rates --**

1628 **Effective dates -- Use of sales and use tax revenues.**

1629 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales
1630 price for amounts paid or charged for the following transactions:

1631 (a) retail sales of tangible personal property made within the state;

1632 (b) amounts paid for:

1633 (i) telecommunications service, other than mobile telecommunications service, that
1634 originates and terminates within the boundaries of this state;

1635 (ii) mobile telecommunications service that originates and terminates within the
1636 boundaries of one state only to the extent permitted by the Mobile
1637 Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1638 (iii) an ancillary service associated with a:

1639 (A) telecommunications service described in Subsection (1)(b)(i); or

1640 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

1641 (c) sales of the following for commercial use:

1642 (i) gas;

1643 (ii) electricity;

1644 (iii) heat;

1645 (iv) coal;

1646 (v) fuel oil; or

1647 (vi) other fuels;

1648 (d) sales of the following for residential use:

1649 (i) gas;

1650 (ii) electricity;

1651 (iii) heat;

1652 (iv) coal;

1653 (v) fuel oil; or

1654 (vi) other fuels;

1655 (e) sales of prepared food;

1656 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
1657 user fees for theaters, movies, operas, museums, planetariums, shows of any type or
1658 nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses,
1659 menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling

- 1660 matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling
1661 lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts,
1662 ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides,
1663 river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or
1664 any other amusement, entertainment, recreation, exhibition, cultural, or athletic
1665 activity;
- 1666 (g) amounts paid or charged for services for repairs or renovations of tangible personal
1667 property, unless Section 59-12-104 provides for an exemption from sales and use tax
1668 for:
- 1669 (i) the tangible personal property; and
1670 (ii) parts used in the repairs or renovations of the tangible personal property described
1671 in Subsection (1)(g)(i), regardless of whether:
- 1672 (A) any parts are actually used in the repairs or renovations of that tangible
1673 personal property; or
1674 (B) the particular parts used in the repairs or renovations of that tangible personal
1675 property are exempt from a tax under this chapter;
- 1676 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted
1677 cleaning or washing of tangible personal property;
- 1678 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
1679 accommodations and services that are regularly rented for less than 30 consecutive
1680 days;
- 1681 (j) amounts paid or charged for laundry or dry cleaning services;
- 1682 (k) amounts paid or charged for leases or rentals of tangible personal property if within
1683 this state the tangible personal property is:
- 1684 (i) stored;
1685 (ii) used; or
1686 (iii) otherwise consumed;
- 1687 (l) amounts paid or charged for tangible personal property if within this state the tangible
1688 personal property is:
- 1689 (i) stored;
1690 (ii) used; or
1691 (iii) consumed;
- 1692 (m) amounts paid or charged for a sale:
- 1693 (i) (A) of a product transferred electronically; or

- 1694 (B) of a repair or renovation of a product transferred electronically; and
1695 (ii) regardless of whether the sale provides:
1696 (A) a right of permanent use of the product; or
1697 (B) a right to use the product that is less than a permanent use, including a right:
1698 (I) for a definite or specified length of time; and
1699 (II) that terminates upon the occurrence of a condition; and
1700 (n) sales of leased tangible personal property from the lessor to the lessee made in the
1701 state.
- 1702 (2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax
1703 are imposed on a transaction described in Subsection (1) equal to the sum of:
1704 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
1705 (A) 4.70% plus the rate specified in Subsection (11)(a); and
1706 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional
1707 State Sales and Use Tax Act, if the location of the transaction as determined
1708 under Sections 59-12-211 through 59-12-215 is in a county in which the
1709 state imposes the tax under Part 18, Additional State Sales and Use Tax Act;
1710 and
1711 (II) the tax rate the state imposes in accordance with Part 20, Supplemental
1712 State Sales and Use Tax Act, if the location of the transaction as determined
1713 under Sections 59-12-211 through 59-12-215 is in a city, town, or the
1714 unincorporated area of a county in which the state imposes the tax under
1715 Part 20, Supplemental State Sales and Use Tax Act; and
1716 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1717 transaction under this chapter other than this part.
- 1718 (b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state
1719 tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal
1720 to the sum of:
1721 (i) a state tax imposed on the transaction at a tax rate of 2%; and
1722 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1723 transaction under this chapter other than this part.
- 1724 (c) (i) Except as provided in Subsection (2)(f) or (g), a local tax is imposed on
1725 amounts paid or charged for food and food ingredients equal to the sum of the tax
1726 rates a county, city, or town imposes under this chapter on the amounts paid or
1727 charged for food or food ingredients.

- 1728 (ii) There is no state tax imposed on amounts paid or charged for food and food
1729 ingredients.
- 1730 (d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid
1731 or charged for fuel to a common carrier that is a railroad for use in a locomotive
1732 engine at a rate of 4.85%.
- 1733 (e) (i) (A) If a shared vehicle owner certifies to the commission, on a form
1734 prescribed by the commission, that the shared vehicle is an individual-owned
1735 shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to
1736 car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle
1737 owner.
- 1738 (B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is
1739 required once during the time that the shared vehicle owner owns the shared
1740 vehicle.
- 1741 (C) The commission shall verify that a shared vehicle is an individual-owned
1742 shared vehicle by verifying that the applicable Utah taxes imposed under this
1743 chapter were paid on the purchase of the shared vehicle.
- 1744 (D) The exception under Subsection (2)(e)(i)(A) applies to a certified
1745 individual-owned shared vehicle shared through a car-sharing program even if
1746 non-certified shared vehicles are also available to be shared through the same
1747 car-sharing program.
- 1748 (ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.
- 1749 (iii) (A) A car-sharing program may rely in good faith on a shared vehicle owner's
1750 representation that the shared vehicle is an individual-owned shared vehicle
1751 certified with the commission as described in Subsection (2)(e)(i).
- 1752 (B) If a car-sharing program relies in good faith on a shared vehicle owner's
1753 representation that the shared vehicle is an individual-owned shared vehicle
1754 certified with the commission as described in Subsection (2)(e)(i), the
1755 car-sharing program is not liable for any tax, penalty, fee, or other sanction
1756 imposed on the shared vehicle owner.
- 1757 (iv) If all shared vehicles shared through a car-sharing program are certified as
1758 described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has
1759 no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax
1760 period.
- 1761 (v) [~~A~~] A car-sharing program is not required to list or otherwise identify an

- 1762 individual-owned shared vehicle on a return or an attachment to a return.
- 1763 (vi) A car-sharing program shall:
- 1764 (A) retain tax information for each car-sharing program transaction; and
- 1765 (B) provide the information described in Subsection (2)(e)(vi)(A) to the
- 1766 commission at the commission's request.
- 1767 (f) (i) For a bundled transaction that is attributable to food and food ingredients and
- 1768 tangible personal property other than food and food ingredients, a state tax and a
- 1769 local tax is imposed on the entire bundled transaction equal to the sum of:
- 1770 (A) a state tax imposed on the entire bundled transaction equal to the sum of:
- 1771 (I) the tax rate described in Subsection (2)(a)(i)(A); and
- 1772 (II) (Aa) the tax rate the state imposes in accordance with Part 18,
- 1773 Additional State Sales and Use Tax Act, if the location of the transaction
- 1774 as determined under Sections 59-12-211 through 59-12-215 is in a
- 1775 county in which the state imposes the tax under Part 18, Additional State
- 1776 Sales and Use Tax Act; and
- 1777 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental
- 1778 State Sales and Use Tax Act, if the location of the transaction as
- 1779 determined under Sections 59-12-211 through 59-12-215 is in a city,
- 1780 town, or the unincorporated area of a county in which the state imposes
- 1781 the tax under Part 20, Supplemental State Sales and Use Tax Act; and
- 1782 (B) a local tax imposed on the entire bundled transaction at the sum of the tax
- 1783 rates described in Subsection (2)(a)(ii).
- 1784 (ii) If an optional computer software maintenance contract is a bundled transaction
- 1785 that consists of taxable and nontaxable products that are not separately itemized
- 1786 on an invoice or similar billing document, the purchase of the optional computer
- 1787 software maintenance contract is 40% taxable under this chapter and 60%
- 1788 nontaxable under this chapter.
- 1789 (iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled
- 1790 transaction described in Subsection (2)(f)(i) or (ii):
- 1791 (A) if the sales price of the bundled transaction is attributable to tangible personal
- 1792 property, a product, or a service that is subject to taxation under this chapter
- 1793 and tangible personal property, a product, or service that is not subject to
- 1794 taxation under this chapter, the entire bundled transaction is subject to taxation
- 1795 under this chapter unless:

- 1796 (I) the seller is able to identify by reasonable and verifiable standards the
1797 tangible personal property, product, or service that is not subject to taxation
1798 under this chapter from the books and records the seller keeps in the seller's
1799 regular course of business; or
1800 (II) state or federal law provides otherwise; or
1801 (B) if the sales price of a bundled transaction is attributable to two or more items
1802 of tangible personal property, products, or services that are subject to taxation
1803 under this chapter at different rates, the entire bundled transaction is subject to
1804 taxation under this chapter at the higher tax rate unless:
1805 (I) the seller is able to identify by reasonable and verifiable standards the
1806 tangible personal property, product, or service that is subject to taxation
1807 under this chapter at the lower tax rate from the books and records the seller
1808 keeps in the seller's regular course of business; or
1809 (II) state or federal law provides otherwise.
1810 (iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the
1811 seller's regular course of business includes books and records the seller keeps in
1812 the regular course of business for nontax purposes.
1813 (g) (i) Except as otherwise provided in this chapter and subject to Subsections
1814 (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible
1815 personal property, a product, or a service that is subject to taxation under this
1816 chapter, and the sale, lease, or rental of tangible personal property, other property,
1817 a product, or a service that is not subject to taxation under this chapter, the entire
1818 transaction is subject to taxation under this chapter unless the seller, at the time of
1819 the transaction:
1820 (A) separately states the portion of the transaction that is not subject to taxation
1821 under this chapter on an invoice, bill of sale, or similar document provided to
1822 the purchaser; or
1823 (B) is able to identify by reasonable and verifiable standards, from the books and
1824 records the seller keeps in the seller's regular course of business, the portion of
1825 the transaction that is not subject to taxation under this chapter.
1826 (ii) A purchaser and a seller may correct the taxability of a transaction if:
1827 (A) after the transaction occurs, the purchaser and the seller discover that the
1828 portion of the transaction that is not subject to taxation under this chapter was
1829 not separately stated on an invoice, bill of sale, or similar document provided

- 1830 to the purchaser because of an error or ignorance of the law; and
- 1831 (B) the seller is able to identify by reasonable and verifiable standards, from the
- 1832 books and records the seller keeps in the seller's regular course of business, the
- 1833 portion of the transaction that is not subject to taxation under this chapter.
- 1834 (iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller
- 1835 keeps in the seller's regular course of business includes books and records the
- 1836 seller keeps in the regular course of business for nontax purposes.
- 1837 (h) (i) If the sales price of a transaction is attributable to two or more items of
- 1838 tangible personal property, products, or services that are subject to taxation under
- 1839 this chapter at different rates, the entire purchase is subject to taxation under this
- 1840 chapter at the higher tax rate unless the seller, at the time of the transaction:
- 1841 (A) separately states the items subject to taxation under this chapter at each of the
- 1842 different rates on an invoice, bill of sale, or similar document provided to the
- 1843 purchaser; or
- 1844 (B) is able to identify by reasonable and verifiable standards the tangible personal
- 1845 property, product, or service that is subject to taxation under this chapter at the
- 1846 lower tax rate from the books and records the seller keeps in the seller's regular
- 1847 course of business.
- 1848 (ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the
- 1849 seller's regular course of business includes books and records the seller keeps in
- 1850 the regular course of business for nontax purposes.
- 1851 (i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate
- 1852 imposed under the following shall take effect on the first day of a calendar quarter:
- 1853 (i) Subsection (2)(a)(i)(A);
- 1854 (ii) Subsection (2)(b)(i); or
- 1855 (iii) Subsection (2)(f)(i)(A)(I).
- 1856 (j) (i) A tax rate increase takes effect on the first day of the first billing period that
- 1857 begins on or after the effective date of the tax rate increase if the billing period for
- 1858 the transaction begins before the effective date of a tax rate increase imposed
- 1859 under:
- 1860 (A) Subsection (2)(a)(i)(A);
- 1861 (B) Subsection (2)(b)(i); or
- 1862 (C) Subsection (2)(f)(i)(A)(I).
- 1863 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing

- 1864 statement for the billing period is rendered on or after the effective date of the
1865 repeal of the tax or the tax rate decrease imposed under:
- 1866 (A) Subsection (2)(a)(i)(A);
 - 1867 (B) Subsection (2)(b)(i); or
 - 1868 (C) Subsection (2)(f)(i)(A)(I).
- 1869 (k) (i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale
1870 is computed on the basis of sales and use tax rates published in the catalogue, a
1871 tax rate repeal or change in a tax rate takes effect:
- 1872 (A) on the first day of a calendar quarter; and
 - 1873 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate
1874 change.
- 1875 (ii) Subsection (2)(k)(i) applies to the tax rates described in the following:
- 1876 (A) Subsection (2)(a)(i)(A);
 - 1877 (B) Subsection (2)(b)(i); or
 - 1878 (C) Subsection (2)(f)(i)(A)(I).
- 1879 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1880 the commission may by rule define the term "catalogue sale."
- 1881 (l) (i) For a location described in Subsection (2)(l)(ii), the commission shall
1882 determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or
1883 other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil,
1884 or other fuel at the location.
- 1885 (ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil,
1886 or other fuel is furnished through a single meter for two or more of the following
1887 uses:
- 1888 (A) a commercial use;
 - 1889 (B) an industrial use; or
 - 1890 (C) a residential use.
- 1891 (3) (a) The following state taxes shall be deposited into the General Fund:
- 1892 (i) the tax imposed by Subsection (2)(a)(i)(A);
 - 1893 (ii) the tax imposed by Subsection (2)(b)(i); and
 - 1894 (iii) the tax imposed by Subsection (2)(f)(i)(A)(I).
- 1895 (b) The following local taxes shall be distributed to a county, city, or town as provided
1896 in this chapter:
- 1897 (i) the tax imposed by Subsection (2)(a)(ii);

- 1898 (ii) the tax imposed by Subsection (2)(b)(ii);
- 1899 (iii) the tax imposed by Subsection (2)(c); and
- 1900 (iv) the tax imposed by Subsection (2)(f)(i)(B).
- 1901 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.
- 1902 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 1903 2003, the lesser of the following amounts shall be expended as provided in
- 1904 Subsections (4)(b) through (g):
- 1905 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 1906 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 1907 (B) for the fiscal year; or
- 1908 (ii) \$17,500,000.
- 1909 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
- 1910 described in Subsection (4)(a) shall be transferred each year as designated sales
- 1911 and use tax revenue to the Department of Natural Resources to:
- 1912 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d)
- 1913 to protect sensitive plant and animal species; or
- 1914 (B) award grants, up to the amount authorized by the Legislature in an
- 1915 appropriations act, to political subdivisions of the state to implement the
- 1916 measures described in Subsections 79-2-303(3)(a) through (d) to protect
- 1917 sensitive plant and animal species.
- 1918 (ii) Money transferred to the Department of Natural Resources under Subsection
- 1919 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or
- 1920 any other person to list or attempt to have listed a species as threatened or
- 1921 endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et
- 1922 seq.
- 1923 (iii) At the end of each fiscal year:
- 1924 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to
- 1925 the Water Resources Conservation and Development Fund created in Section
- 1926 73-10-24;
- 1927 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the
- 1928 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and
- 1929 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the
- 1930 Drinking Water Loan Program Subaccount created in Section 73-10c-5.
- 1931 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

- 1932 Subsection (4)(a) shall be deposited each year in the Agriculture Resource
1933 Development Fund created in Section 4-18-106.
- 1934 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount
1935 described in Subsection (4)(a) shall be transferred each year as designated sales
1936 and use tax revenue to the Division of Water Rights to cover the costs incurred in
1937 hiring legal and technical staff for the adjudication of water rights.
- 1938 (ii) At the end of each fiscal year:
- 1939 (A) 50% of any unexpended designated sales and use tax revenue shall lapse to
1940 the Water Resources Conservation and Development Fund created in Section
1941 73-10-24;
- 1942 (B) 25% of any unexpended designated sales and use tax revenue shall lapse to the
1943 Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and
- 1944 (C) 25% of any unexpended designated sales and use tax revenue shall lapse to the
1945 Drinking Water Loan Program Subaccount created in Section 73-10c-5.
- 1946 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount
1947 described in Subsection (4)(a) shall be deposited into the Water Resources
1948 Conservation and Development Fund created in Section 73-10-24 for use by the
1949 Division of Water Resources.
- 1950 (ii) In addition to the uses allowed of the Water Resources Conservation and
1951 Development Fund under Section 73-10-24, the Water Resources Conservation
1952 and Development Fund may also be used to:
- 1953 (A) conduct hydrologic and geotechnical investigations by the Division of Water
1954 Resources in a cooperative effort with other state, federal, or local entities, for
1955 the purpose of quantifying surface and ground water resources and describing
1956 the hydrologic systems of an area in sufficient detail so as to enable local and
1957 state resource managers to plan for and accommodate growth in water use
1958 without jeopardizing the resource;
- 1959 (B) fund state required dam safety improvements; and
- 1960 (C) protect the state's interest in interstate water compact allocations, including the
1961 hiring of technical and legal staff.
- 1962 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in
1963 Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program
1964 Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund
1965 wastewater projects.

- 1966 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1967 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program
1968 Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:
1969 (i) provide for the installation and repair of collection, treatment, storage, and
1970 distribution facilities for any public water system, as defined in Section 19-4-102;
1971 (ii) develop underground sources of water, including springs and wells; and
1972 (iii) develop surface water sources.
- 1973 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1974 2006, the difference between the following amounts shall be expended as provided in
1975 this Subsection (5), if that difference is greater than \$1:
1976 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for
1977 the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1);
1978 and
1979 (ii) \$17,500,000.
- 1980 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:
1981 (A) transferred each fiscal year to the Department of Natural Resources as
1982 designated sales and use tax revenue; and
1983 (B) expended by the Department of Natural Resources for watershed rehabilitation
1984 or restoration.
1985 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use
1986 tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources
1987 Conservation and Development Fund created in Section 73-10-24.
- 1988 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
1989 remaining difference described in Subsection (5)(a) shall be:
1990 (A) transferred each fiscal year to the Division of Water Resources as designated
1991 sales and use tax revenue; and
1992 (B) expended by the Division of Water Resources for cloud-seeding projects
1993 authorized by Title 73, Chapter 15, Modification of Weather.
1994 (ii) At the end of each fiscal year, 100% of any unexpended designated sales and use
1995 tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources
1996 Conservation and Development Fund created in Section 73-10-24.
- 1997 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
1998 remaining difference described in Subsection (5)(a) shall be deposited into the Water
1999 Resources Conservation and Development Fund created in Section 73-10-24 for use

- 2000 by the Division of Water Resources for:
- 2001 (i) preconstruction costs:
- 2002 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73,
- 2003 Chapter 26, Bear River Development Act; and
- 2004 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
- 2005 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;
- 2006 (ii) the cost of employing a civil engineer to oversee any project authorized by Title
- 2007 73, Chapter 26, Bear River Development Act;
- 2008 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline
- 2009 project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development
- 2010 Act; and
- 2011 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
- 2012 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i)
- 2013 through (iii).
- 2014 (e) After making the transfers required by Subsections (5)(b) and (c), 15% of the
- 2015 remaining difference described in Subsection (5)(a) shall be deposited each year into
- 2016 the Water Rights Restricted Account created by Section 73-2-1.6.
- 2017 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each
- 2018 fiscal year, the commission shall deposit into the Water Infrastructure Restricted
- 2019 Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax
- 2020 rate on the transactions described in Subsection (1) for the fiscal year.
- 2021 (7) (a) Notwithstanding Subsection (3)(a) and subject to Subsection (7)(b), for a fiscal
- 2022 year beginning on or after July 1, 2023, the commission shall deposit into the
- 2023 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the
- 2024 taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the
- 2025 following sales and use taxes:
- 2026 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
- 2027 (ii) the tax imposed by Subsection (2)(b)(i); and
- 2028 (iii) the tax imposed by Subsection (2)(f)(i)(A)(I).
- 2029 (b) (i) As used in this Subsection (7)(b):
- 2030 (A) "Additional growth revenue" means the amount of relevant revenue collected
- 2031 in the current fiscal year that exceeds by more than 3% the relevant revenue
- 2032 collected in the previous fiscal year.
- 2033 (B) "Combined amount" means the combined total amount of money deposited

- 2034 into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii)
2035 in any single fiscal year.
- 2036 (C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation
2037 Investment Fund created in Subsection 72-2-124(10).
- 2038 (D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a)
2039 that equals 17% of the revenue collected from taxes described in Subsections
2040 (7)(a)(i) through (iii).
- 2041 (ii) For a fiscal year beginning on or after July 1, 2020, the commission shall
2042 annually reduce the deposit under Subsection (7)(a) into the Transportation
2043 Investment Fund of 2005 by an amount equal to the amount of the deposit under
2044 this Subsection (7)(b) to the Cottonwood Canyons fund in the previous fiscal year
2045 plus 25% of additional growth revenue, subject to the limit in Subsection
2046 (7)(b)(iii).
- 2047 (iii) The commission shall annually deposit the amount described in Subsection
2048 (7)(b)(ii) into the Cottonwood Canyons fund, subject to an annual maximum
2049 combined amount for any single fiscal year of \$20,000,000.
- 2050 (iv) If the amount of relevant revenue declines in a fiscal year compared to the
2051 previous fiscal year, the commission shall decrease the amount of the contribution
2052 to the Cottonwood Canyons fund under this Subsection (7)(b) in the same
2053 proportion as the decline in relevant revenue.
- 2054 (c) (i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1,
2055 2023, the commission shall annually reduce the deposit into the Transportation
2056 Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is
2057 equal to 5% of:
- 2058 (A) the amount of revenue generated in the current fiscal year by the portion of
2059 taxes listed under Subsection (3)(a) that equals 20.68% of the revenue
2060 collected from taxes described in Subsections (7)(a)(i) through (iv);
- 2061 (B) the amount of revenue generated in the current fiscal year by registration fees
2062 designated under Section 41-1a-1201 to be deposited into the Transportation
2063 Investment Fund of 2005; and
- 2064 (C) revenues transferred by the Division of Finance to the Transportation
2065 Investment Fund of 2005 in accordance with Section 72-2-106 in the current
2066 fiscal year.
- 2067 (ii) The amount described in Subsection (7)(c)(i) may not exceed \$45,000,000 in a

- 2068 given fiscal year.
- 2069 (iii) The commission shall annually deposit the amount described in Subsection
2070 (7)(c)(i) into the Active Transportation Investment Fund created in Subsection
2071 72-2-124(11).
- 2072 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
2073 Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year
2074 beginning on or after July 1, 2018, the commission shall annually deposit into the
2075 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the
2076 taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues
2077 collected from the following taxes:
- 2078 (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
2079 (ii) the tax imposed by Subsection (2)(b)(i); and
2080 (iii) the tax imposed by Subsection (2)(f)(i)(A)(I).
- 2081 (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
2082 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection
2083 (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the
2084 current fiscal year by the portion of the tax imposed on motor and special fuel that is
2085 sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.
- 2086 (c) The commission shall annually deposit the amount described in Subsection (8)(b)
2087 into the Transit Transportation Investment Fund created in Section 72-2-124.
- 2088 (d) (i) As used in this Subsection (8)(d):
- 2089 (A) "Additional growth revenue" means the amount of relevant revenue collected
2090 in the current fiscal year that exceeds by more than 3% the relevant revenue
2091 collected in the previous fiscal year.
- 2092 (B) "Combined amount" means the combined total amount of money deposited
2093 into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii)
2094 in any single fiscal year.
- 2095 (C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation
2096 Investment Fund created in Subsection 72-2-124(10).
- 2097 (D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a)
2098 that equals 3.68% of the revenue collected from taxes described in Subsections
2099 (8)(a)(i) through (iii).
- 2100 (ii) For a fiscal year beginning on or after July 1, 2020, the commission shall
2101 annually reduce the deposit under Subsection (8)(a) into the Transportation

2102 Investment Fund of 2005 by an amount equal to the amount of the deposit under
2103 this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year
2104 plus 25% of additional growth revenue, subject to the limit in Subsection
2105 (8)(d)(iii).

2106 (iii) The commission shall annually deposit the amount described in Subsection
2107 (8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum
2108 combined amount for any single fiscal year of \$20,000,000.

2109 (iv) If the amount of relevant revenue declines in a fiscal year compared to the
2110 previous fiscal year, the commission shall decrease the amount of the contribution
2111 to the Cottonwood Canyons fund under this Subsection (8)(d) in the same
2112 proportion as the decline in relevant revenue.

2113 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2114 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies
2115 Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

2116 (10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal
2117 year during which the commission receives notice under Section 63N-2-510 that
2118 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the
2119 commission shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the
2120 revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact
2121 Mitigation Fund, created in Section 63N-2-512.

2122 (11) (a) The rate specified in this subsection is 0.15%.

2123 (b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning
2124 on or after July 1, 2019, annually transfer the amount of revenue collected from the
2125 rate described in Subsection (11)(a) on the transactions that are subject to the sales
2126 and use tax under Subsection (2)(a)(i)(A) into the Medicaid [Expansion] ACA Fund
2127 created in Section 26B-1-315.

2128 (12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2129 2020-21, the commission shall deposit \$200,000 into the General Fund as a dedicated
2130 credit solely for use of the Search and Rescue Financial Assistance Program created in,
2131 and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

2132 (13) (a) For each fiscal year beginning with fiscal year 2020-21, the commission shall
2133 annually transfer \$1,813,400 of the revenue deposited into the Transportation
2134 Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

2135 (b) If the total revenue deposited into the Transportation Investment Fund of 2005 under

2136 Subsections (7) and (8) is less than \$1,813,400 for a fiscal year, the commission shall
 2137 transfer the total revenue deposited into the Transportation Investment Fund of 2005
 2138 under Subsections (7) and (8) during the fiscal year to the General Fund.

2139 (14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning
 2140 the first day of the calendar quarter one year after the sales and use tax boundary for a
 2141 housing and transit reinvestment zone is established, the commission, at least annually,
 2142 shall transfer an amount equal to 15% of the sales and use tax increment within an
 2143 established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit
 2144 Transportation Investment Fund created in Section 72-2-124.

2145 (15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning
 2146 on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted
 2147 Account, created in Section 51-9-902, a portion of the taxes listed under Subsection
 2148 (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:
 2149 (a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
 2150 (b) the tax imposed by Subsection (2)(b)(i); and
 2151 (c) the tax imposed by Subsection (2)(f)(i)(A)(I).

2152 Section 18. Section **63A-5b-607** is amended to read:

2153 **63A-5b-607 (Effective 07/01/24). Health insurance requirements -- Penalties.**

2154 (1) As used in this section:

- 2155 (a) "Aggregate amount" means the dollar sum of all contracts, change orders, and
 2156 modifications for a single project.
- 2157 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.
- 2158 (c) "Eligible employee" means an employee, as defined in Section 34A-2-104, who:
 2159 (i) works at least 30 hours per calendar week; and
 2160 (ii) meets the employer eligibility waiting period for qualified health insurance
 2161 coverage provided by the employer.
- 2162 (d) "Health benefit plan" means:
 2163 (i) the same as that term is defined in Section 31A-1-301; or
 2164 (ii) an employee welfare benefit plan:
 2165 (A) established under the Employee Retirement Income Security Act of 1974, 29
 2166 U.S.C. Sec. 1001 et seq.;
- 2167 (B) for an employer with 100 or more employees; and
 2168 (C) in which the employer establishes a self-funded or partially self-funded group
 2169 health plan to provide medical care for the employer's employees and

- 2170 dependents of the employees.
- 2171 (e) "Qualified health insurance coverage" means the same as that term is defined in
2172 Section 26B-3-909.
- 2173 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
- 2174 (g) "Third party administrator" or "administrator" means the same as that term is defined
2175 in Section 31A-1-301.
- 2176 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 2177 (a) a contractor of a design or construction contract with the division if the prime
2178 contract is in an aggregate amount of \$2,000,000 or more; and
- 2179 (b) a subcontractor of a contractor of a design or construction contract with the division
2180 if the subcontract is in an aggregate amount of \$1,000,000 or more.
- 2181 (3) The requirements of this section do not apply to a contractor or subcontractor if:
- 2182 (a) the application of this section jeopardizes the division's receipt of federal funds;
- 2183 (b) the contract is a sole source contract, as defined in Section 63G-6a-103; or
- 2184 (c) the contract is the result of an emergency procurement.
- 2185 (4) A person who intentionally uses a change order, contract modification, or multiple
2186 contracts to circumvent the requirements of this section is guilty of an infraction.
- 2187 (5) (a) A contractor that is subject to the requirements of this section shall:
- 2188 (i) make and maintain an offer of qualified health coverage for the contractor's
2189 eligible employees and the eligible employees' dependents; and
- 2190 (ii) submit to the director a written statement demonstrating that the contractor is in
2191 compliance with Subsection (5)(a)(i).
- 2192 (b) A statement under Subsection (5)(a)(ii):
- 2193 (i) shall be from:
- 2194 (A) an actuary selected by the contractor or the contractor's insurer;
- 2195 (B) an underwriter who is responsible for developing the employer group's
2196 premium rates; or
- 2197 (C) if the contractor provides a health benefit plan described in Subsection
2198 (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and
- 2199 (ii) may not be created more than one year before the day on which the contractor
2200 submits the statement to the director.
- 2201 (c) (i) A contractor that provides a health benefit plan described in Subsection
2202 (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as
2203 described in Subsection (5)(b)(i)(C), sufficient information to determine whether

- 2204 the contractor's contribution to the health benefit plan and the actuarial value of
 2205 the health benefit plan meet the requirements of qualified health coverage.
- 2206 (ii) A contractor may not make a change to the contractor's contribution to the health
 2207 benefit plan, unless the contractor provides notice to:
- 2208 (A) the actuary or underwriter selected by an administrator, as described in
 2209 Subsection (5)(b)(i)(C), for the actuary or underwriter to update the written
 2210 statement described in Subsection (5)(a) in compliance with this section; and
 2211 (B) the division.
- 2212 (6) (a) A contractor that is subject to the requirements of this section shall:
- 2213 (i) ensure that each contract the contractor enters with a subcontractor that is subject
 2214 to the requirements of this section requires the subcontractor to obtain and
 2215 maintain an offer of qualified health coverage for the subcontractor's eligible
 2216 employees and the eligible employees' dependents during the duration of the
 2217 subcontract; and
- 2218 (ii) obtain from a subcontractor referred to in Subsection (6)(a)(i) a written statement
 2219 demonstrating that the subcontractor offers qualified health coverage to eligible
 2220 employees and eligible employees' dependents.
- 2221 (b) A statement under Subsection (6)(a)(ii):
- 2222 (i) shall be from:
- 2223 (A) an actuary selected by the subcontractor or the subcontractor's insurer;
 2224 (B) an underwriter who is responsible for developing the employer group's
 2225 premium rates; or
- 2226 (C) if the subcontractor provides a health benefit plan described in Subsection
 2227 (1)(d)(ii), an actuary or underwriter selected by an administrator; and
- 2228 (ii) may not be created more than one year before the day on which the contractor
 2229 obtains the statement from the subcontractor.
- 2230 (7) (a) (i) A contractor that fails to maintain an offer of qualified health coverage
 2231 during the duration of the contract as required in this section is subject to penalties
 2232 in accordance with administrative rules made by the division under this section, in
 2233 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 2234 (ii) A contractor is not subject to penalties for the failure of a subcontractor to obtain
 2235 and maintain an offer of qualified health coverage as required in this section.
- 2236 (b) (i) A subcontractor that fails to obtain and maintain an offer of qualified health
 2237 coverage during the duration of the subcontract as required in this section is

- 2238 subject to penalties in accordance with administrative rules made by the division
2239 under this section, in accordance with Title 63G, Chapter 3, Utah Administrative
2240 Rulemaking Act.
- 2241 (ii) A subcontractor is not subject to penalties for the failure of a contractor to
2242 maintain an offer of qualified health coverage as required in this section.
- 2243 (8) The division shall make rules:
- 2244 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
2245 (b) in coordination with:
- 2246 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
2247 (ii) the Department of Natural Resources in accordance with Section 79-2-404;
2248 (iii) a public transit district in accordance with Section 17B-2a-818.5;
2249 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;
2250 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
2251 (vi) the Legislature's Administrative Rules Review and General Oversight
2252 Committee; and
- 2253 (c) that establish:
- 2254 (i) the requirements and procedures for a contractor and a subcontractor to
2255 demonstrate compliance with this section, including:
- 2256 (A) a provision that a contractor or subcontractor's compliance with this section is
2257 subject to an audit by the division or the Office of the Legislative Auditor
2258 General;
- 2259 (B) a provision that a contractor that is subject to the requirements of this section
2260 obtain a written statement as provided in Subsection (5); and
- 2261 (C) a provision that a subcontractor that is subject to the requirements of this
2262 section obtain a written statement as provided in Subsection (6);
- 2263 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
2264 violates the provisions of this section, which may include:
- 2265 (A) a three-month suspension of the contractor or subcontractor from entering into
2266 a future contract with the state upon the first violation;
- 2267 (B) a six-month suspension of the contractor or subcontractor from entering into a
2268 future contract with the state upon the second violation;
- 2269 (C) an action for debarment of the contractor or subcontractor in accordance with
2270 Section 63G-6a-904 upon the third or subsequent violation; and
2271 (D) monetary penalties which may not exceed 50% of the amount necessary to

- 2272 purchase qualified health coverage for eligible employees and dependents of
2273 eligible employees of the contractor or subcontractor who were not offered
2274 qualified health coverage during the duration of the contract; and
- 2275 (iii) a website for the department to post the commercially equivalent benchmark for
2276 the qualified health coverage that is provided by the Department of Health and
2277 Human Services in accordance with Subsection 26B-3-909(2).
- 2278 (9) During the duration of a contract, the division may perform an audit to verify a
2279 contractor or subcontractor's compliance with this section.
- 2280 (10) (a) Upon the division's request, a contractor or subcontractor shall provide the
2281 division:
- 2282 (i) a signed actuarial certification that the coverage the contractor or subcontractor
2283 offers is qualified health coverage; or
- 2284 (ii) all relevant documents and information necessary for the division to determine
2285 compliance with this section.
- 2286 (b) If a contractor or subcontractor provides the documents and information described in
2287 Subsection (10)(a)(i), the Insurance Department shall assist the division in
2288 determining if the coverage the contractor or subcontractor offers is qualified health
2289 coverage.
- 2290 (11) (a) (i) In addition to the penalties imposed under Subsection (7), a contractor or
2291 subcontractor that intentionally violates the provisions of this section is liable to
2292 an eligible employee for health care costs that would have been covered by
2293 qualified health coverage.
- 2294 (ii) An employer has an affirmative defense to a cause of action under Subsection
2295 (11)(a)(i) if:
- 2296 (A) the employer relied in good faith on a written statement described in
2297 Subsection (5) or (6); or
- 2298 (B) the department determines that compliance with this section is not required
2299 under the provisions of Subsection (3).
- 2300 (b) An eligible employee has a private right of action against the employee's employer
2301 only as provided in this Subsection (11).
- 2302 (12) The director shall cause money collected from the imposition and collection of a
2303 penalty under this section to be deposited into the Medicaid [~~Restricted~~] Growth
2304 Reduction and Budget Stabilization Account created by Section [~~26B-1-309~~] 63J-1-315.
- 2305 (13) The failure of a contractor or subcontractor to provide qualified health coverage as

- 2306 required by this section:
- 2307 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
2308 or contractor under:
- 2309 (i) Section 63G-6a-1602; or
2310 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
- 2311 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
2312 contractor as a basis for any action or suit that would suspend, disrupt, or terminate
2313 the design or construction.
- 2314 (14) An employer's waiting period for an employee to become eligible for qualified health
2315 coverage may not extend beyond the first day of the calendar month following 60 days
2316 after the day on which the employee is hired.
- 2317 (15) An administrator, including an administrator's actuary or underwriter, who provides a
2318 written statement under Subsection (5)(a) or (c) regarding the qualified health coverage
2319 of a contractor or subcontractor who provides a health benefit plan described in
2320 Subsection (1)(d)(ii):
- 2321 (a) subject to Subsection (11)(b), is not liable for an error in the written statement, unless
2322 the administrator commits gross negligence in preparing the written statement;
- 2323 (b) is not liable for any error in the written statement if the administrator relied in good
2324 faith on information from the contractor or subcontractor; and
- 2325 (c) may require as a condition of providing the written statement that a contractor or
2326 subcontractor hold the administrator harmless for an action arising under this section.
- 2327 Section 19. Section **63C-9-403** is amended to read:
- 2328 **63C-9-403 (Effective 07/01/24). Contracting power of executive director --**
- 2329 **Health insurance coverage.**
- 2330 (1) As used in this section:
- 2331 (a) "Aggregate" means the sum of all contracts, change orders, and modifications related
2332 to a single project.
- 2333 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.
- 2334 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or
2335 "operative" who:
- 2336 (i) works at least 30 hours per calendar week; and
2337 (ii) meets employer eligibility waiting requirements for health care insurance, which
2338 may not exceed the first of the calendar month following 60 days after the day on
2339 which the individual is hired.

- 2340 (d) "Health benefit plan" means:
- 2341 (i) the same as that term is defined in Section 31A-1-301; or
- 2342 (ii) an employee welfare benefit plan:
- 2343 (A) established under the Employee Retirement Income Security Act of 1974, 29
- 2344 U.S.C. Sec. 1001 et seq.;
- 2345 (B) for an employer with 100 or more employees; and
- 2346 (C) in which the employer establishes a self-funded or partially self-funded group
- 2347 health plan to provide medical care for the employer's employees and
- 2348 dependents of the employees.
- 2349 (e) "Qualified health coverage" means the same as that term is defined in Section
- 2350 26B-3-909.
- 2351 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
- 2352 (g) "Third party administrator" or "administrator" means the same as that term is defined
- 2353 in Section 31A-1-301.
- 2354 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 2355 (a) a contractor of a design or construction contract entered into by the board, or on
- 2356 behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate
- 2357 amount equal to or greater than \$2,000,000; and
- 2358 (b) a subcontractor of a contractor of a design or construction contract entered into by
- 2359 the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in
- 2360 an aggregate amount equal to or greater than \$1,000,000.
- 2361 (3) The requirements of this section do not apply to a contractor or subcontractor described
- 2362 in Subsection (2) if:
- 2363 (a) the application of this section jeopardizes the receipt of federal funds;
- 2364 (b) the contract is a sole source contract; or
- 2365 (c) the contract is an emergency procurement.
- 2366 (4) A person that intentionally uses change orders, contract modifications, or multiple
- 2367 contracts to circumvent the requirements of this section is guilty of an infraction.
- 2368 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
- 2369 executive director that the contractor has and will maintain an offer of qualified
- 2370 health coverage for the contractor's employees and the employees' dependents during
- 2371 the duration of the contract by submitting to the executive director a written
- 2372 statement that:
- 2373 (i) the contractor offers qualified health coverage that complies with Section

- 2374 26B-3-909;
- 2375 (ii) is from:
- 2376 (A) an actuary selected by the contractor or the contractor's insurer;
- 2377 (B) an underwriter who is responsible for developing the employer group's
- 2378 premium rates; or
- 2379 (C) if the contractor provides a health benefit plan described in Subsection
- 2380 (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and
- 2381 (iii) was created within one year before the day on which the statement is submitted.
- 2382 (b) (i) A contractor that provides a health benefit plan described in Subsection
- 2383 (1)(d)(ii) shall provide the actuary or underwriter selected by the administrator, as
- 2384 described in Subsection (5)(a)(ii)(C), sufficient information to determine whether
- 2385 the contractor's contribution to the health benefit plan and the health benefit plan's
- 2386 actuarial value meets the requirements of qualified health coverage.
- 2387 (ii) A contractor may not make a change to the contractor's contribution to the health
- 2388 benefit plan, unless the contractor provides notice to:
- 2389 (A) the actuary or underwriter selected by the administrator, as described in
- 2390 Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written
- 2391 statement described in Subsection (5)(a) in compliance with this section; and
- 2392 (B) the executive director.
- 2393 (c) A contractor that is subject to the requirements of this section shall:
- 2394 (i) place a requirement in each of the contractor's subcontracts that a subcontractor
- 2395 that is subject to the requirements of this section shall obtain and maintain an offer
- 2396 of qualified health coverage for the subcontractor's employees and the employees'
- 2397 dependents during the duration of the subcontract; and
- 2398 (ii) obtain from a subcontractor that is subject to the requirements of this section a
- 2399 written statement that:
- 2400 (A) the subcontractor offers qualified health coverage that complies with Section
- 2401 26B-3-909;
- 2402 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer,
- 2403 an underwriter who is responsible for developing the employer group's
- 2404 premium rates, or if the subcontractor provides a health benefit plan described
- 2405 in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator;
- 2406 and
- 2407 (C) was created within one year before the day on which the contractor obtains the

- 2408 statement.
- 2409 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage
2410 as described in Subsection (5)(a) during the duration of the contract is subject
2411 to penalties in accordance with administrative rules adopted by the division
2412 under Subsection (6).
- 2413 (B) A contractor is not subject to penalties for the failure of a subcontractor to
2414 obtain and maintain an offer of qualified health coverage described in
2415 Subsection (5)(c)(i).
- 2416 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified
2417 health coverage described in Subsection (5)(c)(i) during the duration of the
2418 subcontract is subject to penalties in accordance with administrative rules
2419 adopted by the department under Subsection (6).
- 2420 (B) A subcontractor is not subject to penalties for the failure of a contractor to
2421 maintain an offer of qualified health coverage described in Subsection (5)(a).
- 2422 (6) The department shall adopt administrative rules:
- 2423 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 2424 (b) in coordination with:
- 2425 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
- 2426 (ii) the Department of Natural Resources in accordance with Section 79-2-404;
- 2427 (iii) the Division of Facilities Construction and Management in accordance with
2428 Section 63A-5b-607;
- 2429 (iv) a public transit district in accordance with Section 17B-2a-818.5;
- 2430 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- 2431 (vi) the Legislature's Administrative Rules Review and General Oversight
2432 Committee; and
- 2433 (c) that establish:
- 2434 (i) the requirements and procedures a contractor and a subcontractor shall follow to
2435 demonstrate compliance with this section, including:
- 2436 (A) that a contractor or subcontractor's compliance with this section is subject to
2437 an audit by the department or the Office of the Legislative Auditor General;
- 2438 (B) that a contractor that is subject to the requirements of this section shall obtain
2439 a written statement described in Subsection (5)(a); and
- 2440 (C) that a subcontractor that is subject to the requirements of this section shall
2441 obtain a written statement described in Subsection (5)(c)(ii);

- 2442 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
2443 violates the provisions of this section, which may include:
- 2444 (A) a three-month suspension of the contractor or subcontractor from entering into
2445 future contracts with the state upon the first violation;
- 2446 (B) a six-month suspension of the contractor or subcontractor from entering into
2447 future contracts with the state upon the second violation;
- 2448 (C) an action for debarment of the contractor or subcontractor in accordance with
2449 Section 63G-6a-904 upon the third or subsequent violation; and
- 2450 (D) monetary penalties which may not exceed 50% of the amount necessary to
2451 purchase qualified health coverage for employees and dependents of
2452 employees of the contractor or subcontractor who were not offered qualified
2453 health coverage during the duration of the contract; and
- 2454 (iii) a website on which the department shall post the commercially equivalent
2455 benchmark, for the qualified health coverage identified in Subsection (1)(e), that
2456 is provided by the Department of Health and Human Services, in accordance with
2457 Subsection 26B-3-909(2).
- 2458 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a
2459 contractor or subcontractor who intentionally violates the provisions of this
2460 section is liable to the employee for health care costs that would have been
2461 covered by qualified health coverage.
- 2462 (ii) An employer has an affirmative defense to a cause of action under Subsection
2463 (7)(a)(i) if:
- 2464 (A) the employer relied in good faith on a written statement described in
2465 Subsection (5)(a) or (5)(c)(ii); or
- 2466 (B) the department determines that compliance with this section is not required
2467 under the provisions of Subsection (3).
- 2468 (b) An employee has a private right of action only against the employee's employer to
2469 enforce the provisions of this Subsection (7).
- 2470 (8) Any penalties imposed and collected under this section shall be deposited into the
2471 Medicaid [~~Restricted~~] Growth Reduction and Budget Stabilization Account created in
2472 Section [~~26B-1-309~~] 63J-1-315.
- 2473 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
2474 required by this section:
- 2475 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,

- 2476 or contractor under:
- 2477 (i) Section 63G-6a-1602; or
- 2478 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
- 2479 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
- 2480 contractor as a basis for any action or suit that would suspend, disrupt, or terminate
- 2481 the design or construction.
- 2482 (10) An administrator, including the administrator's actuary or underwriter, who provides a
- 2483 written statement under Subsection (5)(a) or (c) regarding the qualified health coverage
- 2484 of a contractor or subcontractor who provides a health benefit plan described in
- 2485 Subsection (1)(d)(ii):
- 2486 (a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless
- 2487 the administrator commits gross negligence in preparing the written statement;
- 2488 (b) is not liable for any error in the written statement if the administrator relied in good
- 2489 faith on information from the contractor or subcontractor; and
- 2490 (c) may require as a condition of providing the written statement that a contractor or
- 2491 subcontractor hold the administrator harmless for an action arising under this section.
- 2492 Section 20. Section **63I-1-226** is amended to read:
- 2493 **63I-1-226 (Effective 05/01/24) (Superseded 07/01/24). Repeal dates: Titles 26A**
- 2494 **through 26B.**
- 2495 (1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed
- 2496 July 1, 2025.
- 2497 (2) Section 26B-1-315, which creates the Medicaid [~~Expansion~~] ACA Fund, is repealed July
- 2498 1, [~~2024~~] 2034.
- 2499 (3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1,
- 2500 2025.
- 2501 (4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed
- 2502 January 1, 2025.
- 2503 (5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis
- 2504 Response Commission, as defined in Section 63C-18-202," is repealed December 31,
- 2505 2026.
- 2506 (6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response
- 2507 Commission, is repealed December 31, 2026.
- 2508 (7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is
- 2509 repealed July 1, 2026.

- 2510 (8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is
2511 repealed July 1, 2025.
- 2512 (9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July
2513 1, 2025.
- 2514 (10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program
2515 Advisory Council, is repealed July 1, 2025.
- 2516 (11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed
2517 July 1, 2025.
- 2518 (12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric
2519 Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.
- 2520 (13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is
2521 repealed July 1, 2029.
- 2522 (14) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and
2523 Other Drug Prevention Program, is repealed July 1, 2025.
- 2524 (15) Section 26B-1-430, which creates the Coordinating Council for Persons with
2525 Disabilities, is repealed July 1, 2027.
- 2526 (16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is
2527 repealed July 1, 2023.
- 2528 (17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is
2529 repealed July 1, 2026.
- 2530 (18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood
2531 Advisory Board, is repealed July 1, 2026.
- 2532 (19) Section 26B-2-407, related to drinking water quality in child care centers, is repealed
2533 July 1, 2027.
- 2534 (20) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is
2535 repealed July 1, 2028.
- 2536 (21) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is
2537 repealed July 1, 2025.
- 2538 (22) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention
2539 Program, is repealed June 30, 2027.
- 2540 (23) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis
2541 Response Commission created in Section 63C-18-202" is repealed December 31, 2026.
- 2542 (24) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board,
2543 are repealed July 1, 2027.

- 2544 (25) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.
- 2545 (26) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed
2546 July 1, 2024.
- 2547 (27) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.
- 2548 (28) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.
- 2549 (29) Section 26B-4-136, related to the Volunteer Emergency Medical Service Personnel
2550 Health Insurance Program, is repealed July 1, 2027.
- 2551 (30) Section 26B-4-710, related to rural residency training programs, is repealed July 1,
2552 2025.
- 2553 (31) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the
2554 Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is
2555 repealed December 31, 2026.
- 2556 (32) Section 26B-5-112.5 is repealed December 31, 2026.
- 2557 (33) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program,
2558 is repealed December 31, 2026.
- 2559 (34) Section 26B-5-118, related to collaborative care grant programs, is repealed December
2560 31, 2024.
- 2561 (35) Section 26B-5-120 is repealed December 31, 2026.
- 2562 (36) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:
- 2563 (a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and
- 2564 (b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.
- 2565 (37) In relation to the Behavioral Health Crisis Response Commission, on December 31,
2566 2026:
- 2567 (a) Subsection 26B-5-609(1)(a) is repealed;
- 2568 (b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from
2569 the commission," is repealed;
- 2570 (c) Subsection 26B-5-610(1)(b) is repealed;
- 2571 (d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the
2572 commission," is repealed; and
- 2573 (e) Subsection 26B-5-610(4), the language that states "In consultation with the
2574 commission," is repealed.
- 2575 (38) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and
2576 Mental Health Advisory Council, are repealed January 1, 2033.
- 2577 (39) Section 26B-5-612, related to integrated behavioral health care grant programs, is

- 2578 repealed December 31, 2025.
- 2579 (40) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the
2580 Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.
- 2581 (41) Section 26B-7-224, related to reports to the Legislature on violent incidents and
2582 fatalities involving substance abuse, is repealed December 31, 2027.
- 2583 (42) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.
- 2584 (43) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is
2585 repealed December 31, 2023.
- 2586 Section 21. Section **63I-1-226** is amended to read:
- 2587 **63I-1-226 (Effective 07/01/24). Repeal dates: Titles 26A through 26B.**
- 2588 (1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed
2589 July 1, 2025.
- 2590 (2) Section 26B-1-315, which creates the Medicaid [~~Expansion~~] ACA Fund, is repealed July
2591 1, [~~2024~~] 2034.
- 2592 (3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1,
2593 2025.
- 2594 (4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed
2595 January 1, 2025.
- 2596 (5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis
2597 Response Commission, as defined in Section 63C-18-202," is repealed December 31,
2598 2026.
- 2599 (6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response
2600 Commission, is repealed December 31, 2026.
- 2601 (7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is
2602 repealed July 1, 2026.
- 2603 (8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is
2604 repealed July 1, 2025.
- 2605 (9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July
2606 1, 2025.
- 2607 (10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program
2608 Advisory Council, is repealed July 1, 2025.
- 2609 (11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed
2610 July 1, 2025.
- 2611 (12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric

- 2612 Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.
- 2613 (13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is
2614 repealed July 1, 2029.
- 2615 (14) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and
2616 Other Drug Prevention Program, is repealed July 1, 2025.
- 2617 (15) Section 26B-1-430, which creates the Coordinating Council for Persons with
2618 Disabilities, is repealed July 1, 2027.
- 2619 (16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is
2620 repealed July 1, 2023.
- 2621 (17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is
2622 repealed July 1, 2026.
- 2623 (18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood
2624 Advisory Board, is repealed July 1, 2026.
- 2625 (19) Section 26B-2-407, related to drinking water quality in child care centers, is repealed
2626 July 1, 2027.
- 2627 (20) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is
2628 repealed July 1, 2028.
- 2629 (21) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is
2630 repealed July 1, 2025.
- 2631 (22) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention
2632 Program, is repealed June 30, 2027.
- 2633 (23) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis
2634 Response Commission created in Section 63C-18-202" is repealed December 31, 2026.
- 2635 (24) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board,
2636 are repealed July 1, 2027.
- 2637 (25) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.
- 2638 (26) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed
2639 July 1, 2024.
- 2640 (27) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.
- 2641 (28) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.
- 2642 (29) Section 26B-4-710, related to rural residency training programs, is repealed July 1,
2643 2025.
- 2644 (30) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the
2645 Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is

- 2646 repealed December 31, 2026.
- 2647 (31) Section 26B-5-112.5 is repealed December 31, 2026.
- 2648 (32) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program,
2649 is repealed December 31, 2026.
- 2650 (33) Section 26B-5-118, related to collaborative care grant programs, is repealed December
2651 31, 2024.
- 2652 (34) Section 26B-5-120 is repealed December 31, 2026.
- 2653 (35) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:
- 2654 (a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and
- 2655 (b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.
- 2656 (36) In relation to the Behavioral Health Crisis Response Commission, on December 31,
2657 2026:
- 2658 (a) Subsection 26B-5-609(1)(a) is repealed;
- 2659 (b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from
2660 the commission," is repealed;
- 2661 (c) Subsection 26B-5-610(1)(b) is repealed;
- 2662 (d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the
2663 commission," is repealed; and
- 2664 (e) Subsection 26B-5-610(4), the language that states "In consultation with the
2665 commission," is repealed.
- 2666 (37) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and
2667 Mental Health Advisory Council, are repealed January 1, 2033.
- 2668 (38) Section 26B-5-612, related to integrated behavioral health care grant programs, is
2669 repealed December 31, 2025.
- 2670 (39) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the
2671 Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.
- 2672 (40) Section 26B-7-224, related to reports to the Legislature on violent incidents and
2673 fatalities involving substance abuse, is repealed December 31, 2027.
- 2674 (41) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.
- 2675 (42) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is
2676 repealed December 31, 2023.
- 2677 Section 22. Section **63I-2-226** is amended to read:
- 2678 **63I-2-226 (Effective 05/01/24) (Superseded 07/01/24). Repeal dates: Titles 26A**
2679 **through 26B.**

- 2680 (1) Subsection 26B-1-204(2)(e), related to the Air Ambulance Committee, is repealed July
2681 1, 2024.
- 2682 (2) Section 26B-1-241 is repealed July 1, 2024.
- 2683 (3) Section 26B-1-302 is repealed on July 1, 2024.
- 2684 (4) Section 26B-1-309 is repealed on July 1, 2024.
- 2685 [~~(4)~~] (5) Section 26B-1-313 is repealed on July 1, 2024.
- 2686 [~~(5)~~] (6) Section 26B-1-314 is repealed on July 1, 2024.
- 2687 [~~(6)~~] (7) Section 26B-1-321 is repealed on July 1, 2024.
- 2688 [~~(7)~~] (8) Section 26B-1-405, related to the Air Ambulance Committee, is repealed on July 1,
2689 2024.
- 2690 [~~(8)~~] (9) Section 26B-1-419, which creates the Utah Health Care Workforce Financial
2691 Assistance Program Advisory Committee, is repealed July 1, 2027.
- 2692 [~~(9)~~] (10) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231
2693 (1)(a) is amended to read:
- 2694 "(a) provide the patient or the patient's representative with the following information
2695 before contacting an air medical transport provider:
- 2696 (i) which health insurers in the state the air medical transport provider contracts with;
2697 (ii) if sufficient data is available, the average charge for air medical transport services for a
2698 patient who is uninsured or out of network; and
2699 (iii) whether the air medical transport provider balance bills a patient for any charge not paid
2700 by the patient's health insurer; and".
- 2701 [~~(10)~~] (11) Section 26B-3-142 is repealed July 1, 2024.
- 2702 [~~(11)~~] (12) Subsection 26B-3-215(5), related to reporting on coverage for in vitro
2703 fertilization and genetic testing, is repealed July 1, 2030.
- 2704 [~~(12)~~] (13) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-4-135
2705 (1)(a) is amended to read:
- 2706 "(a) provide the patient or the patient's representative with the following information
2707 before contacting an air medical transport provider:
- 2708 (i) which health insurers in the state the air medical transport provider contracts with;
2709 (ii) if sufficient data is available, the average charge for air medical transport services for a
2710 patient who is uninsured or out of network; and
2711 (iii) whether the air medical transport provider balance bills a patient for any charge not paid
2712 by the patient's health insurer; and".
- 2713 [~~(13)~~] (14) Section 26B-4-702, related to the Utah Health Care Workforce Financial

- 2714 Assistance Program, is repealed July 1, 2027.
- 2715 [~~(14)~~] (15) Section 26B-5-117, related to early childhood mental health support grant
2716 programs, is repealed January 2, 2025.
- 2717 [~~(15)~~] (16) Subsection 26B-7-117(3), related to reports to the Legislature on syringe
2718 exchange and education, is repealed January 1, 2027.
- 2719 [~~(16)~~] (17) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1, 2025.
- 2720 Section 23. Section **63I-2-226** is amended to read:
- 2721 **63I-2-226 (Effective 07/01/24). Repeal dates: Titles 26A through 26B.**
- 2722 (1) Section 26B-1-241 is repealed July 1, 2024.
- 2723 (2) Section 26B-1-302 is repealed on July 1, 2024.
- 2724 (3) Section 26B-1-309 is repealed on July 1, 2024.
- 2725 [~~(3)~~] (4) Section 26B-1-313 is repealed on July 1, 2024.
- 2726 [~~(4)~~] (5) Section 26B-1-314 is repealed on July 1, 2024.
- 2727 [~~(5)~~] (6) Section 26B-1-321 is repealed on July 1, 2024.
- 2728 [~~(6)~~] (7) Section 26B-1-419, which creates the Utah Health Care Workforce Financial
2729 Assistance Program Advisory Committee, is repealed July 1, 2027.
- 2730 [~~(7)~~] (8) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231
2731 (1)(a) is amended to read:
- 2732 "(a) provide the patient or the patient's representative with the following information
2733 before contacting an air medical transport provider:
- 2734 (i) which health insurers in the state the air medical transport provider contracts with;
2735 (ii) if sufficient data is available, the average charge for air medical transport services for a
2736 patient who is uninsured or out of network; and
- 2737 (iii) whether the air medical transport provider balance bills a patient for any charge not paid
2738 by the patient's health insurer; and".
- 2739 [~~(8)~~] (9) Section 26B-3-142 is repealed July 1, 2024.
- 2740 [~~(9)~~] (10) Subsection 26B-3-215(5), related to reporting on coverage for in vitro fertilization
2741 and genetic testing, is repealed July 1, 2030.
- 2742 [~~(10)~~] (11) Section 26B-4-702, related to the Utah Health Care Workforce Financial
2743 Assistance Program, is repealed July 1, 2027.
- 2744 [~~(11)~~] (12) Section 26B-5-117, related to early childhood mental health support grant
2745 programs, is repealed January 2, 2025.
- 2746 [~~(12)~~] (13) Subsection 26B-7-117(3), related to reports to the Legislature on syringe
2747 exchange and education, is repealed January 1, 2027.

- 2748 ~~[(13)]~~ (14) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1, 2025.
- 2749 Section 24. Section **63J-1-315** is amended to read:
- 2750 **63J-1-315 (Effective 05/01/24). Medicaid Growth Reduction and Budget**
- 2751 **Stabilization Account -- Deposits -- Transfers of Medicaid growth savings -- Base**
- 2752 **budget adjustments -- Appropriations.**
- 2753 (1) As used in this section:
- 2754 (a) "Department" means the Department of Health and Human Services created in
- 2755 Section 26B-1-201.
- 2756 (b) "Division" means the Division of Integrated Healthcare created in Section 26B-3-102.
- 2757 (c) "General Fund revenue surplus" means a situation where actual General Fund
- 2758 revenues collected in a completed fiscal year exceed the estimated revenues for the
- 2759 General Fund for that fiscal year that were adopted by the Executive Appropriations
- 2760 Committee of the Legislature.
- 2761 (d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid
- 2762 program expenditures, if Medicaid program expenditures are less than the Medicaid
- 2763 growth target.
- 2764 (e) "Medicaid growth target" means Medicaid program expenditures for the previous
- 2765 year multiplied by 1.08.
- 2766 (f) "Medicaid program" is as defined in Section 26B-3-101.
- 2767 (g) "Medicaid program expenditures" means total state revenue expended for the
- 2768 Medicaid program from the General Fund, including restricted accounts within the
- 2769 General Fund, during a fiscal year.
- 2770 (h) "Medicaid program expenditures for the previous year" means total state revenue
- 2771 expended for the Medicaid program from the General Fund, including restricted
- 2772 accounts within the General Fund, during the fiscal year immediately preceding a
- 2773 fiscal year for which Medicaid program expenditures are calculated.
- 2774 (i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund
- 2775 balance in the General Fund is less than zero.
- 2776 (j) "State revenue" means revenue other than federal revenue.
- 2777 (k) "State revenue expended for the Medicaid program" includes money transferred or
- 2778 appropriated to the Medicaid Growth Reduction and Budget Stabilization Account
- 2779 only to the extent the money is appropriated for the Medicaid program by the
- 2780 Legislature.
- 2781 (2) There is created within the General Fund a restricted account to be known as the

2782 Medicaid Growth Reduction and Budget Stabilization Account.

2783 (3) (a) The following shall be deposited into the Medicaid Growth Reduction and
 2784 Budget Stabilization Account:

2785 (i) deposits described in Subsection (4);

2786 (ii) beginning July 1, 2024, any general funds appropriated to the department for the
 2787 state plan for medical assistance or for Medicaid administration by the Division of
 2788 Integrated Healthcare that are not expended by the department in the fiscal year
 2789 for which the general funds were appropriated and which are not otherwise
 2790 designated as nonlapsing shall lapse into the Medicaid Growth Reduction and
 2791 Budget Stabilization Account;

2792 (iii) beginning July 1, 2024, any unused state funds that are associated with the
 2793 Medicaid program from the Department of Workforce Services;

2794 (iv) beginning July 1, 2024, any penalties imposed and collected under:

2795 (A) Section 17B-2a-818.5;

2796 (B) Section 19-1-206;

2797 (C) Section 63A-5b-607;

2798 (D) Section 63C-9-403;

2799 (E) Section 72-6-107.5; or

2800 (F) Section 79-2-404; and

2801 (v) at the close of fiscal year 2024, the Division of Finance shall transfer any existing
 2802 balance in the Medicaid Restricted Account created in Section 26B-1-309 into the
 2803 Medicaid Growth Reduction and Budget Stabilization Account.

2804 (b) In addition to the deposits described in Subsection (3)(a), the Legislature may
 2805 appropriate money into the Medicaid Growth Reduction and Budget Stabilization
 2806 Account.

2807 [~~3~~] (4) (a) (i) Except as provided in Subsection [~~6~~] (7), if, at the end of a fiscal year,
 2808 there is a General Fund revenue surplus, the Division of Finance shall transfer an
 2809 amount equal to Medicaid growth savings from the General Fund to the Medicaid
 2810 Growth Reduction and Budget Stabilization Account.

2811 (ii) If the amount transferred is reduced to prevent an operating deficit, as provided in
 2812 Subsection [~~6~~] (7), the Legislature shall include, to the extent revenue is
 2813 available, an amount equal to the reduction as an appropriation from the General
 2814 Fund to the account in the base budget for the second fiscal year following the
 2815 fiscal year for which the reduction was made.

- 2816 (b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the
 2817 Legislature shall include, to the extent revenue is available, an amount equal to
 2818 Medicaid growth savings as an appropriation from the General Fund to the account in
 2819 the base budget for the second fiscal year following the fiscal year for which the
 2820 reduction was made.
- 2821 (c) Subsections [~~(3)~~(a)] (4)(a) and [~~(3)~~(b)] (4)(b) apply only to the fiscal year in which the
 2822 department implements the proposal developed under Section 26B-3-202 to reduce
 2823 the long-term growth in state expenditures for the Medicaid program, and to each
 2824 fiscal year after that year.
- 2825 [~~(4)~~] (5) The Division of Finance shall calculate the amount to be transferred under
 2826 Subsection [~~(3)~~] (4):
- 2827 (a) before transferring revenue from the General Fund revenue surplus to:
- 2828 (i) the General Fund Budget Reserve Account under Section 63J-1-312;
- 2829 (ii) the Wildland Fire Suppression Fund created in Section 65A-8-204, as described
 2830 in Section 63J-1-314; and
- 2831 (iii) the State Disaster Recovery Restricted Account under Section 63J-1-314;
- 2832 (b) before earmarking revenue from the General Fund revenue surplus to the Industrial
 2833 Assistance Account under Section 63N-3-106; and
- 2834 (c) before making any other year-end contingency appropriations, year-end set-asides, or
 2835 other year-end transfers required by law.
- 2836 [~~(5)~~] (6) (a) If, at the close of any fiscal year, there appears to be insufficient money to
 2837 pay additional debt service for any bonded debt authorized by the Legislature, the
 2838 Division of Finance may hold back from any General Fund revenue surplus money
 2839 sufficient to pay the additional debt service requirements resulting from issuance of
 2840 bonded debt that was authorized by the Legislature.
- 2841 (b) The Division of Finance may not spend the hold back amount for debt service under
 2842 Subsection [~~(5)~~(a)] (6)(a) unless and until it is appropriated by the Legislature.
- 2843 (c) If, after calculating the amount for transfer under Subsection [~~(3)~~] (4), the remaining
 2844 General Fund revenue surplus is insufficient to cover the hold back for debt service
 2845 required by Subsection [~~(5)~~(a)] (6)(a), the Division of Finance shall reduce the
 2846 transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the
 2847 amount necessary to cover the debt service hold back.
- 2848 (d) Notwithstanding Subsections [~~(3)~~] (4) and [~~(4)~~] (5), the Division of Finance shall hold
 2849 back the General Fund balance for debt service authorized by this Subsection [~~(5)~~] (6)

2850 before making any transfers to the Medicaid Growth Reduction and Budget
 2851 Stabilization Account or any other designation or allocation of General Fund revenue
 2852 surplus.

2853 ~~[(6)]~~ (7) Notwithstanding Subsections ~~[(3)]~~ (4) and ~~[(4)]~~ (5), if, at the end of a fiscal year, the
 2854 Division of Finance determines that an operating deficit exists and that holding back
 2855 earmarks to the Industrial Assistance Account under Section 63N-3-106, transfers to the
 2856 Wildland Fire Suppression Fund and State Disaster Recovery Restricted Account under
 2857 Section 63J-1-314, transfers to the General Fund Budget Reserve Account under Section
 2858 63J-1-312, or earmarks and transfers to more than one of those accounts, in that order,
 2859 does not eliminate the operating deficit, the Division of Finance may reduce the transfer
 2860 to the Medicaid Growth Reduction and Budget Stabilization Account by the amount
 2861 necessary to eliminate the operating deficit.

2862 ~~[(7)]~~ (8) The Legislature may appropriate money from the Medicaid Growth Reduction and
 2863 Budget Stabilization Account only:

2864 (a) for the Medicaid program; and

2865 ~~[(a)]~~ (b) (i) if Medicaid program expenditures for the fiscal year for which the
 2866 appropriation is made are estimated to be 108% or more of Medicaid program
 2867 expenditures for the previous year; ~~[and]~~ or

2868 (ii) if the amount of the appropriation is equal to or less than the balance in the
 2869 Medicaid Growth Reduction and Budget Stabilization Account that comprises
 2870 deposits described in Subsections (3)(a)(i) through (v) and appropriations
 2871 described in Subsection (3)(b).

2872 ~~[(b) for the Medicaid program.]~~

2873 ~~[(8)]~~ (9) The Division of Finance shall deposit interest or other earnings derived from
 2874 investment of Medicaid Growth Reduction and Budget Stabilization Account money
 2875 into the General Fund.

2876 Section 25. Section **72-6-107.5** is amended to read:

2877 **72-6-107.5 (Effective 07/01/24). Construction of improvements of highway --**

2878 **Contracts -- Health insurance coverage.**

2879 (1) As used in this section:

2880 (a) "Aggregate" means the sum of all contracts, change orders, and modifications related
 2881 to a single project.

2882 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.

2883 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or

- 2884 "operative" who:
- 2885 (i) works at least 30 hours per calendar week; and
- 2886 (ii) meets employer eligibility waiting requirements for health care insurance, which
- 2887 may not exceed the first day of the calendar month following 60 days after the day
- 2888 on which the individual is hired.
- 2889 (d) "Health benefit plan" means:
- 2890 (i) the same as that term is defined in Section 31A-1-301; or
- 2891 (ii) an employee welfare benefit plan:
- 2892 (A) established under the Employee Retirement Income Security Act of 1974, 29
- 2893 U.S.C. Sec. 1001 et seq.;
- 2894 (B) for an employer with 100 or more employees; and
- 2895 (C) in which the employer establishes a self-funded or partially self-funded group
- 2896 health plan to provide medical care for the employer's employees and
- 2897 dependents of the employees.
- 2898 (e) "Qualified health coverage" means the same as that term is defined in Section
- 2899 26B-3-909.
- 2900 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
- 2901 (g) "Third party administrator" or "administrator" means the same as that term is defined
- 2902 in Section 31A-1-301.
- 2903 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 2904 (a) a contractor of a design or construction contract entered into by the department on or
- 2905 after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater
- 2906 than \$2,000,000; and
- 2907 (b) a subcontractor of a contractor of a design or construction contract entered into by
- 2908 the department on or after July 1, 2009, if the subcontract is in an aggregate amount
- 2909 equal to or greater than \$1,000,000.
- 2910 (3) The requirements of this section do not apply to a contractor or subcontractor described
- 2911 in Subsection (2) if:
- 2912 (a) the application of this section jeopardizes the receipt of federal funds;
- 2913 (b) the contract is a sole source contract; or
- 2914 (c) the contract is an emergency procurement.
- 2915 (4) A person that intentionally uses change orders, contract modifications, or multiple
- 2916 contracts to circumvent the requirements of this section is guilty of an infraction.
- 2917 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the

- 2918 department that the contractor has and will maintain an offer of qualified health
2919 coverage for the contractor's employees and the employees' dependents during the
2920 duration of the contract by submitting to the department a written statement that:
- 2921 (i) the contractor offers qualified health coverage that complies with Section
2922 26B-3-909;
 - 2923 (ii) is from:
 - 2924 (A) an actuary selected by the contractor or the contractor's insurer;
 - 2925 (B) an underwriter who is responsible for developing the employer group's
2926 premium rates; or
 - 2927 (C) if the contractor provides a health benefit plan described in Subsection
2928 (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and
 - 2929 (iii) was created within one year before the day on which the statement is submitted.
- 2930 (b) (i) A contractor that provides a health benefit plan described in Subsection
2931 (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as
2932 described in Subsection (5)(a)(ii)(C), sufficient information to determine whether
2933 the contractor's contribution to the health benefit plan and the actuarial value of
2934 the health benefit plan meet the requirements of qualified health coverage.
- 2935 (ii) A contractor may not make a change to the contractor's contribution to the health
2936 benefit plan, unless the contractor provides notice to:
 - 2937 (A) the actuary or underwriter selected by an administrator, as described in
2938 Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written
2939 statement described in Subsection (5)(a) in compliance with this section; and
 - 2940 (B) the department.
- 2941 (c) A contractor that is subject to the requirements of this section shall:
- 2942 (i) place a requirement in each of the contractor's subcontracts that a subcontractor
2943 that is subject to the requirements of this section shall obtain and maintain an offer
2944 of qualified health coverage for the subcontractor's employees and the employees'
2945 dependents during the duration of the subcontract; and
 - 2946 (ii) obtain from a subcontractor that is subject to the requirements of this section a
2947 written statement that:
 - 2948 (A) the subcontractor offers qualified health coverage that complies with Section
2949 26B-3-909;
 - 2950 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer,
2951 an underwriter who is responsible for developing the employer group's

- 2952 premium rates, or if the subcontractor provides a health benefit plan described
2953 in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator;
2954 and
2955 (C) was created within one year before the day on which the contractor obtains the
2956 statement.
- 2957 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage
2958 described in Subsection (5)(a) during the duration of the contract is subject to
2959 penalties in accordance with administrative rules adopted by the department
2960 under Subsection (6).
- 2961 (B) A contractor is not subject to penalties for the failure of a subcontractor to
2962 obtain and maintain an offer of qualified health coverage described in
2963 Subsection (5)(c)(i).
- 2964 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified
2965 health coverage described in Subsection (5)(c) during the duration of the
2966 subcontract is subject to penalties in accordance with administrative rules
2967 adopted by the department under Subsection (6).
- 2968 (B) A subcontractor is not subject to penalties for the failure of a contractor to
2969 maintain an offer of qualified health coverage described in Subsection (5)(a).
- 2970 (6) The department shall adopt administrative rules:
- 2971 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 2972 (b) in coordination with:
- 2973 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
- 2974 (ii) the Department of Natural Resources in accordance with Section 79-2-404;
- 2975 (iii) the Division of Facilities Construction and Management in accordance with
2976 Section 63A-5b-607;
- 2977 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;
- 2978 (v) a public transit district in accordance with Section 17B-2a-818.5; and
- 2979 (vi) the Legislature's Administrative Rules Review and General Oversight
2980 Committee; and
- 2981 (c) that establish:
- 2982 (i) the requirements and procedures a contractor and a subcontractor shall follow to
2983 demonstrate compliance with this section, including:
- 2984 (A) that a contractor or subcontractor's compliance with this section is subject to
2985 an audit by the department or the Office of the Legislative Auditor General;

- 2986 (B) that a contractor that is subject to the requirements of this section shall obtain
2987 a written statement described in Subsection (5)(a); and
- 2988 (C) that a subcontractor that is subject to the requirements of this section shall
2989 obtain a written statement described in Subsection (5)(c)(ii);
- 2990 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
2991 violates the provisions of this section, which may include:
- 2992 (A) a three-month suspension of the contractor or subcontractor from entering into
2993 future contracts with the state upon the first violation;
- 2994 (B) a six-month suspension of the contractor or subcontractor from entering into
2995 future contracts with the state upon the second violation;
- 2996 (C) an action for debarment of the contractor or subcontractor in accordance with
2997 Section 63G-6a-904 upon the third or subsequent violation; and
- 2998 (D) monetary penalties which may not exceed 50% of the amount necessary to
2999 purchase qualified health coverage for an employee and a dependent of the
3000 employee of the contractor or subcontractor who was not offered qualified
3001 health coverage during the duration of the contract; and
- 3002 (iii) a website on which the department shall post the commercially equivalent
3003 benchmark, for the qualified health coverage identified in Subsection (1)(e), that
3004 is provided by the Department of Health and Human Services, in accordance with
3005 Subsection 26B-3-909(2).
- 3006 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a
3007 contractor or subcontractor who intentionally violates the provisions of this
3008 section is liable to the employee for health care costs that would have been
3009 covered by qualified health coverage.
- 3010 (ii) An employer has an affirmative defense to a cause of action under Subsection
3011 (7)(a)(i) if:
- 3012 (A) the employer relied in good faith on a written statement described in
3013 Subsection (5)(a) or (5)(c)(ii); or
- 3014 (B) the department determines that compliance with this section is not required
3015 under the provisions of Subsection (3).
- 3016 (b) An employee has a private right of action only against the employee's employer to
3017 enforce the provisions of this Subsection (7).
- 3018 (8) Any penalties imposed and collected under this section shall be deposited into the
3019 Medicaid [~~Restricted~~] Growth Reduction and Budget Stabilization Account created in

3020 Section [~~26B-1-309~~] 63J-1-315.

3021 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
3022 required by this section:

3023 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
3024 or contractor under:

3025 (i) Section 63G-6a-1602; or

3026 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

3027 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
3028 contractor as a basis for any action or suit that would suspend, disrupt, or terminate
3029 the design or construction.

3030 (10) An administrator, including an administrator's actuary or underwriter, who provides a
3031 written statement under Subsection (5)(a) or (c) regarding the qualified health coverage
3032 of a contractor or subcontractor who provides a health benefit plan described in
3033 Subsection (1)(d)(ii):

3034 (a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless
3035 the administrator commits gross negligence in preparing the written statement;

3036 (b) is not liable for any error in the written statement if the administrator relied in good
3037 faith on information from the contractor or subcontractor; and

3038 (c) may require as a condition of providing the written statement that a contractor or
3039 subcontractor hold the administrator harmless for an action arising under this section.

3040 Section 26. Section **79-2-404** is amended to read:

3041 **79-2-404 (Effective 07/01/24). Contracting powers of department -- Health**
3042 **insurance coverage.**

3043 (1) As used in this section:

3044 (a) "Aggregate" means the sum of all contracts, change orders, and modifications related
3045 to a single project.

3046 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.

3047 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or
3048 "operative" who:

3049 (i) works at least 30 hours per calendar week; and

3050 (ii) meets employer eligibility waiting requirements for health care insurance, which
3051 may not exceed the first day of the calendar month following 60 days after the day
3052 on which the individual is hired.

3053 (d) "Health benefit plan" means:

- 3054 (i) the same as that term is defined in Section 31A-1-301; or
3055 (ii) an employee welfare benefit plan:
3056 (A) established under the Employee Retirement Income Security Act of 1974, 29
3057 U.S.C. Sec. 1001 et seq.;
- 3058 (B) for an employer with 100 or more employees; and
3059 (C) in which the employer establishes a self-funded or partially self-funded group
3060 health plan to provide medical care for the employer's employees and
3061 dependents of the employees.
- 3062 (e) "Qualified health coverage" means the same as that term is defined in Section
3063 26B-3-909.
- 3064 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
- 3065 (g) "Third party administrator" or "administrator" means the same as that term is defined
3066 in Section 31A-1-301.
- 3067 (2) Except as provided in Subsection (3), the requirements of this section apply to:
3068 (a) a contractor of a design or construction contract entered into by, or delegated to, the
3069 department or a division, board, or council of the department on or after July 1, 2009,
3070 if the prime contract is in an aggregate amount equal to or greater than \$2,000,000;
3071 and
3072 (b) a subcontractor of a contractor of a design or construction contract entered into by, or
3073 delegated to, the department or a division, board, or council of the department on or
3074 after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater
3075 than \$1,000,000.
- 3076 (3) This section does not apply to contracts entered into by the department or a division,
3077 board, or council of the department if:
3078 (a) the application of this section jeopardizes the receipt of federal funds;
3079 (b) the contract or agreement is between:
3080 (i) the department or a division, board, or council of the department; and
3081 (ii) (A) another agency of the state;
3082 (B) the federal government;
3083 (C) another state;
3084 (D) an interstate agency;
3085 (E) a political subdivision of this state; or
3086 (F) a political subdivision of another state; or
3087 (c) the contract or agreement is:

- 3088 (i) for the purpose of disbursing grants or loans authorized by statute;
- 3089 (ii) a sole source contract; or
- 3090 (iii) an emergency procurement.
- 3091 (4) A person that intentionally uses change orders, contract modifications, or multiple
- 3092 contracts to circumvent the requirements of this section is guilty of an infraction.
- 3093 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
- 3094 department that the contractor has and will maintain an offer of qualified health
- 3095 coverage for the contractor's employees and the employees' dependents during the
- 3096 duration of the contract by submitting to the department a written statement that:
- 3097 (i) the contractor offers qualified health coverage that complies with Section
- 3098 26B-3-909;
- 3099 (ii) is from:
- 3100 (A) an actuary selected by the contractor or the contractor's insurer;
- 3101 (B) an underwriter who is responsible for developing the employer group's
- 3102 premium rates; or
- 3103 (C) if the contractor provides a health benefit plan described in Subsection
- 3104 (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and
- 3105 (iii) was created within one year before the day on which the statement is submitted.
- 3106 (b) (i) A contractor that provides a health benefit plan described in Subsection
- 3107 (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as
- 3108 described in Subsection (5)(a)(ii)(C), sufficient information to determine whether
- 3109 the contractor's contribution to the health benefit plan and the actuarial value of
- 3110 the health benefit plan meet the requirements of qualified health coverage.
- 3111 (ii) A contractor may not make a change to the contractor's contribution to the health
- 3112 benefit plan, unless the contractor provides notice to:
- 3113 (A) the actuary or underwriter selected by an administrator, as described in
- 3114 Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written
- 3115 statement described in Subsection (5)(a) in compliance with this section; and
- 3116 (B) the department.
- 3117 (c) A contractor that is subject to the requirements of this section shall:
- 3118 (i) place a requirement in each of the contractor's subcontracts that a subcontractor
- 3119 that is subject to the requirements of this section shall obtain and maintain an offer
- 3120 of qualified health coverage for the subcontractor's employees and the employees'
- 3121 dependents during the duration of the subcontract; and

- 3122 (ii) obtain from a subcontractor that is subject to the requirements of this section a
 3123 written statement that:
- 3124 (A) the subcontractor offers qualified health coverage that complies with Section
 3125 26B-3-909;
- 3126 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer,
 3127 an underwriter who is responsible for developing the employer group's
 3128 premium rates, or if the subcontractor provides a health benefit plan described
 3129 in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator;
 3130 and
- 3131 (C) was created within one year before the day on which the contractor obtains the
 3132 statement.
- 3133 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage
 3134 described in Subsection (5)(a) during the duration of the contract is subject to
 3135 penalties in accordance with administrative rules adopted by the department
 3136 under Subsection (6).
- 3137 (B) A contractor is not subject to penalties for the failure of a subcontractor to
 3138 obtain and maintain an offer of qualified health coverage described in
 3139 Subsection (5)(c)(i).
- 3140 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified
 3141 health coverage described in Subsection (5)(c) during the duration of the
 3142 subcontract is subject to penalties in accordance with administrative rules
 3143 adopted by the department under Subsection (6).
- 3144 (B) A subcontractor is not subject to penalties for the failure of a contractor to
 3145 maintain an offer of qualified health coverage described in Subsection (5)(a).
- 3146 (6) The department shall adopt administrative rules:
- 3147 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 3148 (b) in coordination with:
- 3149 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
- 3150 (ii) a public transit district in accordance with Section 17B-2a-818.5;
- 3151 (iii) the Division of Facilities Construction and Management in accordance with
 3152 Section 63A-5b-607;
- 3153 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;
- 3154 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- 3155 (vi) the Legislature's Administrative Rules Review and General Oversight

3156 Committee; and

3157 (c) that establish:

3158 (i) the requirements and procedures a contractor and a subcontractor shall follow to
3159 demonstrate compliance with this section, including:

3160 (A) that a contractor or subcontractor's compliance with this section is subject to
3161 an audit by the department or the Office of the Legislative Auditor General;

3162 (B) that a contractor that is subject to the requirements of this section shall obtain
3163 a written statement described in Subsection (5)(a); and

3164 (C) that a subcontractor that is subject to the requirements of this section shall
3165 obtain a written statement described in Subsection (5)(c)(ii);

3166 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
3167 violates the provisions of this section, which may include:

3168 (A) a three-month suspension of the contractor or subcontractor from entering into
3169 future contracts with the state upon the first violation;

3170 (B) a six-month suspension of the contractor or subcontractor from entering into
3171 future contracts with the state upon the second violation;

3172 (C) an action for debarment of the contractor or subcontractor in accordance with
3173 Section 63G-6a-904 upon the third or subsequent violation; and

3174 (D) monetary penalties which may not exceed 50% of the amount necessary to
3175 purchase qualified health coverage for an employee and a dependent of an
3176 employee of the contractor or subcontractor who was not offered qualified
3177 health coverage during the duration of the contract; and

3178 (iii) a website on which the department shall post the commercially equivalent
3179 benchmark, for the qualified health coverage identified in Subsection (1)(e),
3180 provided by the Department of Health and Human Services, in accordance with
3181 Subsection 26B-3-909(2).

3182 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a
3183 contractor or subcontractor who intentionally violates the provisions of this
3184 section is liable to the employee for health care costs that would have been
3185 covered by qualified health coverage.

3186 (ii) An employer has an affirmative defense to a cause of action under Subsection
3187 (7)(a)(i) if:

3188 (A) the employer relied in good faith on a written statement described in
3189 Subsection (5)(a) or (5)(c)(ii); or

3190 (B) the department determines that compliance with this section is not required
3191 under the provisions of Subsection (3).

3192 (b) An employee has a private right of action only against the employee's employer to
3193 enforce the provisions of this Subsection (7).

3194 (8) Any penalties imposed and collected under this section shall be deposited into the
3195 Medicaid [~~Restricted~~] Growth Reduction and Budget Stabilization Account created in
3196 Section [~~26B-1-309~~] 63J-1-315.

3197 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
3198 required by this section:

3199 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
3200 or contractor under:

3201 (i) Section 63G-6a-1602; or

3202 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

3203 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
3204 contractor as a basis for any action or suit that would suspend, disrupt, or terminate
3205 the design or construction.

3206 (10) An administrator, including an administrator's actuary or underwriter, who provides a
3207 written statement under Subsection (5)(a) or (c) regarding the qualified health coverage
3208 of a contractor or subcontractor who provides a health benefit plan described in
3209 Subsection (1)(d)(ii):

3210 (a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless
3211 the administrator commits gross negligence in preparing the written statement;

3212 (b) is not liable for any error in the written statement if the administrator relied in good
3213 faith on information from the contractor or subcontractor; and

3214 (c) may require as a condition of providing the written statement that a contractor or
3215 subcontractor hold the administrator harmless for an action arising under this section.

3216 **Section 27. FY 2024 Appropriation.**

3217 The following sums of money are appropriated for the fiscal year beginning July 1,
3218 2023, and ending June 30, 2024. These are additions to amounts previously
3219 appropriated for fiscal year 2024.

3220 **Subsection 27(a) Restricted Fund and Account Transfers**

3221 The Legislature authorizes the State Division of Finance to transfer the following
3222 amounts between the following funds or accounts as indicated. Expenditures and
3223 outlays from the funds to which the money is transferred must be authorized by an

3224 appropriation.

3225 ITEM 1 To General Fund Restricted -- Medicaid Growth Reduction and Budget

3226 Stabilization Account

3227 From General Fund Restricted - Medicaid Restricted

3228 Account, One-time \$23,700,000

3229 Schedule of Programs:

3230 General Fund Restricted -- Medicaid Growth Reduction

3231 and Budget Stabilization Account \$23,700,000

3232 Section 28. **Effective date.**

3233 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

3234 (2) (a) The actions affecting the following sections take effect on July 1, 2024:

3235 (i) Section 17B-2a-818.5;

3236 (ii) Section 19-1-206;

3237 (iii) Section 63A-5b-607;

3238 (iv) Section 63C-9-403;

3239 (v) Section 63I-1-226 (Effective 07/01/2024);

3240 (vi) Section 63I-2-226 (Effective 07/01/2024);

3241 (vii) Section 72-6-107.5; and

3242 (viii) Section 79-2-404.

3243 (b) The actions affecting Section 59-12-103 (Contingently Effective 01/01/2025)

3244 contingently take effect on January 1, 2025.