

SB0181S01 compared with SB0181

~~text~~ shows text that was in SB0181 but was deleted in SB0181S01.

text shows text that was not in SB0181 but was inserted into SB0181S01.

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Senator Ann Millner proposes the following substitute bill:

DEPARTMENT OF GOVERNMENT OPERATIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ann Millner

House Sponsor: _____

LONG TITLE

General Description:

This bill combines the Department of Administrative Services, The Department of Technology Services, and the Department of Human Resource Management into one, new department, the Department of Government Operations.

Highlighted Provisions:

This bill:

- ▶ combines the Department of Administrative Services, the Department of Technology Services, and the Department of Human Resource Management into one, new department, the Department of Government Operations;
- ▶ transfers existing divisions and offices within the Department of Administrative Services to the Department of Government Operations;
- ▶ changes the Department of Technology Services and the Department of Human

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Resource Management to divisions within the Department of Government Operations;

▶ recodifies the following:

- Title 63F, Utah Technology Governance Act;
- Title 67, Chapter 19, Utah State Personnel Management Act;

~~{~~ • ~~Title 67, Chapter 19a, Grievance Procedures;~~

~~—~~ • ~~Title 67, Chapter 19d, State Post-Retirement Benefits Trust Fund Act;~~

~~‡~~ • Title 67, Chapter 19e, Administrative Law Judges;{

~~—~~ • ~~Title 67, Chapter 19f, State Employees' Annual Leave Trust Fund Act;}~~ and

- Title 67, Chapter 25, General Requirements for State Officers and Employees;{
and}

▶ ~~{~~ ~~Title 67, Chapter 26, Utah Public Employees Healthy Workplace Act}~~ repeals a catch-all criminal provision; and

▶ makes conforming and technical changes.

Money Appropriated in this Bill:

~~{None}~~ This bill provides appropriations necessary to merge the Department of Administrative Services, the Department of Human Resource Management, and the Department of Technology Services into the new Department of Government Operations.

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

4-41a-107, as enacted by Laws of Utah 2019, Chapter 341

10-2-703, as last amended by Laws of Utah 2019, Chapter 255

11-36a-501, as enacted by Laws of Utah 2011, Chapter 47

11-38-102, as last amended by Laws of Utah 2013, Chapter 310

13-1a-3, as last amended by Laws of Utah 2006, Chapter 139

13-2-3, as last amended by Laws of Utah 1999, Chapter 21

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15A-1-203, as last amended by Laws of Utah 2020, Chapter 339
20A-20-201, as enacted by Laws of Utah 2020, Chapter 288
26-61a-103, as last amended by Laws of Utah 2020, Chapter 12
26-61a-111, as last amended by Laws of Utah 2020, Chapter 12
31A-2-113, as enacted by Laws of Utah 1985, Chapter 242
35A-1-205, as last amended by Laws of Utah 2010, Chapter 286
35A-13-302, as last amended by Laws of Utah 2017, Chapter 223
36-11-307, as last amended by Laws of Utah 2019, Chapter 339
46-1-3, as last amended by Laws of Utah 2019, Chapter 192
46-4-503, as last amended by Laws of Utah 2016, Chapter 348
46-5-102, as enacted by Laws of Utah 2018, Chapter 100
49-11-406, as last amended by Laws of Utah 2020, Chapter 24
49-14-201, as last amended by Laws of Utah 2016, Chapter 227
49-15-201, as last amended by Laws of Utah 2016, Chapter 227
49-20-401, as last amended by Laws of Utah 2019, Chapter 393
49-20-410, as last amended by Laws of Utah 2018, Chapter 155
53-1-106, as last amended by Laws of Utah 2019, Chapter 441
53-2a-105, as last amended by Laws of Utah 2020, Chapter 85
53-2a-802, as last amended by Laws of Utah 2020, Chapter 365
53-6-104, as last amended by Laws of Utah 2006, Chapter 139
53-10-108, as last amended by Laws of Utah 2019, Chapters 136, 192, and 404
53B-17-105, as last amended by Laws of Utah 2020, Chapter 365
53C-1-201, as last amended by Laws of Utah 2020, Chapter 363
53D-1-103, as last amended by Laws of Utah 2019, Chapters 370 and 456
53E-8-301, as last amended by Laws of Utah 2019, Chapter 186
54-1-6, as last amended by Laws of Utah 2006, Chapter 139
54-4a-3, as last amended by Laws of Utah 2006, Chapter 139
61-1-18, as last amended by Laws of Utah 2009, Chapter 351
61-2-201, as last amended by Laws of Utah 2016, Chapter 381
62A-1-121, as renumbered and amended by Laws of Utah 2018, Chapter 367
62A-1-122, as last amended by Laws of Utah 2019, Chapter 335

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62A-15-613, as last amended by Laws of Utah 2018, Chapter 322

63A-1-101, as renumbered and amended by Laws of Utah 1993, Chapter 212

63A-1-102, as renumbered and amended by Laws of Utah 1993, Chapter 212

63A-1-103, as last amended by Laws of Utah 2016, Chapter 298

63A-1-104, as renumbered and amended by Laws of Utah 1993, Chapter 212

63A-1-109, as last amended by Laws of Utah 2016, Chapter 193

63A-1-114, as last amended by Laws of Utah 2018, Chapter 137

63A-1-201, as renumbered and amended by Laws of Utah 2019, Chapter 370

63A-1-203, as renumbered and amended by Laws of Utah 2019, Chapter 370

63A-2-101, as last amended by Laws of Utah 1997, Chapter 252

63A-4-101, as last amended by Laws of Utah 2006, Chapter 275

63A-5b-202, as enacted by Laws of Utah 2020, Chapter 152

63A-9-101, as last amended by Laws of Utah 2017, Chapter 382

63A-9-201, as enacted by Laws of Utah 1996, Chapter 334

63A-9-301, as last amended by Laws of Utah 2010, Chapter 286

63A-9-401, as last amended by Laws of Utah 2015, Chapter 179

63A-9-501, as last amended by Laws of Utah 2006, Chapter 139

63A-12-101, as last amended by Laws of Utah 2019, Chapter 254

63A-12-102, as renumbered and amended by Laws of Utah 2008, Chapter 382

63A-12-103, as last amended by Laws of Utah 2019, Chapter 254

63A-12-104, as last amended by Laws of Utah 2020, Chapter 399

63A-13-201, as last amended by Laws of Utah 2019, Chapter 286

~~{ **63B-1-304**, as last amended by Laws of Utah 2020, Chapter 152~~

~~‡ **63B-7-501**, as last amended by Laws of Utah 2008, Chapter 382~~

63E-1-302, as last amended by Laws of Utah 2006, Chapter 46

63G-1-301, as last amended by Laws of Utah 2018, Chapter 39

63G-2-501, as last amended by Laws of Utah 2020, Chapters 352 and 373

63G-3-102, as last amended by Laws of Utah 2020, Chapter 408

63G-3-401, as last amended by Laws of Utah 2020, Chapter 408

63G-4-107, as enacted by Laws of Utah 2016, Chapter 312

63G-6a-103, as last amended by Laws of Utah 2020, Chapters 152, 257, 365 and last

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[amended by Coordination Clause, Laws of Utah 2020, Chapter 365](#)

63G-6a-106, as last amended by Laws of Utah 2020, Chapter 257

63G-6a-116, as last amended by Laws of Utah 2017, Chapter 348

63G-6a-202, as last amended by Laws of Utah 2020, Chapter 365

63G-6a-302, as last amended by Laws of Utah 2020, Chapter 257

63G-6a-303, as last amended by Laws of Utah 2020, Chapter 257

63G-6a-506, as last amended by Laws of Utah 2020, Chapter 257

63G-7-901, as renumbered and amended by Laws of Utah 2008, Chapter 382

[63G-9-303, as last amended by Laws of Utah 2016, Chapter 118](#)

63G-10-501, as enacted by Laws of Utah 2015, Chapter 355

63G-21-102, as last amended by Laws of Utah 2018, Chapter 281

63J-1-206, as last amended by Laws of Utah 2020, Chapters 152, 231, 402 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 231

63J-1-219, as last amended by Laws of Utah 2020, Chapter 365

63J-1-602.2, as last amended by Laws of Utah 2020, Fifth Special Session, Chapters 20 and 20

67-1-8.1, as last amended by Laws of Utah 2017, Chapter 181

67-5-7, as last amended by Laws of Utah 2007, Chapter 166

67-5-22, as last amended by Laws of Utah 2008, Chapter 161

67-8-3, as last amended by Laws of Utah 2020, Chapter 365

67-8-5, as last amended by Laws of Utah 2020, Chapter 432

[67-19a-101, as last amended by Laws of Utah 2020, Chapter 155](#)

[67-19a-202, as last amended by Laws of Utah 2020, Chapter 155](#)

[67-19a-205, as enacted by Laws of Utah 2018, Chapter 390](#)

[67-19a-303, as last amended by Laws of Utah 2018, Chapter 390](#)

[67-19a-501, as last amended by Laws of Utah 2020, Chapter 155](#)

[67-19d-201, as last amended by Laws of Utah 2011, Chapter 342](#)

[67-19f-102, as last amended by Laws of Utah 2015, Chapter 368](#)

[67-19f-201, as last amended by Laws of Utah 2015, Chapter 368](#)

67-20-8, as last amended by Laws of Utah 2006, Chapter 139

67-22-2, as last amended by Laws of Utah 2018, Chapter 39

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[67-26-102, as enacted by Laws of Utah 2020, Chapter 155](#)

[67-26-202, as enacted by Laws of Utah 2020, Chapter 155](#)

[67-26-301, as renumbered and amended by Laws of Utah 2020, Chapter 155](#)

72-1-202, as last amended by Laws of Utah 2020, Chapter 352

79-2-401, as renumbered and amended by Laws of Utah 2009, Chapter 344

ENACTS:

63A-17-107, Utah Code Annotated 1953

63A-17-501, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

63A-16-101, (Renumbered from 63F-1-101, as enacted by Laws of Utah 2005, Chapter 169)

63A-16-102, (Renumbered from 63F-1-102, as last amended by Laws of Utah 2020, Chapter 365)

63A-16-103, (Renumbered from 63F-1-103, as last amended by Laws of Utah 2009, Chapter 183)

63A-16-104, (Renumbered from 63F-1-104, as last amended by Laws of Utah 2020, Chapter 94)

63A-16-105, (Renumbered from 63F-1-106, as last amended by Laws of Utah 2017, Chapter 238)

63A-16-106, (Renumbered from 63F-1-107, as enacted by Laws of Utah 2005, Chapter 169)

63A-16-201, (Renumbered from 63F-1-201, as last amended by Laws of Utah 2019, Chapter 61)

63A-16-202, (Renumbered from 63F-1-203, as last amended by Laws of Utah 2019, Chapter 246)

63A-16-203, (Renumbered from 63F-1-204, as last amended by Laws of Utah 2017, Chapter 238)

63A-16-204, (Renumbered from 63F-1-205, as last amended by Laws of Utah 2018, Chapter 81)

63A-16-205, (Renumbered from 63F-1-206, as last amended by Laws of Utah 2020, Chapter 365)

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- 63A-16-206**, (Renumbered from 63F-1-207, as last amended by Laws of Utah 2017, Chapter 238)
- 63A-16-207**, (Renumbered from 63F-1-208, as last amended by Laws of Utah 2017, Chapter 238)
- 63A-16-208**, (Renumbered from 63F-1-209, as last amended by Laws of Utah 2017, Chapter 238)
- 63A-16-209**, (Renumbered from 63F-1-210, as last amended by Laws of Utah 2017, Chapter 238)
- 63A-16-210**, (Renumbered from 63F-1-211, as enacted by Laws of Utah 2017, Chapter 238)
- 63A-16-211**, (Renumbered from 63F-1-212, as last amended by Laws of Utah 2019, Chapter 61)
- 63A-16-212**, (Renumbered from 63F-1-603, as repealed and reenacted by Laws of Utah 2017, Chapter 238)
- 63A-16-213**, (Renumbered from 63F-1-604, as last amended by Laws of Utah 2017, Chapter 238)
- 63A-16-301**, (Renumbered from 63F-1-301, as last amended by Laws of Utah 2009, Chapter 183)
- 63A-16-302**, (Renumbered from ~~{63F-1-302}~~63F-1-303, as last amended by Laws of Utah ~~{2016}~~2020, Chapter ~~{287}~~)
- ~~63A-16-303, (Renumbered from 63F-1-303, as last amended by Laws of Utah 2020, Chapter ~~{}~~365)~~
- 63A-16-401**, (Renumbered from 63F-1-402, as enacted by Laws of Utah 2005, Chapter 169)
- 63A-16-402**, (Renumbered from 63F-1-403, as repealed and reenacted by Laws of Utah 2017, Chapter 238)
- 63A-16-403**, (Renumbered from 63F-1-404, as last amended by Laws of Utah 2017, Chapter 238)
- 63A-16-501**, (Renumbered from 63F-1-502, as last amended by Laws of Utah 2017, Chapter 238)
- 63A-16-502**, (Renumbered from 63F-1-503, as repealed and reenacted by Laws of Utah

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2017, Chapter 238)

63A-16-503, (Renumbered from 63F-1-504, as last amended by Laws of Utah 2017, Chapter 238)

63A-16-504, (Renumbered from 63F-1-505, as enacted by Laws of Utah 2005, Chapter 169)

63A-16-505, (Renumbered from 63F-1-506, as last amended by Laws of Utah 2009, Chapter 350)

63A-16-506, (Renumbered from 63F-1-507, as last amended by Laws of Utah 2019, Chapter 35)

63A-16-507, (Renumbered from 63F-1-508, as last amended by Laws of Utah 2013, Chapter 310)

63A-16-508, (Renumbered from 63F-1-509, as last amended by Laws of Utah 2020, Chapter 154)

63A-16-509, (Renumbered from 63F-1-510, as last amended by Laws of Utah 2016, Chapter 171)

63A-16-601, (Renumbered from 63F-1-701, as last amended by Laws of Utah 2020, Chapter 154)

63A-16-602, (Renumbered from 63F-1-702, as enacted by Laws of Utah 2007, Chapter 249)

63A-16-701, (Renumbered from 63F-2-102, as last amended by Laws of Utah 2020, Chapters 354 and 365)

63A-16-702, (Renumbered from 63F-2-103, as last amended by Laws of Utah 2016, Chapter 13)

63A-16-801, (Renumbered from 63F-3-102, as last amended by Laws of Utah 2019, Chapter 174)

63A-16-802, (Renumbered from 63F-3-103, as last amended by Laws of Utah 2020, Chapter 270)

63A-16-803, (Renumbered from 63F-3-103.5, as last amended by Laws of Utah 2020, Chapter 270)

63A-16-804, (Renumbered from 63F-3-104, as last amended by Laws of Utah 2019, Chapter 174)

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63A-16-901, (Renumbered from 63F-4-102, as enacted by Laws of Utah 2018, Chapter 144)

63A-16-902, (Renumbered from 63F-4-201, as last amended by Laws of Utah 2019, Chapter 246)

63A-16-903, (Renumbered from 63F-4-202, as last amended by Laws of Utah 2019, Chapter 246)

63A-17-101, (Renumbered from 67-19-1, as enacted by Laws of Utah 1979, Chapter 139)

63A-17-102, (Renumbered from 67-19-3, as last amended by Laws of Utah 2017, Chapter 463)

63A-17-103, (Renumbered from 67-19-3.1, as last amended by Laws of Utah 2010, Chapter 249)

63A-17-104, (Renumbered from 67-19-4, as last amended by Laws of Utah 2003, Chapter 65)

63A-17-105, (Renumbered from 67-19-5, as last amended by Laws of Utah 2009, Chapter 183)

63A-17-106, (Renumbered from 67-19-6, as last amended by Laws of Utah 2018, Chapters 154 and 200)

63A-17-108, (Renumbered from ~~{67-19-29}~~67-19-26, as ~~{enacted}~~last amended by Laws of Utah ~~{1979}~~2005, Chapter ~~{139}~~181)

~~{~~ **63A-17-109**, (Renumbered from 67-19-26, as last amended by Laws of Utah 2005, Chapter 181)

~~}~~ **63A-17-201**, (Renumbered from 67-19-6.1, as last amended by Laws of Utah 2010, Chapter 249)

63A-17-202, (Renumbered from 67-19-11, as last amended by Laws of Utah 2016, Chapters 228, 287 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 287)

63A-17-301, (Renumbered from 67-19-15, as last amended by Laws of Utah 2020, Chapter 360)

63A-17-302, (Renumbered from 67-19-15.1, as last amended by Laws of Utah 2006, Chapter 139)

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- 63A-17-303**, (Renumbered from 67-19-15.6, as last amended by Laws of Utah 2020, Chapter 109)
- 63A-17-304**, (Renumbered from 67-19-15.7, as last amended by Laws of Utah 2017, Chapter 463)
- 63A-17-305**, (Renumbered from 67-19-16, as last amended by Laws of Utah 2010, Chapters 103 and 249)
- 63A-17-306**, (Renumbered from 67-19-18, as last amended by Laws of Utah 2010, Chapter 249)
- 63A-17-307**, (Renumbered from 67-19-12, as last amended by Laws of Utah 2017, Chapter 463)
- 63A-17-401**, (Renumbered from 67-19-13, as last amended by Laws of Utah 2006, Chapter 139)
- 63A-17-402**, (Renumbered from 67-19-13.5, as last amended by Laws of Utah 2016, Chapter 348)
- 63A-17-403**, (Renumbered from 67-19-42, as enacted by Laws of Utah 2004, Chapter 130)
- 63A-17-502**, (Renumbered from 67-19-6.7, as last amended by Laws of Utah 2018, Chapter 39)
- 63A-17-503**, (Renumbered from 67-19-12.7, as last amended by Laws of Utah 2006, Chapter 139)
- 63A-17-504**, (Renumbered from 67-19-12.9, as last amended by Laws of Utah 2006, Chapter 139)
- 63A-17-505**, (Renumbered from 67-19-14, as last amended by Laws of Utah 2013, Chapter 109)
- 63A-17-506**, (Renumbered from 67-19-14.1, as last amended by Laws of Utah 2015, Chapter 155)
- 63A-17-507**, (Renumbered from 67-19-14.2, as last amended by Laws of Utah 2013, Chapter 277)
- 63A-17-508**, (Renumbered from 67-19-14.4, as last amended by Laws of Utah 2016, Chapter 227)
- 63A-17-509**, (Renumbered from 67-19-14.5, as last amended by Laws of Utah 2017,

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Chapter 254)

63A-17-510, (Renumbered from 67-19-14.6, as last amended by Laws of Utah 2015, Chapter 368)

63A-17-511 (Effective 07/01/21), (Renumbered from 67-19-14.7 (Effective 07/01/21), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20)

63A-17-512, (Renumbered from 67-19-27, as last amended by Laws of Utah 2012, Chapter 159)

63A-17-601, (Renumbered from ~~{67-19a-101}~~67-19-30, as last amended by Laws of Utah ~~{2020}~~2010, Chapter ~~{155}~~249)

63A-17-602, (Renumbered from ~~{67-19a-102}~~67-19-31, as last amended by Laws of Utah ~~{2020}~~2008, Chapter ~~{155}~~382)

63A-17-603, (Renumbered from ~~{67-19a-201}~~67-19-32, as last amended by Laws of Utah ~~{2020}~~1997, Chapter ~~{373}~~375)

~~{63A-17-604}~~63A-17-701, (Renumbered from ~~{67-19a-202}~~67-19e-102, as last amended by Laws of Utah ~~{2020}~~2016, Chapter ~~{155}~~237)

~~{63A-17-605}~~63A-17-702, (Renumbered from ~~{67-19a-203}~~67-19e-103, as last amended by Laws of Utah ~~{2010}~~2016, Chapter ~~{249}~~237)

~~{63A-17-606}~~63A-17-703, (Renumbered from ~~{67-19a-204}~~67-19e-104, as last amended by Laws of Utah ~~{2015}~~2016, Chapter ~~{339}~~237)

~~{63A-17-607}~~63A-17-704, (Renumbered from ~~{67-19a-205}~~67-19e-104.5, as enacted by Laws of Utah ~~{2018}~~2016, Chapter ~~{390}~~237)

~~{63A-17-608}~~63A-17-705, (Renumbered from ~~{67-19a-301}~~67-19e-105, as ~~{last amended}~~enacted by Laws of Utah ~~{2018}~~2013, Chapter ~~{390}~~165)

~~{63A-17-609}~~63A-17-706, (Renumbered from ~~{67-19a-302}~~67-19e-106, as ~~{repeated and reenacted}~~last amended by Laws of Utah ~~{2018}~~2016, Chapter ~~{390}~~237)

~~{63A-17-610}~~63A-17-707, (Renumbered from ~~{67-19a-303}~~67-19e-107, as ~~{last amended}~~enacted by Laws of Utah ~~{2018}~~2013, Chapter ~~{390}~~165)

~~{63A-17-611}~~63A-17-708, (Renumbered from ~~{67-19a-401}~~67-19e-108, as last amended by Laws of Utah ~~{2018}~~2016, Chapter ~~{390}~~237)

~~{63A-17-612}~~63A-17-709, (Renumbered from ~~{67-19a-402}~~67-19e-109, as ~~{last amended}~~enacted by Laws of Utah ~~{2018}~~2013, Chapter ~~{390}~~165)

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~~{63A-17-613}~~63A-17-710, (Renumbered from ~~{67-19a-402.5}~~67-19e-110, as last amended by Laws of Utah 2018, Chapter ~~{390}~~200)

~~{63A-17-614}~~63A-17-801, (Renumbered from ~~{67-19a-403}~~67-19-6.3, as last amended by Laws of Utah ~~{2010}~~2006, Chapter ~~{249}~~139)

~~{63A-17-615}~~63A-17-802, (Renumbered from ~~{67-19a-404}~~67-19-12.2, as last amended by Laws of Utah 2010, Chapter 249)

~~{~~~~63A-17-616~~, (Renumbered from 67-19a-405, as enacted by Laws of Utah 1989, Chapter 191)

~~63A-17-617~~, (Renumbered from 67-19a-406, as last amended by Laws of Utah 2018, Chapters 127 and 390)

~~63A-17-618~~, (Renumbered from 67-19a-501, as last amended by Laws of Utah 2020, Chapter 155)

~~63A-17-701~~, (Renumbered from 67-19-30, as last amended by Laws of Utah 2010, Chapter 249)

~~63A-17-702~~, (Renumbered from 67-19-31, as last amended by Laws of Utah 2008, Chapter 382)

~~63A-17-703~~, (Renumbered from 67-19-32, as last amended by Laws of Utah 1997, Chapter 375)

~~63A-17-801~~, (Renumbered from 67-26-102, as enacted by Laws of Utah 2020, Chapter 155)

~~63A-17-802~~, (Renumbered from 67-26-103, as enacted by Laws of Utah 2020, Chapter 155)

~~63A-17-803~~, (Renumbered from 67-26-201, as enacted by Laws of Utah 2020, Chapter 155)

~~63A-17-804~~, (Renumbered from 67-26-202, as enacted by Laws of Utah 2020, Chapter 155)

~~63A-17-805~~, (Renumbered from 67-26-203, as enacted by Laws of Utah 2020, Chapter 155)

~~63A-17-806~~, (Renumbered from 67-26-301, as renumbered and amended by Laws of Utah 2020, Chapter 155)

~~63A-17-901~~, (Renumbered from 67-19e-102, as last amended by Laws of Utah 2016,

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Chapter 237)

~~63A-17-902, (Renumbered from 67-19e-103, as last amended by Laws of Utah 2016,
Chapter 237)~~

~~63A-17-903, (Renumbered from 67-19e-104, as last amended by Laws of Utah 2016,
Chapter 237)~~

~~63A-17-904, (Renumbered from 67-19e-104.5, as enacted by Laws of Utah 2016,
Chapter 237)~~

~~63A-17-905, (Renumbered from 67-19e-105, as enacted by Laws of Utah 2013,
Chapter 165)~~

~~63A-17-906, (Renumbered from 67-19e-106, as last amended by Laws of Utah 2016,
Chapter 237)~~

~~63A-17-907, (Renumbered from 67-19e-107, as enacted by Laws of Utah 2013,
Chapter 165)~~

~~63A-17-908, (Renumbered from 67-19e-108, as last amended by Laws of Utah 2016,
Chapter 237)~~

~~63A-17-909, (Renumbered from 67-19e-109, as enacted by Laws of Utah 2013,
Chapter 165)~~

~~63A-17-910, (Renumbered from 67-19e-110, as last amended by Laws of Utah 2018,
Chapter 200)~~

~~63A-17-1001, (Renumbered from 67-19-6.3, as last amended by Laws of Utah 2006,
Chapter 139)~~

~~63A-17-1002, (Renumbered from 67-19-12.2, as last amended by Laws of Utah 2010,
Chapter 249)~~

~~63A-17-1003, (Renumbered from 67-19-12.5, as last amended by Laws of Utah 2008,
Chapter 382)~~

~~63A-17-1004, (Renumbered from 67-19-14.3, as last amended by Laws of Utah 2005,
Chapters 15 and 114)~~

~~63A-17-1005, (Renumbered from 67-19-43, as last amended by Laws of Utah 2016,
Chapter 310)~~

~~63A-17-1006, (Renumbered from 67-19-45, as enacted by Laws of Utah 2020, Chapter
197)~~

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~~63A-17-1007~~, (Renumbered from ~~67-19c-101~~, as last amended by Laws of Utah 2020,
Chapter 365)

~~63A-17-1101~~, (Renumbered from ~~67-19d-102~~, as enacted by Laws of Utah 2007,
Chapter 99)

~~63A-17-1102~~, (Renumbered from ~~67-19d-201~~, as last amended by Laws of Utah 2011,
Chapter 342)

~~63A-17-1103~~, (Renumbered from ~~67-19d-201.5~~, as enacted by Laws of Utah 2012,
Chapter 376)

~~63A-17-1104~~, (Renumbered from ~~67-19d-202~~, as last amended by Laws of Utah 2013,
Chapter 310)

~~63A-17-1105~~, (Renumbered from ~~67-19d-301~~, as last amended by Laws of Utah 2012,
Chapter 376)

~~63A-17-1106~~, (Renumbered from ~~67-19d-302~~, as enacted by Laws of Utah 2007,
Chapter 99)

‡ ~~{63A-17-1201}~~63A-17-803, (Renumbered from ~~{67-19f-102}~~67-19-12.5, as last
amended by Laws of Utah ~~{2015}~~2008, Chapter ~~{368}~~382)

~~{63A-17-1202}~~63A-17-804, (Renumbered from ~~{67-19f-201}~~67-19-14.3, as last
amended by Laws of Utah ~~{2015}~~2005, ~~{Chapter 368}~~Chapters 15 and 114)

~~{63A-17-1203}~~63A-17-805, (Renumbered from ~~{67-19f-202}~~67-19-43, as last
amended by Laws of Utah ~~{2015}~~2016, Chapter ~~{368}~~310)

~~{63A-17-1204}~~63A-17-806, (Renumbered from ~~{67-19f-301}~~67-19-45, as enacted by
Laws of Utah ~~{2014}~~2020, Chapter ~~{437}~~197)

~~{63A-17-1205}~~63A-17-807, (Renumbered from ~~{67-19f-302}~~67-19c-101, as
~~{enacted}~~last amended by Laws of Utah ~~{2014}~~2020, Chapter ~~{437}~~365)

~~{63A-17-1301}~~63A-17-901, (Renumbered from 67-25-102, as last amended by Laws of
Utah 2013, Chapter 425)

~~{63A-17-1302}~~63A-17-902, (Renumbered from 67-25-201, as last amended by Laws of
Utah 2013, Chapter 433)

~~{63A-17-1303}~~63A-17-903, (Renumbered from 67-25-302, as enacted by Laws of Utah
2013, Chapter 425)

~~{63A-17-1304}~~63A-17-904, (Renumbered from 67-19-19, as last amended by Laws of

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Utah 2006, Chapter 139)

~~{63A-17-1401}~~63A-17-1001, (Renumbered from 67-19-33, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1)

~~{63A-17-1402}~~63A-17-1002, (Renumbered from 67-19-34, as last amended by Laws of Utah 2008, Chapter 382)

~~{63A-17-1403}~~63A-17-1003, (Renumbered from 67-19-35, as enacted by Laws of Utah 1990, Chapter 280)

~~{63A-17-1404}~~63A-17-1004, (Renumbered from 67-19-36, as last amended by Laws of Utah 2006, Chapter 139)

~~{63A-17-1405}~~63A-17-1005, (Renumbered from 67-19-37, as last amended by Laws of Utah 2006, Chapter 139)

~~{63A-17-1406}~~63A-17-1006, (Renumbered from 67-19-38, as last amended by Laws of Utah 2006, Chapter 139)

~~{63A-17-1407}~~63A-17-1007, (Renumbered from 67-19-39, as last amended by Laws of Utah 2002, Chapter 185)

REPEALS:

63F-1-105, as last amended by Laws of Utah 2020, Chapter 352

63F-1-302, as last amended by Laws of Utah 2016, Chapter 287

63F-1-401, as repealed and reenacted by Laws of Utah 2017, Chapter 238

63F-1-501, as repealed and reenacted by Laws of Utah 2017, Chapter 238

63F-1-601, as repealed and reenacted by Laws of Utah 2017, Chapter 238

63F-2-101, as enacted by Laws of Utah 2015, Chapter 371

63F-3-101, as last amended by Laws of Utah 2019, Chapter 174

63F-4-101, as enacted by Laws of Utah 2018, Chapter 144

67-19-29, as enacted by Laws of Utah 1979, Chapter 139

67-19d-101, as enacted by Laws of Utah 2007, Chapter 99

67-19e-101, as enacted by Laws of Utah 2013, Chapter 165

67-19f-101, as last amended by Laws of Utah 2015, Chapter 368

67-25-101, as enacted by Laws of Utah 2011, Chapter 442

67-25-301, as enacted by Laws of Utah 2013, Chapter 425

67-26-101, as enacted by Laws of Utah 2020, Chapter 155

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Utah Code Sections Affected by Coordination Clause:

63A-12-201, Utah Code Annotated 1953

63A-12-202, Utah Code Annotated 1953

63A-16-601, Utah Code Annotated 1953

63A-16-602, Utah Code Annotated 1953

63F-1-701, as last amended by Laws of Utah 2020, Chapter 154

63F-1-702, as enacted by Laws of Utah 2007, Chapter 249

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

Section 1. Section **4-41a-107** is amended to read:

4-41a-107. Notice to prospective and current public employees.

(1) (a) A state employer or a political subdivision employer shall take the action described in Subsection (1)(b) before:

(i) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this chapter; or

(ii) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this chapter.

(b) The employer described in Subsection (1)(a) shall give the employee or prospective employee described in Subsection (1)(a) a written notice that notifies the employee or prospective employee:

(i) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and

(ii) that in accepting a job or undertaking a duty described in Subsection (1)(a), although the employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(2) The [~~Department~~] Division of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (1).

(3) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice

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described in Subsection (1) may not:

(a) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of cannabis; or

(b) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(4) An employer of an employee who has signed the notice described in Subsection (1) may not take retaliatory action as defined in Section ~~{f}67-19a-101~~ ~~{f}63A-17-601~~ against a current employee who refuses to sign the notice described in Subsection (1).

Section 2. Section 10-2-703 is amended to read:

10-2-703. Publication of notice of election.

(1) Immediately after setting the date for the election, the court shall order for publication notice of the:

(a) petition; and

(b) date the election is to be held to determine the question of dissolution.

(2) The notice described in Subsection (1) shall be published:

(a) (i) for at least once a week for a period of four weeks before the election in a newspaper of general circulation in the municipality;

(ii) if there is no newspaper of general circulation in the municipality, at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or

(iii) at least one month before the day of the election, by mailing notice to each registered voter in the municipality;

(b) on the Utah Public Notice Website created in Section ~~[63F-1-701]~~ 63A-16-601, for four weeks before the day of the election;

(c) in accordance with Section 45-1-101, for four weeks before the day of the election; and

(d) if the municipality has a website, on the municipality's website for four weeks before the day of the election.

Section 3. Section 11-36a-501 is amended to read:

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11-36a-501. Notice of intent to prepare an impact fee facilities plan.

(1) Before preparing or amending an impact fee facilities plan, a local political subdivision or private entity shall provide written notice of its intent to prepare or amend an impact fee facilities plan.

(2) A notice required under Subsection (1) shall:

(a) indicate that the local political subdivision or private entity intends to prepare or amend an impact fee facilities plan;

(b) describe or provide a map of the geographic area where the proposed impact fee facilities will be located; and

(c) subject to Subsection (3), be posted on the Utah Public Notice Website created under Section ~~[63F-1-701]~~ 63A-16-601.

(3) For a private entity required to post notice on the Utah Public Notice Website under Subsection (2)(c):

(a) the private entity shall give notice to the general purpose local government in which the private entity's private business office is located; and

(b) the general purpose local government described in Subsection (3)(a) shall post the notice on the Utah Public Notice Website.

Section ~~{2}4~~. Section **11-38-102** is amended to read:

11-38-102. Definitions.

As used in this chapter:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the applicable municipal or county statistical area for households of the same size.

(2) "Agricultural land" has the same meaning as "land in agricultural use" under Section 59-2-502.

(3) "Brownfield sites" means abandoned, idled, or underused commercial or industrial land where expansion or redevelopment is complicated by real or perceived environmental contamination.

(4) "Commission" means the Quality Growth Commission established in Section 11-38-201.

(5) "Infill development" means residential, commercial, or industrial development on

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unused or underused land, excluding open land and agricultural land, within existing, otherwise developed urban areas.

(6) "Local entity" means a county, city, or town.

(7) (a) "Open land" means land that is:

(i) preserved in or restored to a predominantly natural, open, and undeveloped condition; and

(ii) used for:

(A) wildlife habitat;

(B) cultural or recreational use;

(C) watershed protection; or

(D) another use consistent with the preservation of the land in or restoration of the land to a predominantly natural, open, and undeveloped condition.

(b) (i) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities, including baseball, tennis, soccer, golf, or other sporting or similar activity.

(ii) The condition of land does not change from a natural, open, and undeveloped condition because of the development or presence on the land of facilities, including trails, waterways, and grassy areas, that:

(A) enhance the natural, scenic, or aesthetic qualities of the land; or

(B) facilitate the public's access to or use of the land for the enjoyment of its natural, scenic, or aesthetic qualities and for compatible recreational activities.

(8) "Program" means the LeRay McAllister Critical Land Conservation Program established in Section 11-38-301.

(9) "Surplus land" means real property owned by the Department of [~~Administrative Services~~] Government Operations, the Department of Agriculture and Food, the Department of Natural Resources, or the Department of Transportation that the individual department determines not to be necessary for carrying out the mission of the department.

Section ~~335~~. Section **13-1a-3** is amended to read:

13-1a-3. Employment and compensation of personnel -- Compensation of director.

The director, with the approval of the executive director, may employ personnel

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necessary to carry out the duties and responsibilities of the division at salaries established by the executive director according to standards established by the [Department] Division of Human Resource Management. The executive director shall establish the salary of the director according to standards established by the [Department] Division of Human Resource Management.

Section ~~{4}~~6. Section **13-2-3** is amended to read:

13-2-3. Employment of personnel -- Compensation of director.

(1) The director, with the approval of the executive director, may employ personnel necessary to carry out the duties and responsibilities of the division at salaries established by the executive director according to standards established by the ~~[Department of~~ ~~{Administrative Services}]~~ ~~{Government Operations}~~ Division of Human Resource Management.

(2) The executive director shall establish the salary of the director according to standards established by the ~~[Department of {Administrative Services}]~~ ~~{Government Operations}~~ Division of Human Resource Management.

(3) The director may employ specialists, technical experts, or investigators to participate or assist in investigations if they reasonably require expertise beyond that normally required for division personnel.

(4) An investigator employed pursuant to Subsection (3) may be designated a special function officer, as defined in Section 53-13-105, by the director, but is not eligible for retirement benefits under the Public Safety Employee's Retirement System.

Section ~~{5}~~7. Section **15A-1-203** is amended to read:

15A-1-203. Uniform Building Code Commission -- Unified Code Analysis Council.

(1) There is created a Uniform Building Code Commission to advise the division with respect to the division's responsibilities in administering the codes.

(2) The commission shall consist of 11 members as follows:

(a) one member shall be from among candidates nominated by the Utah League of Cities and Towns and the Utah Association of Counties;

(b) one member shall be a licensed building inspector employed by a political subdivision of the state;

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(c) one member shall be a licensed professional engineer;

(d) one member shall be a licensed architect;

(e) one member shall be a fire official;

(f) three members shall be contractors licensed by the state, of which one shall be a general contractor, one an electrical contractor, and one a plumbing contractor;

(g) two members shall be from the general public and have no affiliation with the construction industry or real estate development industry; and

(h) one member shall be from the Division of Facilities Construction and Management of the Department of [~~Administrative Services~~] Government Operations.

(3) (a) The executive director shall appoint each commission member after submitting a nomination to the governor for confirmation or rejection.

(b) If the governor rejects a nominee, the executive director shall submit an alternative nominee until the governor confirms the nomination. An appointment is effective after the governor confirms the nomination.

(4) (a) Except as required by Subsection (4)(b), as terms of commission members expire, the executive director shall appoint each new commission member or reappointed commission member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(5) When a vacancy occurs in the commission membership for any reason, the executive director shall appoint a replacement for the unexpired term.

(6) (a) A commission member may not serve more than two full terms.

(b) A commission member who ceases to serve may not again serve on the commission until after the expiration of two years after the day on which service ceased.

(7) A majority of the commission members constitute a quorum and may act on behalf of the commission.

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

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- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

63A-3-107.

(9) (a) The commission shall annually designate one of the commission's members to serve as chair of the commission.

(b) The division shall provide a secretary to facilitate the function of the commission and to record the commission's actions and recommendations.

(10) The commission shall:

(a) in accordance with Section 15A-1-204, report to the Business and Labor Interim Committee;

(b) act as an appeals board as provided in Section 15A-1-207;

(c) establish advisory peer committees on either a standing or ad hoc basis to advise the commission with respect to matters related to a code, including a committee to advise the commission regarding health matters related to a plumbing code; and

(d) assist the division in overseeing code-related training in accordance with Section 15A-1-209.

(11) (a) In a manner consistent with Subsection (10)(c), the commission shall jointly create with the Utah Fire Prevention Board an advisory peer committee known as the "Unified Code Analysis Council" to review fire prevention and construction code issues that require definitive and specific analysis.

(b) The commission and Utah Fire Prevention Board shall jointly, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for:

- (i) the appointment of members to the Unified Code Analysis Council; and
- (ii) procedures followed by the Unified Code Analysis Council.

Section ~~63~~8. Section **20A-20-201** is amended to read:

20A-20-201. Utah Independent Redistricting Commission -- Creation -- Membership -- Term -- Quorum -- Action -- Meetings -- Staffing -- Website.

(1) (a) There is created the Utah Independent Redistricting Commission.

(b) The commission is housed in the Department of ~~Administrative Services~~
Government Operations for budgetary purposes only.

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(c) The commission is not under the direction or control of the Department of [~~Administrative Services~~] Government Operations or any executive director, director, or other employee of the Department of [~~Administrative Services~~] Government Operations or any other government entity.

(2) Except as provided in Subsection (4), the commission comprises seven members appointed as follows:

(a) one member appointed by the governor, which member shall serve as chair of the commission;

(b) one member appointed by the president of the Senate;

(c) one member appointed by the speaker of the House of Representatives;

(d) one member appointed by the legislative leader of the largest minority political party in the Senate;

(e) one member appointed by the legislative leader of the largest minority political party in the House of Representatives;

(f) one member appointed jointly by the president of the Senate and the speaker of the House of Representatives; and

(g) one member appointed jointly by the legislative leader of the largest minority political party in the Senate and the legislative leader of the largest minority political party in the House of Representatives.

(3) An appointing authority described in Subsection (2):

(a) shall make the appointments no later than:

(i) February 1 of the year immediately following a decennial year; or

(ii) if there is a change in the number of congressional, legislative, or other districts resulting from an event other than a national decennial enumeration made by the authority of the United States, the day on which the Legislature appoints a committee to draw maps in relation to the change;

(b) may remove a commission member appointed by the appointing authority, for cause; and

(c) shall, if a vacancy occurs in the position appointed by the appointing authority under Subsection (2), appoint another individual to fill the vacancy within 10 days after the day on which the vacancy occurs.

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(4) (a) If the appointing authority described in Subsection (2)(a) fails to timely make the appointment, the legislative leader of the largest political party in the House of Representatives and the Senate, of which the governor is not a member, shall jointly make the appointment.

(b) If the appointing authority described in Subsection (2)(b) fails to timely make the appointment, the appointing authority described in Subsection (2)(d) shall make the appointment.

(c) If the appointing authority described in Subsection (2)(c) fails to timely make the appointment, the appointing authority described in Subsection (2)(e) shall make the appointment.

(d) If the appointing authority described in Subsection (2)(d) fails to timely make the appointment, the appointing authority described in Subsection (2)(b) shall make the appointment.

(e) If the appointing authority described in Subsection (2)(e) fails to timely make the appointment, the appointing authority described in Subsection (2)(c) shall make the appointment.

(f) If the appointing authority described in Subsection (2)(f) fails to timely make the appointment, the appointing authority described in Subsection (2)(g) shall make the appointment.

(g) If the appointing authority described in Subsection (2)(g) fails to timely make the appointment, the appointing authority described in Subsection (2)(f) shall make the appointment.

(5) A member of the commission may not, during the member's service on the commission:

(a) be a lobbyist or principal, as those terms are defined in Section 36-11-102;

(b) be a candidate for or holder of any elective office, including federal elective office, state elective office, or local government elective office;

(c) be a candidate for or holder of any office of a political party, except for delegates to a political party's convention;

(d) be an employee of, or a paid consultant for, a political party, political party committee, personal campaign committee, or any political action committee affiliated with a

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political party or controlled by an elected official or candidate for elective office, including any local government office;

(e) serve in public office if the member is appointed to public office by the governor or the Legislature;

(f) be employed by the United States Congress or the Legislature; or

(g) hold any position that reports directly to an elected official, including a local elected official, or to any person appointed by the governor or Legislature to any other public office.

(6) In addition to the qualifications described in Subsection (5), a member of the commission described in Subsection (2)(f) or (g):

(a) may not have, during the two-year period immediately preceding the member's appointment to the commission:

(i) been affiliated with a political party under Section 20A-2-107;

(ii) voted in the regular primary election or municipal primary election of a political party; or

(iii) been a delegate to a political party convention; and

(b) may not, in the sole determination of the appointing authority, be an individual who is affiliated with a partisan organization or cause.

(7) Each commission member shall, upon appointment to the commission, sign and file a statement with the governor certifying that the commission member:

(a) meets the qualifications for appointment to the commission;

(b) will, during the member's service on the commission, comply with the requirements described in Subsection (5);

(c) will comply with the standards, procedures, and requirements described in this chapter that are applicable to a commission member; and

(d) will faithfully discharge the duties of a commission member in an independent, impartial, honest, and transparent manner.

(8) For a regular decennial redistricting, the commission is:

(a) formed and may begin conducting business on February 1 of the year immediately following a decennial year; and

(b) dissolved upon approval of the Legislature's redistricting maps by the governor, or

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the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(9) (a) A member of the commission may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

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

(b) A member of the commission may decline to receive per diem or travel expenses.

(10) The commission shall meet upon the request of a majority of the commission members or when the chair calls a meeting.

(11) (a) A majority of the members of the commission constitutes a quorum.

(b) The commission takes official action by a majority vote of a quorum present at a meeting of the commission.

(12) Within appropriations from the Legislature, the commission may, to fulfill the duties of the commission:

(a) contract with or employ an attorney licensed in Utah, an executive director, and other staff; and

(b) purchase equipment and other resources, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to fulfill the duties of the commission.

(13) The commission shall maintain a website where the public may:

(a) access announcements and records of commission meetings and hearings;

(b) access maps presented to, or under consideration by, the commission;

(c) access evaluations described in Subsection 20A-20-302(8);

(d) submit a map to the commission; and

(e) submit comments on a map presented to, or under consideration by, the commission.

Section ~~7~~9. Section **26-61a-103** is amended to read:

26-61a-103. Electronic verification system.

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the ~~[Department]~~ Division of Technology Services shall:

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(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the [Department] Division of Technology Services; and

(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the [Department] Division of Technology Services shall ensure that, on or before March 1, 2020, the state electronic verification system described in Subsection (1):

(a) allows an individual to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card, provided that the card may not become active until the relevant qualified medical provider completes the associated medical cannabis recommendation;

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26-61a-201;

(c) allows a qualified medical provider, or an employee described in Subsection (3) acting on behalf of the qualified medical provider, to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend, after an initial face-to-face visit with a patient described in Subsection 26-61a-201(4)(b), treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

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- (A) using telehealth services, for the qualified medical provider who originally recommended a medical cannabis treatment during a face-to-face visit with the patient; or
- (B) during a face-to-face visit with the patient, for a qualified medical provider who did not originally recommend the medical cannabis treatment during a face-to-face visit; and
- (iv) notate a determination of physical difficulty or undue hardship, described in Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;
- (d) connects with:
 - (i) an inventory control system that a medical cannabis pharmacy uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:
 - (A) the time and date of each purchase;
 - (B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;
 - (C) any cannabis production establishment, any medical cannabis pharmacy, or any medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis device; and
 - (D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and
 - (ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;
- (e) provides access to:
 - (i) the department to the extent necessary to carry out the department's functions and responsibilities under this chapter;
 - (ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments; and
 - (iii) the Division of Occupational and Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the

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recommendation and dispensing of medical cannabis:

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

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

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

(D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(f) provides access to and interaction with the state central patient portal;

(g) provides access to state or local law enforcement:

(i) during a law enforcement encounter, without a warrant, using the individual's driver license or state ID, only for the purpose of determining if the individual subject to the law enforcement encounter has a valid medical cannabis card; or

(ii) after obtaining a warrant; and

(h) creates a record each time a person accesses the database that identifies the person who accesses the database and the individual whose records the person accesses.

(3) (a) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of allowing employee access under this Subsection (3), an employee of a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(b) An employee of a business that employs a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical

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provider;

(ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(4) (a) As used in this Subsection (4), "prescribing provider" means:

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

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

(iii) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of allowing provider access under this Subsection (4), a prescribing provider may access information in the electronic verification system regarding a patient the prescribing provider treats.

(5) The department may release limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research;

(b) providing the report required by Section 26-61a-703; and

(c) other official department purposes.

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(7) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(8) (a) Any person who obtains or attempts to obtain information from the state

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electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this chapter authorizes is guilty of a third degree felony.

(9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed \$5,000.

(c) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.

(e) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section ~~8~~10. Section **26-61a-111** is amended to read:

26-61a-111. Nondiscrimination for medical care or government employment -- Notice to prospective and current public employees -- No effect on private employers.

(1) For purposes of medical care, including an organ or tissue transplant, a patient's use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(a) is considered the equivalent of the authorized use of any other medication used at the discretion of a physician; and

(b) does not constitute the use of an illicit substance or otherwise disqualify an

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individual from needed medical care.

(2) (a) Notwithstanding any other provision of law and except as provided in Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical cannabis in accordance with this chapter or Section 58-37-3.7 in the same way the state or political subdivision treats employee use of any prescribed controlled substance.

(b) A state or political subdivision employee who has a valid medical cannabis card is not subject to adverse action, as that term is defined in Section 67-21-2, for failing a drug test due to marijuana or tetrahydrocannabinol without evidence that the employee was impaired or otherwise adversely affected in the employee's job performance due to the use of medical cannabis.

(c) Subsections (2)(a) and (b) do not apply where the application of Subsection (2)(a) or (b) would jeopardize federal funding, a federal security clearance, or any other federal background determination required for the employee's position, or if the employee's position is dependent on a license that is subject to federal regulations.

(3) (a) (i) A state employer or a political subdivision employer shall take the action described in Subsection (3)(a)(ii) before:

(A) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this chapter; or

(B) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this chapter.

(ii) The employer described in Subsection (3)(a)(i) shall give the employee or prospective employee described in Subsection (3)(a)(i) a written notice that notifies the employee or prospective employee:

(A) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and

(B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i), although the employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

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(b) The [~~Department~~] Division of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (3)(a).

(c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (3)(a) may not:

(i) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of cannabis; or

(ii) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(d) An employer may not take retaliatory action as defined in Section ~~67-19a-101~~ ~~63A-17-601~~ against a current employee who refuses to sign the notice described in Subsection (3)(a).

(4) Nothing in this section requires a private employer to accommodate the use of medical cannabis or affects the ability of a private employer to have policies restricting the use of medical cannabis by applicants or employees.

Section ~~9~~ 11. Section **31A-2-113** is amended to read:

31A-2-113. Supporting services.

(1) The Department of [~~Administrative Services~~] Government Operations shall provide suitable offices for the Insurance Department:

(a) in Salt Lake City; and

(b) elsewhere, if approved by the governor as necessary for the efficient operation of the department.

(2) The commissioner shall, in accordance with the rules of the Department of [~~Administrative Services~~] Government Operations or other applicable laws, procure or obtain access to all materials, supplies, and equipment necessary for the efficient operation of the Insurance Department, including reasonable library facilities and books.

Section ~~10~~ 12. Section **35A-1-205** is amended to read:

35A-1-205. Workforce Appeals Board -- Chair -- Appointment -- Compensation -- Qualifications.

(1) There is created the Workforce Appeals Board within the department consisting of one or more panels to hear and decide appeals from the decision of an administrative law

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judge.

(2) (a) A panel shall consist of three impartial members appointed by the governor as follows:

(i) the board chair, appointed in accordance with Subsection (5);

(ii) one member appointed to represent employers; and in making this appointment, the governor shall consider nominations from employer organizations; and

(iii) one member appointed to represent employees; and in making this appointment, the governor shall consider nominations from employee organizations.

(b) No more than two members of a panel may belong to the same political party.

(3) (a) (i) The term of a member shall be six years beginning on March 1 of the year the member is appointed, except as otherwise provided in Subsection (3)(a)(ii).

(ii) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately one third of the members are appointed every two years.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(c) The governor may remove a member for inefficiency, neglect of duty, malfeasance or misfeasance in office, or other good and sufficient cause.

(d) A member shall hold office until a successor is appointed and has qualified.

(4) (a) Except as provided in Subsection (4)(b), a member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

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

(b) The member appointed as board chair in accordance with Subsection (5) shall be compensated at an hourly rate determined by the [~~Department~~] Division of Human Resource Management in accordance with Title [~~67, Chapter 19~~] 63A, Chapter 17, Utah State Personnel Management Act.

(5) (a) The chief officer of the board shall be the chair, who shall serve as the executive

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and administrative head of the board.

(b) The chair shall be appointed by the governor to represent the public and may be removed from that position at the will of the governor.

(c) The chair shall be experienced in administration and possess any additional qualifications determined by the governor.

(6) (a) The chair shall designate an alternate from a panel appointed under this section:

(i) in the absence of a regular member or the chair; or

(ii) if the regular member or the chair has a conflict of interest.

(b) Each case shall be decided by a full three-member panel.

(7) The department shall provide the Workforce Appeals Board necessary staff support, except, the board may employ, retain, or appoint legal counsel.

Section ~~{11}~~ 13. Section **35A-13-302** is amended to read:

35A-13-302. Governor's Committee on Employment of People with Disabilities.

(1) There is created the Governor's Committee on Employment of People with Disabilities, composed of the following 19 members:

(a) the director of the office;

(b) the state superintendent of public instruction or the superintendent's designee;

(c) the commissioner of higher education or the commissioner's designee;

(d) the [~~executive~~] director of the [~~Department~~] Division of Human Resource Management or the [~~executive~~] director's designee;

(e) the executive director of the Department of Human Services or the executive director's designee;

(f) the executive director of the Department of Health or the executive director's designee; and

(g) the following 13 members appointed by the governor:

(i) a representative of individuals who are blind or visually impaired;

(ii) a representative of individuals who are deaf or hard of hearing;

(iii) a representative of individuals who have disabilities;

(iv) seven representatives of business or industry;

(v) a representative experienced in job training and placement;

(vi) a representative of veterans; and

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(vii) a representative experienced in medical, health, or insurance professions.

(2) (a) (i) Except as provided in Subsection (2)(a)(ii), the governor shall appoint the committee members described in Subsection (1)(g) to serve four-year terms.

(ii) In making the initial appointments to the committee, the governor shall appoint approximately one-half of the members to two-year terms and one-half of the members to four-year terms.

(b) Committee members shall serve until their successors are appointed and qualified.

(c) The governor shall fill any vacancy that occurs on the committee for any reason by appointing a person according to the procedures of this section for the unexpired term of the vacated member.

(d) The director of the office shall select a chair of the committee from the membership.

(e) Ten members of the committee are a quorum for the transaction of business.

(3) (a) The committee shall:

(i) promote employment opportunities for individuals with disabilities;

(ii) serve as the designated state liaison to the President's Committee on Employment of People with Disabilities;

(iii) provide training and technical assistance to employers in implementing the Americans with Disabilities Act;

(iv) develop and disseminate appropriate information through workshops, meetings, and other requests in response to needs to employers and others regarding employment of individuals with disabilities;

(v) establish contacts with various community representatives to identify and resolve barriers to full participation in employment and community life;

(vi) formally recognize exemplary contributions in the areas of employment, job placement, training, rehabilitation, support services, medicine, media or public relations, and personal achievements made by individuals with disabilities;

(vii) advise, encourage, and motivate individuals with disabilities who are preparing for or seeking employment to reach their full potential as qualified employees;

(viii) advocate for policies and practices that promote full and equal rights for individuals with disabilities;

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(ix) advise the office, the department, and the governor on issues that affect employment and other requests for information on disability issues; and

(x) prepare an annual report on the progress, accomplishments, and future goals of the committee and present the report to the department for inclusion in the department's annual report described in Section 35A-1-109.

(b) The committee may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, receive and accept federal funds, and may receive and accept state funds, private gifts, donations, and funds from any source to carry out its purposes.

(4) The office shall staff the committee.

Section ~~{12}~~14. Section **36-11-307** is amended to read:

36-11-307. Ethics and unlawful harassment training course for lobbyists -- Internet availability -- Content -- Participation tracking -- Penalty.

(1) The lieutenant governor shall develop and maintain online training courses educating lobbyists about:

(a) federal workplace discrimination and harassment prohibitions and requirements;

(b) the Utah Senate's, Utah House's, and the executive branch's policies governing workplace discrimination and harassment prohibitions, policies, and procedures; and

(c) state and federal requirements governing lobbyists, including lobbyist ethical requirements.

(2) A training course described in Subsection (1) shall include training materials and exercises that are available on the Internet to lobbyists and to the public.

(3) The lieutenant governor shall design the ethics training course to assist lobbyists in understanding and complying with current ethical and campaign finance requirements under state law, legislative rules, and federal law.

(4) The lieutenant governor may enter into an agreement with the [~~Department~~] Division of Human Resource Management to assist the lieutenant governor in providing the workplace discrimination and harassment training described in this section.

(5) A training course described in this section shall include provisions for verifying when a lobbyist has successfully completed the training.

(6) (a) A lobbyist shall, within 30 days after the day on which the lobbyist applies for a

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lobbying license or a lobbying license renewal:

- (i) successfully complete the training courses described in this section; and
- (ii) provide to the lieutenant governor a document, signed by the lobbyist, certifying

that the lobbyist has:

- (A) completed the training courses required by this section; and
- (B) received, read, understands, and will comply with the workplace discrimination

and harassment policies adopted by the Utah Senate, the Utah House, and Utah's executive branch.

(b) The lieutenant governor may not issue a lobbying license, or renew a lobbying license, until the lieutenant governor has received from the lobbyist the document required by Subsection (6)(a).

- (7) A signature described in Subsection (6)(b) may be an electronic signature.

Section ~~43~~15. Section **46-1-3** is amended to read:

46-1-3. Qualifications -- Application for notarial commission required -- Term.

(1) Except as provided in Subsection (4), and subject to Section 46-1-3.5, the lieutenant governor shall commission as a notary any qualified person who submits an application in accordance with this chapter.

- (2) To qualify for a notarial commission an individual shall:

- (a) be at least 18 years old;
- (b) lawfully reside in the state for at least 30 days immediately before the individual applies for a notarial commission;

- (c) be able to read, write, and understand English;

- (d) submit an application to the lieutenant governor containing no significant

misstatement or omission of fact, that includes:

- (i) the individual's:

- (A) name as it will appear on the commission;

- (B) residential address;

- (C) business address;

- (D) daytime telephone number; and

- (E) date of birth;

- (ii) an affirmation that the individual meets the requirements of this section;

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(iii) an indication of any criminal convictions the individual has received, including a plea of admission or no contest;

(iv) all issuances, denials, revocations, suspensions, restrictions, and resignations of a notarial commission or other professional license involving the applicant in this or any other state;

(v) an indication that the individual has passed the examination described in Subsection (6); and

(vi) payment of an application fee that the lieutenant governor establishes in accordance with Section 63J-1-504;

(e) (i) be a United States citizen; or

(ii) have permanent resident status under Section 245 of the Immigration and Nationality Act; and

(f) submit to a background check described in Subsection (3).

(3) (a) The lieutenant governor shall:

(i) request the [~~Department~~] Division of Human Resource Management to perform a criminal background check under Subsection 53-10-108(16) on each individual who submits an application under this section;

(ii) require an individual who submits an application under this section to provide a signed waiver on a form provided by the lieutenant governor that complies with Subsection 53-10-108(4); and

(iii) provide the [~~Department~~] Division of Human Resource Management the personal identifying information of each individual who submits an application under this section.

(b) The [~~Department~~] Division of Human Resource Management shall:

(i) perform a criminal background check under Subsection 53-10-108(16) on each individual described in Subsection (3)(a)(i); and

(ii) provide to the lieutenant governor all information that pertains to the individual described in Subsection (3)(a)(i) that the department identifies or receives as a result of the background check.

(4) The lieutenant governor may deny an application based on:

(a) the applicant's conviction for a crime involving dishonesty or moral turpitude;

(b) any revocation, suspension, or restriction of a notarial commission or professional

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license issued to the applicant by this or any other state;

(c) the applicant's official misconduct while acting in the capacity of a notary; or

(d) the applicant's failure to pass the examination described in Subsection (6).

(5) (a) An individual whom the lieutenant governor commissions as a notary:

(i) may perform notarial acts in any part of the state for a term of four years, unless the person resigns or the commission is revoked or suspended under Section 46-1-19; and

(ii) except through a remote notarization performed in accordance with this chapter, may not perform a notarial act for another individual who is outside of the state.

(b) (i) After an individual's commission expires, the individual may not perform a notarial act until the individual obtains a new commission.

(ii) An individual whose commission expires and who wishes to obtain a new commission shall submit a new application, showing compliance with the requirements of this section.

(6) (a) Each applicant for a notarial commission shall take an examination that the lieutenant governor approves and submit the examination to a testing center that the lieutenant governor designates for purposes of scoring the examination.

(b) The testing center that the lieutenant governor designates shall issue a written acknowledgment to the applicant indicating whether the applicant passed or failed the examination.

(7) (a) A notary shall maintain permanent residency in the state during the term of the notary's notarial commission.

(b) A notary who does not maintain permanent residency under Subsection (7)(a) shall resign the notary's notarial commission in accordance with Section 46-1-21.

Section ~~{14}~~16. Section **46-4-503** is amended to read:

46-4-503. Government products and services provided electronically.

(1) Notwithstanding Section 46-4-501, a state governmental agency that administers one or more of the following transactions shall allow those transactions to be conducted electronically:

(a) an application for or renewal of a professional or occupational license issued under Title 58, Occupations and Professions;

(b) the renewal of a drivers license;

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- (c) an application for a hunting or fishing license;
- (d) the filing of:
 - (i) a return under Title 59, Chapter 10, Individual Income Tax Act, or Title 59, Chapter 12, Sales and Use Tax Act;
 - (ii) a court document, as defined by the Judicial Council; or
 - (iii) a document under Title 70A, Uniform Commercial Code;
- (e) a registration for:
 - (i) a product; or
 - (ii) a brand;
- (f) a renewal of a registration of a motor vehicle;
- (g) a registration under:
 - (i) Title 16, Corporations;
 - (ii) Title 42, Names; or
 - (iii) Title 48, Unincorporated Business Entity Act; or
- (h) submission of an application for benefits:
 - (i) under Title 35A, Chapter 3, Employment Support Act;
 - (ii) under Title 35A, Chapter 4, Employment Security Act; or
 - (iii) related to accident and health insurance.
- (2) The state system of public education, in coordination with the Utah Education and Telehealth Network, shall make reasonable progress toward making the following services available electronically:
 - (a) secure access by parents and students to student grades and progress reports;
 - (b) email communications with:
 - (i) teachers;
 - (ii) parent-teacher associations; and
 - (iii) school administrators;
 - (c) access to school calendars and schedules; and
 - (d) teaching resources that may include:
 - (i) teaching plans;
 - (ii) curriculum guides; and
 - (iii) media resources.

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(3) A state governmental agency shall:

(a) in carrying out the requirements of this section, take reasonable steps to ensure the security and privacy of records that are private or controlled as defined by Title 63G, Chapter 2, Government Records Access and Management Act;

(b) in addition to those transactions listed in Subsections (1) and (2), determine any additional services that may be made available to the public through electronic means; and

(c) as part of the agency's information technology plan required by Section [~~63F-1-204~~] 63A-16-203, report on the progress of compliance with Subsections (1) through (3).

(4) Notwithstanding the other provisions of this part, a state governmental agency is not required by this part to conduct a transaction electronically if:

(a) conducting the transaction electronically is not required by federal law; and

(b) conducting the transaction electronically is:

(i) impractical;

(ii) unreasonable; or

(iii) not permitted by laws pertaining to privacy or security.

(5) (a) For purposes of this Subsection (5), "one-stop shop" means the consolidation of access to diverse services and agencies at one location including virtual colocation.

(b) State agencies that provide services or offer direct assistance to the business community shall participate in the establishment, maintenance, and enhancement of an integrated Utah business web portal known as Business.utah.gov. The purpose of the business web portal is to provide "one-stop shop" assistance to businesses.

(c) State agencies shall partner with other governmental and nonprofit agencies whose primary mission is to provide services or offer direct assistance to the business community in Utah in fulfilling the requirements of this section.

(d) The following state entities shall comply with the provisions of this Subsection (5):

(i) Governor's Office of Economic Development, which shall serve as the managing partner for the website;

(ii) Department of Workforce Services;

(iii) Department of Commerce;

(iv) Tax Commission;

(v) Department of [~~Administrative Services~~] Government Operations - Division of

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Purchasing and General Services, including other state agencies operating under a grant of authority from the division to procure goods and services in excess of \$5,000;

- (vi) Department of Agriculture;
- (vii) Department of Natural Resources; and
- (viii) other state agencies that provide services or offer direct assistance to the business sector.

(e) The business services available on the business web portal may include:

- (i) business life cycle information;
- (ii) business searches;
- (iii) employment needs and opportunities;
- (iv) motor vehicle registration;
- (v) permit applications and renewal;
- (vi) tax information;
- (vii) government procurement bid notifications;
- (viii) general business information;
- (ix) business directories; and
- (x) business news.

Section ~~15~~17. Section **46-5-102** is amended to read:

46-5-102. Definitions.

In this chapter:

- (1) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (2) "Legal material" means, whether or not in effect:
 - (a) the Utah Constitution;
 - (b) the Laws of Utah;
 - (c) the Utah Code;
 - (d) the Utah Administrative Code; or
 - (e) the Utah State Bulletin.
- (3) "Official publisher" means:
 - (a) for the Utah Constitution, the Office of Legislative Research and General Counsel;
 - (b) for the Laws of Utah, the Office of Legislative Research and General Counsel;

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(c) for the Utah Code, the Office of Legislative Research and General Counsel;

(d) for the Utah Administrative Code, the Office of Administrative Rules created in Section 63G-3-401 within the Department of [~~Administrative Services~~] Government Operations; or

(e) for the Utah State Bulletin, the Office of Administrative Rules.

(4) "Publish" means to display, present, or release to the public, or cause to be displayed, presented, or released to the public, by the official publisher.

(5) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(6) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Section ~~46~~18. Section **49-11-406** is amended to read:

49-11-406. Governor's appointed executives and senior staff -- Appointed legislative employees -- Transfer of value of accrued defined benefit -- Procedures.

(1) As used in this section:

(a) "Defined benefit balance" means the total amount of the contributions made on behalf of a member to a defined benefit system plus refund interest.

(b) "Senior staff" means an at-will employee who reports directly to an elected official, executive director, or director and includes a deputy director and other similar, at-will employee positions designated by the governor, the speaker of the House, or the president of the Senate and filed with the [~~Department~~] Division of Human Resource Management and the Utah State Retirement Office.

(2) In accordance with this section and subject to requirements under federal law and rules made by the board, a member who has service credit from a system may elect to be exempt from coverage under a defined benefit system and to have the member's defined benefit balance transferred from the defined benefit system or plan to a defined contribution plan in the member's own name if the member is:

(a) the state auditor;

(b) the state treasurer;

(c) an appointed executive under Subsection 67-22-2(1)(a);

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(d) an employee in the Governor's Office;
(e) senior staff in the Governor's Office of Management and Budget;
(f) senior staff in the Governor's Office of Economic Development;
(g) senior staff in the Commission on Criminal and Juvenile Justice;
(h) a legislative employee appointed under Subsection 36-12-7(3)(a);
(i) a legislative employee appointed by the speaker of the House of Representatives, the House of Representatives minority leader, the president of the Senate, or the Senate minority leader; or

(j) senior staff of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.

(3) An election made under Subsection (2):

(a) is final, and no right exists to make any further election;

(b) is considered a request to be exempt from coverage under a defined benefits system; and

(c) shall be made on forms provided by the office.

(4) The board shall adopt rules to implement and administer this section.

Section ~~417~~19. Section **49-14-201** is amended to read:

49-14-201. System membership -- Eligibility.

(1) Except as provided in Section 49-15-201, a public safety service employee of a participating employer participating in this system is eligible for service credit in this system at the earliest of:

(a) July 1, 1969, if the public safety service employee was employed by the participating employer on July 1, 1969, and the participating employer was participating in this system on that date;

(b) the date the participating employer begins participating in this system if the public safety service employee was employed by the participating employer on that date; or

(c) the date the public safety service employee is employed by the participating employer and is eligible to perform public safety service, except that a public safety service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

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(2) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Prior to transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(3) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.

(4) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this system.

(b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.

(ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system prior to July 1, 1989.

(iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.

(iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:

(A) the participating employer covered other similarly situated positions under this system during the time period in question; and

(B) the position otherwise meets all eligibility requirements for receiving service credit

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in this system during the period for which service credit is to be granted.

(5) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.

(6) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

(7) A public safety employee who is transferred or promoted to an administration position requiring the performance of duties that consist primarily of management or supervision of public safety service employees shall continue to earn public safety service credit in this system as long as the employee remains employed in the same department.

(8) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:

(a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and

(b) the employee:

(i) remains employed by the Department of Corrections;

(ii) meets the eligibility requirements of this system;

(iii) was hired into a position covered by this system prior to July 1, 2015; and

(iv) has not had a break in service on or after July 1, 2015.

(9) An employee who is reassigned to the [~~Department~~] Division of Technology Services or to the [~~Department~~] Division of Human Resource Management, and who was a member of this system, is entitled to remain a member of this system.

(10) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:

(i) except for a dispatcher, place the employee's life or personal safety at risk; and

(ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or 53-13-105.

(b) If a position satisfies the requirements of Subsection (10)(a), the office and the Peace Officer Standards and Training Council shall consider whether or not the position requires the employee to:

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(i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) perform duties that consist primarily of providing community protection; and

(iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

(11) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (10) in making its recommendation.

(12) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

(13) Except as provided under Subsection (14), if a participating employer's public safety service employees are not covered by this system or under Chapter 15, Public Safety Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.

(14) (a) A public safety service employee employed by an airport police department, which elects to cover its public safety service employees under the Public Safety Noncontributory Retirement System under Subsection (13), may elect to remain in the public safety service employee's current retirement system.

(b) The public safety service employee's election to remain in the current retirement system under Subsection (14)(a):

(i) shall be made at the time the employer elects to move its public safety service employees to a public safety retirement system;

(ii) documented by written notice to the participating employer; and

(iii) is irrevocable.

(15) (a) Subject to Subsection (16), beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover its dispatchers under this

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system.

(b) A participating employer's election to cover its dispatchers under this system under Subsection (15)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (15)(b), is not eligible for service credit in this system.

(16) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Section ~~{18}~~20. Section **49-15-201** is amended to read:

49-15-201. System membership -- Eligibility.

(1) (a) A public safety service employee employed by the state after July 1, 1989, but before July 1, 2011, is eligible for service credit in this system.

(b) A public safety service employee employed by the state prior to July 1, 1989, may either elect to receive service credit in this system or continue to receive service credit under the system established under Chapter 14, Public Safety Contributory Retirement Act, by following the procedures established by the board under this chapter.

(2) (a) Public safety service employees of a participating employer other than the state that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement System shall be eligible only for service credit in that system.

(b) (i) A participating employer other than the state that elected on or before July 1, 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety service employee to elect to participate in either this system or the Public Safety Contributory Retirement System.

(ii) Except as expressly allowed by this title, the election of the public safety service employee is final and may not be changed.

(c) A public safety service employee hired by a participating employer other than the state after July 1, 1989, but before July 1, 2011, shall become a member in this system.

(d) A public safety service employee of a participating employer other than the state

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who began participation in this system after July 1, 1989, but before July 1, 2011, is only eligible for service credit in this system.

(e) A person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

(3) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Prior to transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(4) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.

(5) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this system.

(b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.

(ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system prior to July 1, 1989.

(iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.

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(iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:

(A) the participating employer covered other similarly situated positions under this system during the time period in question; and

(B) the position otherwise meets all eligibility requirements for receiving service credit in this system during the period for which service credit is to be granted.

(6) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.

(7) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

(8) A public safety service employee who is transferred or promoted to an administration position requiring the performance of duties that consist primarily of management or supervision of public safety service employees shall continue to earn public safety service credit in this system as long as the employee remains employed in the same department.

(9) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:

(a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and

(b) the employee:

(i) remains employed by the Department of Corrections;

(ii) meets the eligibility requirements of this system;

(iii) was hired into a position covered by this system prior to July 1, 2015; and

(iv) has not had a break in service on or after July 1, 2015.

(10) Any employee who is reassigned to the [~~Department~~] Division of Technology Services or to the [~~Department~~] Division of Human Resource Management, and who was a member in this system, shall be entitled to remain a member in this system.

(11) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:

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(i) except for a dispatcher, place the employee's life or personal safety at risk; and
(ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or 53-13-105.

(b) If a position satisfies the requirements of Subsection (11)(a), the office and Peace Officer Standards and Training Council shall consider whether the position requires the employee to:

(i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;
(ii) perform duties that consist primarily of providing community protection; and
(iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

(12) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (11) in making its recommendation.

(13) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

(14) Except as provided under Subsection (15), if a participating employer's public safety service employees are not covered by this system or under Chapter 14, Public Safety Contributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.

(15) (a) A public safety service employee employed by an airport police department, which elects to cover its public safety service employees under the Public Safety Noncontributory Retirement System under Subsection (14), may elect to remain in the public safety service employee's current retirement system.

(b) The public safety service employee's election to remain in the current retirement system under Subsection (15)(a):

(i) shall be made at the time the employer elects to move its public safety service employees to a public safety retirement system;

(ii) shall be documented by written notice to the participating employer; and

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(iii) is irrevocable.

(16) (a) Subject to Subsection (17), beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover its dispatchers under this system.

(b) A participating employer's election to cover its dispatchers under this system under Subsection (16)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (16)(b), is not eligible for service credit in this system.

(17) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Section ~~19~~21. Section **49-20-401** is amended to read:

49-20-401. Program -- Powers and duties.

(1) The program shall:

(a) act as a self-insurer of employee benefit plans and administer those plans;

(b) enter into contracts with private insurers or carriers to underwrite employee benefit plans as considered appropriate by the program;

(c) indemnify employee benefit plans or purchase commercial reinsurance as considered appropriate by the program;

(d) provide descriptions of all employee benefit plans under this chapter in cooperation with covered employers;

(e) process claims for all employee benefit plans under this chapter or enter into contracts, after competitive bids are taken, with other benefit administrators to provide for the administration of the claims process;

(f) obtain an annual actuarial review of all health and dental benefit plans and a

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periodic review of all other employee benefit plans;

(g) consult with the covered employers to evaluate employee benefit plans and develop recommendations for benefit changes;

(h) annually submit a budget and audited financial statements to the governor and Legislature which includes total projected benefit costs and administrative costs;

(i) maintain reserves sufficient to liquidate the unrevealed claims liability and other liabilities of the employee benefit plans as certified by the program's consulting actuary;

(j) submit, in advance, its recommended benefit adjustments for state employees to:

(i) the Legislature; and

(ii) the executive director of the state Department Division of Human Resource Management;

(k) determine benefits and rates, upon approval of the board, for multi-employer risk pools, retiree coverage, and conversion coverage;

(l) determine benefits and rates based on the total estimated costs and the employee premium share established by the Legislature, upon approval of the board, for state employees;

(m) administer benefits and rates, upon ratification of the board, for single-employer risk pools;

(n) request proposals for provider networks or health and dental benefit plans administered by third-party carriers at least once every three years for the purposes of:

(i) stimulating competition for the benefit of covered individuals;

(ii) establishing better geographical distribution of medical care services; and

(iii) providing coverage for both active and retired covered individuals;

(o) offer proposals which meet the criteria specified in a request for proposals and accepted by the program to active and retired state covered individuals and which may be offered to active and retired covered individuals of other covered employers at the option of the covered employer;

(p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for the Department of Health if the program provides program benefits to children enrolled in the Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act;

(q) establish rules and procedures governing the admission of political subdivisions or

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educational institutions and their employees to the program;

(r) contract directly with medical providers to provide services for covered individuals;

(s) take additional actions necessary or appropriate to carry out the purposes of this chapter;

(t) (i) require state employees and their dependents to participate in the electronic exchange of clinical health records in accordance with Section 26-1-37 unless the enrollee opts out of participation; and

(ii) prior to enrolling the state employee, each time the state employee logs onto the program's website, and each time the enrollee receives written enrollment information from the program, provide notice to the enrollee of the enrollee's participation in the electronic exchange of clinical health records and the option to opt out of participation at any time; and

(u) at the request of a procurement unit, as that term is defined in Section 63G-6a-103, that administers benefits to program recipients who are not covered by Title 26, Utah Health Code, provide services for:

(i) drugs;

(ii) medical devices; or

(iii) other types of medical care.

(2) (a) Funds budgeted and expended shall accrue from rates paid by the covered employers and covered individuals.

(b) Administrative costs shall be approved by the board and reported to the governor and the Legislature.

(3) The [~~Department~~] Division of Human Resource Management shall include the benefit adjustments described in Subsection (1)(j) in the total compensation plan recommended to the governor required under Subsection [~~67-19-12~~] 63A-17-307(5)(a).

Section ~~49-20-22~~ 22. Section **49-20-410** is amended to read:

49-20-410. High deductible health plan -- Health savings account --

Contributions.

(1) (a) In addition to other employee benefit plans offered under Subsection 49-20-201(1), the office shall offer at least one federally qualified high deductible health plan with a health savings account as an optional health plan.

(b) The provisions and limitations of the plan shall be:

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(i) determined by the office in accordance with federal requirements and limitations;
and

(ii) designed to promote appropriate health care utilization by consumers, including preventive health care services.

(c) A state employee hired on or after July 1, 2011, who is offered a plan under Subsection 49-20-202(1)(a), shall be enrolled in a federally qualified high deductible health plan unless the employee chooses a different health benefit plan during the employee's open enrollment period.

(2) The office shall:

(a) administer the high deductible health plan in coordination with a health savings account for medical expenses for each covered individual in the high deductible health plan;

(b) offer to all employees training regarding all health plans offered to employees;

(c) prepare online training as an option for the training required by Subsections (2)(b) and (4);

(d) ensure the training offered under Subsections (2)(b) and (c) includes information on changing coverages to the high deductible plan with a health savings account, including coordination of benefits with other insurances, restrictions on other insurance coverages, and general tax implications; and

(e) coordinate annual open enrollment with the [~~Department~~] Division of Human Resource Management to give state employees the opportunity to affirmatively select preferences from among insurance coverage options.

(3) (a) Contributions to the health savings account may be made by the employer.

(b) The amount of the employer contributions under Subsection (3)(a) shall be determined annually by the office, after consultation with the [~~Department~~] Division of Human Resource Management and the Governor's Office of Management and Budget so that the annual employer contribution amount is not less than the difference in the actuarial value between the program's health maintenance organization coverage and the federally qualified high deductible health plan coverage, after taking into account any difference in employee premium contribution.

(c) The office shall distribute the annual amount determined under Subsection (3)(b) to employees in two equal amounts with a pay date in January and a pay date in July of each plan

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year.

(d) An employee may also make contributions to the health savings account.

(e) If an employee is ineligible for a contribution to a health savings account under federal law and would otherwise be eligible for the contribution under Subsection (3)(a), the contribution shall be distributed into a health reimbursement account or other tax-advantaged arrangement authorized under the Internal Revenue Code for the benefit of the employee.

(4) (a) An employer participating in a plan offered under Subsection 49-20-202(1)(a) shall require each employee to complete training on the health plan options available to the employee.

(b) The training required by Subsection (4)(a):

(i) shall include materials prepared by the office under Subsection (2);

(ii) may be completed online; and

(iii) shall be completed:

(A) before the end of the 2012 open enrollment period for current enrollees in the program; and

(B) for employees hired on or after July 1, 2011, before the employee's selection of a plan in the program.

Section ~~21~~23. Section **53-1-106** is amended to read:

53-1-106. Department duties -- Powers.

(1) In addition to the responsibilities contained in this title, the department shall:

(a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code, including:

(i) setting performance standards for towing companies to be used by the department, as required by Section 41-6a-1406; and

(ii) advising the Department of Transportation regarding the safe design and operation of school buses, as required by Section 41-6a-1304;

(b) make rules to establish and clarify standards pertaining to the curriculum and teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

(c) aid in enforcement efforts to combat drug trafficking;

(d) meet with the [~~Department~~] Division of Technology Services to formulate contracts, establish priorities, and develop funding mechanisms for dispatch and

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telecommunications operations;

(e) provide assistance to the Crime Victim Reparations Board and the Utah Office for Victims of Crime in conducting research or monitoring victims' programs, as required by Section 63M-7-505;

(f) develop sexual assault exam protocol standards in conjunction with the Utah Hospital Association;

(g) engage in emergency planning activities, including preparation of policy and procedure and rulemaking necessary for implementation of the federal Emergency Planning and Community Right to Know Act of 1986, as required by Section 53-2a-702;

(h) implement the provisions of Section 53-2a-402, the Emergency Management Assistance Compact;

(i) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

(j) employ a law enforcement officer as a public safety liaison to be housed at the State Board of Education who shall work with the State Board of Education to:

(i) support training with relevant state agencies for school resource officers as described in Section 53G-8-702;

(ii) coordinate the creation of model policies and memorandums of understanding for a local education agency and a local law enforcement agency; and

(iii) ensure cooperation between relevant state agencies, a local education agency, and a local law enforcement agency to foster compliance with disciplinary related statutory provisions, including Sections 53E-3-516 and 53G-8-211.

(2) (a) The department shall establish a schedule of fees as required or allowed in this title for services provided by the department.

(b) All fees not established in statute shall be established in accordance with Section 63J-1-504.

(3) The department may establish or contract for the establishment of an Organ

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Procurement Donor Registry in accordance with Section 26-28-120.

Section ~~{22}~~24. Section **53-2a-105** is amended to read:

53-2a-105. Emergency Management Administration Council created -- Function -- Composition -- Expenses.

(1) There is created the Emergency Management Administration Council to provide advice and coordination for state and local government agencies on government emergency prevention, mitigation, preparedness, response, and recovery actions and activities.

(2) The council shall meet at the call of the chair, but at least semiannually.

(3) The council shall be made up of the:

(a) lieutenant governor, or the lieutenant governor's designee;

(b) attorney general, or the attorney general's designee;

(c) heads of the following state agencies, or their designees:

(i) Department of Public Safety;

(ii) Division of Emergency Management;

(iii) Department of Transportation;

(iv) Department of Health;

(v) Department of Environmental Quality;

(vi) Department of Workforce Services;

(vii) Department of Natural Resources;

(viii) Department of Agriculture and Food;

(ix) ~~[Department]~~ Division of Technology Services; and

(x) Division of Indian Affairs;

(d) adjutant general of the National Guard or the adjutant general's designee;

(e) statewide interoperability coordinator of the Utah Communications Authority or the coordinator's designee;

(f) two representatives with expertise in emergency management appointed by the Utah League of Cities and Towns;

(g) two representatives with expertise in emergency management appointed by the Utah Association of Counties;

(h) up to four additional members with expertise in emergency management, critical infrastructure, or key resources as these terms are defined under 6 U.S. Code Section 101

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appointed from the private sector, by the co-chairs of the council;

(i) two representatives appointed by the Utah Emergency Management Association;

(j) one representative from the Urban Area Working Group, appointed by the council co-chairs;

(k) one representative from education, appointed by the council co-chairs; and

(l) one representative from a volunteer or faith-based organization, appointed by the council co-chairs.

(4) The commissioner and the lieutenant governor shall serve as co-chairs of the council.

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

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

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

(6) The council shall coordinate with existing emergency management related entities including:

(a) the Emergency Management Regional Committees established by the Department of Public Safety;

(b) the Statewide Mutual Aid Committee established under Section 53-2a-303; and

(c) the Hazardous Chemical Emergency Response Commission designated under Section 53-2a-703.

(7) The council may appoint additional members or establish other committees and task forces as determined necessary by the council to carry out the duties of the council.

Section ~~23~~25. Section **53-2a-802** is amended to read:

53-2a-802. Definitions.

(1) (a) "Absent" means:

(i) not physically present or not able to be communicated with for 48 hours; or

(ii) for local government officers, as defined by local ordinances.

(b) "Absent" does not include a person who can be communicated with via telephone, radio, or telecommunications.

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(2) "Department" means the Department of [~~Administrative Services~~] Government Operations, the Department of Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, [~~the Department of Human Resource Management~~], the Department of Workforce Services, the Labor Commission, the National Guard, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Department of Human Services, the State Tax Commission, [~~the Department of Technology Services~~], the Department of Transportation, any other major administrative subdivisions of state government, the State Board of Education, the Utah Board of Higher Education, the Utah Housing Corporation, the State Retirement Board, and each institution of higher education within the system of higher education.

(3) "Division" means the Division of Emergency Management established in Title 53, Chapter 2a, Part 1, Emergency Management Act.

(4) "Emergency interim successor" means a person designated by this part to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable.

(5) "Executive director" means the person with ultimate responsibility for managing and overseeing the operations of each department, however denominated.

(6) (a) "Office" includes all state and local offices, the powers and duties of which are defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

(b) "Office" does not include the office of governor or the legislative or judicial offices.

(7) "Place of governance" means the physical location where the powers of an office are being exercised.

(8) "Political subdivision" includes counties, cities, towns, metro townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(9) "Political subdivision officer" means a person holding an office in a political subdivision.

(10) "State officer" means the attorney general, the state treasurer, the state auditor, and the executive director of each department.

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(11) "Unavailable" means:

(a) absent from the place of governance during a disaster that seriously disrupts normal governmental operations, whether or not that absence or inability would give rise to a vacancy under existing constitutional or statutory provisions; or

(b) as otherwise defined by local ordinance.

Section ~~{24}~~26. Section **53-6-104** is amended to read:

53-6-104. Appointment of director of division -- Qualifications -- Appointment of employees -- Term of office -- Compensation.

(1) The commissioner, upon recommendation of the council and with the approval of the governor, shall appoint a director of the division.

(2) The director is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.

(3) The director shall be a full-time officer of the state.

(4) The director may appoint deputies, consultants, clerks, and other employees from eligibility lists authorized by the [~~Department~~] Division of Human Resource Management.

(5) The director may be removed from his position at the will of the commissioner.

(6) The director shall receive compensation as provided by Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

Section ~~{25}~~27. Section **53-10-108** is amended to read:

53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.

(1) As used in this section:

(a) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.

(b) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(c) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

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(2) Dissemination of information from a criminal history record, including information obtained from a fingerprint background check, name check, warrant of arrest information, or information from division files, is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice;

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(c) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity;

(d) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(e) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(f) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(g) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(h) state agencies for the purpose of conducting a background check for the following individuals:

(i) employees;

(ii) applicants for employment;

(iii) volunteers; and

(iv) contract employees;

(i) governor's office for the purpose of conducting a background check on the following individuals:

(i) cabinet members;

(ii) judicial applicants; and

(iii) members of boards, committees, and commissions appointed by the governor;

(j) the office of the lieutenant governor for the purpose of conducting a background

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check on an individual applying to be a notary public under Section 46-1-3[-];

(k) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

(l) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(3) An agreement under Subsection (2)(k) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) shall obtain a signed waiver from the person whose information is requested.

(b) The waiver shall notify the signee:

- (i) that a criminal history background check will be conducted;
- (ii) who will see the information; and
- (iii) how the information will be used.

(c) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal justice name based background check of local databases to the bureau shall provide to the bureau:

- (i) personal identifying information for the subject of the background check; and
- (ii) the fee required by Subsection (15).

(d) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a WIN database check and a nationwide background check shall provide to the bureau:

- (i) personal identifying information for the subject of the background check;
- (ii) a fingerprint card for the subject of the background check; and
- (iii) the fee required by Subsection (15).

(e) Information received by a qualifying entity under Subsection (2)(c), state agency, or

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other agency or individual described in Subsections (2)(d) through (j) may only be:

(i) available to individuals involved in the hiring or background investigation of the job applicant, employee, or notary applicant;

(ii) used for the purpose of assisting in making an employment appointment, selection, or promotion decision or for considering a notary applicant under Section 46-1-3; and

(iii) used for the purposes disclosed in the waiver signed in accordance with Subsection (4)(b).

(f) An individual who disseminates or uses information obtained from the division under Subsections (2)(c) through (j) for purposes other than those specified under Subsection (4)(e), in addition to any penalties provided under this section, is subject to civil liability.

(g) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) that obtains background check information shall provide the subject of the background check an opportunity to:

(i) review the information received as provided under Subsection (9); and

(ii) respond to any information received.

(h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).

(i) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsections (2)(c) through (j).

(5) (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under Subsection (5)(b), (c), or (d).

(b) A criminal history provided to an agency pursuant to Subsection (2)(f) may be provided by the agency to the individual who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

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(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 62A-5-103.5(5), provide a criminal history record to the state agency or the agency's designee.

(6) The division may not disseminate criminal history record information to qualifying entities under Subsection (2)(c) regarding employment background checks if the information is related to charges:

- (a) that have been declined for prosecution;
- (b) that have been dismissed; or
- (c) regarding which a person has been acquitted.

(7) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(9) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (9)(a) shall be set in accordance with Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(10) The private security agencies as provided in Subsection (2)(g):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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(11) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

(12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

(13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:

- (i) the WIN Database rap back system, or any successor system;
- (ii) the FBI Rap Back System; or
- (iii) a system maintained by the division.

(b) A qualifying entity or an entity described in Subsection (2) may only make a request under Subsection (13)(a) if the entity:

- (i) has the authority through state or federal statute or federal executive order;
- (ii) obtains a signed waiver from the individual whose fingerprints are being registered;

and

(iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.

(14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.

(15) (a) The division shall impose fees set in accordance with Section 63J-1-504 for the applicant fingerprint card, name check, and to register fingerprints under Subsection (13)(a).

(b) Funds generated under this Subsection (15) shall be deposited into the General

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Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(c) The division may collect fees charged by an outside agency for services required under this section.

(16) For the purposes of conducting a criminal background check authorized under Subsection (2)(h),(i), or (j), the [~~Department~~] Division of Human Resource Management, in accordance with Title [~~67, Chapter 19~~] 63A, Chapter 17, Utah State Personnel Management Act, and the governor's office shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

Section ~~26~~28. Section **53B-17-105** is amended to read:

53B-17-105. Utah Education and Telehealth Network.

(1) There is created the Utah Education and Telehealth Network, or UETN.

(2) UETN shall:

(a) coordinate and support the telecommunications needs of public and higher education, public libraries, and entities affiliated with the state systems of public and higher education as approved by the Utah Education and Telehealth Network Board, including the statewide development and implementation of a network for education, which utilizes satellite, microwave, fiber-optic, broadcast, and other transmission media;

(b) coordinate the various telecommunications technology initiatives of public and higher education;

(c) provide high-quality, cost-effective Internet access and appropriate interface equipment for schools and school systems;

(d) procure, install, and maintain telecommunication services and equipment on behalf of public and higher education;

(e) develop or implement other programs or services for the delivery of distance learning and telehealth services as directed by law;

(f) apply for state and federal funding on behalf of:

(i) public and higher education; and

(ii) telehealth services;

(g) in consultation with health care providers from a variety of health care systems, explore and encourage the development of telehealth services as a means of reducing health

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care costs and increasing health care quality and access, with emphasis on assisting rural health care providers and special populations; and

(h) in consultation with the Utah Department of Health, advise the governor and the Legislature on:

- (i) the role of telehealth in the state;
- (ii) the policy issues related to telehealth;
- (iii) the changing telehealth needs and resources in the state; and
- (iv) state budgetary matters related to telehealth.

(3) In performing the duties under Subsection (2), UETN shall:

(a) provide services to schools, school districts, and the public and higher education systems through an open and competitive bidding process;

(b) work with the private sector to deliver high-quality, cost-effective services;

(c) avoid duplicating facilities, equipment, or services of private providers or public telecommunications service, as defined under Section 54-8b-2;

(d) utilize statewide economic development criteria in the design and implementation of the educational telecommunications infrastructure; and

(e) assure that public service entities, such as educators, public service providers, and public broadcasters, are provided access to the telecommunications infrastructure developed in the state.

(4) The University of Utah shall provide administrative support for UETN.

(5) (a) The Utah Education and Telehealth Network Board, which is the governing board for UETN, is created.

(b) The Utah Education and Telehealth Network Board shall have 13 members as follows:

(i) five members representing the state system of higher education, of which at least one member represents technical colleges, appointed by the commissioner of higher education;

(ii) four members representing the state system of public education appointed by the State Board of Education;

(iii) one member representing the state library appointed by the state librarian;

(iv) two members representing hospitals as follows:

(A) the members may not be employed by the same hospital system;

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- (B) one member shall represent a rural hospital;
- (C) one member shall represent an urban hospital; and
- (D) the chief administrator or the administrator's designee for each hospital licensed in this state shall select the two hospital representatives; and
- (v) one member representing the office of the governor, appointed by the governor.
- (c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
 - (d) (i) The board shall elect a chair.
 - (ii) The chair shall set the agenda for the board meetings.
- (6) A member of the board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7) The board:
 - (a) shall hire an executive director for UETN who may hire staff for UETN as permitted by the budget;
 - (b) may terminate the executive director's employment or assignment;
 - (c) shall determine the executive director's salary;
 - (d) shall annually conduct a performance evaluation of the executive director;
 - (e) shall establish policies the board determines are necessary for the operation of UETN and the administration of UETN's duties; and
 - (f) shall advise UETN in:
 - (i) the development and operation of a coordinated, statewide, multi-option telecommunications system to assist in the delivery of educational services and telehealth services throughout the state; and
 - (ii) acquiring, producing, and distributing instructional content.
- (8) The executive director of UETN shall be an at-will employee.
- (9) UETN shall locate and maintain educational and telehealth telecommunication infrastructure throughout the state.

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(10) Educational institutions shall manage site operations under policy established by UETN.

(11) Subject to future budget constraints, the Legislature shall provide an annual appropriation to operate UETN.

(12) If the network operated by the [~~Department~~] Division of Technology Services is not available, UETN may provide network connections to the central administration of counties and municipalities for the sole purpose of transferring data to a secure facility for backup and disaster recovery.

Section ~~{27}~~29. Section **53C-1-201** is amended to read:

53C-1-201. Creation of administration -- Purpose -- Director -- Participation in Risk Management Fund -- Closed meetings.

(1) (a) There is established within state government the School and Institutional Trust Lands Administration.

(b) The administration shall manage all school and institutional trust lands and assets within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation of Revenue from Trust Lands, and Title 53D, Chapter 1, School and Institutional Trust Fund Management Act.

(2) The administration is an independent state agency and not a division of any other department.

(3) (a) The administration is subject to the usual legislative and executive department controls except as provided in this Subsection (3).

(b) (i) The director may make rules as approved by the board that allow the administration to classify a business proposal submitted to the administration as protected under Section 63G-2-305, for as long as is necessary to evaluate the proposal.

(ii) The administration shall return the proposal to the party who submitted the proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access and Management Act, if the administration determines not to proceed with the proposal.

(iii) The administration shall classify the proposal pursuant to law if the administration decides to proceed with the proposal.

(iv) Section 63G-2-403 does not apply during the review period.

(c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah

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Administrative Rulemaking Act, except that the administration is not subject to Subsections 63G-3-301(5), (6), (7), and (13) and Section 63G-3-601, and the director, with the board's approval, may establish a procedure for the expedited approval of rules, based on written findings by the director showing:

- (i) the changes in business opportunities affecting the assets of the trust;
- (ii) the specific business opportunity arising out of those changes which may be lost without the rule or changes to the rule;
- (iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without causing the loss of the specific opportunity;
- (iv) approval by at least five board members; and
- (v) that the director has filed a copy of the rule and a rule analysis, stating the specific reasons and justifications for the director's findings, with the Office of Administrative Rules and notified interested parties as provided in Subsection 63G-3-301(10).

(d) (i) The administration shall comply with Title ~~[67]~~ 63A, Chapter ~~[19]~~ 17, Utah State Personnel Management Act, except as provided in this Subsection (3)(d).

(ii) (A) The board may approve, upon recommendation of the director, that exemption for specific positions under Subsections ~~[67-19-12(2) and 67-19-15(1)]~~ 63A-17-301(1) and 63A-17-307(2) is required in order to enable the administration to efficiently fulfill the administration's responsibilities under the law.

(B) The director shall consult with the ~~[executive]~~ director of the ~~[Department]~~ Division of Human Resource Management before making a recommendation under Subsection (3)(d)(ii)(A).

(iii) The positions of director, deputy director, associate director, assistant director, legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs officer are exempt under Subsections ~~[67-19-12(2) and 67-19-15(1)]~~ 63A-17-301(1) and 63A-17-307(2).

(iv) (A) The director shall set salaries for exempted positions, except for the director, after consultation with the ~~[executive]~~ director of the ~~[Department]~~ Division of Human Resource Management, within ranges approved by the board.

(B) The board and director shall consider salaries for similar positions in private enterprise and other public employment when setting salary ranges.

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(v) The board may create an annual incentive and bonus plan for the director and other administration employees designated by the board, based upon the attainment of financial performance goals and other measurable criteria defined and budgeted in advance by the board.

(e) The administration shall comply with:

(i) subject to Subsection (8), Title 52, Chapter 4, Open and Public Meetings Act;

(ii) Title 63G, Chapter 2, Government Records Access and Management Act; and

(iii) Title 63G, Chapter 6a, Utah Procurement Code, except where the board approves, upon recommendation of the director, exemption from the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for procurement, that enable the administration to efficiently fulfill the administration's responsibilities under the law.

(f) (i) Except as provided in Subsection (3)(f)(ii), the administration is not subject to the fee agency requirements of Section 63J-1-504.

(ii) The following fees of the administration are subject to Section 63J-1-504:

(A) application;

(B) assignment;

(C) amendment;

(D) affidavit for lost documents;

(E) name change;

(F) reinstatement;

(G) grazing nonuse;

(H) extension of time;

(I) partial conveyance;

(J) patent reissue;

(K) collateral assignment;

(L) electronic payment; and

(M) processing.

(g) (i) Notwithstanding Subsection 63J-1-206(2)(c), the administration may transfer money between the administration's line items.

(ii) Before transferring appropriated money between line items, the administration shall submit a proposal to the board for the board's approval.

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(iii) If the board gives approval to a proposal to transfer appropriated money between line items, the administration shall submit the proposal to the Legislative Executive Appropriations Committee for the Legislative Executive Appropriations Committee's review and recommendations.

(iv) The Legislative Executive Appropriations Committee may recommend:

(A) that the administration transfer the appropriated money between line items;

(B) that the administration not transfer the appropriated money between line items; or

(C) to the governor that the governor call a special session of the Legislature to

supplement the appropriated budget for the administration.

(4) The administration is managed by a director of school and institutional trust lands appointed by a majority vote of the board of trustees with the consent of the governor.

(5) (a) The board of trustees shall provide policies for the management of the administration and for the management of trust lands and assets.

(b) (i) The board shall provide policies for the ownership and control of Native American remains that are discovered or excavated on school and institutional trust lands in consultation with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4, Native American Grave Protection and Repatriation Act.

(ii) The director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement policies provided by the board regarding Native American remains.

(6) In connection with joint ventures and other transactions involving trust lands and minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board approval, may become a member of a limited liability company under Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405 and is considered a person under Section 48-3a-102.

(7) Subject to Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

(8) (a) Notwithstanding Subsection (3), Subsection 52-4-204(2) or 52-4-205(1), and in addition to the reasons to close a meeting under Section 52-4-205, the board may hold a closed meeting if two-thirds of the members present when a quorum is present vote to close the meeting for the purpose of:

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(i) conducting a strategy session to discuss market conditions relevant to the sale of particular trust assets if the terms of the sale of any trust assets are publicly disclosed before the board approves the sale and a public discussion would:

(A) disclose the appraisal or estimated value of the trust assets under consideration; or

(B) prevent the board from completing a contemplated transaction concerning the trust assets on the best possible terms; or

(ii) conducting a strategy session to evaluate the terms of a joint venture or other business arrangement authorized under Subsection 53C-1-303(3)(e) if the terms of the joint venture or other business arrangement are publicly disclosed before the board approves the transaction and a public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the trust assets under consideration; or

(B) prevent the board from completing the transaction concerning the joint venture or other business arrangement on the best possible terms.

(b) The board shall comply with the procedural requirements for closing a meeting under Title 52, Chapter 4, Open and Public Meetings Act.

Section ~~28~~30. Section **53D-1-103** is amended to read:

53D-1-103. Application of other law.

(1) The office, board, and nominating committee are subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63A, Chapter 1, Part 2, Utah Public Finance Website.

(2) Subject to Subsection 63E-1-304(2), the office may participate in coverage under the Risk Management Fund, created in Section 63A-4-201.

(3) The office and board are subject to:

(a) Title 63G, Chapter 2, Government Records Access and Management Act, except for records relating to investment activities; and

(b) Title 63G, Chapter 6a, Utah Procurement Code.

(4) (a) In making rules under this chapter, the director is subject to and shall comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except as provided in Subsection (4)(b).

(b) Subsections 63G-3-301(6) and (7) and Section 63G-3-601 do not apply to the director's making of rules under this chapter.

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(5) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to a board member to the same extent as it applies to an employee, as defined in Section 63G-7-102.

(6) (a) A board member, the director, and an office employee or agent are subject to:

(i) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; and

(ii) other requirements that the board establishes.

(b) In addition to any restrictions or requirements imposed under Subsection (6)(a), a board member, the director, and an office employee or agent may not directly or indirectly acquire an interest in the trust fund or receive any direct benefit from any transaction dealing with trust fund money.

(7) (a) Except as provided in Subsection (7)(b), the office shall comply with Title ~~[67]~~ 63A, Chapter ~~[19]~~ 17, Utah State Personnel Management Act.

(b) (i) Upon a recommendation from the director after the director's consultation with the ~~[executive]~~ director of the ~~[Department]~~ Division of Human Resource Management, the board may provide that specified positions in the office are exempt from Section ~~[67-19-12]~~ 63A-17-307 and the career service provisions of Title ~~[67]~~ 63A, Chapter ~~[19]~~ 17, Utah State Personnel Management Act, as provided in Subsection ~~[67-19-15]~~ 63A-17-301(1), if the board determines that exemption is required for the office to fulfill efficiently its responsibilities under this chapter.

(ii) The director position is exempt from Section ~~[67-19-12]~~ 63A-17-307 and the career service provisions of Title ~~[67]~~ 63A, Chapter ~~[19]~~ 17, Utah State Personnel Management Act, as provided in Subsection ~~[67-19-15]~~ 63A-17-301(1).

(iii) (A) After consultation with the ~~[executive]~~ director of the ~~[Department]~~ Division of Human Resource Management, the director shall set salaries for positions that are exempted under Subsection (7)(b)(i), within ranges that the board approves.

(B) In approving salary ranges for positions that are exempted under Subsection (7)(b)(i), the board shall consider salaries for similar positions in private enterprise and other public employment.

(8) The office is subject to legislative appropriation, to executive branch budgetary review and recommendation, and to legislative and executive branch review.

Section ~~{29}~~31. Section **53E-8-301** is amended to read:

53E-8-301. Educators exempt from Division of Human Resource Management

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rules -- Collective bargaining agreement.

(1) Educators employed by the Utah Schools for the Deaf and the Blind are exempt from mandatory compliance with rules of the [~~Department~~] Division of Human Resource Management.

(2) The state board may enter into a collective bargaining agreement to establish compensation and other personnel policies with educators employed by the Utah Schools for the Deaf and the Blind to replace rules of the [~~Department~~] Division of Human Resource Management.

(3) A collective bargaining agreement made under Subsection (2) is subject to the same requirements that are imposed on local school boards by Section 53G-11-202.

Section ~~{30}~~32. Section 54-1-6 is amended to read:

54-1-6. Employment of staff -- Status and compensation -- Employees not to be parties or witnesses and may not appeal commission decisions.

(1) The annual budget of the Public Service Commission shall provide sufficient funds for the commission to hire, develop, and organize an advisory staff to assist the commission in performing the powers, duties, and functions committed to it by statute.

(a) The commission may hire:

(i) economists, accountants, engineers, statisticians, lawyers, law clerks, and other professional and technical experts;

(ii) court reporters, transcribers of tape recordings, clerks, secretaries, and other administrative and support staff;

(iii) additional experts as required for a particular matter; and

(iv) administrative law judges, who shall be members of the Utah State Bar, and constitute a separate organizational unit reporting directly to the commission.

(b) The commission may provide for funds in the annual budget to acquire suitable electronic recording equipment to maintain a verbatim record of proceedings before the commission, any commissioner, or any administrative law judge.

(2) (a) With the exception of clerical workers in nonconfidential positions, all staff of the Public Service Commission are exempt employees under the State Personnel Management Act and serve at the pleasure of the commission.

(b) Administrative law judges are exempt employees under the State Personnel

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Management Act and may only be removed from office upon due notice and by a unanimous vote of the commission.

(c) (i) The [~~Department~~] Division of Human Resource Management shall determine pay schedules using standard techniques for determining compensation.

(ii) The [~~Department~~] Division of Human Resource Management may make [~~its~~] the division's compensation determinations based upon compensation practices common to utility companies throughout the United States.

(3) (a) The staff or other employees of the commission may not appear as parties or witnesses in any proceeding before the commission, any commissioner, or any administrative law judge.

(b) The staff or other employees of the commission may not appeal any finding, order, or decision of the commission.

Section ~~{31}~~33. Section **54-4a-3** is amended to read:

54-4a-3. Budget of division -- Employment of personnel.

(1) The annual budget of the Division of Public Utilities shall provide sufficient funds for the division to hire, develop, and organize a technical and professional staff to perform the duties, powers, and responsibilities committed to it by statute.

(2) The division director may:

(a) hire economists, accountants, engineers, inspectors, statisticians, lawyers, law clerks, and other technical and professional experts as may be required;

(b) retain additional experts as required for a particular matter, but only to the extent that it is necessary to supplement division staff in order to fulfill its duties; and

(c) employ necessary administrative and support staff.

(3) (a) The [~~Department~~] Division of Human Resource Management shall determine pay schedules using standard techniques for determining compensation.

(b) The [~~Department~~] Division of Human Resource Management may make [~~its~~] the division's compensation determinations based upon compensation common to utility companies throughout the United States.

Section ~~{32}~~34. Section **61-1-18** is amended to read:

61-1-18. Division of Securities established -- Director -- Investigators.

(1) (a) There is established within the Department of Commerce a Division of

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Securities.

(b) The division is under the direction and control of a director. The executive director shall appoint the director with the governor's approval.

(c) Subject to Section 61-1-18.5, the division shall administer and enforce this chapter.

(d) The director shall hold office at the pleasure of the governor.

(2) The director, with the approval of the executive director, may employ the staff necessary to discharge the duties of the division or commission at salaries to be fixed by the director according to standards established by the [~~Department~~] Division of Human Resource Management.

(3) An investigator employed pursuant to Subsection (2) who meets the training requirements of Subsection 53-13-105(3) may be designated a special function officer, as defined in Section 53-13-105, by the director, but is not eligible for retirement benefits under the Public Safety Employee's Retirement System.

Section ~~33~~35. Section **61-2-201** is amended to read:

61-2-201. Division of Real Estate created -- Director appointed -- Personnel.

(1) There is created within the department a Division of Real Estate. The division is responsible for the administration and enforcement of:

(a) this chapter;

(b) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(c) Title 57, Chapter 19, Timeshare and Camp Resort Act;

(d) Title 57, Chapter 23, Real Estate Cooperative Marketing Act;

(e) Title 57, Chapter 29, Undivided Fractionalized Long-term Estate Sales Practices

Act;

(f) Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;

(g) Chapter 2e, Appraisal Management Company Registration and Regulation Act;

(h) Chapter 2f, Real Estate Licensing and Practices Act; and

(i) Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(2) The division is under the direction and control of a director appointed by the executive director of the department with the approval of the governor. The director holds the office of director at the pleasure of the governor.

(3) The director, with the approval of the executive director, may employ personnel

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necessary to discharge the duties of the division at salaries to be fixed by the director according to standards established by the ~~[Department of ({} Administrative Services]~~ ~~{Government Operations}~~ Division of Human Resource Management.

Section ~~{34}~~36. Section 62A-1-121 is amended to read:

62A-1-121. Tracking effects of abuse of alcoholic products.

(1) There is created a committee within the department known as the "Alcohol Abuse Tracking Committee" that consists of:

- (a) the executive director or the executive director's designee;
- (b) the executive director of the Department of Health or that executive director's designee;
- (c) the commissioner of the Department of Public Safety or the commissioner's designee;
- (d) the director of the Department of Alcoholic Beverage Control or that director's designee;
- (e) the executive director of the Department of Workforce Services or that executive director's designee;
- (f) the chair of the Utah Substance Use and Mental Health Advisory Council or the chair's designee;
- (g) the state court administrator or the state court administrator's designee; and
- (h) the ~~[executive]~~ director of the ~~[Department]~~ Division of Technology Services or that ~~[executive]~~ director's designee.

(2) The executive director or the executive director's designee shall chair the committee.

(3) (a) Four members of the committee constitute a quorum.

(b) A vote of the majority of the committee members present when a quorum is present is an action of the committee.

(4) The committee shall meet at the call of the chair, except that the chair shall call a meeting at least twice a year:

(a) with one meeting held each year to develop the report required under Subsection (7); and

(b) with one meeting held to review and finalize the report before the report is issued.

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(5) The committee may adopt additional procedures or requirements for:

- (a) voting, when there is a tie of the committee members;
- (b) how meetings are to be called; and
- (c) the frequency of meetings.

(6) The committee shall establish a process to collect for each calendar year the following information:

(a) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to underage drinking of alcohol;

(b) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to driving under the influence of alcohol;

(c) the number of violations statewide of Title 32B, Alcoholic Beverage Control Act, related to over-serving or over-consumption of an alcoholic product;

(d) the cost of social services provided by the state related to abuse of alcohol, including services provided by the Division of Child and Family Services;

(e) the location where the alcoholic products that result in the violations or costs described in Subsections (6)(a) through (d) are obtained; and

(f) any information the committee determines can be collected and relates to the abuse of alcoholic products.

(7) The committee shall report the information collected under Subsection (6) annually to the governor and the Legislature by no later than the July 1 immediately following the calendar year for which the information is collected.

Section ~~35~~37. Section **62A-1-122** is amended to read:

62A-1-122. Child pornography.

(1) As used in this section:

(a) "Child pornography" means the same as that term is defined in Section 76-5b-103.

(b) "Secure" means to prevent and prohibit access, electronic upload, transmission, or transfer of an image.

(2) The department or a division within the department may not retain child pornography longer than is necessary to comply with the requirements of this section.

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(3) When the department or a division within the department obtains child pornography as a result of an employee unlawfully viewing child pornography, the department or division shall consult with and follow the guidance of the [~~Department~~] Division of Human Resource Management regarding personnel action and local law enforcement regarding retention of the child pornography.

(4) When the department or a division within the department obtains child pornography as a result of a report or an investigation, the department or division shall immediately secure the child pornography, or the electronic device if the child pornography is digital, and contact the law enforcement office that has jurisdiction over the area where the division's case is located.

Section ~~{36}~~38. Section **62A-15-613** is amended to read:

62A-15-613. Appointment of superintendent -- Qualifications -- Powers and responsibilities.

(1) The director, with the consent of the executive director, shall appoint a superintendent of the state hospital, who shall hold office at the will of the director.

(2) The superintendent shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in matters concerning mental health.

(3) The superintendent has general responsibility for the buildings, grounds, and property of the state hospital. The superintendent shall appoint, with the approval of the director, as many employees as necessary for the efficient and economical care and management of the state hospital, and shall fix the employees' compensation and administer personnel functions according to the standards of the [~~Department~~] Division of Human Resource Management.

Section ~~{37}~~39. Section **63A-1-101** is amended to read:

TITLE 63A. UTAH GOVERNMENT OPERATIONS CODE

CHAPTER 1. DEPARTMENT OF GOVERNMENT OPERATIONS

63A-1-101. Title.

(1) This title is known as the "Utah [~~Administrative Services~~] Government Operations Code."

(2) This chapter is known as "Department of Government Operations."

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Section ~~{38}~~40. Section **63A-1-102** is amended to read:

63A-1-102. Purposes.

The department shall:

- (1) provide specialized agency support services commonly needed;
- (2) provide effective, coordinated management of state [~~administrative~~] government operations services;
- (3) serve the public interest by providing services in a cost-effective and efficient manner, eliminating unnecessary duplication;
- (4) enable administrators to respond effectively to technological improvements;
- (5) emphasize the service role of state administrative service agencies in meeting the service needs of user agencies;
- (6) use flexibility in meeting the service needs of state agencies; and
- (7) protect the public interest by [~~insuring~~] ensuring the integrity of the fiscal accounting procedures and policies that govern the operation of agencies and institutions to assure that funds are expended properly and lawfully.

Section ~~{39}~~41. Section **63A-1-103** is amended to read:

63A-1-103. Definitions.

As used in this title:

- (1) "Agency" means a board, commission, institution, department, division, officer, council, office, committee, bureau, or other administrative unit of the state, including the agency head, agency employees, or other persons acting on behalf of or under the authority of the agency head, the Legislature, the courts, or the governor, but does not mean a political subdivision of the state, or any administrative unit of a political subdivision of the state.
- (2) "Department" means the Department of [~~Administrative Services~~] Government Operations.
- (3) "Executive director" means the executive director of the Department of [~~Administrative Services~~] Government Operations.

Section ~~{40}~~42. Section **63A-1-104** is amended to read:

63A-1-104. Creation of department.

There is created within state government the Department of [~~Administrative Services~~] Government Operations, to be administered by an executive director.

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Section ~~{41}~~43. Section 63A-1-109 is amended to read:

63A-1-109. Divisions of department -- Administration.

(1) The department ~~[shall be]~~ is composed of:

(a) the following divisions:

~~[(i) archives and records;]~~

~~[(ii) facilities construction and management;]~~

~~[(iii) finance;]~~

~~[(iv) fleet operations;]~~

~~[(v) state purchasing and general services; and]~~

~~[(vi) risk management; and]~~

~~[(b) the Office of Administrative Rules.]~~

(i) the Division of Purchasing and General Services, created in Section 63A-2-101;

(ii) the Division of Finance, created in Section 63A-3-101;

(iii) the Division of Facilities Construction and Management, created in Section 63A-5b-301;

(iv) the Division of Fleet Operations, created in Section 63A-9-201;

(v) the Division of Archives and Records Service, created in Section 63A-12-101;

(vi) the Division of Technology Services, created in Section 63A-16-103;

(vii) the Division of Human Resource Management, created in Section 63A-17-105;

and

(viii) the Division of Risk Management, created in Section 63A-4-101; and

(b) the Utah Office of Administrative Rules, created in Section 63G-3-401.

(2) Each division described in Subsection (1)(a) shall be administered and managed by a division director.

Section ~~{42}~~44. Section 63A-1-114 is amended to read:

63A-1-114. Rate committee -- Membership -- Duties.

(1) (a) There is created a rate committee consisting of the executive directors, commissioners, or superintendents of seven state agencies, which may include the State Board of Education, that use services and pay rates to one of the department internal service funds, or their designee, that the governor appoints for a two-year term.

~~[(b) (i) Of the seven state agencies represented on the rate committee under Subsection~~

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~~(1)(a), only one of the following may be represented on the committee, if at all, at any one time:]~~

~~[(A) the Governor's Office of Management and Budget; or]~~

~~[(B) the Department of Technology Services.]~~

~~[(ii)]~~ (b) The department may not have a representative on the rate committee.

(c) (i) The committee shall elect a chair from ~~[its]~~ the committee's members.

(ii) Members of the committee who are state government employees and who do not receive salary, per diem, or expenses from their agency for their service on the committee shall receive no compensation, benefits, per diem, or expenses for the members' service on the committee.

(d) The ~~[Department of Administrative Services]~~ department shall provide staff services to the committee.

(2) (a) A division described in Section 63A-1-109 that manages an internal service fund shall submit to the committee a proposed rate and fee schedule for services rendered by the division to an executive branch entity or an entity that subscribes to services rendered by the division.

(b) The committee shall:

(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) meet at least once each calendar year to:

(A) discuss the service performance of each internal service fund;

(B) review the proposed rate and fee schedules;

(C) at the rate committee's discretion, approve, increase, or decrease the rate and fee schedules described in Subsection (2)(b)(ii)(B); and

(D) discuss any prior or potential adjustments to the service level received by state agencies that pay rates to an internal service fund;

(iii) recommend a proposed rate and fee schedule for each internal service fund to:

(A) the Governor's Office of Management and Budget; and

(B) each legislative appropriations subcommittee that, in accordance with Section 63J-1-410, approves the internal service fund agency's rates, fees, and budget; and

(iv) review and approve, increase or decrease an interim rate, fee, or amount when an

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internal service fund agency begins a new service or introduces a new product between annual general sessions of the Legislature.

(c) The committee may in accordance with Subsection 63J-1-410(4), decrease a rate, fee, or amount that has been approved by the Legislature.

Section ~~{43}~~45. Section **63A-1-201** is amended to read:

63A-1-201. Definitions.

As used in this part:

(1) "Board" means the Utah Transparency Advisory Board created under Section 63A-1-203.

~~[(2) "Department" means the Department of Administrative Services.]~~

~~[(3)]~~ (2) (a) "Independent entity," except as provided in Subsection ~~[(3)]~~ (2)(c), means the same as that term is defined in Section 63E-1-102.

(b) "Independent entity" includes an entity that is part of an independent entity described in this Subsection ~~[(3)]~~ (2), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(c) "Independent entity" does not include the Utah State Retirement Office created in Section 49-11-201.

~~[(4)]~~ (3) "Participating local entity" means each of the following local entities:

- (a) a county;
- (b) a municipality;
- (c) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;
- (d) a special service district under Title 17D, Chapter 1, Special Service District Act;
- (e) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;
- (f) a school district;
- (g) a charter school;
- (h) except for a taxed interlocal entity as defined in Section 11-13-602;
- (i) an interlocal entity as defined in Section 11-13-103;
- (ii) a joint or cooperative undertaking as defined in Section 11-13-103; and
- (iii) any project, program, or undertaking entered into by interlocal agreement in

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accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

(i) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is part of an entity described in Subsections ~~[(4)]~~ (3)(a) through (h), if the entity is considered a component unit of the entity described in Subsections ~~[(4)]~~ (3)(a) through (h) under the governmental accounting standards issued by the Governmental Accounting Standards Board; and

(j) a conservation district under Title 17D, Chapter 3, Conservation District Act.

~~[(5)]~~ (4) (a) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

(b) "Participating state entity" includes an entity that is part of an entity described in Subsection ~~[(5)]~~ (4)(a), if the entity is considered a component unit of the entity described in Subsection ~~[(5)]~~ (4)(a) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

~~[(6)]~~ (5) "Public financial information" means records that are required to be made available on the Utah Public Finance Website, a participating local entity's website, or an independent entity's website as required by this part, and as the term "public financial information" is defined by rule under Section 63A-1-204.

Section ~~{44}~~46. Section **63A-1-203** is amended to read:

63A-1-203. Utah Transparency Advisory Board -- Creation -- Membership -- Duties.

(1) There is created within the department the Utah Transparency Advisory Board comprised of members knowledgeable about public finance or providing public access to public information.

(2) The board consists of:

(a) the state auditor or the state auditor's designee;

(b) an individual appointed by the executive director of the department;

(c) an individual appointed by the executive director of the Governor's Office of Management and Budget;

(d) an individual appointed by the governor on advice from the Legislative Fiscal Analyst;

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(e) one member of the Senate, appointed by the governor on advice from the president of the Senate;

(f) one member of the House of Representatives, appointed by the governor on advice from the speaker of the House of Representatives;

(g) an individual appointed by the director of the [~~Department~~] Division of Technology Services;

(h) the director of the Division of Archives and Records Service created in Section 63A-12-101 or the director's designee;

(i) an individual who is a member of the State Records Committee created in Section 63G-2-501, appointed by the governor;

(j) an individual representing counties, appointed by the governor;

(k) an individual representing municipalities, appointed by the governor;

(l) an individual representing special districts, appointed by the governor;

(m) an individual representing the State Board of Education, appointed by the State Board of Education; and

(n) one individual who is a member of the public and who has knowledge, expertise, or experience in matters relating to the board's duties under Subsection (10), appointed by the board members identified in Subsections (2)(a) through (m).

(3) The board shall:

(a) advise the state auditor and the department on matters related to the implementation and administration of this part;

(b) develop plans, make recommendations, and assist in implementing the provisions of this part;

(c) determine what public financial information shall be provided by a participating state entity, independent entity, and participating local entity, if the public financial information:

(i) only includes records that:

(A) are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section 63A-1-202, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act,

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records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act;

(B) are an accounting of money, funds, accounts, bonds, loans, expenditures, or revenues, regardless of the source; and

(C) are owned, held, or administered by the participating state entity, independent entity, or participating local entity that is required to provide the record; and

(ii) is of the type or nature that should be accessible to the public via a website based on considerations of:

(A) the cost effectiveness of providing the information;

(B) the value of providing the information to the public; and

(C) privacy and security considerations;

(d) evaluate the cost effectiveness of implementing specific information resources and features on the website;

(e) require participating local entities to provide public financial information in accordance with the requirements of this part, with a specified content, reporting frequency, and form;

(f) require an independent entity's website or a participating local entity's website to be accessible by link or other direct route from the Utah Public Finance Website if the independent entity or participating local entity does not use the Utah Public Finance Website;

(g) determine the search methods and the search criteria that shall be made available to the public as part of a website used by an independent entity or a participating local entity under the requirements of this part, which criteria may include:

(i) fiscal year;

(ii) expenditure type;

(iii) name of the agency;

(iv) payee;

(v) date; and

(vi) amount; and

(h) analyze ways to improve the information on the Utah Public Finance Website so the information is more relevant to citizens, including through the use of:

(i) infographics that provide more context to the data; and

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(ii) geolocation services, if possible.

(4) Every two years, the board shall elect a chair and a vice chair from its members.

(5) (a) Each member shall serve a four-year term.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for a four-year term.

(6) To accomplish its duties, the board shall meet as it determines necessary.

(7) Reasonable notice shall be given to each member of the board before any meeting.

(8) A majority of the board constitutes a quorum for the transaction of business.

(9) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

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

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

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

(10) (a) As used in Subsections (10) and (11):

(i) "Information website" means a single Internet website containing public information or links to public information.

(ii) "Public information" means records of state government, local government, or an independent entity that are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section 63A-1-202, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The board shall:

(i) study the establishment of an information website and develop recommendations for its establishment;

(ii) develop recommendations about how to make public information more readily available to the public through the information website;

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(iii) develop standards to make uniform the format and accessibility of public information posted to the information website; and

(iv) identify and prioritize public information in the possession of a state agency or political subdivision that may be appropriate for publication on the information website.

(c) In fulfilling its duties under Subsection (10)(b), the board shall be guided by principles that encourage:

(i) (A) the establishment of a standardized format of public information that makes the information more easily accessible by the public;

(B) the removal of restrictions on the reuse of public information;

(C) minimizing limitations on the disclosure of public information while appropriately safeguarding sensitive information; and

(D) balancing factors in favor of excluding public information from an information website against the public interest in having the information accessible on an information website;

(ii) (A) permanent, lasting, open access to public information; and

(B) the publication of bulk public information;

(iii) the implementation of well-designed public information systems that ensure data quality, create a public, comprehensive list or index of public information, and define a process for continuous publication of and updates to public information;

(iv) the identification of public information not currently made available online and the implementation of a process, including a timeline and benchmarks, for making that public information available online; and

(v) accountability on the part of those who create, maintain, manage, or store public information or post it to an information website.

(d) The department shall implement the board's recommendations, including the establishment of an information website, to the extent that implementation:

(i) is approved by the Legislative Management Committee;

(ii) does not require further legislative appropriation; and

(iii) is within the department's existing statutory authority.

(11) The department shall, in consultation with the board and as funding allows, modify the information website described in Subsection (10) to:

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(a) by January 1, 2015, serve as a point of access for Government Records Access and Management requests for executive agencies;

(b) by January 1, 2016, serve as a point of access for Government Records Access and Management requests for:

(i) school districts;

(ii) charter schools;

(iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(iv) counties; and

(v) municipalities;

(c) by January 1, 2017, serve as a point of access for Government Records Access and Management requests for:

(i) local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts; and

(ii) special service districts under Title 17D, Chapter 1, Special Service District Act;

(d) except as provided in Subsection (12)(a), provide link capabilities to other existing repositories of public information, including maps, photograph collections, legislatively required reports, election data, statute, rules, regulations, and local ordinances that exist on other agency and political subdivision websites;

(e) provide multiple download options in different formats, including nonproprietary, open formats where possible;

(f) provide any other public information that the board, under Subsection (10), identifies as appropriate for publication on the information website; and

(g) incorporate technical elements the board identifies as useful to a citizen using the information website.

(12) (a) The department, in consultation with the board, shall establish by rule any restrictions on the inclusion of maps and photographs, as described in Subsection (11)(d), on the website described in Subsection (10) if the inclusion would pose a potential security concern.

(b) The website described in Subsection (10) may not publish any record that is classified as private, protected, or controlled under Title 63G, Chapter 2, Government Records

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Access and Management Act.

Section ~~{45}~~47. Section **63A-2-101** is amended to read:

63A-2-101. Creation.

There is created the Division of Purchasing and General Services within the ~~[Department of Administrative Services]~~ department.

Section ~~{46}~~48. Section **63A-4-101** is amended to read:

63A-4-101. Risk manager -- Appointment -- Duties.

(1) (a) There is created within the department the Division of Risk Management.

(b) The executive director shall, with the approval of the governor, appoint a risk manager as the division director, who shall be qualified by education and experience in the management of general property and casualty insurance.

(2) The risk manager shall:

(a) acquire and administer the following purchased by the state:

(i) all property, casualty insurance; and

(ii) subject to Section 34A-2-203, workers' compensation insurance;

(b) recommend that the executive director make rules:

(i) prescribing reasonable and objective underwriting and risk control standards for state agencies;

(ii) prescribing the risks to be covered by the Risk Management Fund and the extent to which these risks will be covered;

(iii) prescribing the properties, risks, deductibles, and amount limits eligible for payment out of the fund;

(iv) prescribing procedures for making claims and proof of loss; and

(v) establishing procedures for the resolution of disputes relating to coverage or claims, which may include binding arbitration;

(c) implement a risk management and loss prevention program for state agencies for the purpose of reducing risks, accidents, and losses to assist state officers and employees in fulfilling their responsibilities for risk control and safety;

(d) coordinate and cooperate with any state agency having responsibility to manage and protect state properties, including:

(i) the state fire marshal;

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- (ii) the director of the Division of Facilities Construction and Management;
- (iii) the Department of Public Safety; and
- (iv) institutions of higher education;
- (e) maintain records necessary to fulfill the requirements of this section;
- (f) manage the fund in accordance with economically and actuarially sound principles to produce adequate reserves for the payment of contingencies, including unpaid and unreported claims, and may purchase any insurance or reinsurance considered necessary to accomplish this objective; and
- (g) inform the agency's governing body and the governor when any agency fails or refuses to comply with reasonable risk control recommendations made by the risk manager.

(3) Before the effective date of any rule, the risk manager shall provide a copy of the rule to each agency affected by it.

Section ~~{47}~~49. Section **63A-5b-202** is amended to read:

63A-5b-202. State Building Board powers and duties.

- (1) The board may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that are necessary to discharge the board's duties.
- (2) The board shall:
 - (a) review and approve agency master plans of structures built or contemplated;
 - (b) submit capital development recommendations and priorities to the Legislature as [~~set forth~~] described in Section 63A-5b-402;
 - (c) submit recommendations for dedicated projects and prioritize nondedicated projects as provided in Section 63A-5b-403;
 - (d) make a finding that the requirements of Section 53B-2a-112 are met before the board may consider a funding request from the UTech board pertaining to new capital facilities and land purchases; and
 - (e) fulfill the board's responsibilities under:
 - (i) Section 63A-5b-802, relating to the approval of leases with terms of more than 10 years;
 - (ii) Section 63A-5b-907, relating to vacant division-owned property; and
 - (iii) Section 63A-5b-1003, relating to the approval of loans from the state facility energy efficiency fund.

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(3) The board may:

(a) authorize capital development projects without Legislative approval only as authorized in Section 63A-5b-404; and

(b) make rules relating to the categorical delegation of projects as provided in Subsection 63A-5b-604(4).

Section ~~{48}~~50. Section **63A-9-101** is amended to read:

63A-9-101. Definitions.

As used in this part:

(1) (a) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "Agency" includes the State Board of Education and each higher education institution described in Section 53B-1-102.

(c) "Agency" includes the legislative and judicial branches.

(2) "Committee" means the Motor Vehicle Review Committee created by this chapter.

(3) "Director" means the director of the division.

(4) "Division" means the Division of Fleet Operations created by this chapter.

(5) "Executive director" means the executive director of the Department of ~~Administrative Services~~ Government Operations.

(6) "Local agency" means:

(a) a county;

(b) a municipality;

(c) a school district;

(d) a local district;

(e) a special service district;

(f) an interlocal entity as defined under Section 11-13-103; or

(g) any other political subdivision of the state, including a local commission, board, or other governmental entity that is vested with the authority to make decisions regarding the public's business.

(7) (a) "Motor vehicle" means a self-propelled vehicle capable of carrying passengers.

(b) "Motor vehicle" includes vehicles used for construction and other nontransportation

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purposes.

(8) "State vehicle" means each motor vehicle owned, operated, or in the possession of an agency.

Section ~~{49}~~51. Section **63A-9-201** is amended to read:

63A-9-201. Creation.

(1) There is created the Division of Fleet Operations within the [~~Department of Administrative Services~~] department.

(2) The division of fleet operations is an internal service fund agency and its financial affairs shall be accounted for as an internal service fund.

Section ~~{50}~~52. Section **63A-9-301** is amended to read:

63A-9-301. Motor Vehicle Review Committee -- Composition.

(1) There is created a Motor Vehicle Review Committee to advise the division.

(2) The committee shall be composed of nine members as follows:

(a) the executive director of the [~~Department of Administrative Services~~] department or the director's designee;

(b) a member from a state agency other than higher education, the Department of Transportation, the Department of Public Safety, or the Department of Natural Resources, who uses the division's services;

(c) the director of the Division of Purchasing and General Services or the director's designee;

(d) one member from:

(i) higher education, designated annually by the executive director of the Department of [~~Administrative Services~~] Government Operations;

(ii) the Department of Transportation, designated annually by the executive director of the Department of [~~Administrative Services~~] Government Operations;

(iii) the Department of Public Safety, designated annually by the executive director of the Department of [~~Administrative Services~~] Government Operations; and

(iv) the Department of Natural Resources, designated annually by the executive director of the Department of [~~Administrative Services~~] Government Operations; and

(e) two public members with experience in fleet operations and maintenance appointed by the governor.

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(3) (a) Except as required by Subsection (3)(b), the governor shall appoint each public member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment, adjust the length of terms to ensure that the terms of public members are staggered so that one of the public members is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

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

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

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

(5) Five members of the committee are a quorum.

(6) The executive director of the Department of [~~Administrative Services~~] Government Operations is chair of the committee.

Section ~~51~~53. Section **63A-9-401** is amended to read:

63A-9-401. Division -- Duties.

(1) The division shall:

(a) perform all administrative duties and functions related to management of state vehicles;

(b) coordinate all purchases of state vehicles;

(c) establish one or more fleet automation and information systems for state vehicles;

(d) make rules establishing requirements for:

(i) maintenance operations for state vehicles;

(ii) use requirements for state vehicles;

(iii) fleet safety and loss prevention programs;

(iv) preventative maintenance programs;

(v) procurement of state vehicles, including:

(A) vehicle standards;

(B) alternative fuel vehicle requirements;

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- (C) short-term lease programs;
- (D) equipment installation; and
- (E) warranty recovery programs;
- (vi) fuel management programs;
- (vii) cost management programs;
- (viii) business and personal use practices, including commute standards;
- (ix) cost recovery and billing procedures;
- (x) disposal of state vehicles;
- (xi) reassignment of state vehicles and reallocation of vehicles throughout the fleet;
- (xii) standard use and rate structures for state vehicles; and
- (xiii) insurance and risk management requirements;
- (e) establish a parts inventory;
- (f) create and administer a fuel dispensing services program that meets the requirements of Subsection (2);
 - (g) emphasize customer service when dealing with agencies and agency employees;
 - (h) conduct an annual audit of all state vehicles for compliance with division requirements;
 - (i) before charging a rate, fee, or other amount to an executive branch agency, or to a subscriber of services other than an executive branch agency:
 - (i) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section 63A-1-114; and
 - (ii) obtain the approval of the Legislature as required by Section 63J-1-410; and
 - (j) conduct an annual market analysis of proposed rates and fees, which analysis shall include a comparison of the division's rates and fees with the fees of other public or private sector providers where comparable services and rates are reasonably available.
- (2) The division shall operate a fuel dispensing services program in a manner that:
 - (a) reduces the risk of environmental damage and subsequent liability for leaks involving state-owned underground storage tanks;
 - (b) eliminates fuel site duplication and reduces overall costs associated with fuel dispensing;
 - (c) provides efficient fuel management and efficient and accurate accounting of

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fuel-related expenses;

(d) where practicable, privatizes portions of the state's fuel dispensing system;

(e) provides central planning for fuel contingencies;

(f) establishes fuel dispensing sites that meet geographical distribution needs and that reflect usage patterns;

(g) where practicable, uses alternative sources of energy; and

(h) provides safe, accessible fuel supplies in an emergency.

(3) The division shall:

(a) ensure that the state and each of its agencies comply with state and federal law and state and federal rules and regulations governing underground storage tanks;

(b) coordinate the installation of new state-owned underground storage tanks and the upgrading or retrofitting of existing underground storage tanks;

(c) by no later than June 30, 2025, ensure that an underground storage tank qualifies for a rebate, provided under Subsection 19-6-410.5(5)(d), of a portion of the environmental assurance fee described in Subsection 19-6-410.5(4), if the underground storage tank is owned by:

(i) the state;

(ii) a state agency; or

(iii) a county, municipality, school district, local district, special service district, or federal agency that has subscribed to the fuel dispensing service provided by the division under Subsection (6)(b);

(d) report to the Natural Resources, Agriculture, and Environmental Quality

Appropriations Subcommittee by no later than:

(i) November 30, 2020, on the status of the requirements of Subsection (3)(c); and

(ii) November 30, 2024, on whether:

(A) the requirements of Subsection (3)(c) have been met; and

(B) additional funding is needed to accomplish the requirements of Subsection (3)(c);

and

(e) ensure that counties, municipalities, school districts, local districts, and special service districts subscribing to services provided by the division sign a contract that:

(i) establishes the duties and responsibilities of the parties;

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- (ii) establishes the cost for the services; and
- (iii) defines the liability of the parties.

(4) In fulfilling the requirements of Subsection (3)(c), the division may give priority to underground storage tanks owned by the state or a state agency under Subsections (3)(c)(i) and (ii).

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of the Division of Fleet Operations:

- (i) may make rules governing fuel dispensing; and

(ii) shall make rules establishing standards and procedures for purchasing the most economically appropriate size and type of vehicle for the purposes and driving conditions for which the vehicle will be used, including procedures for granting exceptions to the standards by the executive director of the Department of [~~Administrative Services~~] Government Operations.

- (b) Rules made under Subsection (5)(a)(ii):

(i) shall designate a standard vehicle size and type that shall be designated as the statewide standard vehicle for fleet expansion and vehicle replacement;

(ii) may designate different standard vehicle size and types based on defined categories of vehicle use;

(iii) may, when determining a standard vehicle size and type for a specific category of vehicle use, consider the following factors affecting the vehicle class:

- (A) size requirements;
- (B) economic savings;
- (C) fuel efficiency;
- (D) driving and use requirements;
- (E) safety;
- (F) maintenance requirements;
- (G) resale value; and
- (H) the requirements of Section 63A-9-403; and

(iv) shall require agencies that request a vehicle size and type that is different from the standard vehicle size and type to:

- (A) submit a written request for a nonstandard vehicle to the division that contains the

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following:

(I) the make and model of the vehicle requested, including acceptable alternate vehicle makes and models as applicable;

(II) the reasons justifying the need for a nonstandard vehicle size or type;

(III) the date of the request; and

(IV) the name and signature of the person making the request; and

(B) obtain the division's written approval for the nonstandard vehicle.

(6) (a) (i) Each state agency and each higher education institution shall subscribe to the fuel dispensing services provided by the division.

(ii) A state agency may not provide or subscribe to any other fuel dispensing services, systems, or products other than those provided by the division.

(b) Counties, municipalities, school districts, local districts, special service districts, and federal agencies may subscribe to the fuel dispensing services provided by the division if:

(i) the county or municipal legislative body, the school district, or the local district or special service district board recommends that the county, municipality, school district, local district, or special service district subscribe to the fuel dispensing services of the division; and

(ii) the division approves participation in the program by that government unit.

(7) The director, with the approval of the executive director, may delegate functions to institutions of higher education, by contract or other means authorized by law, if:

(a) the agency or institution of higher education has requested the authority;

(b) in the judgment of the director, the state agency or institution has the necessary resources and skills to perform the delegated responsibilities; and

(c) the delegation of authority is in the best interest of the state and the function delegated is accomplished according to provisions contained in law or rule.

Section ~~52~~54. Section **63A-9-501** is amended to read:

63A-9-501. Complaints about misuse or illegal operation of state vehicles --

Disposition.

(1) The division shall refer complaints from the public about misuse or illegal operation of state vehicles to the agency that is the owner or lessor of the vehicle.

(2) Each agency head or his designee shall investigate all complaints about misuse or illegal operation of state vehicles and shall discipline each employee that is found to have

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misused or illegally operated a vehicle by following the procedures set forth in the rules adopted by the [~~Department~~] Division of Human Resource Management as authorized by Section [~~67-19-18~~] 63A-17-306.

(3) (a) Each agency shall report the findings of each investigation conducted as well as any action taken as a result of the investigation to the directors of the Divisions of Fleet Operations and Risk Management.

(b) Misuse or illegal operation of state vehicles may result in suspension or revocation of state vehicle driving privileges as governed in rule.

Section ~~{53}~~55. Section **63A-12-101** is amended to read:

63A-12-101. Division of Archives and Records Service created -- Duties.

(1) There is created the Division of Archives and Records Service within the [~~Department of Administrative Services~~] department.

(2) The state archives shall:

(a) administer the state's archives and records management programs, including storage of records, central microphotography programs, and quality control;

(b) apply fair, efficient, and economical management methods to the collection, creation, use, maintenance, retention, preservation, disclosure, and disposal of records and documents;

(c) establish standards, procedures, and techniques for the effective management and physical care of records;

(d) conduct surveys of office operations and recommend improvements in current records management practices, including the use of space, equipment, automation, and supplies used in creating, maintaining, storing, and servicing records;

(e) establish standards for the preparation of schedules providing for the retention of records of continuing value and for the prompt and orderly disposal of state records no longer possessing sufficient administrative, historical, legal, or fiscal value to warrant further retention;

(f) establish, maintain, and operate centralized microphotography lab facilities and quality control for the state;

(g) provide staff and support services to the Records Management Committee created in Section 63A-12-112 and the State Records Committee created in Section 63G-2-501;

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(h) develop training programs to assist records officers and other interested officers and employees of governmental entities to administer this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(i) provide access to public records deposited in the archives;

(j) administer and maintain the Utah Public Notice Website established under Section ~~[63F-1-701]~~ 63A-16-601;

(k) provide assistance to any governmental entity in administering this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(l) prepare forms for use by all governmental entities for a person requesting access to a record; and

(m) if the department operates the Division of Archives and Records Service as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:

(i) the proposed rate and fee schedule as required by Section 63A-1-114; and

(ii) other information or analysis requested by the Rate Committee.

(3) The state archives may:

(a) establish a report and directives management program; and

(b) establish a forms management program.

(4) The executive director [~~of the Department of Administrative Services~~] may direct the state archives to administer other functions or services consistent with this chapter and Title 63G, Chapter 2, Government Records Access and Management Act.

Section ~~{54}~~56. Section **63A-12-102** is amended to read:

63A-12-102. State archivist -- Duties.

(1) With the approval of the governor, the executive director [~~of the Department of Administrative Services~~] shall appoint the state archivist to serve as director of the state archives. The state archivist shall be qualified by archival training, education, and experience.

(2) The state archivist is charged with custody of the following:

(a) the enrolled copy of the Utah constitution;

(b) the acts and resolutions passed by the Legislature;

(c) all records kept or deposited with the state archivist as provided by law;

(d) the journals of the Legislature and all bills, resolutions, memorials, petitions, and

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claims introduced in the Senate or the House of Representatives;

- (e) Indian war records; and
- (f) oaths of office of all state officials.

(3) (a) The state archivist is the official custodian of all noncurrent records of permanent or historic value that are not required by law to remain in the custody of the originating governmental entity.

(b) Upon the termination of any governmental entity, its records shall be transferred to the state archives.

Section ~~{55}~~57. Section **63A-12-103** is amended to read:

63A-12-103. Duties of governmental entities.

The chief administrative officer of each governmental entity shall:

(1) establish and maintain an active, continuing program for the economical and efficient management of the governmental entity's records as provided by this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(2) appoint one or more records officers who will be trained to work with the state archives in the care, maintenance, scheduling, disposal, classification, designation, access, and preservation of records;

(3) ensure that officers and employees of the governmental entity that receive or process records requests receive required training on the procedures and requirements of this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(4) make and maintain adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the governmental entity designed to furnish information to protect the legal and financial rights of persons directly affected by the entity's activities;

(5) submit to the state archivist proposed schedules of records for final approval by the Records Management Committee created in Section 63A-12-112;

(6) cooperate with the state archivist in conducting surveys made by the state archivist;

(7) comply with rules issued by the Department of ~~[Administrative Services]~~

Government Operations as provided by Section 63A-12-104;

(8) report to the state archives the designation of record series that it maintains;

(9) report to the state archives the classification of each record series that is classified;

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and

(10) establish and report to the state archives retention schedules for objects that the governmental entity determines are not defined as a record under Section 63G-2-103, but that have historical or evidentiary value.

Section ~~56~~58. Section **63A-12-104** is amended to read:

63A-12-104. Rulemaking authority.

(1) The executive director of the [~~Department of Administrative Services~~] department, with the recommendation of the state archivist, may make rules as provided by Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement provisions of this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, dealing with procedures for the collection, storage, designation, classification, access, mediation for records access, and management of records.

(2) A governmental entity that includes divisions, boards, departments, committees, commissions, or other subparts that fall within the definition of a governmental entity under this chapter, may, by rule, specify at which level the requirements specified in this chapter shall be undertaken.

Section ~~57~~59. Section **63A-13-201** is amended to read:

63A-13-201. Creation of office -- Inspector general -- Appointment -- Term.

(1) There is created an independent entity within the [~~Department of Administrative Services~~] department known as the "Office of Inspector General of Medicaid Services."

(2) The governor shall:

(a) appoint the inspector general of Medicaid services with the advice and consent of the Senate; and

(b) establish the salary for the inspector general of Medicaid services based upon a recommendation from the [~~Department~~] Division of Human Resource Management which shall be based on a market salary survey conducted by the [~~Department~~] Division of Human Resource Management.

(3) A person appointed as the inspector general shall have the following qualifications:

(a) a general knowledge of the type of methodology and controls necessary to audit, investigate, and identify fraud, waste, and abuse;

(b) strong management skills;

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- (c) extensive knowledge of performance audit methodology;
- (d) the ability to oversee and execute an audit; and
- (e) strong interpersonal skills.

(4) The inspector general of Medicaid services:

- (a) shall serve a term of four years; and
- (b) may be removed by the governor, for cause.

(5) If the inspector general is removed for cause, a new inspector general shall be appointed, with the advice and consent of the Senate, to serve the remainder of the term of the inspector general of Medicaid services who was removed for cause.

(6) The Office of Inspector General of Medicaid Services:

(a) is not under the supervision of, and does not take direction from, the executive director, except for administrative purposes;

(b) shall use the legal services of the state attorney general's office;

(c) shall submit a budget for the office directly to the ~~[Department of Administrative Services]~~ department;

(d) except as prohibited by federal law, is subject to:

- (i) Title 51, Chapter 5, Funds Consolidation Act;
- (ii) Title 51, Chapter 7, State Money Management Act;
- (iii) Title 63A, Utah ~~[Administrative Services]~~ Government Operations Code;
- (iv) Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (v) Title 63G, Chapter 4, Administrative Procedures Act;
- (vi) Title 63G, Chapter 6a, Utah Procurement Code;
- (vii) Title 63J, Chapter 1, Budgetary Procedures Act;
- (viii) Title 63J, Chapter 2, Revenue Procedures and Control Act;
- (ix) ~~[Title 67, Chapter 19]~~ Chapter 17, Utah State Personnel Management Act;
- (x) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;
- (xi) Title 52, Chapter 4, Open and Public Meetings Act;
- (xii) Title 63G, Chapter 2, Government Records Access and Management Act; and
- (xiii) coverage under the Risk Management Fund created under Section 63A-4-201;

(e) when requested, shall provide reports to the governor, the president of the Senate, or the speaker of the House; and

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(f) shall adopt administrative rules to establish policies for employees that are substantially similar to the administrative rules adopted by the ~~Department~~ Division of Human Resource Management.

Section ~~{58}~~60. Section **63A-16-101**, which is renumbered from Section 63F-1-101 is renumbered and amended to read:

CHAPTER 16. UTAH TECHNOLOGY GOVERNANCE ACT

Part 1. General Provisions

~~[63F-1-101].~~ **63A-16-101. Title.**

~~[(1)]~~ This ~~[title]~~ chapter is known as the "Utah Technology Governance Act."

~~[(2) This chapter is known as the "Department of Technology Services."]~~

Section ~~{59}~~61. Section **63A-16-102**, which is renumbered from Section 63F-1-102 is renumbered and amended to read:

~~[63F-1-102].~~ **63A-16-102. Definitions.**

As used in this ~~[title]~~ chapter:

(1) "Chief information officer" means the chief information officer appointed under Section ~~[63F-1-201]~~ 63A-16-201.

(2) "Data center" means a centralized repository for the storage, management, and dissemination of data.

(3) ~~["Department" means the Department]~~ "Division" means the Division of Technology Services.

(4) "Enterprise architecture" means:

(a) information technology that can be applied across state government; and

(b) support for information technology that can be applied across state government, including:

(i) technical support;

(ii) master software licenses; and

(iii) hardware and software standards.

(5) (a) "Executive branch agency" means an agency or administrative subunit of state government.

(b) "Executive branch agency" does not include:

(i) the legislative branch;

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- (ii) the judicial branch;
- (iii) the State Board of Education;
- (iv) the Utah Board of Higher Education;
- (v) institutions of higher education;
- (vi) independent entities as defined in Section 63E-1-102; [~~and~~] or
- (vii) the following elective constitutional offices of the executive department [~~which includes~~]:
 - (A) the state auditor;
 - (B) the state treasurer; and
 - (C) the attorney general.
- (6) "Executive branch strategic plan" means the executive branch strategic plan created under Section [~~63F-1-203~~] 63A-16-202.
- (7) "Individual with a disability" means an individual with a condition that meets the definition of "disability" in 42 U.S.C. Sec. 12102.
- (8) "Information technology" means all computerized and auxiliary automated information handling, including:
 - (a) systems design and analysis;
 - (b) acquisition, storage, and conversion of data;
 - (c) computer programming;
 - (d) information storage and retrieval;
 - (e) voice, video, and data communications;
 - (f) requisite systems controls;
 - (g) simulation; and
 - (h) all related interactions between people and machines.
- (9) "State information architecture" means a logically consistent set of principles, policies, and standards that guide the engineering of state government's information technology and infrastructure in a way that ensures alignment with state government's business and service needs.

Section ~~60~~62. Section **63A-16-103**, which is renumbered from Section 63F-1-103 is renumbered and amended to read:

~~63F-1-103~~. **63A-16-103**. **Division of Technology Services.**

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(1) There is created within [~~state government the Department~~] the department the Division of Technology Services [~~which has all of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in this title~~].

(2) The [~~department~~] division has authority to operate as an internal service fund agency as provided in Section 63J-1-410.

Section ~~{61}63~~. Section **63A-16-104**, which is renumbered from Section 63F-1-104 is renumbered and amended to read:

~~[63F-1-104]~~. **63A-16-104. Duties of division.**

The [~~department~~] division shall:

(1) lead state executive branch agency efforts to establish and reengineer the state's information technology architecture with the goal of coordinating central and individual agency information technology in a manner that:

- (a) ensures compliance with the executive branch agency strategic plan; and
- (b) ensures that cost-effective, efficient information and communication systems and resources are being used by agencies to:

- (i) reduce data, hardware, and software redundancy;
 - (ii) improve system interoperability and data accessibility between agencies; and
 - (iii) meet the agency's and user's business and service needs;
- (2) coordinate an executive branch strategic plan for all agencies;
- (3) develop and implement processes to replicate information technology best practices and standards throughout the executive branch;

(4) at least once every odd-numbered year:

(a) evaluate the adequacy of the [~~department's~~] division's and the executive branch agencies' data and information technology system security standards through an independent third party assessment; and

(b) communicate the results of the independent third party assessment to the appropriate executive branch agencies and to the president of the Senate and the speaker of the House of Representatives;

(5) oversee the expanded use and implementation of project and contract management principles as they relate to information technology projects within the executive branch;

(6) serve as general contractor between the state's information technology users and

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private sector providers of information technology products and services;

(7) work toward building stronger partnering relationships with providers;

(8) develop service level agreements with executive branch departments and agencies to ensure quality products and services are delivered on schedule and within budget;

(9) develop standards for application development including a standard methodology and cost-benefit analysis that all agencies shall utilize for application development activities;

(10) determine and implement statewide efforts to standardize data elements;

(11) coordinate with executive branch agencies to provide basic website standards for agencies that address common design standards and navigation standards, including:

(a) accessibility for individuals with disabilities in accordance with:

(i) the standards of 29 U.S.C. Sec. 794d; and

(ii) Section [~~63F-1-210~~] 63A-16-209;

(b) consistency with standardized government security standards;

(c) designing around user needs with data-driven analysis influencing management and development decisions, using qualitative and quantitative data to determine user goals, needs, and behaviors, and continual testing of the website, web-based form, web-based application, or digital service to ensure that user needs are addressed;

(d) providing users of the website, web-based form, web-based application, or digital service with the option for a more customized digital experience that allows users to complete digital transactions in an efficient and accurate manner; and

(e) full functionality and usability on common mobile devices;

(12) consider, when making a purchase for an information system, cloud computing options, including any security benefits, privacy, data retention risks, and cost savings associated with cloud computing options;

(13) develop systems and methodologies to review, evaluate, and prioritize existing information technology projects within the executive branch and report to the governor and the Public Utilities, Energy, and Technology Interim Committee in accordance with [~~63F-1-201~~] Section 63A-16-201 on a semiannual basis regarding the status of information technology projects;

(14) assist the Governor's Office of Management and Budget with the development of information technology budgets for agencies; and

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(15) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- (a) under this ~~[title]~~ chapter;
- (b) by the department; or
- (c) by ~~[an agency or division within the department]~~ the division.

Section ~~{62}~~64. Section **63A-16-105**, which is renumbered from Section 63F-1-106 is renumbered and amended to read:

~~[63F-1-106].~~ **63A-16-105. Director -- Authority.**

~~[(1) The executive director of the department:]~~

(1) The executive director shall, ~~with the approval of the governor,~~ appoint the director.

(2) The director:

(a) shall exercise all powers given to, and perform all duties imposed on, the division;

~~[(a)]~~ (b) has administrative jurisdiction over ~~[each office in the department and the director of each office]~~ the division and each office within the division;

~~[(b)]~~ (c) may make changes in ~~[department]~~ division personnel and ~~[each office's]~~ service functions ~~[in the divisions]~~ under the director's administrative jurisdiction; and

~~[(c)]~~ (d) may authorize a designee to perform appropriate responsibilities.

(2) The ~~[executive]~~ director may, to facilitate ~~[department]~~ division management, establish offices and bureaus to perform division functions ~~[such as budgeting, planning, and personnel administration].~~

(3) (a) The ~~[executive]~~ director may hire employees in the ~~[department, divisions,]~~ division and offices of the division as permitted by ~~[department]~~ division resources.

(b) Except as provided in Subsection (4), each employee of the ~~[department]~~ division is exempt from career service or classified service status as provided in Section ~~[67-19-15]~~ 63A-17-301.

(4) (a) An employee of an executive branch agency who was a career service employee as of July 1, 2005, who ~~[is]~~ was transferred to the division at the time it was newly created as the Department of Technology Services continues in the employee's career service status during the employee's service to the ~~[Department of Technology Services]~~ division if the duties

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of the position in the [~~new department~~] division are substantially similar to those in the employee's previous position.

(b) A career service employee transferred [~~to the new department~~] under the provisions of Subsection (4)(a), whose duties or responsibilities subsequently change, may not be converted to exempt status without the review process required by Subsection [~~67-19-15~~] 63A-17-301(3).

Section ~~{63}~~65. Section **63A-16-106**, which is renumbered from Section 63F-1-107 is renumbered and amended to read:

~~[63F-1-107].~~ **63A-16-106. Offices within the division -- Administration.**

(1) The [~~department shall be composed of~~] division includes the following [~~divisions~~] offices:

- (a) the [~~Division~~] Office of Enterprise Technology;
- (b) the [~~Division~~] Office of Integrated Technology; and
- (c) the [~~Division~~] Office of Agency Services.

(2) Each [~~division~~] office shall be administered and managed by a [~~{a} division~~] director ~~{an office manager}~~.

Section ~~{64}~~66. Section **63A-16-201**, which is renumbered from Section 63F-1-201 is renumbered and amended to read:

Part 2. Chief Information Officer

~~[63F-1-201].~~ **63A-16-201. Chief information officer -- Appointment -- Powers -- Reporting.**

(1) The director of the [~~department~~] division shall serve as the state's chief information officer.

(2) The chief information officer shall:

- (a) advise the governor on information technology policy; and
- (b) perform those duties given the chief information officer by statute.

(3) (a) The chief information officer shall report annually to:

- (i) the governor; and
- (ii) the Public Utilities, Energy, and Technology Interim Committee.

(b) The report required under Subsection (3)(a) shall:

- (i) summarize the state's current and projected use of information technology;

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- (ii) summarize the executive branch strategic plan including a description of major changes in the executive branch strategic plan;
- (iii) provide a brief description of each state agency's information technology plan;
- (iv) include the status of information technology projects described in Subsection [~~63F-1-104~~] 63A-16-104(11);
- (v) include the performance report described in Section [~~63F-1-212~~] 63A-16-211; and
- (vi) include the expenditure of the funds provided for electronic technology, equipment, and hardware.

Section ~~65~~67. Section **63A-16-202**, which is renumbered from Section 63F-1-203 is renumbered and amended to read:

~~[63F-1-203].~~ **63A-16-202. Executive branch information technology strategic plan.**

- (1) In accordance with this section, the chief information officer shall prepare an executive branch information technology strategic plan:
 - (a) that complies with this chapter; and
 - (b) that includes:
 - (i) a strategic plan for the:
 - (A) interchange of information related to information technology between executive branch agencies;
 - (B) coordination between executive branch agencies in the development and maintenance of information technology and information systems, including the coordination of agency information technology plans described in Section [~~63F-1-204~~] 63A-16-203; and
 - (C) protection of the privacy of individuals who use state information technology or information systems, including the implementation of industry best practices for data and system security;
 - (ii) priorities for the development and implementation of information technology or information systems including priorities determined on the basis of:
 - (A) the importance of the information technology or information system; and
 - (B) the time sequencing of the information technology or information system; and
 - (iii) maximizing the use of existing state information technology resources.
- (2) In the development of the executive branch strategic plan, the chief information

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officer shall consult with all cabinet level officials.

(3) (a) Unless withdrawn by the chief information officer or the governor in accordance with Subsection (3)(b), the executive branch strategic plan takes effect 30 days after the day on which the executive branch strategic plan is submitted to:

- (i) the governor; and
- (ii) the Public Utilities, Energy, and Technology Interim Committee.

(b) The chief information officer or the governor may withdraw the executive branch strategic plan submitted under Subsection (3)(a) if the governor or chief information officer determines that the executive branch strategic plan:

- (i) should be modified; or
- (ii) for any other reason should not take effect.

(c) The Public Utilities, Energy, and Technology Interim Committee may make recommendations to the governor and to the chief information officer if the commission determines that the executive branch strategic plan should be modified or for any other reason should not take effect.

(d) Modifications adopted by the chief information officer shall be resubmitted to the governor and the Public Utilities, Energy, and Technology Interim Committee for their review or approval as provided in Subsections (3)(a) and (b).

(4) (a) The chief information officer shall annually, on or before January 1, [~~2014, and each year thereafter,~~] modify the executive branch information technology strategic plan to incorporate security standards that:

(i) are identified as industry best practices in accordance with Subsections [~~63F-1-104~~] 63A-16-104(3) and (4); and

(ii) can be implemented within the budget of the department or the executive branch agencies.

(b) The chief information officer shall inform the speaker of the House of Representatives and the president of the Senate on or before January 1 of each year if best practices identified in Subsection (4)(a)(i) are not adopted due to budget issues considered under Subsection (4)(a)(ii).

(5) Each executive branch agency shall implement the executive branch strategic plan by adopting an agency information technology plan in accordance with Section [~~63F-1-204~~]

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63A-16-203.

Section ~~{66}68~~. Section **63A-16-203**, which is renumbered from Section 63F-1-204 is renumbered and amended to read:

~~[63F-1-204]~~. **63A-16-203. Agency information technology plans.**

(1) (a) ~~[By]~~ On or before July 1 ~~[of]~~ each year, each executive branch agency shall submit an agency information technology plan to the chief information officer at the department level, unless the governor or the chief information officer request an information technology plan be submitted by a subunit of a department, or by an executive branch agency other than a department.

(b) The information technology plans required by this section shall be in the form and level of detail required by the chief information officer, by administrative rule adopted in accordance with Section ~~[63F-1-206]~~ 63A-16-205, and shall include, at least:

- (i) the information technology objectives of the agency;
- (ii) any performance measures used by the agency for implementing the agency's information technology objectives;
- (iii) any planned expenditures related to information technology;
- (iv) the agency's need for appropriations for information technology;
- (v) how the agency's development of information technology coordinates with other state and local governmental entities;
- (vi) any efforts the agency has taken to develop public and private partnerships to accomplish the information technology objectives of the agency;
- (vii) the efforts the executive branch agency has taken to conduct transactions electronically in compliance with Section 46-4-503; and
- (viii) the executive branch agency's plan for the timing and method of verifying the department's security standards, if an agency intends to verify the department's security standards for the data that the agency maintains or transmits through the department's servers.

(2) (a) Except as provided in Subsection (2)(b), an agency information technology plan described in Subsection (1) shall comply with the executive branch strategic plan established in accordance with Section ~~[63F-1-203]~~ 63A-16-202.

(b) If the executive branch agency submitting the agency information technology plan justifies the need to depart from the executive branch strategic plan, an agency information

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technology plan may depart from the executive branch strategic plan to the extent approved by the chief information officer.

(3) The chief information officer shall review each agency plan to determine:

(a) (i) whether the agency plan complies with the executive branch strategic plan and state information architecture; or

(ii) to the extent that the agency plan does not comply with the executive branch strategic plan or state information architecture, whether the executive branch entity is justified in departing from the executive branch strategic plan, or state information architecture; and

(b) whether the agency plan meets the information technology and other needs of:

(i) the executive branch agency submitting the plan; and

(ii) the state.

(4) After the chief information officer conducts the review described in Subsection (3) of an agency information technology plan, the chief information officer may:

(a) approve the agency information technology plan;

(b) disapprove the agency information technology plan; or

(c) recommend modifications to the agency information technology plan.

(5) An executive branch agency or the department may not submit a request for appropriation related to information technology or an information technology system to the governor in accordance with Section 63J-1-201 until after the executive branch agency's information technology plan is approved by the chief information officer.

Section ~~67~~69. Section **63A-16-204**, which is renumbered from Section 63F-1-205 is renumbered and amended to read:

[63F-1-205]. 63A-16-204. Approval of acquisitions of information technology.

(1) (a) In accordance with Subsection (2), the chief information officer shall approve the acquisition by an executive branch agency of:

(i) information technology equipment;

(ii) telecommunications equipment;

(iii) software;

(iv) services related to the items listed in Subsections (1)(a)(i) through (iii); and

(v) data acquisition.

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(b) The chief information officer may negotiate the purchase, lease, or rental of private or public information technology or telecommunication services or facilities in accordance with this section.

(c) Where practical, efficient, and economically beneficial, the chief information officer shall use existing private and public information technology or telecommunication resources.

(d) Notwithstanding another provision of this section, an acquisition authorized by this section shall comply with rules made by the applicable rulemaking authority under Title 63G, Chapter 6a, Utah Procurement Code.

(2) Before negotiating a purchase, lease, or rental under Subsection (1) for an amount that exceeds the value established by the chief information officer by rule in accordance with Section [~~63F-1-206~~] 63A-16-205, the chief information officer shall:

(a) conduct an analysis of the needs of executive branch agencies and subscribers of services and the ability of the proposed information technology or telecommunications services or supplies to meet those needs; and

(b) for purchases, leases, or rentals not covered by an existing statewide contract, certify in writing to the chief procurement officer in the Division of Purchasing and General Services that:

(i) the analysis required in Subsection (2)(a) was completed; and

(ii) based on the analysis, the proposed purchase, lease, rental, or master contract of services, products, or supplies is practical, efficient, and economically beneficial to the state and the executive branch agency or subscriber of services.

(3) In approving an acquisition described in Subsections (1) and (2), the chief information officer shall:

(a) establish by administrative rule, in accordance with Section [~~63F-1-206~~] 63A-16-205, standards under which an agency must obtain approval from the chief information officer before acquiring the items listed in Subsections (1) and (2);

(b) for those acquisitions requiring approval, determine whether the acquisition is in compliance with:

(i) the executive branch strategic plan;

(ii) the applicable agency information technology plan;

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(iii) the budget for the executive branch agency or department as adopted by the Legislature;

(iv) Title 63G, Chapter 6a, Utah Procurement Code; and

(v) the information technology accessibility standards described in Section [~~63F-1-210~~] 63A-16-209; and

(c) in accordance with Section [~~63F-1-207~~] 63A-16-206, require coordination of acquisitions between two or more executive branch agencies if it is in the best interests of the state.

(4) Each executive branch agency shall provide the chief information officer with complete access to all information technology records, documents, and reports:

(a) at the request of the chief information officer; and

(b) related to the executive branch agency's acquisition of any item listed in Subsection (1).

(5) (a) In accordance with administrative rules established by the department under Section [~~63F-1-206~~] 63A-16-205, an executive branch agency and the department may not initiate a new technology project unless the technology project is described in a formal project plan and a business case analysis is approved by the chief information officer and the highest ranking executive branch agency official.

(b) The project plan and business case analysis required by this Subsection (5) shall include:

(i) a statement of work to be done and existing work to be modified or displaced;

(ii) total cost of system development and conversion effort, including system analysis and programming costs, establishment of master files, testing, documentation, special equipment cost and all other costs, including overhead;

(iii) savings or added operating costs that will result after conversion;

(iv) other advantages or reasons that justify the work;

(v) source of funding of the work, including ongoing costs;

(vi) consistency with budget submissions and planning components of budgets; and

(vii) whether the work is within the scope of projects or initiatives envisioned when the current fiscal year budget was approved.

(c) The chief information officer shall determine the required form of the project plan

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and business case analysis described in this Subsection (5).

(6) The chief information officer and the Division of Purchasing and General Services within the [~~Department of Administrative Services~~] department shall work cooperatively to establish procedures under which the chief information officer shall monitor and approve acquisitions as provided in this section.

Section ~~{68}~~70. Section **63A-16-205**, which is renumbered from Section 63F-1-206 is renumbered and amended to read:

~~[63F-1-206].~~ **63A-16-205. Rulemaking -- Policies.**

(1) (a) Except as provided in Subsection (2), the chief information officer shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) provide standards that impose requirements on executive branch agencies that:

(A) are related to the security of the statewide area network; and

(B) establish standards for when an agency must obtain approval before obtaining items listed in Subsection [~~63F-1-205~~] 63A-16-204(1);

(ii) specify the detail and format required in an agency information technology plan submitted in accordance with Section [~~63F-1-204~~] 63A-16-203;

(iii) provide for standards related to the privacy policies of websites operated by or on behalf of an executive branch agency;

(iv) provide for the acquisition, licensing, and sale of computer software;

(v) specify the requirements for the project plan and business case analysis required by Section [~~63F-1-205~~] 63A-16-204;

(vi) provide for project oversight of agency technology projects when required by Section [~~63F-1-205~~] 63A-16-204;

(vii) establish, in accordance with Subsection [~~63F-1-205~~] 63A-16-204(2), the implementation of the needs assessment for information technology purchases;

(viii) establish telecommunications standards and specifications in accordance with Section [~~63F-1-404~~] 63A-16-403; and

(ix) establish standards for accessibility of information technology by individuals with disabilities in accordance with Section [~~63F-1-210~~] 63A-16-209.

(b) The rulemaking authority granted by this Subsection (1) is in addition to any other rulemaking authority granted [~~by this title~~] under this chapter.

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(2) (a) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to Subsection (2)(b), the chief information officer may adopt a policy that outlines procedures to be followed by the chief information officer in facilitating the implementation of this title by executive branch agencies if the policy:

- (i) is consistent with the executive branch strategic plan; and
- (ii) is not required to be made by rule under Subsection (1) or Section 63G-3-201.

(b) (i) A policy adopted by the chief information officer under Subsection (2)(a) may not take effect until 30 days after the day on which the chief information officer submits the policy to:

- (A) the governor; and
- (B) all cabinet level officials.

(ii) During the 30-day period described in Subsection (2)(b)(i), cabinet level officials may review and comment on a policy submitted under Subsection (2)(b)(i).

(3) (a) Notwithstanding Subsection (1) or (2) or Title 63G, Chapter 3, Utah Administrative Rulemaking Act, without following the procedures of Subsection (1) or (2), the chief information officer may adopt a security procedure to be followed by executive branch agencies to protect the statewide area network if:

(i) broad communication of the security procedure would create a significant potential for increasing the vulnerability of the statewide area network to breach or attack; and

(ii) after consultation with the chief information officer, the governor agrees that broad communication of the security procedure would create a significant potential increase in the vulnerability of the statewide area network to breach or attack.

(b) A security procedure described in Subsection (3)(a) is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) The chief information officer shall provide a copy of the security procedure as a protected record to:

- (i) the chief justice of the Utah Supreme Court for the judicial branch;
- (ii) the speaker of the House of Representatives and the president of the Senate for the legislative branch;
- (iii) the chair of the Utah Board of Higher Education; and
- (iv) the chair of the State Board of Education.

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Section ~~{69}~~71. Section **63A-16-206**, which is renumbered from Section 63F-1-207 is renumbered and amended to read:

~~[63F-1-207]~~. **63A-16-206. Coordination within the executive branch -- Cooperation with other branches.**

(1) In accordance with the executive branch strategic plan and the requirements of this title, the chief information officer shall coordinate the development of information technology systems between two or more executive branch agencies subject to:

- (a) the budget approved by the Legislature; and
- (b) Title 63J, Chapter 1, Budgetary Procedures Act.

(2) In addition to the coordination described in Subsection (1), the chief information officer shall promote cooperation regarding information technology between branches of state government.

Section ~~{70}~~72. Section **63A-16-207**, which is renumbered from Section 63F-1-208 is renumbered and amended to read:

~~[63F-1-208]~~. **63A-16-207. Delegation of department functions.**

(1) (a) If the conditions of Subsections (1)(b) and (2) are met and subject to the other provisions of this section, the chief information officer may delegate a function of the [department] division to another executive branch agency or an institution of higher education by contract or other means authorized by law.

(b) The chief information officer may delegate a function of the [department] division as provided in Subsection (1)(a) if in the judgment of the director of the executive branch agency and the chief information officer:

- (i) the executive branch agency or institution of higher education has requested that the function be delegated;
- (ii) the executive branch agency or institution of higher education has the necessary resources and skills to perform or control the function to be delegated; and
- (iii) the function to be delegated is a unique or mission-critical function of the agency or institution of higher education.

(2) The chief information officer may delegate a function of the [department] division only when the delegation results in net cost savings or improved service delivery to the state as a whole or to the unique mission critical function of the executive branch agency.

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(3) The delegation of a function under this section shall:

(a) be in writing;

(b) contain all of the following:

(i) a precise definition of each function to be delegated;

(ii) a clear description of the standards to be met in performing each function delegated;

(iii) a provision for periodic administrative audits by the [department] division;

(iv) a date on which the agreement shall terminate if the agreement has not been previously terminated or renewed; and

(v) any delegation of [department] division staff to the agency to support the function in-house with the agency and rates to be charged for the delegated staff; and

(c) include a cost-benefit analysis justifying the delegation.

(4) An agreement to delegate functions to an executive branch agency or an institution of higher education may be terminated by the [department] division if the results of an administrative audit conducted by the [department] division reveals a lack of compliance with the terms of the agreement by the executive branch agency or institution of higher education.

Section ~~{71}~~73. Section **63A-16-208**, which is renumbered from Section 63F-1-209 is renumbered and amended to read:

~~[63F-1-209]~~. **63A-16-208. Delegation of division staff to executive branch agencies -- Prohibition against executive branch agency information technology staff.**

(1) (a) The chief information officer shall assign [department] division staff to serve an agency in-house if the chief information officer and the executive branch agency director jointly determine it is appropriate to provide information technology services to:

(i) the agency's unique mission-critical functions and applications;

(ii) the agency's participation in and use of statewide enterprise architecture; and

(iii) the agency's use of coordinated technology services with other agencies that share similar characteristics with the agency.

(b) (i) An agency may request the chief information officer to assign in-house staff support from the [department] division.

(ii) The chief information officer shall respond to the agency's request for in-house staff support in accordance with Subsection (1)(a).

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(c) The [~~department~~] division shall enter into service agreements with an agency when [~~department~~] division staff is assigned in-house to the agency under the provisions of this section.

(d) An agency that receives in-house staff support assigned from the [~~department~~] division under the provision of this section is responsible for paying the rates charged by the [~~department~~] division for that staff as established under Section [~~63F-1-301~~] 63A-16-301.

(2) (a) An executive branch agency may not create a full-time equivalent position or part-time position, or request an appropriation to fund a full-time equivalent position or part-time position under the provisions of Section 63J-1-201 for the purpose of providing information technology services to the agency unless:

(i) the chief information officer has approved a delegation under Section [~~63F-1-208~~] 63A-16-207; and

(ii) the [~~department~~] division conducts an audit under Section [~~63F-1-604~~] 63A-16-213 and finds that the delegation of information technology services to the agency meets the requirements of Section [~~63F-1-208~~] 63A-16-207.

(b) The prohibition against a request for appropriation under Subsection (2)(a) does not apply to a request for appropriation needed to pay rates imposed under Subsection (1)(d).

Section ~~{72}~~74. Section **63A-16-209**, which is renumbered from Section 63F-1-210 is renumbered and amended to read:

~~[63F-1-210]~~. **63A-16-209**. **Accessibility standards for executive branch agency information technology.**

(1) The chief information officer shall establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) minimum standards for accessibility of executive branch agency information technology by an individual with a disability that:

(i) include accessibility criteria for:

(A) agency websites;

(B) hardware and software procured by an executive branch agency; and

(C) information systems used by executive branch agency employees;

(ii) include a protocol to evaluate the standards via testing by individuals with a variety of access limitations; and

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(iii) are, at minimum, consistent with the most recent Web Content Accessibility guidelines published by the World Wide Web Consortium; and

(b) grievance procedures for an individual with a disability who is unable to access executive branch agency information technology, including:

(i) a process for an individual with a disability to report the access issue to the chief information officer; and

(ii) a mechanism through which the chief information officer can respond to the report.

(2) The chief information officer shall update the standards described in Subsection (1)(a) at least every three years to reflect advances in technology.

Section ~~{73}~~75. Section **63A-16-210**, which is renumbered from Section 63F-1-211 is renumbered and amended to read:

~~[63F-1-211].~~ **63A-16-210. Chief information security officer.**

(1) The chief information officer shall appoint a chief information security officer.

(2) The chief information security officer described in Subsection (1) shall:

(a) assess cybersecurity risks;

(b) coordinate with executive branch agencies to assess the sensitivity of information;

and

(c) manage cybersecurity support for the department and executive branch agencies.

Section ~~{74}~~76. Section **63A-16-211**, which is renumbered from Section 63F-1-212 is renumbered and amended to read:

~~[63F-1-212].~~ **63A-16-211. Report to the Legislature.**

The [~~department~~] division shall, in accordance with Section [~~63F-1-201~~] 63F-16-201, before November 1 [~~of~~] each year, report to the Public Utilities, Energy, and Technology Interim Committee on:

(1) performance measures that the [~~department~~] division uses to assess the [~~department's~~] division's effectiveness in performing the [~~department's~~] division's duties under this [~~chapter~~] part; and

(2) the [~~department's~~] division's performance, evaluated in accordance with the performance measures described in Subsection (1).

Section ~~{75}~~77. Section **63A-16-212**, which is renumbered from Section 63F-1-603 is renumbered and amended to read:

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~~[63F-1-603]~~. 63A-16-212. Agency services -- Chief information officer manages.

The chief information officer shall manage the [~~department's~~] division's duties related to agency services.

Section ~~{76}~~78. Section **63A-16-213**, which is renumbered from Section 63F-1-604 is renumbered and amended to read:

~~[63F-1-604]~~. 63A-16-213. Duties of the division -- Agency services.

The [~~department~~] division shall:

- (1) be responsible for providing support to executive branch agencies for an agency's information technology assets and functions that are unique to the executive branch agency and are mission critical functions of the agency;
- (2) provide in-house information technology staff support to executive branch agencies;
- (3) establish a committee composed of agency user groups for the purpose of coordinating [~~department~~] division services with agency needs; and
- (4) assist executive branch agencies in complying with the requirements of any rule adopted by the chief information officer.

Section ~~{77}~~79. Section **63A-16-301**, which is renumbered from Section 63F-1-301 is renumbered and amended to read:

Part 3. Information Technology ~~{Rate Committee}~~Services and Rates

~~[63F-1-301]~~. 63A-16-301. Cost based services -- Fees -- ~~{Rate}~~Submission to rate committee.

- (1) The chief information officer shall:
 - (a) at the lowest practical cost, manage the delivery of efficient and cost-effective information technology and telecommunication services for:
 - (i) all executive branch agencies; and
 - (ii) entities that subscribe to the services in accordance with Section [~~63F-1-303~~] 63A-16-303; and
 - (b) provide priority service to public safety agencies.
- (2) (a) In accordance with this Subsection (2), the chief information officer shall prescribe a schedule of fees for all services rendered by the [~~department~~] division to:

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- (i) an executive branch entity; or
- (ii) an entity that subscribes to services rendered by the [department] division in accordance with Section [~~63F-1-303~~] 63A-16-303.
 - (b) Each fee included in the schedule of fees required by Subsection (2)(a):
 - (i) shall be equitable;
 - (ii) should be based upon a zero based, full cost accounting of activities necessary to provide each service for which a fee is established; and
 - (iii) for each service multiplied by the projected consumption of the service recovers no more or less than the full cost of each service.
 - (c) Before charging a fee for its services to an executive branch agency or to a subscriber of services other than an executive branch agency, the chief information officer shall:
 - (i) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section [~~63F-1-302~~] ~~{63A-16-302}~~63A-1-114; and
 - (ii) obtain the approval of the Legislature as required by Section 63J-1-410.
 - (d) The chief information officer shall periodically conduct a market analysis [~~by July 1, 2006, and periodically thereafter,~~] of proposed rates and fees, which analysis shall include a comparison of the [~~department's~~] division's rates with the fees of other public or private sector providers where comparable services and rates are reasonably available.

Section ~~{78}~~80. Section 63A-16-302, which is renumbered from Section ~~{63F-1-302}~~63F-1-303 is renumbered and amended to read:

~~[{63F-1-302}{63F-1-303}].~~ 63A-16-302. ~~{ Information Technology Rate Committee -- Membership -- Duties.~~

~~(1) (a) There is created an Information Technology Rate Committee, which shall consist of the executive directors, or the executive director's designee, of seven} Executive branch agencies -- Subscription by institutions.~~

~~(1) An~~ executive branch ~~{agencies that use services and pay rates to one}~~ agency in accordance with its agency information technology plan approved by the chief information officer shall:

(a) subscribe to the information technology services provided by the [department] division; or

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(b) contract with one or more alternate private providers of information technology services if the chief information officer determines that the purchase of the services from a private provider will:

(i) result in:

(A) cost savings;

(B) increased efficiency; or

(C) improved quality of services; and

(ii) not impair the interoperability of the state's information technology services.

(2) An institution of higher education may subscribe to the services provided by the [department] division if:

(a) the president of the institution recommends that the institution subscribe to the services of the [department] ~~{division's internal service funds, appointed by the governor for a two-year term.~~

~~——— (b) (i) Of the seven executive agencies represented on the rate committee under Subsection (1)(a), only one of the~~ division; and

(b) the Utah Board of Higher Education determines that subscription to the services of the [department] division will result in cost savings or increased efficiency to the institution.

(3) The following may ~~{be represented}~~ subscribe to information technology services by requesting that the services be provided from the [department] division:

(a) the legislative branch;

(b) the judicial branch;

(c) the State Board of Education;

(d) a political subdivision of the state;

(e) an agency of the federal government;

(f) an independent entity as defined in Section 63E-1-102; and

(g) an elective constitutional officer of the executive department as defined in

Subsection [63F-1-102] 63A-16-102(5)(b)(vii).

Section 81. Section 63A-16-401, which is renumbered from Section 63F-1-402 is renumbered and amended to read:

Part 4. Enterprise Technology

[63F-1-402].

63A-16-401. Definitions.

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As used in this [chapter] part, "enterprise architecture" means information technology assets and functions that can be applied across state government and include:

- (1) computing devices such as mainframes, servers, desktop devices, and peripherals;
- (2) networks;
- (3) enterprise wide applications;
- (4) maintenance and help desk functions for common hardware and applications;
- (5) standards for other computing devices, operating systems, common applications, and software; and
- (6) master contracts that are available for use by agencies for various systems such as operating systems, database, enterprise resource planning and customer relationship management software, application development services, and enterprise integration.

Section 82. Section **63A-16-402**, which is renumbered from Section 63F-1-403 is renumbered and amended to read:

[63F-1-403]. **63A-16-402. Enterprise technology -- Chief information officer manages.**

The chief information officer shall manage the [department's] division's duties related to enterprise technology.

Section 83. Section **63A-16-403**, which is renumbered from Section 63F-1-404 is renumbered and amended to read:

[63F-1-404]. **63A-16-403. Duties of the division -- Enterprise technology.**

The [department] division shall:

- (1) develop and implement an effective enterprise architecture governance model for the executive branch;
- (2) provide oversight of information technology projects that impact statewide information technology services, assets, or functions of state government to:
 - (a) control costs;
 - (b) ensure business value to a project;
 - (c) maximize resources;
 - (d) ensure the uniform application of best practices; and
 - (e) avoid duplication of resources;
- (3) develop a method of accountability to agencies for services provided by the

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department through service agreements with the agencies;

(4) serve as a project manager for enterprise architecture which includes the management of applications, standards, and procurement of enterprise architecture;

(5) coordinate the development and implementation of advanced state telecommunication systems;

(6) provide services including technical assistance;

(a) to executive branch agencies and subscribers to the services; and

(b) related to information technology or telecommunications;

(7) establish telecommunication system specifications and standards for use by:

(a) one or more executive branch agencies; or

(b) one or more entities that subscribe to the telecommunication systems in accordance

with Section [63F-1-303] 63A-16-303;

(8) coordinate state telecommunication planning in cooperation with:

(a) state telecommunication users;

(b) executive branch agencies; and

(c) other subscribers to the state's telecommunication systems;

(9) cooperate with the federal government, other state entities, counties, and municipalities in the development, implementation, and maintenance of:

(a) (i) governmental information technology; or

(ii) governmental telecommunication systems; and

(b) (i) as part of a cooperative organization; or

(ii) through means other than a cooperative organization;

(10) establish, operate, manage, and maintain:

(a) one or more state data centers; and

(b) one or more regional computer centers;

(11) design, implement, and manage all state-owned, leased, or rented land, mobile, or radio telecommunication systems that are used in the delivery of services for state government or its political subdivisions; and

(12) in accordance with the executive branch strategic plan, implement minimum standards to be used by the [department] division for purposes of compatibility of procedures, programming languages, codes, and media that facilitate the exchange of information within

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and among telecommunication systems.

Section 84. Section **63A-16-501**, which is renumbered from Section 63F-1-502 is renumbered and amended to read:

Part 5. Integrated Technology

[63F-1-502]. 63A-16-501. Definitions.

As used in this part:

(1) "Center" means the Automated Geographic Reference Center created in Section [63F-1-506] 63A-16-505.

(2) "Database" means the State Geographic Information Database created in Section [63F-1-507] 63A-16-506.

(3) "Geographic Information System" or "GIS" means a computer driven data integration and map production system that interrelates disparate layers of data to specific geographic locations.

(4) "Office" means the Office of Integrated Technology, created in Section 63A-16-502.

[~~(4)~~] (5) "State Geographic Information Database" means the database created in Section [63F-1-507] 63A-16-506.

[~~(5)~~] (6) "Statewide Global Positioning Reference Network" or "network" means the network created in Section [63F-1-509] 63A-16-508.

Section 85. Section **63A-16-502**, which is renumbered from Section 63F-1-503 is renumbered and amended to read:

[63F-1-503]. 63A-16-502. Office of Integrated Technology.

(1) There is created within the division the Office of Integrated Technology.

(2) The chief information officer shall manage the [~~department's~~] division's duties related to integrated technology.

Section 86. Section **63A-16-503**, which is renumbered from Section 63F-1-504 is renumbered and amended to read:

[63F-1-504]. 63A-16-503. Duties of the division -- Integrated technology.

The [~~department~~] division shall:

(1) establish standards for the information technology needs of a collection of executive branch agencies or programs that share common characteristics relative to the types

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of stakeholders they serve, including:

(a) project management;

(b) application development; and

(c) procurement;

(2) provide oversight of information technology standards that impact multiple

executive branch agency information technology services, assets, or functions to:

(a) control costs;

(b) ensure business value to a project;

(c) maximize resources;

(d) ensure the uniform application of best practices; and

(e) avoid duplication of resources; and

(3) establish a system of accountability to user agencies through the use of service agreements.

Section 87. Section **63A-16-504**, which is renumbered from Section 63F-1-505 is renumbered and amended to read:

[63F-1-505]. **63A-16-504. Information technology plan.**

(1) In accordance with this section, the [division] office shall submit an information technology plan to the chief information officer.

(2) The information technology plan submitted by the [division] office under this section shall include:

(a) the information required by Section [63F-1-203] 63A-16-202;

(b) a list of the services the [division] office offers or plans to offer; and

(c) a description of the performance measures used by the [division] office to measure the quality of the services described in Subsection (2)(b).

(3) (a) In submitting [its] the information technology plan under this section, the [division] office shall comply with Section [63F-1-204] 63A-16-203.

(b) The information technology plan submitted by the [division] office under this section is subject to the approval of the chief information officer as provided in Section [63F-1-204] 63A-16-203.

Section 88. Section **63A-16-505**, which is renumbered from Section 63F-1-506 is renumbered and amended to read:

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[63F-1-506]. 63A-16-505. Automated Geographic Reference Center.

- (1) There is created the Automated Geographic Reference Center as part of the [division] office.
- (2) The center shall:
- (a) provide geographic information system services to state agencies under rules adopted in accordance with Section [63F-1-504] 63A-16-503 and policies established by the [division] office;
- (b) provide geographic information system services to federal government, local political subdivisions, and private persons under rules and policies established by the [division] office;
- (c) manage the State Geographic Information Database; and
- (d) establish standard format, lineage, and other requirements for the database.
- (3) (a) There is created a position of surveyor within the center.
- (b) The surveyor under this Subsection (3) shall:
- (i) be licensed as a professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
- (ii) provide technical support to the office of lieutenant governor in the lieutenant governor's evaluation under Section 67-1a-6.5 of a proposed boundary action, as defined in Section 17-23-20;
- (iii) as requested by a county surveyor, provide technical assistance to the county surveyor with respect to the county surveyor's responsibilities under Section 17-23-20;
- (iv) fulfill the duties described in Section 17-50-105, if engaged to do so as provided in that section;
- (v) assist the State Tax Commission in processing and quality assurance of boundary descriptions or maps into digital format for inclusion in the State Geographic Information Database;
- (vi) coordinate with county recorders and surveyors to create a statewide parcel layer in the State Geographic Information Database containing parcel boundary, parcel identifier, parcel address, owner type, and county recorder contact information; and
- (vii) facilitate and integrate the collection efforts of local government and federal agencies for data collection to densify and enhance the statewide Public Land Survey System

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reference network in the State Geographic Information Database.

(4) The [division] office may:

(a) make rules and establish policies to govern the center and its operations; and

(b) set fees for the services provided by the center.

(5) The state may not sell information obtained from counties under Subsection

(3)(b)(v).

Section 89. Section 63A-16-506, which is renumbered from Section 63F-1-507 is renumbered and amended to read:

[63F-1-507]. 63A-16-506. State Geographic Information Database.

(1) There is created a State Geographic Information Database to be managed by the center.

(2) The database shall:

(a) serve as the central reference for all information contained in any GIS database by any state agency;

(b) serve as a clearing house and repository for all data layers required by multiple users;

(c) serve as a standard format for geographic information acquired, purchased, or produced by any state agency;

(d) include an accurate representation of all civil subdivision boundaries of the state; and

(e) for each public highway, as defined in Section 72-1-102, in the state, include an accurate representation of the highway's centerline, physical characteristics, and associated street address ranges.

(3) The center shall, in coordination with municipalities, counties, emergency communications centers, and the Department of Transportation:

(a) develop the information described in Subsection (2)(e); and

(b) update the information described in Subsection (2)(e) in a timely manner after a county recorder records a final plat.

(4) Each state agency that acquires, purchases, or produces digital geographic information data shall:

(a) inform the center of the existence of the data layers and their geographic extent;

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(b) allow the center access to all data classified public; and

(c) comply with any database requirements established by the center.

(5) At least annually, the State Tax Commission shall deliver to the center information the State Tax Commission receives under Section 67-1a-6.5 relating to the creation or modification of the boundaries of political subdivisions.

(6) The boundary of a political subdivision within the State Geographic Information Database is the official boundary of the political subdivision for purposes of meeting the needs of the United States Bureau of the Census in identifying the boundary of the political subdivision.

Section 90. Section 63A-16-507, which is renumbered from Section 63F-1-508 is renumbered and amended to read:

~~[63F-1-508].~~ **63A-16-507. Committee to award grants to counties for inventory and mapping of R.S. 2477 rights-of-way -- Use of grants -- Request for proposals.**

(1) There is created within the center a committee to award grants to counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other features as provided by Subsection (5).

(2) (a) The committee shall consist of:

(i) the center manager;

(ii) a representative of the Governor's Office of Management and Budget;

(iii) a representative of Utah State University Extension;

(iv) a representative of the Utah Association of Counties; and

(v) three county commissioners.

(b) The committee members specified in Subsections (2)(a)(ii) through (2)(a)(iv) shall be selected by the organizations they represent.

(c) The committee members specified in Subsection (2)(a)(v) shall be:

(i) selected by the Utah Association of Counties;

(ii) from rural counties; and

(iii) from different regions of the state.

(3) (a) The committee shall select a chair from [its] the committee's membership.

(b) The committee shall meet upon the call of the chair or a majority of the committee

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members.

(c) Four members [shall constitute] of the committee constitutes a quorum.

(4) (a) Committee members who are state government employees shall receive no additional compensation for their work on the committee.

(b) Committee members who are not state government employees shall receive no compensation or expenses from the state for their work on the committee.

(5) (a) The committee shall award grants to counties to:

(i) inventory and map R.S. 2477 rights-of-way using Global Positioning System (GPS) technology; and

(ii) photograph:

(A) roads and other evidence of construction of R.S. 2477 rights-of-way;

(B) structures or natural features that may be indicative of the purpose for which an R.S. 2477 right-of-way was created, such as mines, agricultural facilities, recreational facilities, or scenic overlooks; and

(C) evidence of valid and existing rights on federal lands, such as mines and agricultural facilities.

(b) (i) The committee may allow counties, while they are conducting the activities described in Subsection (5)(a), to use grant money to inventory, map, or photograph other natural or cultural resources.

(ii) Activities funded under Subsection (5)(b)(i) must be integrated with existing programs underway by state agencies, counties, or institutions of higher education.

(c) Maps and other data acquired through the grants shall become a part of the State Geographic Information Database.

(d) Counties shall provide an opportunity to interested parties to submit information relative to the mapping and photographing of R.S. 2477 rights-of-way and other structures as provided in Subsections (5)(a) and (5)(b).

(6) (a) The committee shall develop a request for proposals process and issue a request for proposals.

(b) The request for proposals shall require each grant applicant to submit an implementation plan and identify any monetary or in-kind contributions from the county.

(c) In awarding grants, the committee shall give priority to proposals to inventory, map,

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and photograph R.S. 2477 rights-of-way and other structures as specified in Subsection (5)(a) which are located on federal lands that:

(i) a federal land management agency proposes for special management, such as lands to be managed as an area of critical environmental concern or primitive area; or

(ii) are proposed to receive a special designation by Congress, such as lands to be designated as wilderness or a national conservation area.

(7) Each county that receives a grant under the provision of this section shall provide a copy of all data regarding inventory and mapping to the AGRC for inclusion in the state database.

Section 91. Section **63A-16-508**, which is renumbered from Section 63F-1-509 is renumbered and amended to read:

[63F-1-509]. **63A-16-508. Statewide Global Positioning Reference Network created -- Rulemaking authority.**

(1) (a) There is created the Statewide Global Positioning Reference Network to improve the quality of geographic information system data and the productivity, efficiency, and cost-effectiveness of government services.

(b) The network shall provide a system of permanently mounted, fully networked, global positioning system base stations that will provide real time radio navigation and establish a standard statewide coordinate reference system.

(c) The center shall administer the network.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the chief information officer shall make rules providing for operating policies and procedures for the network.

(b) When making rules under this section, the chief information officer shall consider:

(i) network development that serves a public purpose;

(ii) increased productivity and efficiency for state agencies; and

(iii) costs and longevity of the network.

Section 92. Section **63A-16-509**, which is renumbered from Section 63F-1-510 is renumbered and amended to read:

[63F-1-510]. **63A-16-509. Monument Replacement and Restoration Committee.**

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(1) As used in this section:

(a) "Committee" means the Monument Replacement and Restoration Committee created in this section.

(b) "Corner" means the same as that term is defined in Section 17-23-17.5.

(c) "Monument" means the same as that term is defined in Section 17-23-17.5.

(2) (a) There is created the Monument Replacement and Restoration Committee composed of the following seven members:

(i) five members appointed by an organization or association that represents Utah counties:

(A) that have knowledge and understanding of the Public Land Survey System; and

(B) who each represents a different county; and

(ii) two members, appointed by the center, who have a knowledge and understanding of the Public Land Survey System.

(b) (i) Except as provided in Subsection (2)(b)(ii), a member appointed to the committee is appointed for a four-year term.

(ii) The director of the center shall, at the time an entity appoints or reappoints an individual to serve on the committee, ~~{if at all, at any one time:}~~

~~— (A) adjust the length of the appointed individual's term, as necessary, to ensure that the terms of committee members are staggered so that approximately half of the committee members are appointed every two years.~~

(iii) When a vacancy occurs on the committee for any reason, the replacement appointee shall serve on the committee for the unexpired term.

(c) The committee shall elect one committee member to serve as chair of the committee for a term of two years.

(d) A majority of the committee constitutes a quorum, and the action of a majority of a quorum constitutes the action of the committee.

(e) (i) The center shall provide staff support to the committee.

(ii) An individual who is a member of the committee may not serve as staff to the committee.

(f) A member of the committee may not receive compensation for the member's service on the committee.

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(g) The committee may adopt bylaws to govern the committee's operation.

(3) (a) The committee shall administer a grant program to assist counties in maintaining and protecting corners or monuments.

(b) A county wishing to receive a grant under the program described in Subsection (3)(a) shall submit to the committee an application that:

(i) identifies one or more monuments in the county that are in need of protection or rehabilitation;

(ii) establishes a plan that is consistent with federal law or rule to protect or rehabilitate each monument identified under Subsection (3)(b)(i); and

(iii) requests a specific amount of funding to complete the plan established under Subsection (3)(b)(ii).

(c) The committee shall:

(i) adopt criteria to:

(A) evaluate whether a monument identified by a county under Subsection (3)(b)(i) needs protection or rehabilitation; and

(B) identify which monuments identified by a county under Subsection (3)(b)(i) have the greatest need of protection or rehabilitation;

(ii) evaluate each application submitted by a county under Subsection (3)(b) using the criteria adopted by the committee under Subsection (3)(c)(i);

(iii) subject to sufficient funding and Subsection (3)(d), award grants to counties whose applications are most favorably evaluated under Subsection (3)(c)(ii); and

(iv) establish a date by which a county awarded a grant under Subsection (3)(c)(iii) shall report back to the committee.

(d) The committee may not award a grant to a county under this section in an amount greater than \$100,000.

(4) A county that is awarded a grant under this section shall:

(a) document the work performed by the county, pursuant to the plan established by the county under Subsection (3)(b)(ii), to protect or rehabilitate a monument; and

(b) before the date established under Subsection (3)(c)(iv), report to the committee on the work performed by the county.

(5) (a) If the committee has not expended all of the funds appropriated to the

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committee by the Legislature for the fulfillment of the committee's duties under this section before December 31, 2017, the committee shall disburse any remaining funds equally among all counties that have established a dedicated monument preservation fund by ordinance as provided in Section 17-23-19.

(b) A county to which the center has disbursed funds under Subsection (5)(a) shall:

(i) deposit the funds into the county's monument preservation fund; and

(ii) expend the funds, in consultation with the committee, for the maintenance and preservation of monuments in the county.

Section 93. Section 63A-16-601, which is renumbered from Section 63F-1-701 is renumbered and amended to read:

Part 6. Utah Public Notice Website

~~[63F-1-701].~~ 63A-16-601. Utah Public Notice Website -- Establishment and administration.

(1) As used in this part:

~~[(a) "Division" means the Division of Archives and Records Service of the Department of Administrative Services.]~~

~~[(b)] (a) "Executive board" means the same as that term is defined in Section 67-1-2.5.~~

~~[(c)] (b) "Public body" means the same as that term is defined in Section 52-4-103.~~

~~[(d)] (c) "Public information" means a public body's public notices, minutes, audio recordings, and other materials that are required to be posted to the website under Title 52, Chapter 4, Open and Public Meetings Act, or other statute or state agency rule.~~

~~[(e)] (d) "Website" means the Utah Public Notice Website created [under] in this section.~~

(2) There is created the Utah Public Notice Website to be administered by the Division of Archives and Records Service.

(3) The website shall consist of an Internet website provided to assist the public to find posted public information.

(4) The ~~[division]~~ Division of Archives and Records Service, with the technical assistance of the ~~[Department]~~ Division of Technology Services, shall create the website that shall:

(a) allow a public body, or other certified entity, to easily post any public information,

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including the contact information required under Subsections 17B-1-303(9) and 17D-1-106(1)(b)(ii);

(b) allow the public to easily search the public information by:

(i) public body name;

(ii) date of posting of the notice;

(iii) date of any meeting or deadline included as part of the public information; and

(iv) any other criteria approved by the [division] Division of Archives and Records

Service;

(c) allow the public to easily search and view past, archived public information;

(d) allow an individual to subscribe to receive updates and notices associated with a public body or a particular type of public information;

(e) be easily accessible by the public from the State of Utah home page;

(f) have a unique and simplified website address;

(g) be directly accessible via a link from the main page of the official state website; and

(h) include other links, features, or functionality that will assist the public in obtaining and reviewing public information posted on the website, as may be approved by the division.

(5) (a) Subject to Subsection (5)(b), the [division] Division of Archives and Records Service and the governor's office shall coordinate to ensure that the website, the database described in Section 67-1-2.5, and the website described in Section 67-1-2.5 automatically share appropriate information in order to ensure that:

(i) an individual who subscribes to receive information under Subsection (4)(d) for an executive board automatically receives notifications of vacancies on the executive board that will be publicly filled, including a link to information regarding how an individual may apply to fill the vacancy; and

(ii) an individual who accesses an executive board's information on the website has access to the following through the website:

(A) the executive board's information in the database, except an individual's physical address, e-mail address, or phone number; and

(B) the portal described in Section 67-1-2.5 through which an individual may provide input on an appointee to, or member of, the executive board.

(b) The [division] Division of Archives and Records Service and the governor's office

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shall comply with Subsection (5)(a) as soon as reasonably possible within existing funds appropriated to the [division] Division of Archives and Records Service and the governor's office.

(6) Before August 1 of each year, the [division] Division of Archives and Records Service shall:

(a) identify each executive board that is a public body that did not submit to the website a notice of a public meeting during the previous fiscal year; and

(b) report the name of each identified executive board to the governor's boards and commissions administrator.

(7) The [division] Division of Archives and Records Service is responsible for:

(a) establishing and maintaining the website, including the provision of equipment, resources, and personnel as is necessary;

(b) providing a mechanism for public bodies or other certified entities to have access to the website for the purpose of posting and modifying public information; and

(c) maintaining an archive of all public information posted to the website.

(8) A public body is responsible for the content the public body is required to post to the website and the timing of posting of that information.

Section 94. Section **63A-16-602**, which is renumbered from Section 63F-1-702 is renumbered and amended to read:

~~63F-1-702~~. **63A-16-602. Notice and training by the Division of Archives and Records Service.**

(1) The [division] Division of Archives and Records Service shall provide notice of the provisions and requirements of this chapter to all public bodies that are subject to the provision of Subsection 52-4-202(3)(a)(ii).

(2) The [division] Division of Archives and Records Service shall, as necessary, provide periodic training on the use of the Utah Public Notice Website to public bodies that are authorized to post notice on the website.

Section 95. Section **63A-16-701**, which is renumbered from Section 63F-2-102 is renumbered and amended to read:

Part 7. Data Security Management Council

~~63F-2-102~~. **63A-16-701. Data Security Management Council --**

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Membership -- Duties.

(1) There is created the Data Security Management Council [composed of] comprising eight members as follows:

(a) the chief information officer appointed under Section [63F-1-201] 63A-16-201, or the chief information officer's designee;

(b) one individual appointed by the governor;

(c) one individual appointed by the speaker of the House of Representatives and the president of the Senate; and

(d) the highest ranking information technology official, or the highest ranking information technology official's designee, from each of:

(i) the Judicial Council;

(ii) the Utah Board of Higher Education;

(iii) the State Board of Education;

(iv) the State Tax Commission; and

(v) the Office of the Attorney General.

(2) The council shall elect a chair of the council by majority vote.

(3) (a) A majority of the members of the council constitutes a quorum.

(b) Action by a majority of a quorum of the council constitutes an action of the council.

(4) The [~~Department~~] Division of Technology Services shall provide staff to the council.

(5) The council shall meet quarterly, or as often as necessary, to:

(a) review existing state government data security policies;

(b) assess ongoing risks to state government information technology;

(c) create a method to notify state and local government entities of new risks;

(d) coordinate data breach simulation exercises with state and local government entities; and

(e) develop data security best practice recommendations for state government that include recommendations regarding:

(i) hiring and training a chief information security officer for each government entity;

(ii) continuous risk monitoring;

(iii) password management;

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(iv) using the latest technology to identify and respond to vulnerabilities;

(v) protecting data in new and old systems; and

(vi) best procurement practices.

(6) A member who is not a member of the Legislature may not receive compensation or benefits for the member's service but may receive per diem and travel expenses as provided in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

Section 96. Section **63A-16-702**, which is renumbered from Section 63F-2-103 is renumbered and amended to read:

[63F-2-103]. 63A-16-702. Data Security Management Council -- Report to Legislature -- Recommendations.

(1) The council chair or the council chair's designee shall report annually no later than October 1 of each year to the Public Utilities, Energy, and Technology Interim Committee.

(2) The council's annual report shall contain:

(a) a summary of topics the council studied during the year;

(b) best practice recommendations for state government; and

(c) recommendations for implementing the council's best practice recommendations.

Section 97. Section **63A-16-801**, which is renumbered from Section 63F-3-102 is renumbered and amended to read:

Part 8. Single Sign-on Portal

[63F-3-102]. 63A-16-801. Definitions.

As used in this [chapter] part:

(1) "Business data" means data collected by the state about a person doing business in the state.

(2) "Single sign-on business portal" means the web portal described in Section ~~[63F-3-103]~~ 63A-16-802.

(3) "Single sign-on citizen portal" means the web portal described in Section ~~[63F-3-103.5]~~ 63A-16-803.

(4) "Web portal" means an Internet webpage that can be accessed by a person that

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enters the person's unique user information in order to access secure information.

Section 98. Section 63A-16-802, which is renumbered from Section 63F-3-103 is renumbered and amended to read:

~~63F-3-103.~~ **63A-16-802. Single sign-on business portal -- Creation.**

(1) The [department] division shall, in consultation with the entities described in Subsection (4), design and create a single sign-on business portal that is:

(a) a web portal through which a person may access data described in Subsection (2), as agreed upon by the entities described in Subsection (4); and

(b) secure, centralized, and interconnected.

(2) The [department] division shall ensure that the single sign-on business portal allows a person doing business in the state to access, at a single point of entry, all relevant state-collected business data about the person, including information related to:

(a) business registration;

(b) workers' compensation;

(c) beginning December 1, 2020, tax liability and payment; and

(d) other information collected by the state that the department determines is relevant to a person doing business in the state.

(3) The department shall develop the single sign-on business portal:

(a) using an open platform that:

(i) facilitates participation in the web portal by a state entity;

(ii) allows for optional participation by a political subdivision of the state; and

(iii) contains a link to the State Tax Commission website; and

(b) in a manner that anticipates the creation of the single sign-on citizen portal described in Section ~~[63F-3-103.5]~~ 63A-16-803.

(4) In developing the single sign-on business portal, the department shall consult with:

(a) the Department of Commerce;

(b) the State Tax Commission;

(c) the Labor Commission;

(d) the Department of Workforce Services;

(e) the Governor's Office of Management and Budget;

(f) the Utah League of Cities and Towns;

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(g) the Utah Association of Counties; and

(h) the business community that is likely to use the single sign-on business portal.

(5) The [department] division shall ensure that the single sign-on business portal is fully operational no later than May 1, 2021.

Section 99. Section 63A-16-803, which is renumbered from Section 63F-3-103.5 is renumbered and amended to read:

[63F-3-103.5]. 63A-16-803. Single sign-on citizen portal -- Creation.

(1) The [department] division shall, in consultation with the entities described in Subsection (4), design and create a single sign-on citizen portal that is:

(a) a web portal through which an individual may access information and services described in Subsection (2), as agreed upon by the entities described in Subsection (4); and

(b) secure, centralized, and interconnected.

(2) The [department] division shall ensure that the single sign-on citizen portal allows an individual, at a single point of entry, to:

(a) access and submit an application for:

(i) medical and support programs including:

(A) a medical assistance program administered under Title 26, Chapter 18, Medical Assistance Act, including Medicaid;

(B) the Children's Health Insurance Program under Title 26, Chapter 40, Utah Children's Health Insurance Act;

(C) the Primary Care Network as defined in Section 26-18-416; and

(D) the Women, Infants, and Children program administered under 42 U.S.C. Sec. 1786;

(ii) unemployment insurance under Title 35A, Chapter 4, Employment Security Act;

(iii) workers' compensation under Title 34A, Chapter 2, Workers' Compensation Act;

(iv) employment with a state agency;

(v) a driver license or state identification card renewal under Title 53, Chapter 3, Uniform Driver License Act;

(vi) a birth or death certificate under Title 26, Chapter 2, Utah Vital Statistics Act; and

(vii) a hunting or fishing license under Title 23, Chapter 19, Licenses, Permits, and Tags;

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(b) access the individual's:

(i) transcripts from an institution of higher education described in Section 53B-2-101;

and

(ii) immunization records maintained by the Utah Department of Health;

(c) register the individual's vehicle under Title 41, Chapter 1a, Part 2, Registration,

with the Motor Vehicle Division of the State Tax Commission;

(d) file the individual's state income taxes under Title 59, Chapter 10, Individual Income Tax Act, beginning December 1, 2020;

(e) access information about positions available for employment with the state; and

(f) access any other service or information the department determines is appropriate in consultation with the entities described in Subsection (4).

(3) The [department] division shall develop the single sign-on citizen portal using an open platform that:

(a) facilitates participation in the portal by a state entity;

(b) allows for optional participation in the portal by a political subdivision of the state;

and

(c) contains a link to the State Tax Commission website.

(4) In developing the single sign-on citizen portal, the department shall consult with:

(a) each state executive branch agency that administers a program, provides a service, or manages applicable information described in Subsection (2);

(b) the Utah League of Cities and Towns;

(c) the Utah Association of Counties; and

(d) other appropriate state executive branch agencies.

(5) The [department] division shall ensure that the single sign-on citizen portal is fully operational no later than January 1, 2025.

Section 100. Section **63A-16-804**, which is renumbered from Section 63F-3-104 is renumbered and amended to read:

[63F-3-104]. **63A-16-804. Report.**

(1) The [department] division shall report to the Public Utilities, Energy, and Technology Interim Committee before November 30 of each year regarding:

(a) the progress the [department] division has made in developing the single sign-on

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business portal and the single sign-on citizen portal and, once that development is complete, regarding the operation of the single sign-on business portal and the single sign-on citizen portal;

(b) the [department's] division's goals and plan for each of the next five years to fulfill the [department's] division's' responsibilities described in this part; and

(c) whether the [department] division recommends any change to the single sign-on fee being charged under Section 13-1-2.

(2) The Public Utilities, Energy, and Technology Interim Committee shall annually:

(a) review the single sign-on fee being charged under Section 13-1-2;

(b) determine whether the revenue from the single sign-on fee is adequate for designing and developing and then, once developed, operating and maintaining the single sign-on web portal; and

(c) make any recommendation to the Legislature that the committee considers appropriate concerning:

(i) the single sign-on fee; and

(ii) the development or operation of the single sign-on business portal and the single sign-on citizen portal.

Section 101. Section **63A-16-901**, which is renumbered from Section 63F-4-102 is renumbered and amended to read:

Part 9. Technology Innovation Act

[63F-4-102]. 63A-16-901. Definitions.

As used in this [chapter] part:

(1) "Executive branch agency" means a department, division, or other agency within the executive branch of state government.

(2) "Governor's budget office" means the Governor's Office of Management and Budget, created in Section 63J-4-201.

(3) "Review board" means the Architecture Review Board established within the department.

(4) "Technology innovation" means a new information technology not previously in use or a substantial adaptation or modification of an existing information technology.

(5) "Technology proposal" means a proposal to implement a technology innovation

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designed to result in a greater efficiency in a government process or a cost saving in the delivery of a government service, or both.

Section 102. Section 63A-16-902, which is renumbered from Section 63F-4-201 is renumbered and amended to read:

~~[63F-4-201].~~ **63A-16-902. Submitting a technology proposal -- Review process.**

(1) Multiple executive branch agencies may jointly submit to the chief information officer a technology proposal, on a form or in a format specified by the [department] division.

(2) The chief information officer shall transmit to the review board each technology proposal the chief information officer determines meets the form or format requirements of the [department] division.

(3) The review board shall:

(a) conduct a technical review of a technology proposal transmitted by the chief information officer;

(b) determine whether the technology proposal merits further review and consideration by the chief information officer, based on the technology proposal's likelihood to:

(i) be capable of being implemented effectively; and

(ii) result in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and

(c) transmit a technology proposal to the chief information officer and to the governor's budget office, if the review board determines that the technology proposal merits further review and consideration by the chief information officer.

Section 103. Section 63A-16-903, which is renumbered from Section 63F-4-202 is renumbered and amended to read:

~~[63F-4-202].~~ **63A-16-903. Chief information officer review and approval of technology proposals.**

(1) The chief information officer shall review and evaluate each technology proposal that the review board transmits to the chief information officer.

(2) The chief information officer may approve and recommend that the [department] division provide funding from legislative appropriations for a technology proposal if, after the chief information officer's review and evaluation of the technology proposal:

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(a) the chief information officer determines that there is a reasonably good likelihood that the technology proposal:

(i) is capable of being implemented effectively; and

(ii) will result in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and

(b) the chief information officer receives approval from the governor's budget office for the technology proposal.

(3) The chief information officer may:

(a) prioritize multiple approved technology proposals based on their relative likelihood of achieving the goals described in Subsection (2); and

(b) recommend funding based on the chief information officer's prioritization under Subsection (3)(a).

(4) The [department] division shall:

(a) track the implementation and success of a technology proposal approved by the chief information officer;

(b) evaluate the level of the technology proposal's implementation effectiveness and whether the implementation results in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and

(c) report the results of the [department's] division's tracking and evaluation:

(i) to the chief information officer, as frequently as the chief information officer requests; and

(ii) at least annually to the Public Utilities, Energy, and Technology Interim Committee.

(5) The [department] division may expend money appropriated by the Legislature to pay for expenses incurred by executive branch agencies in implementing a technology proposal that the chief information officer has approved.

Section 104. Section **63A-17-101**, which is renumbered from Section 67-19-1 is renumbered and amended to read:

CHAPTER 17. UTAH STATE PERSONNEL MANAGEMENT ACT

Part 1. General Provisions

~~[67-19-1].~~ **63A-17-101. Title.**

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This chapter [shall be known and may be cited] is known as the "Utah State Personnel Management Act."

Section 105. Section 63A-17-102, which is renumbered from Section 67-19-3 is renumbered and amended to read:

[67-19-3]. 63A-17-102. Definitions.

As used in this chapter:

(1) "Agency" means any department or unit of Utah state government with authority to employ personnel.

(2) "Career service" means positions under schedule B as defined in Section [67-19-15] 63A-17-301.

(3) "Career service employee" means an employee who has successfully completed a probationary period of service in a position covered by the career service.

(4) "Career service status" means status granted to employees who successfully complete probationary periods for competitive career service positions.

(5) "Classified service" means those positions subject to the classification and compensation provisions of Section [67-19-12] 63A-17-307.

(6) "Controlled substance" means controlled substance as defined in Section 58-37-2.

(7) (a) "Demotion" means a disciplinary action resulting in a reduction of an employee's current actual wage.

(b) "Demotion" does not mean:

(i) a nondisciplinary movement of an employee to another position without a reduction in the current actual wage; or

(ii) a reclassification of an employee's position under the provisions of Subsection [67-19-12] 63A-17-307(3) and rules made by the department.

[(8) "Department" means the Department of Human Resource Management.]

(8) "Director" means the director of the division.

(9) "Disability" means a physical or mental disability as defined and protected under the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.

(10) "Division" means the Division of Human Resource Management, created in Section 63A-17-105.

[(10)] (11) "Employee" means any individual in a paid status covered by the career

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service or classified service provisions of this chapter.

~~[(11)]~~ (12) "Examining instruments" means written or other types of proficiency tests.

~~[(12) "Executive director," except where otherwise specified, means the executive director of the Department of Human Resource Management.]~~

(13) "Human resource function" means those duties and responsibilities specified:

(a) under Section ~~[67-19-6]~~ 63A-17-106;

(b) under rules of the ~~[department]~~ division; and

(c) under other state or federal statute.

(14) "Market comparability adjustment" means a salary range adjustment determined necessary through a market survey of salary data and other relevant information.

(15) "Probationary employee" means an employee serving a probationary period in a career service position but who does not have career service status.

(16) "Probationary period" means that period of time determined by the ~~[department]~~ division that an employee serves in a career service position as part of the hiring process before career service status is granted to the employee.

(17) "Probationary status" means the status of an employee between the employee's hiring and the granting of career service status.

(18) "Structure adjustment" means a ~~[department]~~ division modification of salary ranges.

(19) "Temporary employee" means career service exempt employees described in Subsection ~~[67-19-15]~~ 63A-17-301(1)(q).

(20) "Total compensation" means salaries and wages, bonuses, paid leave, group insurance plans, retirement, and all other benefits offered to state employees as inducements to work for the state.

Section 106. Section **63A-17-103**, which is renumbered from Section 67-19-3.1 is renumbered and amended to read:

~~[67-19-3.1].~~ **63A-17-103. Principles guiding interpretation of chapter and adoption of rules.**

(1) The ~~[department]~~ division shall establish a career service system designed in a manner that will provide for the effective implementation of the following merit principles:

(a) recruiting, selecting, and advancing employees on the basis of their relative ability,

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knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(b) providing for equitable and competitive compensation;

(c) training employees as needed to assure high-quality performance;

(d) retaining employees on the basis of the adequacy of their performance and separating employees whose inadequate performance cannot be corrected;

(e) fair treatment of applicants and employees in all aspects of human resource administration without regard to race, color, religion, sex, national origin, political affiliation, age, or disability, and with proper regard for their privacy and constitutional rights as citizens;

(f) providing information to employees regarding their political rights and the prohibited practices under the Hatch Act; and

(g) providing a formal procedure for advancing grievances of employees;

(i) without discrimination, coercion, restraint, or reprisal; and

(ii) in a manner that is fair, expeditious, and inexpensive for the employee and the agency.

(2) The principles in Subsection (1) shall govern interpretation and implementation of this chapter.

Section 107. Section **63A-17-104**, which is renumbered from Section 67-19-4 is renumbered and amended to read:

~~[67-19-4].~~ **63A-17-104. Discriminatory or prohibited employment practices.**

The state, its officers, and employees shall be governed by the provisions of Section 34A-5-106 of the Utah Antidiscrimination Act concerning discriminatory or prohibited employment practices.

Section 108. Section **63A-17-105**, which is renumbered from Section 67-19-5 is renumbered and amended to read:

~~[67-19-5].~~ **63A-17-105. Division of Human Resource Management created -- Director -- Staff.**

(1) There is created ~~[the Department]~~ within the department, the Division of Human Resource Management.

(2) (a) The ~~[department]~~ division shall be administered by ~~[an executive]~~ a director appointed by the ~~[governor with the consent of the Senate]~~ executive director, with the

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approval of the governor.

(b) The [executive] director shall be a person with experience in human resource management and shall be accountable to the [governor for the] executive director for the director's performance in office.

[(3) The executive director may:]

[(a) appoint a personal secretary and a deputy director, both of whom shall be exempt from career service; and]

[(b) appoint division directors and program managers who may be career service exempt.]

[(4) (a) The executive director shall have full responsibility and accountability for the administration of the statewide human resource management system:]

[(b) Except as provided in Section 67-19-6.1, an agency may not perform human resource functions without the consent of the executive director.]

[(5) Statewide human resource management rules adopted by the Department of Human Resource Management in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or practices.]

[(6) The department may operate as an internal service fund agency in accordance with Section 63J-1-410 for the human resource functions the department provides:]

(4) The director shall advise the governor on human resource matters.

Section 109. Section **63A-17-106**, which is renumbered from Section 67-19-6 is renumbered and amended to read:

[67-19-6]. 63A-17-106. Responsibilities of the director.

(1) The director shall have full responsibility and accountability for the administration of the statewide human resource management system.

(2) Except as provided in Section 63A-17-201, an agency may not perform human resource functions without the consent of the director.

(3) Statewide human resource management rules adopted by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or practices.

(4) The division may operate as an internal service fund agency in accordance with

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Section 63J-1-410 for the human resource functions the division provides.

[(†)] (5) The [executive] director shall:

(a) develop, implement, and administer a statewide program of human resource management that will:

(i) aid in the efficient execution of public policy;

(ii) foster careers in public service for qualified employees; and

(iii) render assistance to state agencies in performing their missions;

(b) design and administer the state pay plan;

(c) design and administer the state classification system and procedures for determining schedule assignments;

(d) design and administer the state recruitment and selection system;

(e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;

(f) consult with agencies on decisions concerning employee corrective action and discipline;

(g) maintain central personnel records;

(h) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;

(i) perform duties assigned by the governor, executive director, or statute;

(j) adopt rules for human resource management according to the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(k) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions, payroll, and related matters concerning state human resources;

(l) conduct research and planning activities to:

(i) determine and prepare for future state human resource needs;

(ii) develop methods for improving public human resource management; and

(iii) propose needed policy changes to the governor;

(m) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity in employment;

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(n) when requested by charter schools or counties, municipalities, and other political subdivisions of the state, provide technical service, training recommendations, or advice on human resource management at a charge determined by the [executive] director;

(o) establish compensation policies and procedures for early voluntary retirement;

(p) confer with the heads of other agencies about human resource policies and procedures;

(q) submit an annual report to the executive director, the governor, and the Legislature;
and

(r) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b)(vi).

[~~(2)~~] (6) (a) After consultation with the executive director, the governor, and the heads of other agencies, the [executive] director shall establish and coordinate statewide training programs, including and subject to available funding, the development of manager and supervisor training.

(b) The programs developed under this Subsection [~~(2)~~] (6) shall have application to more than one agency.

(c) The [department] division may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.

(d) The [department] division shall ensure that any training program described in this Subsection [~~(2)~~] (6) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

[~~(3)~~] (7) (a) (i) The [department] division may collect fees for training as authorized by this Subsection [~~(3)~~] (7).

(ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.

(iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.

(iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.

(b) (i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.

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(ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.

Section 110. Section 63A-17-107 is enacted to read:

63A-17-107. Services and fees -- Submission to rate committee.

The director shall, before charging a fee for services provided by the division's internal service fund to an executive branch agency:

(1) submit the proposed rates, fees, and cost analysis to the rate committee established in Section 63A-1-114; and

(2) obtain the approval of the Legislature as required under Section 63J-1-410.

Section 111. Section 63A-17-108, which is renumbered from Section 67-19-26 is renumbered and amended to read:

~~67-19-26~~. **63A-17-108. Severability of provisions -- Compliance with requirements for federally aided programs.**

(1) If any provision of this chapter or of any regulation or order issued thereunder or the application of any provision of this chapter to any person or circumstance is held invalid, the remainder of this chapter and the application of provision of this chapter or regulation or orders issued under it to persons or circumstances other than those to which it is held invalid shall still be regarded as having the force and effect of law.

(2) If any part of this chapter is found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, the conflicting part of this chapter shall be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such findings shall not affect the operation of the remainder of this chapter in its application to the agencies concerned.

(3) Notwithstanding any provisions in this chapter to the contrary, no regulation shall be adopted which would deprive the state or any of its departments or institutions of federal grants or other forms of financial assistance, and the rules and regulations promulgated hereunder shall include standards, provisions, terms, and conditions for personnel engaged in the administration of federally aided programs, which shall, in all respects, comply with the necessary requirements for a qualified human resource system under the standards applicable to personnel engaged in the administration of federally aided programs.

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Section 112. Section 63A-17-201, which is renumbered from Section 67-19-6.1 is renumbered and amended to read:

Part 2. Offices and Facilities

[67-19-6.1]. 63A-17-201. Division field offices.

(1) The [executive director of the Department of Human Resource Management] director may establish a field office in an agency.

(2) The [executive] director may assign an employee of the [department] division to act as field office staff.

(3) The [executive] director and agency head shall sign an agreement, to be reviewed annually, that specifies:

(a) the services to be provided by the [department] division;

(b) the use of agency facilities and equipment by the field office;

(c) protocols to resolve discrepancies between agency practice and [Department of Human Resource Management] division policy; and

(d) any other issue necessary for the proper functioning of the field office.

(4) Unless otherwise provided for in the field office agreement, the agency shall:

(a) assign responsibilities and duties to its employees;

(b) conduct performance appraisals;

(c) discipline its employees in consultation with the [department] division; and

(d) maintain individual personnel records.

Section 113. Section 63A-17-202, which is renumbered from Section 67-19-11 is renumbered and amended to read:

[67-19-11]. 63A-17-202. Use of facilities -- Field office facilities cost allocation.

(1) [(a)] An agency or a political subdivision of the state shall allow the [department] division to use public buildings under the agency's of the political subdivision's control, and furnish heat, light, and furniture, for any examination, training, hearing, or investigation authorized by this chapter.

[(b)] (2) An agency or political subdivision that allows the [department] division to use a public building under Subsection (1)[(a)] shall pay the cost of the [department's] division's use of the public building.

[(2) The executive director shall:]

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~~[(a) prepare an annual budget request for the department;]~~

~~[(b) submit the budget request to the governor and the Legislature; and]~~

~~[(c) before charging a fee for services provided by the department's internal service fund to an executive branch agency;]~~

~~[(i) submit the proposed rates, fees, and cost analysis to the Rate Committee established under Subsection (3); and]~~

~~[(ii) obtain the approval of the Legislature as required under Section 63J-1-410.]~~

~~[(3) (a) There is created a rate committee that shall consist of the executive directors of seven state agencies that use services and pay rates to one of the department internal service funds, or their designee, appointed by the governor for a two-year term.]~~

~~[(b) (i) Of the seven executive agencies represented on the rate committee under Subsection (3)(a), only one of the following may be represented on the committee, if at all, at any one time:]~~

~~[(A) the Governor's Office of Management and Budget;]~~

~~[(B) the Division of Finance; { or }]~~

~~[(C) the Department of Administrative Services { . } or]~~

~~[(D) the Department of Technology Services.]~~

~~[(ii) The department may not have a representative on the rate committee.]~~

~~{(b) Neither the department nor the division may have a representative on the rate committee:~~

~~—— (c) (i) The committee shall elect a chair from its members:~~

~~—— (ii) Members of the committee who are state government employees and who do not receive salary, per diem, or expenses from their agency for their service on the committee shall receive no compensation, benefits, per diem, or expenses for the member's service on the committee:~~

~~—— (d) The [department] division shall provide staff services to the committee:~~

~~—— (2) (a) Any internal service funds managed by the [department] division shall submit to the committee a proposed rate and fee schedule for services rendered by the [department] division to an executive branch agency or an entity that subscribes to services rendered by the [department] division:~~

~~—— (b) The committee shall:~~

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~~—— (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;~~

~~—— (ii) meet at least once each calendar year to:~~

~~—— (A) discuss the service performance of each internal service fund;~~

~~—— (B) review the proposed rate and fee schedules;~~

~~—— (C) determine whether each proposed fee is based on cost recovery as required by Subsection [63F-1-301] 63A-16-301(2)(b);~~

~~—— (D) at the rate committee's discretion, approve, increase, or decrease the rate and fee schedules described in Subsection (2)(b)(ii)(B); and~~

~~—— (E) discuss any prior or potential adjustments to the service level received by state agencies that pay rates to an internal service fund;~~

~~—— (iii) recommend a proposed rate and fee schedule for each internal service fund to:~~

~~—— (A) the Governor's Office of Management and Budget; and~~

~~—— (B) the Office of Legislative Fiscal Analyst for review by the Legislature in accordance with Section 63J-1-410, which requires the Legislature to approve the internal service fund agency's rates, fees, and budget in an appropriations act; and~~

~~—— (iv) in accordance with Section 63J-1-410, review and approve, increase or decrease an interim rate, fee, or amount when an internal service fund agency begins a new service or introduces a new product between annual general sessions of the Legislature, which rate, fee, or amount shall be submitted to the Legislature at the next annual general session.~~

~~—— (c) The committee may, in accordance with Subsection 63J-1-410(4), decrease a rate, fee, or amount that has been approved by the Legislature.~~

~~—— Section 79. Section 63A-16-303, which is renumbered from Section 63F-1-303 is renumbered and amended to read:~~

~~—— [63F-1-303]. 63A-16-303. Executive branch agencies -- Subscription by institutions.~~

~~—— (1) An executive branch agency in accordance with its agency information technology plan approved by the chief information officer shall:~~

~~—— (a) subscribe to the information technology services provided by the [department] division; or~~

~~—— (b) contract with one or more alternate private providers of information technology~~

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~~services if the chief information officer determines that the purchase of the services from a private provider will:~~

~~—— (i) result in:~~

~~—— (A) cost savings;~~

~~—— (B) increased efficiency; or~~

~~—— (C) improved quality of services; and~~

~~—— (ii) not impair the interoperability of the state's information technology services.~~

~~—— (2) An institution of higher education may subscribe to the services provided by the [department] division if:~~

~~—— (a) the president of the institution recommends that the institution subscribe to the services of the [department] division; and~~

~~—— (b) the Utah Board of Higher Education determines that subscription to the services of the [department] division will result in cost savings or increased efficiency to the institution.~~

~~—— (3) The following may subscribe to information technology services by requesting that the services be provided from the [department] division:~~

~~—— (a) the legislative branch;~~

~~—— (b) the judicial branch;~~

~~—— (c) the State Board of Education;~~

~~—— (d) a political subdivision of the state;~~

~~—— (e) an agency of the federal government;~~

~~—— (f) an independent entity as defined in Section 63E-1-102; and~~

~~—— (g) an elective constitutional officer of the executive department as defined in Subsection [63F-1-102] 63A-16-102(5)(b)(vii):~~

~~—— Section 80. Section 63A-16-401, which is renumbered from Section 63F-1-402 is renumbered and amended to read:~~

~~Part 4. Enterprise Technology~~

~~—— [63F-1-402]. —— 63A-16-401. Definitions.~~

~~—— As used in this [chapter] part, "enterprise architecture" means information technology assets and functions that can be applied across state government and include:~~

~~—— (1) computing devices such as mainframes, servers, desktop devices, and peripherals;~~

~~—— (2) networks;~~

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- ~~—— (3) enterprise wide applications;~~
- ~~—— (4) maintenance and help desk functions for common hardware and applications;~~
- ~~—— (5) standards for other computing devices, operating systems, common applications, and software; and~~
- ~~—— (6) master contracts that are available for use by agencies for various systems such as operating systems, database, enterprise resource planning and customer relationship management software, application development services, and enterprise integration.~~

~~—— Section 81. Section **63A-16-402**, which is renumbered from Section 63F-1-403 is renumbered and amended to read:~~

~~—— [63F-1-403].~~ **63A-16-402. Enterprise technology -- Chief information officer manages:**

~~—— The chief information officer shall manage the [department's] division's duties related to enterprise technology.~~

~~—— Section 82. Section **63A-16-403**, which is renumbered from Section 63F-1-404 is renumbered and amended to read:~~

~~—— [63F-1-404].~~ **63A-16-403. Duties of the division -- Enterprise technology:**

~~—— The [department] division shall:~~

- ~~—— (1) develop and implement an effective enterprise architecture governance model for the executive branch;~~
- ~~—— (2) provide oversight of information technology projects that impact statewide information technology services, assets, or functions of state government to:~~
 - ~~—— (a) control costs;~~
 - ~~—— (b) ensure business value to a project;~~
 - ~~—— (c) maximize resources;~~
 - ~~—— (d) ensure the uniform application of best practices; and~~
 - ~~—— (e) avoid duplication of resources;~~
- ~~—— (3) develop a method of accountability to agencies for services provided by the department through service agreements with the agencies;~~
- ~~—— (4) serve as a project manager for enterprise architecture which includes the management of applications, standards, and procurement of enterprise architecture;~~
- ~~—— (5) coordinate the development and implementation of advanced state~~

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telecommunication systems;

- ~~—— (6) provide services including technical assistance:~~
 - ~~—— (a) to executive branch agencies and subscribers to the services; and~~
 - ~~—— (b) related to information technology or telecommunications;~~
 - ~~—— (7) establish telecommunication system specifications and standards for use by:~~
 - ~~—— (a) one or more executive branch agencies; or~~
 - ~~—— (b) one or more entities that subscribe to the telecommunication systems in accordance with Section [63F-1-303] 63A-16-303;~~
 - ~~—— (8) coordinate state telecommunication planning in cooperation with:~~
 - ~~—— (a) state telecommunication users;~~
 - ~~—— (b) executive branch agencies; and~~
 - ~~—— (c) other subscribers to the state's telecommunication systems;~~
 - ~~—— (9) cooperate with the federal government, other state entities, counties, and municipalities in the development, implementation, and maintenance of:~~
 - ~~—— (a) (i) governmental information technology; or~~
 - ~~—— (ii) governmental telecommunication systems; and~~
 - ~~—— (b) (i) as part of a cooperative organization; or~~
 - ~~—— (ii) through means other than a cooperative organization;~~
 - ~~—— (10) establish, operate, manage, and maintain:~~
 - ~~—— (a) one or more state data centers; and~~
 - ~~—— (b) one or more regional computer centers;~~
 - ~~—— (11) design, implement, and manage all state-owned, leased, or rented land, mobile, or radio telecommunication systems that are used in the delivery of services for state government or its political subdivisions; and~~
 - ~~—— (12) in accordance with the executive branch strategic plan, implement minimum standards to be used by the [department] division for purposes of compatibility of procedures, programming languages, codes, and media that facilitate the exchange of information within and among telecommunication systems:~~
- ~~—— Section 83. Section 63A-16-501, which is renumbered from Section 63F-1-502 is renumbered and amended to read:~~

~~Part 5. Integrated Technology~~

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~~[63F-1-502].~~ ~~63A-16-501.~~ **Definitions:**

~~As used in this part:~~

~~(1) "Center" means the Automated Geographic Reference Center created in Section [63F-1-506] 63A-16-505.~~

~~(2) "Database" means the State Geographic Information Database created in Section [63F-1-507] 63A-16-506.~~

~~(3) "Geographic Information System" or "GIS" means a computer driven data integration and map production system that interrelates disparate layers of data to specific geographic locations:~~

~~(4) "Office" means the Office of Integrated Technology, created in Section 63A-16-502.~~

~~[(4)] (5) "State Geographic Information Database" means the database created in Section [63F-1-507] 63A-16-506.~~

~~[(5)] (6) "Statewide Global Positioning Reference Network" or "network" means the network created in Section [63F-1-509] 63A-16-508.~~

~~Section 84. Section 63A-16-502, which is renumbered from Section 63F-1-503 is renumbered and amended to read:~~

~~[63F-1-503].~~ ~~63A-16-502.~~ **Office of Integrated Technology:**

~~(1) There is created within the division the Office of Integrated Technology.~~

~~(2) The chief information officer shall manage the [department's] division's duties related to integrated technology:~~

~~Section 85. Section 63A-16-503, which is renumbered from Section 63F-1-504 is renumbered and amended to read:~~

~~[63F-1-504].~~ ~~63A-16-503.~~ **Duties of the division -- Integrated technology:**

~~The [department] division shall:~~

~~(1) establish standards for the information technology needs of a collection of executive branch agencies or programs that share common characteristics relative to the types of stakeholders they serve, including:~~

~~(a) project management;~~

~~(b) application development; and~~

~~(c) procurement;~~

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~~— (2) provide oversight of information technology standards that impact multiple executive branch agency information technology services, assets, or functions to:~~

~~— (a) control costs;~~

~~— (b) ensure business value to a project;~~

~~— (c) maximize resources;~~

~~— (d) ensure the uniform application of best practices; and~~

~~— (e) avoid duplication of resources; and~~

~~— (3) establish a system of accountability to user agencies through the use of service agreements.~~

~~— Section 86. Section **63A-16-504**, which is renumbered from Section 63F-1-505 is renumbered and amended to read:~~

~~— **[63F-1-505].** **63A-16-504. Information technology plan.**~~

~~— (1) In accordance with this section, the [division] office shall submit an information technology plan to the chief information officer.~~

~~— (2) The information technology plan submitted by the [division] office under this section shall include:~~

~~— (a) the information required by Section [63F-1-203] 63A-16-202;~~

~~— (b) a list of the services the [division] office offers or plans to offer; and~~

~~— (c) a description of the performance measures used by the [division] office to measure the quality of the services described in Subsection (2)(b).~~

~~— (3) (a) In submitting [its] the information technology plan under this section, the [division] office shall comply with Section [63F-1-204] 63A-16-203.~~

~~— (b) The information technology plan submitted by the [division] office under this section is subject to the approval of the chief information officer as provided in Section [63F-1-204] 63A-16-203.~~

~~— Section 87. Section **63A-16-505**, which is renumbered from Section 63F-1-506 is renumbered and amended to read:~~

~~— **[63F-1-506].** **63A-16-505. Automated Geographic Reference Center.**~~

~~— (1) There is created the Automated Geographic Reference Center as part of the [division] office.~~

~~— (2) The center shall:~~

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~~—— (a) provide geographic information system services to state agencies under rules adopted in accordance with Section [63F-1-504] 63A-16-503 and policies established by the [division] office;~~

~~—— (b) provide geographic information system services to federal government, local political subdivisions, and private persons under rules and policies established by the [division] office;~~

~~—— (c) manage the State Geographic Information Database; and~~

~~—— (d) establish standard format, lineage, and other requirements for the database.~~

~~—— (3) (a) There is created a position of surveyor within the center.~~

~~—— (b) The surveyor under this Subsection (3) shall:~~

~~—— (i) be licensed as a professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;~~

~~—— (ii) provide technical support to the office of lieutenant governor in the lieutenant governor's evaluation under Section 67-1a-6.5 of a proposed boundary action, as defined in Section 17-23-20;~~

~~—— (iii) as requested by a county surveyor, provide technical assistance to the county surveyor with respect to the county surveyor's responsibilities under Section 17-23-20;~~

~~—— (iv) fulfill the duties described in Section 17-50-105, if engaged to do so as provided in that section;~~

~~—— (v) assist the State Tax Commission in processing and quality assurance of boundary descriptions or maps into digital format for inclusion in the State Geographic Information Database;~~

~~—— (vi) coordinate with county recorders and surveyors to create a statewide parcel layer in the State Geographic Information Database containing parcel boundary, parcel identifier, parcel address, owner type, and county recorder contact information; and~~

~~—— (vii) facilitate and integrate the collection efforts of local government and federal agencies for data collection to densify and enhance the statewide Public Land Survey System reference network in the State Geographic Information Database.~~

~~—— (4) The [division] office may:~~

~~—— (a) make rules and establish policies to govern the center and its operations; and~~

~~—— (b) set fees for the services provided by the center.~~

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~~(5) The state may not sell information obtained from counties under Subsection (3)(b)(v).~~

~~Section 88. Section 63A-16-506, which is renumbered from Section 63F-1-507 is renumbered and amended to read:~~

~~[63F-1-507]. 63A-16-506. State Geographic Information Database:~~

~~(1) There is created a State Geographic Information Database to be managed by the center:~~

~~(2) The database shall:~~

~~(a) serve as the central reference for all information contained in any GIS database by any state agency;~~

~~(b) serve as a clearing house and repository for all data layers required by multiple users;~~

~~(c) serve as a standard format for geographic information acquired, purchased, or produced by any state agency;~~

~~(d) include an accurate representation of all civil subdivision boundaries of the state; and~~

~~(e) for each public highway, as defined in Section 72-1-102, in the state, include an accurate representation of the highway's centerline, physical characteristics, and associated street address ranges:~~

~~(3) The center shall, in coordination with municipalities, counties, emergency communications centers, and the Department of Transportation:~~

~~(a) develop the information described in Subsection (2)(e); and~~

~~(b) update the information described in Subsection (2)(e) in a timely manner after a county recorder records a final plat.~~

~~(4) Each state agency that acquires, purchases, or produces digital geographic information data shall:~~

~~(a) inform the center of the existence of the data layers and their geographic extent;~~

~~(b) allow the center access to all data classified public; and~~

~~(c) comply with any database requirements established by the center.~~

~~(5) At least annually, the State Tax Commission shall deliver to the center information the State Tax Commission receives under Section 67-1a-6.5 relating to the creation or~~

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~~modification of the boundaries of political subdivisions:~~

~~—— (6) The boundary of a political subdivision within the State Geographic Information Database is the official boundary of the political subdivision for purposes of meeting the needs of the United States Bureau of the Census in identifying the boundary of the political subdivision:~~

~~—— Section 89. Section **63A-16-507**, which is renumbered from Section 63F-1-508 is renumbered and amended to read:~~

~~—— **[63F-1-508]. 63A-16-507. Committee to award grants to counties for inventory and mapping of R.S. 2477 rights-of-way == Use of grants == Request for proposals.**~~

~~—— (1) There is created within the center a committee to award grants to counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other features as provided by Subsection (5):~~

~~—— (2) (a) The committee shall consist of:~~

~~—— (i) the center manager;~~

~~—— (ii) a representative of the Governor's Office of Management and Budget;~~

~~—— (iii) a representative of Utah State University Extension;~~

~~—— (iv) a representative of the Utah Association of Counties; and~~

~~—— (v) three county commissioners:~~

~~—— (b) The committee members specified in Subsections (2)(a)(ii) through (2)(a)(iv) shall be selected by the organizations they represent.~~

~~—— (c) The committee members specified in Subsection (2)(a)(v) shall be:~~

~~—— (i) selected by the Utah Association of Counties;~~

~~—— (ii) from rural counties; and~~

~~—— (iii) from different regions of the state.~~

~~—— (3) (a) The committee shall select a chair from ~~[its]~~ the committee's membership.~~

~~—— (b) The committee shall meet upon the call of the chair or a majority of the committee members:~~

~~—— (c) Four members ~~[shall constitute]~~ of the committee constitutes a quorum.~~

~~—— (4) (a) Committee members who are state government employees shall receive no additional compensation for their work on the committee:~~

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~~_____ (b) Committee members who are not state government employees shall receive no compensation or expenses from the state for their work on the committee.~~

~~_____ (5) (a) The committee shall award grants to counties to:~~

~~_____ (i) inventory and map R.S. 2477 rights-of-way using Global Positioning System (GPS) technology; and~~

~~_____ (ii) photograph:~~

~~_____ (A) roads and other evidence of construction of R.S. 2477 rights-of-way;~~

~~_____ (B) structures or natural features that may be indicative of the purpose for which an R.S. 2477 right-of-way was created, such as mines, agricultural facilities, recreational facilities, or scenic overlooks; and~~

~~_____ (C) evidence of valid and existing rights on federal lands, such as mines and agricultural facilities.~~

~~_____ (b) (i) The committee may allow counties, while they are conducting the activities described in Subsection (5)(a), to use grant money to inventory, map, or photograph other natural or cultural resources:~~

~~_____ (ii) Activities funded under Subsection (5)(b)(i) must be integrated with existing programs underway by state agencies, counties, or institutions of higher education.~~

~~_____ (c) Maps and other data acquired through the grants shall become a part of the State Geographic Information Database.~~

~~_____ (d) Counties shall provide an opportunity to interested parties to submit information relative to the mapping and photographing of R.S. 2477 rights-of-way and other structures as provided in Subsections (5)(a) and (5)(b).~~

~~_____ (6) (a) The committee shall develop a request for proposals process and issue a request for proposals:~~

~~_____ (b) The request for proposals shall require each grant applicant to submit an implementation plan and identify any monetary or in-kind contributions from the county.~~

~~_____ (c) In awarding grants, the committee shall give priority to proposals to inventory, map, and photograph R.S. 2477 rights-of-way and other structures as specified in Subsection (5)(a) which are located on federal lands that:~~

~~_____ (i) a federal land management agency proposes for special management, such as lands to be managed as an area of critical environmental concern or primitive area; or~~

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~~_____ (ii) are proposed to receive a special designation by Congress, such as lands to be designated as wilderness or a national conservation area:~~

~~_____ (7) Each county that receives a grant under the provision of this section shall provide a copy of all data regarding inventory and mapping to the AGRC for inclusion in the state database:~~

~~_____ Section 90. Section **63A-16-508**, which is renumbered from Section 63F-1-509 is renumbered and amended to read:~~

~~_____ **[63F-1-509]. _____ 63A-16-508. Statewide Global Positioning Reference Network created -- Rulemaking authority:**~~

~~_____ (1) (a) There is created the Statewide Global Positioning Reference Network to improve the quality of geographic information system data and the productivity, efficiency, and cost-effectiveness of government services:~~

~~_____ (b) The network shall provide a system of permanently mounted, fully networked, global positioning system base stations that will provide real time radio navigation and establish a standard statewide coordinate reference system:~~

~~_____ (c) The center shall administer the network:~~

~~_____ (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the chief information officer shall make rules providing for operating policies and procedures for the network:~~

~~_____ (b) When making rules under this section, the chief information officer shall consider:~~

~~_____ (i) network development that serves a public purpose;~~

~~_____ (ii) increased productivity and efficiency for state agencies; and~~

~~_____ (iii) costs and longevity of the network:~~

~~_____ Section 91. Section **63A-16-509**, which is renumbered from Section 63F-1-510 is renumbered and amended to read:~~

~~_____ **[63F-1-510]. _____ 63A-16-509. Monument Replacement and Restoration Committee:**~~

~~_____ (1) As used in this section:~~

~~_____ (a) "Committee" means the Monument Replacement and Restoration Committee created in this section:~~

~~_____ (b) "Corner" means the same as that term is defined in Section 17-23-17.5:~~

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- ~~—— (c) "Monument" means the same as that term is defined in Section 17-23-17.5.~~
- ~~—— (2) (a) There is created the Monument Replacement and Restoration Committee composed of the following seven members:~~
 - ~~—— (i) five members appointed by an organization or association that represents Utah counties:~~
 - ~~—— (A) that have knowledge and understanding of the Public Land Survey System; and~~
 - ~~—— (B) who each represents a different county; and~~
 - ~~—— (ii) two members, appointed by the center, who have a knowledge and understanding of the Public Land Survey System.~~
- ~~—— (b) (i) Except as provided in Subsection (2)(b)(ii), a member appointed to the committee is appointed for a four-year term.~~
- ~~—— (ii) The director of the center shall, at the time an entity appoints or reappoints an individual to serve on the committee, adjust the length of the appointed individual's term, as necessary, to ensure that the terms of committee members are staggered so that approximately half of the committee members are appointed every two years.~~
- ~~—— (iii) When a vacancy occurs on the committee for any reason, the replacement appointee shall serve on the committee for the unexpired term.~~
- ~~—— (c) The committee shall elect one committee member to serve as chair of the committee for a term of two years.~~
- ~~—— (d) A majority of the committee constitutes a quorum, and the action of a majority of a quorum constitutes the action of the committee.~~
- ~~—— (e) (i) The center shall provide staff support to the committee.~~
- ~~—— (ii) An individual who is a member of the committee may not serve as staff to the committee.~~
- ~~—— (f) A member of the committee may not receive compensation for the member's service on the committee.~~
- ~~—— (g) The committee may adopt bylaws to govern the committee's operation.~~
- ~~—— (3) (a) The committee shall administer a grant program to assist counties in maintaining and protecting corners or monuments.~~
 - ~~—— (b) A county wishing to receive a grant under the program described in Subsection (3)(a) shall submit to the committee an application that:~~

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- ~~—— (i) identifies one or more monuments in the county that are in need of protection or rehabilitation;~~
- ~~—— (ii) establishes a plan that is consistent with federal law or rule to protect or rehabilitate each monument identified under Subsection (3)(b)(i); and~~
- ~~—— (iii) requests a specific amount of funding to complete the plan established under Subsection (3)(b)(i);~~
- ~~—— (c) The committee shall:~~
 - ~~—— (i) adopt criteria to:~~
 - ~~—— (A) evaluate whether a monument identified by a county under Subsection (3)(b)(i) needs protection or rehabilitation; and~~
 - ~~—— (B) identify which monuments identified by a county under Subsection (3)(b)(i) have the greatest need of protection or rehabilitation;~~
 - ~~—— (ii) evaluate each application submitted by a county under Subsection (3)(b) using the criteria adopted by the committee under Subsection (3)(c)(i);~~
 - ~~—— (iii) subject to sufficient funding and Subsection (3)(d), award grants to counties whose applications are most favorably evaluated under Subsection (3)(c)(ii); and~~
 - ~~—— (iv) establish a date by which a county awarded a grant under Subsection (3)(c)(iii) shall report back to the committee.~~
- ~~—— (d) The committee may not award a grant to a county under this section in an amount greater than \$100,000.~~
- ~~—— (4) A county that is awarded a grant under this section shall:~~
 - ~~—— (a) document the work performed by the county, pursuant to the plan established by the county under Subsection (3)(b)(i), to protect or rehabilitate a monument; and~~
 - ~~—— (b) before the date established under Subsection (3)(c)(iv), report to the committee on the work performed by the county.~~
- ~~—— (5) (a) If the committee has not expended all of the funds appropriated to the committee by the Legislature for the fulfillment of the committee's duties under this section before December 31, 2017, the committee shall disburse any remaining funds equally among all counties that have established a dedicated monument preservation fund by ordinance as provided in Section 17-23-19.~~
 - ~~—— (b) A county to which the center has disbursed funds under Subsection (5)(a) shall:~~

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- ~~—— (i) deposit the funds into the county's monument preservation fund; and~~
- ~~—— (ii) expend the funds, in consultation with the committee, for the maintenance and preservation of monuments in the county.~~

~~—— Section 92. Section **63A-16-601**, which is renumbered from Section 63F-1-701 is renumbered and amended to read:~~

Part 6. Utah Public Notice Website

~~—— [63F-1-701]. **63A-16-601. Utah Public Notice Website -- Establishment and administration.**~~

~~—— (1) As used in this part:~~

~~—— [(a) "Division" means the Division of Archives and Records Service of the Department of Administrative Services.]~~

~~—— [(b)] [(a) "Executive board" means the same as that term is defined in Section 67-1-2.5.~~

~~—— [(c)] [(b) "Public body" means the same as that term is defined in Section 52-4-103.~~

~~—— [(d)] [(c) "Public information" means a public body's public notices, minutes, audio recordings, and other materials that are required to be posted to the website under Title 52, Chapter 4, Open and Public Meetings Act, or other statute or state agency rule.~~

~~—— [(e)] [(d) "Website" means the Utah Public Notice Website created [under] in this section.~~

~~—— (2) There is created the Utah Public Notice Website to be administered by the Division of Archives and Records Service.~~

~~—— (3) The website shall consist of an Internet website provided to assist the public to find posted public information.~~

~~—— (4) The [division] Division of Archives and Records Service, with the technical assistance of the [Department] Division of Technology Services, shall create the website that shall:~~

~~—— (a) allow a public body, or other certified entity, to easily post any public information, including the contact information required under Subsections 17B-1-303(9) and 17D-1-106(1)(b)(ii);~~

~~—— (b) allow the public to easily search the public information by:~~

~~—— (i) public body name;~~

~~—— (ii) date of posting of the notice;~~

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~~—— (iii) date of any meeting or deadline included as part of the public information; and~~

~~—— (iv) any other criteria approved by the [division] Division of Archives and Records Service;~~

~~—— (c) allow the public to easily search and view past, archived public information;~~

~~—— (d) allow an individual to subscribe to receive updates and notices associated with a public body or a particular type of public information;~~

~~—— (e) be easily accessible by the public from the State of Utah home page;~~

~~—— (f) have a unique and simplified website address;~~

~~—— (g) be directly accessible via a link from the main page of the official state website; and~~

~~—— (h) include other links, features, or functionality that will assist the public in obtaining and reviewing public information posted on the website, as may be approved by the division.~~

~~—— (5) (a) Subject to Subsection (5)(b), the [division] Division of Archives and Records Service and the governor's office shall coordinate to ensure that the website, the database described in Section 67-1-2.5, and the website described in Section 67-1-2.5 automatically share appropriate information in order to ensure that:~~

~~—— (i) an individual who subscribes to receive information under Subsection (4)(d) for an executive board automatically receives notifications of vacancies on the executive board that will be publicly filled, including a link to information regarding how an individual may apply to fill the vacancy; and~~

~~—— (ii) an individual who accesses an executive board's information on the website has access to the following through the website:~~

~~—— (A) the executive board's information in the database, except an individual's physical address, e-mail address, or phone number; and~~

~~—— (B) the portal described in Section 67-1-2.5 through which an individual may provide input on an appointee to, or member of, the executive board.~~

~~—— (b) The [division] Division of Archives and Records Service and the governor's office shall comply with Subsection (5)(a) as soon as reasonably possible within existing funds appropriated to the [division] Division of Archives and Records Service and the governor's office.~~

~~—— (6) Before August 1 of each year, the [division] Division of Archives and Records Service shall:~~

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~~_____ (a) identify each executive board that is a public body that did not submit to the website a notice of a public meeting during the previous fiscal year; and~~

~~_____ (b) report the name of each identified executive board to the governor's boards and commissions administrator.~~

~~_____ (7) The [division] Division of Archives and Records Service is responsible for:~~

~~_____ (a) establishing and maintaining the website, including the provision of equipment, resources, and personnel as is necessary;~~

~~_____ (b) providing a mechanism for public bodies or other certified entities to have access to the website for the purpose of posting and modifying public information; and~~

~~_____ (c) maintaining an archive of all public information posted to the website.~~

~~_____ (8) A public body is responsible for the content the public body is required to post to the website and the timing of posting of that information.~~

~~_____ Section 93. Section **63A-16-602**, which is renumbered from Section 63F-1-702 is renumbered and amended to read:~~

~~_____ **[63F-1-702]. _____ 63A-16-602. Notice and training by the Division of Archives and Records Service.**~~

~~_____ (1) The [division] Division of Archives and Records Service shall provide notice of the provisions and requirements of this chapter to all public bodies that are subject to the provision of Subsection 52-4-202(3)(a)(ii):~~

~~_____ (2) The [division] Division of Archives and Records Service shall, as necessary, provide periodic training on the use of the Utah Public Notice Website to public bodies that are authorized to post notice on the website.~~

~~_____ Section 94. Section **63A-16-701**, which is renumbered from Section 63F-2-102 is renumbered and amended to read:~~

~~**Part 7. Data Security Management Council**~~

~~_____ **[63F-2-102]. _____ 63A-16-701. Data Security Management Council -- Membership -- Duties.**~~

~~_____ (1) There is created the Data Security Management Council [composed of] comprising eight members as follows:~~

~~_____ (a) the chief information officer appointed under Section [63F-1-201] 63A-16-201, or the chief information officer's designee;~~

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- ~~—— (b) one individual appointed by the governor;~~
- ~~—— (c) one individual appointed by the speaker of the House of Representatives and the president of the Senate; and~~
- ~~—— (d) the highest ranking information technology official, or the highest ranking information technology official's designee, from each of:~~
 - ~~—— (i) the Judicial Council;~~
 - ~~—— (ii) the Utah Board of Higher Education;~~
 - ~~—— (iii) the State Board of Education;~~
 - ~~—— (iv) the State Tax Commission; and~~
 - ~~—— (v) the Office of the Attorney General.~~
- ~~—— (2) The council shall elect a chair of the council by majority vote.~~
- ~~—— (3) (a) A majority of the members of the council constitutes a quorum.~~
- ~~—— (b) Action by a majority of a quorum of the council constitutes an action of the council.~~
- ~~—— (4) The [Department] Division of Technology Services shall provide staff to the council.~~
- ~~—— (5) The council shall meet quarterly, or as often as necessary, to:~~
 - ~~—— (a) review existing state government data security policies;~~
 - ~~—— (b) assess ongoing risks to state government information technology;~~
 - ~~—— (c) create a method to notify state and local government entities of new risks;~~
 - ~~—— (d) coordinate data breach simulation exercises with state and local government entities; and~~
 - ~~—— (e) develop data security best practice recommendations for state government that include recommendations regarding:~~
 - ~~—— (i) hiring and training a chief information security officer for each government entity;~~
 - ~~—— (ii) continuous risk monitoring;~~
 - ~~—— (iii) password management;~~
 - ~~—— (iv) using the latest technology to identify and respond to vulnerabilities;~~
 - ~~—— (v) protecting data in new and old systems; and~~
 - ~~—— (vi) best procurement practices.~~
- ~~—— (6) A member who is not a member of the Legislature may not receive compensation or benefits for the member's service but may receive per diem and travel expenses as provided~~

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in:

~~_____ (a) Section 63A-3-106;~~
~~_____ (b) Section 63A-3-107; and~~
~~_____ (c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.~~
~~_____ Section 95. Section 63A-16-702, which is renumbered from Section 63F-2-103 is renumbered and amended to read:~~

~~_____ [63F-2-103]. _____ 63A-16-702. Data Security Management Council -- Report to Legislature -- Recommendations.~~

~~_____ (1) The council chair or the council chair's designee shall report annually no later than October 1 of each year to the Public Utilities, Energy, and Technology Interim Committee:~~

~~_____ (2) The council's annual report shall contain:~~

~~_____ (a) a summary of topics the council studied during the year;~~

~~_____ (b) best practice recommendations for state government; and~~

~~_____ (c) recommendations for implementing the council's best practice recommendations.~~

~~_____ Section 96. Section 63A-16-801, which is renumbered from Section 63F-3-102 is renumbered and amended to read:~~

Part 8. Single Sign-on Portal

~~_____ [63F-3-102]. _____ 63A-16-801. Definitions.~~

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

~~_____ (1) "Business data" means data collected by the state about a person doing business in the state.~~

~~_____ (2) "Single sign-on business portal" means the web portal described in Section [63F-3-103] 63A-16-802.~~

~~_____ (3) "Single sign-on citizen portal" means the web portal described in Section [63F-3-103.5] 63A-16-803.~~

~~_____ (4) "Web portal" means an Internet webpage that can be accessed by a person that enters the person's unique user information in order to access secure information.~~

~~_____ Section 97. Section 63A-16-802, which is renumbered from Section 63F-3-103 is renumbered and amended to read:~~

~~_____ [63F-3-103]. _____ 63A-16-802. Single sign-on business portal -- Creation.~~

~~_____ (1) The [department] division shall, in consultation with the entities described in~~

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~~Subsection (4), design and create a single sign-on business portal that is:~~

~~—— (a) a web portal through which a person may access data described in Subsection (2), as agreed upon by the entities described in Subsection (4); and~~

~~—— (b) secure, centralized, and interconnected;~~

~~—— (2) The [department] division shall ensure that the single sign-on business portal allows a person doing business in the state to access, at a single point of entry, all relevant state-collected business data about the person, including information related to:~~

~~—— (a) business registration;~~

~~—— (b) workers' compensation;~~

~~—— (c) beginning December 1, 2020, tax liability and payment; and~~

~~—— (d) other information collected by the state that the department determines is relevant to a person doing business in the state.~~

~~—— (3) The department shall develop the single sign-on business portal:~~

~~—— (a) using an open platform that:~~

~~—— (i) facilitates participation in the web portal by a state entity;~~

~~—— (ii) allows for optional participation by a political subdivision of the state; and~~

~~—— (iii) contains a link to the State Tax Commission website; and~~

~~—— (b) in a manner that anticipates the creation of the single sign-on citizen portal described in Section [63F-3-103.5] 63A-16-803.~~

~~—— (4) In developing the single sign-on business portal, the department shall consult with:~~

~~—— (a) the Department of Commerce;~~

~~—— (b) the State Tax Commission;~~

~~—— (c) the Labor Commission;~~

~~—— (d) the Department of Workforce Services;~~

~~—— (e) the Governor's Office of Management and Budget;~~

~~—— (f) the Utah League of Cities and Towns;~~

~~—— (g) the Utah Association of Counties; and~~

~~—— (h) the business community that is likely to use the single sign-on business portal.~~

~~—— (5) The [department] division shall ensure that the single sign-on business portal is fully operational no later than May 1, 2021.~~

~~—— Section 98. Section 63A-16-803, which is renumbered from Section 63F-3-103.5 is~~

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renumbered and amended to read:

- ~~[63F-3-103.5].~~ ~~63A-16-803.~~ ~~Single sign-on citizen portal -- Creation.~~
- ~~(1) The [department] division shall, in consultation with the entities described in Subsection (4), design and create a single sign-on citizen portal that is:~~
- ~~(a) a web portal through which an individual may access information and services described in Subsection (2), as agreed upon by the entities described in Subsection (4); and~~
 - ~~(b) secure, centralized, and interconnected.~~
- ~~(2) The [department] division shall ensure that the single sign-on citizen portal allows an individual, at a single point of entry, to:~~
- ~~(a) access and submit an application for:~~
 - ~~(i) medical and support programs including:~~
 - ~~(A) a medical assistance program administered under Title 26, Chapter 18, Medical Assistance Act, including Medicaid;~~
 - ~~(B) the Children's Health Insurance Program under Title 26, Chapter 40, Utah Children's Health Insurance Act;~~
 - ~~(C) the Primary Care Network as defined in Section 26-18-416; and~~
 - ~~(D) the Women, Infants, and Children program administered under 42 U.S.C. Sec. 1786;~~
 - ~~(ii) unemployment insurance under Title 35A, Chapter 4, Employment Security Act;~~
 - ~~(iii) workers' compensation under Title 34A, Chapter 2, Workers' Compensation Act;~~
 - ~~(iv) employment with a state agency;~~
 - ~~(v) a driver license or state identification card renewal under Title 53, Chapter 3, Uniform Driver License Act;~~
 - ~~(vi) a birth or death certificate under Title 26, Chapter 2, Utah Vital Statistics Act; and~~
 - ~~(vii) a hunting or fishing license under Title 23, Chapter 19, Licenses, Permits, and Tags;~~
 - ~~(b) access the individual's:~~
 - ~~(i) transcripts from an institution of higher education described in Section 53B-2-101; and~~
 - ~~(ii) immunization records maintained by the Utah Department of Health;~~
 - ~~(c) register the individual's vehicle under Title 41, Chapter 1a, Part 2, Registration;~~

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~~with the Motor Vehicle Division of the State Tax Commission;~~

~~—— (d) file the individual's state income taxes under Title 59, Chapter 10, Individual Income Tax Act, beginning December 1, 2020;~~

~~—— (e) access information about positions available for employment with the state; and~~

~~—— (f) access any other service or information the department determines is appropriate in consultation with the entities described in Subsection (4);~~

~~—— (3) The [department] division shall develop the single sign-on citizen portal using an open platform that:~~

~~—— (a) facilitates participation in the portal by a state entity;~~

~~—— (b) allows for optional participation in the portal by a political subdivision of the state; and~~

~~—— (c) contains a link to the State Tax Commission website.~~

~~—— (4) In developing the single sign-on citizen portal, the department shall consult with:~~

~~—— (a) each state executive branch agency that administers a program, provides a service, or manages applicable information described in Subsection (2);~~

~~—— (b) the Utah League of Cities and Towns;~~

~~—— (c) the Utah Association of Counties; and~~

~~—— (d) other appropriate state executive branch agencies.~~

~~—— (5) The [department] division shall ensure that the single sign-on citizen portal is fully operational no later than January 1, 2025.~~

~~—— Section 99. Section ~~63A-16-804~~, which is renumbered from Section 63F-3-104 is renumbered and amended to read:~~

~~—— ~~[63F-3-104].~~ 63A-16-804. Report.~~

~~—— (1) The [department] division shall report to the Public Utilities, Energy, and Technology Interim Committee before November 30 of each year regarding:~~

~~—— (a) the progress the [department] division has made in developing the single sign-on business portal and the single sign-on citizen portal and, once that development is complete, regarding the operation of the single sign-on business portal and the single sign-on citizen portal;~~

~~—— (b) the [department's] division's goals and plan for each of the next five years to fulfill the [department's] division's responsibilities described in this part; and~~

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~~_____ (c) whether the [department] division recommends any change to the single sign-on fee being charged under Section 13-1-2.~~

~~_____ (2) The Public Utilities, Energy, and Technology Interim Committee shall annually:~~

~~_____ (a) review the single sign-on fee being charged under Section 13-1-2;~~

~~_____ (b) determine whether the revenue from the single sign-on fee is adequate for designing and developing and then, once developed, operating and maintaining the single sign-on web portal; and~~

~~_____ (c) make any recommendation to the Legislature that the committee considers appropriate concerning:~~

~~_____ (i) the single sign-on fee; and~~

~~_____ (ii) the development or operation of the single sign-on business portal and the single sign-on citizen portal.~~

~~_____ Section 100. Section **63A-16-901**, which is renumbered from Section 63F-4-102 is renumbered and amended to read:~~

~~**Part 9. Technology Innovation Act**~~

~~_____ **[63F-4-102]. _____ 63A-16-901. Definitions.**~~

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

~~_____ (1) "Executive branch agency" means a department, division, or other agency within the executive branch of state government.~~

~~_____ (2) "Governor's budget office" means the Governor's Office of Management and Budget, created in Section 63J-4-201.~~

~~_____ (3) "Review board" means the Architecture Review Board established within the department.~~

~~_____ (4) "Technology innovation" means a new information technology not previously in use or a substantial adaptation or modification of an existing information technology.~~

~~_____ (5) "Technology proposal" means a proposal to implement a technology innovation designed to result in a greater efficiency in a government process or a cost saving in the delivery of a government service, or both.~~

~~_____ Section 101. Section **63A-16-902**, which is renumbered from Section 63F-4-201 is renumbered and amended to read:~~

~~_____ **[63F-4-201]. _____ 63A-16-902. Submitting a technology proposal -- Review**~~

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~~process:~~

~~—— (1) Multiple executive branch agencies may jointly submit to the chief information officer a technology proposal, on a form or in a format specified by the [department] division.~~

~~—— (2) The chief information officer shall transmit to the review board each technology proposal the chief information officer determines meets the form or format requirements of the [department] division.~~

~~—— (3) The review board shall:~~

~~—— (a) conduct a technical review of a technology proposal transmitted by the chief information officer;~~

~~—— (b) determine whether the technology proposal merits further review and consideration by the chief information officer, based on the technology proposal's likelihood to:~~

~~—— (i) be capable of being implemented effectively; and~~

~~—— (ii) result in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and~~

~~—— (c) transmit a technology proposal to the chief information officer and to the governor's budget office, if the review board determines that the technology proposal merits further review and consideration by the chief information officer.~~

~~—— Section 102. Section ~~63A-16-903~~, which is renumbered from Section 63F-4-202 is renumbered and amended to read:~~

~~—— ~~[63F-4-202].~~ 63A-16-903. Chief information officer review and approval of technology proposals.~~

~~—— (1) The chief information officer shall review and evaluate each technology proposal that the review board transmits to the chief information officer.~~

~~—— (2) The chief information officer may approve and recommend that the [department] division provide funding from legislative appropriations for a technology proposal if, after the chief information officer's review and evaluation of the technology proposal:~~

~~—— (a) the chief information officer determines that there is a reasonably good likelihood that the technology proposal:~~

~~—— (i) is capable of being implemented effectively; and~~

~~—— (ii) will result in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and~~

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~~_____ (b) the chief information officer receives approval from the governor's budget office for the technology proposal.~~

~~_____ (3) The chief information officer may:~~

~~_____ (a) prioritize multiple approved technology proposals based on their relative likelihood of achieving the goals described in Subsection (2); and~~

~~_____ (b) recommend funding based on the chief information officer's prioritization under Subsection (3)(a).~~

~~_____ (4) The [department] division shall:~~

~~_____ (a) track the implementation and success of a technology proposal approved by the chief information officer;~~

~~_____ (b) evaluate the level of the technology proposal's implementation effectiveness and whether the implementation results in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and~~

~~_____ (c) report the results of the [department's] division's tracking and evaluation:~~

~~_____ (i) to the chief information officer, as frequently as the chief information officer requests; and~~

~~_____ (ii) at least annually to the Public Utilities, Energy, and Technology Interim Committee.~~

~~_____ (5) The [department] division may expend money appropriated by the Legislature to pay for expenses incurred by executive branch agencies in implementing a technology proposal that the chief information officer has approved.~~

~~_____ Section 103. Section 63A-17-101, which is renumbered from Section 67-19-1 is renumbered and amended to read:~~

~~CHAPTER 17. UTAH STATE PERSONNEL MANAGEMENT ACT~~

~~Part 1. General Provisions~~

~~_____ [67-19-1]. 63A-17-101. Title:~~

~~_____ This chapter [shall be known and may be cited] is known as the "Utah State Personnel Management Act."~~

~~_____ Section 104. Section 63A-17-102, which is renumbered from Section 67-19-3 is renumbered and amended to read:~~

~~_____ [67-19-3]. 63A-17-102. Definitions:~~

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~~As used in this chapter:~~

~~(1) "Agency" means any department or unit of Utah state government with authority to employ personnel.~~

~~(2) "Career service" means positions under schedule B as defined in Section [67-19-15] 63A-17-301.~~

~~(3) "Career service employee" means an employee who has successfully completed a probationary period of service in a position covered by the career service.~~

~~(4) "Career service status" means status granted to employees who successfully complete probationary periods for competitive career service positions.~~

~~(5) "Classified service" means those positions subject to the classification and compensation provisions of Section [67-19-12] 63A-17-307.~~

~~(6) "Controlled substance" means controlled substance as defined in Section 58-37-2.~~

~~(7) (a) "Demotion" means a disciplinary action resulting in a reduction of an employee's current actual wage.~~

~~(b) "Demotion" does not mean:~~

~~(i) a nondisciplinary movement of an employee to another position without a reduction in the current actual wage; or~~

~~(ii) a reclassification of an employee's position under the provisions of Subsection [67-19-12] 63A-17-307(3) and rules made by the department.~~

~~[(8) "Department" means the Department of Human Resource Management.]~~

~~(8) "Director" means the director of the division.~~

~~(9) "Disability" means a physical or mental disability as defined and protected under the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.~~

~~(10) "Division" means the Division of Human Resource Management, created in Section 63A-17-105.~~

~~[(10)] (11) "Employee" means any individual in a paid status covered by the career service or classified service provisions of this chapter.~~

~~[(11)] (12) "Examining instruments" means written or other types of proficiency tests.~~

~~[(12) "Executive director," except where otherwise specified, means the executive director of the Department of Human Resource Management.]~~

~~(13) "Human resource function" means those duties and responsibilities specified:~~

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~~_____ (a) under Section [67-19-6] 63A-17-106;~~

~~_____ (b) under rules of the [department] division, and~~

~~_____ (c) under other state or federal statute.~~

~~_____ (14) "Market comparability adjustment" means a salary range adjustment determined necessary through a market survey of salary data and other relevant information.~~

~~_____ (15) "Probationary employee" means an employee serving a probationary period in a career service position but who does not have career service status.~~

~~_____ (16) "Probationary period" means that period of time determined by the [department] division that an employee serves in a career service position as part of the hiring process before career service status is granted to the employee.~~

~~_____ (17) "Probationary status" means the status of an employee between the employee's hiring and the granting of career service status.~~

~~_____ (18) "Structure adjustment" means a [department] division modification of salary ranges.~~

~~_____ (19) "Temporary employee" means career service exempt employees described in Subsection [67-19-15] 63A-17-301(1)(q).~~

~~_____ (20) "Total compensation" means salaries and wages, bonuses, paid leave, group insurance plans, retirement, and all other benefits offered to state employees as inducements to work for the state.~~

~~_____ Section 105. Section 63A-17-103, which is renumbered from Section 67-19-3.1 is renumbered and amended to read:~~

~~_____ [67-19-3.1]. 63A-17-103. Principles guiding interpretation of chapter and adoption of rules:~~

~~_____ (1) The [department] division shall establish a career service system designed in a manner that will provide for the effective implementation of the following merit principles:~~

~~_____ (a) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;~~

~~_____ (b) providing for equitable and competitive compensation;~~

~~_____ (c) training employees as needed to assure high-quality performance;~~

~~_____ (d) retaining employees on the basis of the adequacy of their performance and~~

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~~separating employees whose inadequate performance cannot be corrected;~~

~~—— (e) fair treatment of applicants and employees in all aspects of human resource administration without regard to race, color, religion, sex, national origin, political affiliation, age, or disability, and with proper regard for their privacy and constitutional rights as citizens;~~

~~—— (f) providing information to employees regarding their political rights and the prohibited practices under the Hatch Act; and~~

~~—— (g) providing a formal procedure for advancing grievances of employees:~~

~~—— (i) without discrimination, coercion, restraint, or reprisal; and~~

~~—— (ii) in a manner that is fair, expeditious, and inexpensive for the employee and the agency.~~

~~—— (2) The principles in Subsection (1) shall govern interpretation and implementation of this chapter.~~

~~—— Section 106. Section ~~63A-17-104~~, which is renumbered from Section 67-19-4 is renumbered and amended to read:~~

~~—— ~~[67-19-4].~~ **63A-17-104. Discriminatory or prohibited employment practices:**~~

~~—— The state, its officers, and employees shall be governed by the provisions of Section 34A-5-106 of the Utah Antidiscrimination Act concerning discriminatory or prohibited employment practices.~~

~~—— Section 107. Section ~~63A-17-105~~, which is renumbered from Section 67-19-5 is renumbered and amended to read:~~

~~—— ~~[67-19-5].~~ **63A-17-105. Division of Human Resource Management created -- Director -- Staff:**~~

~~—— (1) There is created ~~[the Department]~~ within the department, the Division of Human Resource Management.~~

~~—— (2) (a) The ~~[department]~~ division shall be administered by ~~[an executive]~~ a director appointed by the ~~[governor with the consent of the Senate]~~ executive director.~~

~~—— (b) The ~~[executive]~~ director shall be a person with experience in human resource management and shall be accountable to the ~~[governor for the]~~ executive director for the director's performance in office.~~

~~—— (3) The ~~[executive]~~ director may:~~

~~—— (a) appoint a personal secretary and a deputy director, both of whom shall be exempt~~

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from career service; and

~~—— (b) appoint [division directors] office and program managers who may be career service exempt.~~

~~—— [(4) (a) The executive director shall have full responsibility and accountability for the administration of the statewide human resource management system.]~~

~~—— [(b) Except as provided in Section 67-19-6.1, an agency may not perform human resource functions without the consent of the executive director.]~~

~~—— [(5) Statewide human resource management rules adopted by the Department of Human Resource Management in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or practices.]~~

~~—— [(6) The department may operate as an internal service fund agency in accordance with Section 63J-1-410 for the human resource functions the department provides.]~~

~~—— (4) The director shall advise the governor on human resource matters.~~

~~—— Section 108. Section **63A-17-106**, which is renumbered from Section 67-19-6 is renumbered and amended to read:~~

~~—— [67-19-6]. **63A-17-106. Responsibilities of the director.**~~

~~—— (1) The director shall have full responsibility and accountability for the administration of the statewide human resource management system.~~

~~—— (2) Except as provided in Section 63A-17-201, an agency may not perform human resource functions without the consent of the director.~~

~~—— (3) Statewide human resource management rules adopted by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or practices.~~

~~—— (4) The division may operate as an internal service fund agency in accordance with Section 63J-1-410 for the human resource functions the division provides.~~

~~—— [(1)] (5) The [executive] director shall:~~

~~—— (a) develop, implement, and administer a statewide program of human resource management that will:~~

~~—— (i) aid in the efficient execution of public policy;~~

~~—— (ii) foster careers in public service for qualified employees; and~~

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- ~~—— (iii) render assistance to state agencies in performing their missions;~~
- ~~—— (b) design and administer the state pay plan;~~
- ~~—— (c) design and administer the state classification system and procedures for determining schedule assignments;~~
- ~~—— (d) design and administer the state recruitment and selection system;~~
- ~~—— (e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;~~
- ~~—— (f) consult with agencies on decisions concerning employee corrective action and discipline;~~
- ~~—— (g) maintain central personnel records;~~
- ~~—— (h) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;~~
- ~~—— (i) perform duties assigned by the governor, executive director, or statute;~~
- ~~—— (j) adopt rules for human resource management according to the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~
- ~~—— (k) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions, payroll, and related matters concerning state human resources;~~
- ~~—— (l) conduct research and planning activities to:~~
 - ~~—— (i) determine and prepare for future state human resource needs;~~
 - ~~—— (ii) develop methods for improving public human resource management; and~~
 - ~~—— (iii) propose needed policy changes to the governor;~~
- ~~—— (m) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity in employment;~~
- ~~—— (n) when requested by charter schools or counties, municipalities, and other political subdivisions of the state, provide technical service, training recommendations, or advice on human resource management at a charge determined by the [executive] director;~~
- ~~—— (o) establish compensation policies and procedures for early voluntary retirement;~~
- ~~—— (p) confer with the heads of other agencies about human resource policies and procedures;~~

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~~—— (q) submit an annual report to the executive director, the governor, and the Legislature; and~~

~~—— (r) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b)(vi).~~

~~—— [(2)] (6) (a) After consultation with the executive director, the governor, and the heads of other agencies, the [executive] director shall establish and coordinate statewide training programs, including and subject to available funding, the development of manager and supervisor training.~~

~~—— (b) The programs developed under this Subsection [(2)] (6) shall have application to more than one agency.~~

~~—— (c) The [department] division may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.~~

~~—— (d) The [department] division shall ensure that any training program described in this Subsection [(2)] (6) complies with Title 63G, Chapter 22, State Training and Certification Requirements.~~

~~—— [(3)] (7) (a) (i) The [department] division may collect fees for training as authorized by this Subsection [(3)] (7).~~

~~—— (ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.~~

~~—— (iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.~~

~~—— (iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.~~

~~—— (b) (i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.~~

~~—— (ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.~~

~~—— Section 109. Section **63A-17-107** is enacted to read:~~

~~—— **63A-17-107. Budget -- Rate committee.**~~

~~—— (1) The director shall:~~

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- ~~—— (a) prepare an annual budget request for the division;~~
- ~~—— (b) submit the budget request to the department, the governor, and the Legislature; and~~
- ~~—— (c) before charging a fee for services provided by the division's internal service fund to an executive branch agency:~~
 - ~~—— (i) submit the proposed rates, fees, and cost analysis to the rate committee established under Subsection (2); and~~
 - ~~—— (ii) obtain the approval of the Legislature as required under Section 63J-1-410.~~
- ~~—— (2) (a) There is created a rate committee that shall consist of the executive directors of seven state agencies that use services and pay rates to one of the division internal service funds; or the executive directors' designees, appointed by the governor for a two-year term:~~
 - ~~—— (b) (i) The rate committee shall elect a chair from the rate committee's members;~~
 - ~~—— (ii) Each member of the rate committee who is a state government employee and who does not receive salary, per diem, or expenses from the member's agency for the member's service on the rate committee shall receive no compensation, benefits, per diem, or expenses for the member's service on the rate committee;~~
- ~~—— (c) The division shall provide staff services to the rate committee.~~
- ~~—— (3) (a) The division shall submit to the rate committee a proposed rate and fee schedule for:~~
 - ~~—— (i) human resource management services rendered; and~~
 - ~~—— (ii) costs incurred by the Office of the Attorney General in defending the state in a grievance under review by the Career Service Review Office:~~
 - ~~—— (b) The rate committee shall:~~
 - ~~—— (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;~~
 - ~~—— (ii) meet at least once each calendar year to:~~
 - ~~—— (A) discuss the service performance of each internal service fund;~~
 - ~~—— (B) review the proposed rate and fee schedules;~~
 - ~~—— (C) at the rate committee's discretion, approve, increase, or decrease the rate and fee schedules described in Subsection (3)(b)(ii)(B); and~~
 - ~~—— (D) discuss any prior or potential adjustments to the service level received by state agencies that pay rates to an internal service fund;~~

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~~_____ (iii) recommend a proposed rate and fee schedule for the internal service fund to:~~

~~_____ (A) the Governor's Office of Management and Budget; and~~

~~_____ (B) each legislative appropriations subcommittee that, in accordance with Section 63J-1-410, approves the internal service fund rates, fees, and budget; and~~

~~_____ (iv) review and approve, increase, or decrease an interim rate, fee, or amount when the division begins a new service or introduces a new product between annual general sessions of the Legislature:~~

~~_____ (c) The committee may in accordance with Subsection 63J-1-410(4) decrease a rate, fee, or amount that has been approved by the Legislature:~~

~~_____ Section 110. Section **63A-17-108**, which is renumbered from Section 67-19-29 is renumbered and amended to read:~~

~~_____ [67-19-29]. **63A-17-108. Violation a misdemeanor.**~~

~~_____ Any person who knowingly violates a provision of [this chapter] the following is guilty of a class A misdemeanor[.]:~~

~~_____ (1) Part 1, General Provisions;~~

~~_____ (2) Part 2, Offices and Facilities;~~

~~_____ (3) Part 3, Classification and Career Service;~~

~~_____ (4) Part 4, Payroll and Benefits;~~

~~_____ (5) Part 5, Hours and Leave;~~

~~_____ (6) Part 7, Miscellaneous Grievance Provisions;~~

~~_____ (7) Part 10, Plans and Programs, except Section 63A-17-1007;~~

~~_____ (8) Section 63A-17-304; or~~

~~_____ (9) Part 14, Controlled Substances and Alcohol Use.~~

~~_____ Section 111. Section **63A-17-109**, which is renumbered from Section 67-19-26 is renumbered and amended to read:~~

~~_____ [67-19-26]. **63A-17-109. Severability of provisions -- Compliance with requirements for federally aided programs:**~~

~~_____ (1) If any provision of this chapter or of any regulation or order issued thereunder or the application of any provision of this chapter to any person or circumstance is held invalid, the remainder of this chapter and the application of provision of this chapter or regulation or orders issued under it to persons or circumstances other than those to which it is held invalid~~

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shall still be regarded as having the force and effect of law:

~~—— (2) If any part of this chapter is found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, the conflicting part of this chapter shall be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such findings shall not affect the operation of the remainder of this chapter in its application to the agencies concerned.~~

~~—— (3) Notwithstanding any provisions in this chapter to the contrary, no regulation shall be adopted which would deprive the state or any of its departments or institutions of federal grants or other forms of financial assistance, and the rules and regulations promulgated hereunder shall include standards, provisions, terms, and conditions for personnel engaged in the administration of federally aided programs, which shall, in all respects, comply with the necessary requirements for a qualified human resource system under the standards applicable to personnel engaged in the administration of federally aided programs.~~

~~—— Section 112. Section **63A-17-201**, which is renumbered from Section 67-19-6.1 is renumbered and amended to read:~~

~~Part 2. Offices and Facilities~~

~~—— [67-19-6.1]. **63A-17-201. Division field offices.**~~

~~—— (1) The [executive director of the Department of Human Resource Management] director may establish a field office in an agency.~~

~~—— (2) The [executive] director may assign an employee of the [department] division to act as field office staff.~~

~~—— (3) The [executive] director and agency head shall sign an agreement, to be reviewed annually, that specifies:~~

~~—— (a) the services to be provided by the [department] division;~~

~~—— (b) the use of agency facilities and equipment by the field office;~~

~~—— (c) protocols to resolve discrepancies between agency practice and [Department of Human Resource Management] division policy; and~~

~~—— (d) any other issue necessary for the proper functioning of the field office.~~

~~—— (4) Unless otherwise provided for in the field office agreement, the agency shall:~~

~~—— (a) assign responsibilities and duties to its employees;~~

~~—— (b) conduct performance appraisals;~~

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~~_____ (c) discipline its employees in consultation with the [department] division; and~~

~~_____ (d) maintain individual personnel records.~~

~~_____ Section 113. Section **63A-17-202**, which is renumbered from Section 67-19-11 is renumbered and amended to read:~~

~~_____ **[67-19-11]. 63A-17-202. Use of facilities -- Field office facilities cost allocation.**~~

~~_____ (1) [(a)] An agency or a political subdivision of the state shall allow the [department] division to use public buildings under the agency's of the political subdivision's control, and furnish heat, light, and furniture, for any examination, training, hearing, or investigation authorized by this chapter.~~

~~_____ [(b)] (2) An agency or political subdivision that allows the [department] division to use a public building under Subsection (1)[(a)] shall pay the cost of the [department's] division's use of the public building.~~

~~_____ (2) The executive director shall:~~

~~_____ (a) prepare an annual budget request for the department;~~

~~_____ (b) submit the budget request to the governor and the Legislature; and~~

~~_____ (c) before charging a fee for services provided by the department's internal service fund to an executive branch agency:~~

~~_____ (i) submit the proposed rates, fees, and cost analysis to the Rate Committee established under Subsection (3); and~~

~~_____ (ii) obtain the approval of the Legislature as required under Section 63J-1-410.~~

~~_____ (3) (a) There is created a rate committee that shall consist of the executive directors of seven state agencies that use services and pay rates to one of the department internal service funds, or their designee, appointed by the governor for a two-year term.~~

~~_____ (b) (i) Of the seven executive agencies represented on the rate committee under Subsection (3)(a), only one of the following may be represented on the committee, if at all, at any one time:~~

~~_____ (A) the Governor's Office of Management and Budget;~~

~~_____ (B) the Division of Finance; or~~

~~_____ (C) the Department of [Administrative Services; or] Government Operations;~~

~~_____ [(D) the Department of Technology Services.]~~

~~_____ (ii) The department may not have a representative on the rate committee.~~

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~~— (c) (i) The rate committee shall elect a chair from the rate committee's members.~~

~~(ii) Each member of the rate committee who is a state government employee and who does not receive salary, per diem, or expenses from the member's agency for the member's service on the rate committee shall receive no compensation, benefits, per diem, or expenses for the member's service on the rate committee.~~

~~(d) The department shall provide staff services to the rate committee.~~

~~(4)(a) The department shall submit to the rate committee a proposed rate and fee schedule for:~~

~~(i) human resource management services rendered; and~~

~~(ii) costs incurred by the Office of the Attorney General in defending the state in a grievance under review by the Career Service Review Office.~~

~~(b) The rate committee shall:~~

~~(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;~~

~~(ii) meet at least once each calendar year to:~~

~~(A) discuss the service performance of each internal service fund;~~

~~(B) review the proposed rate and fee schedules;~~

~~(C) at the rate committee's discretion, approve, increase, or decrease the rate and fee schedules described in Subsection (4)(b)(ii)(B); and~~

~~(D) discuss any prior or potential adjustments to the service level received by state agencies that pay rates to an internal service fund;~~

~~(iii) recommend a proposed rate and fee schedule for the internal service fund to:~~

~~(A) the Governor's Office of Management and Budget; and~~

~~(B) each legislative appropriations subcommittee that, in accordance with Section 63J-1-410, approves the internal service fund rates, fees, and budget; and~~

~~(iv) review and approve, increase or decrease an interim rate, fee, or amount when the department begins a new service or introduces a new product between annual general sessions of the Legislature.~~

~~(e) The committee may in accordance with Subsection 63J-1-410(4) decrease a rate, fee, or amount that has been approved by the Legislature.~~

Section 114. Section **63A-17-301**, which is renumbered from Section 67-19-15 is

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renumbered and amended to read:

Part 3. Classification and Career Service

[67-19-15]. 63A-17-301. Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.

(1) Except as otherwise provided by law or by rules and regulations established for federally aided programs, the following positions are exempt from the career service provisions of this chapter and are designated under the following schedules:

(a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;

(b) schedule AB includes appointed executives and board or commission executives enumerated in Section 67-22-2;

(c) schedule AC includes all employees and officers in:

(i) the office and at the residence of the governor;

(ii) the Public Lands Policy Coordinating Council;

(iii) the Office of the State Auditor; and

(iv) the Office of the State Treasurer;

(d) schedule AD includes employees who:

(i) are in a confidential relationship to an agency head or commissioner; and

(ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent;

(e) schedule AE includes each employee of the State Board of Education that the State Board of Education designates as exempt from the career service provisions of this chapter;

(f) schedule AG includes employees in the Office of the Attorney General who are under their own career service pay plan under Sections 67-5-7 through 67-5-13;

(g) schedule AH includes:

(i) teaching staff of all state institutions; and

(ii) employees of the Utah Schools for the Deaf and the Blind who are:

(A) educational interpreters as classified by the ~~[department]~~ division; or

(B) educators as defined by Section 53E-8-102;

(h) schedule AN includes employees of the Legislature;

(i) schedule AO includes employees of the judiciary;

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- (j) schedule AP includes all judges in the judiciary;
- (k) schedule AQ includes:
 - (i) members of state and local boards and councils appointed by the governor and governing bodies of agencies;
 - (ii) a water commissioner appointed under Section 73-5-1;
 - (iii) other local officials serving in an ex officio capacity; and
 - (iv) officers, faculty, and other employees of state universities and other state institutions of higher education;
- (l) schedule AR includes employees in positions that involve responsibility:
 - (i) for determining policy;
 - (ii) for determining the way in which a policy is carried out; or
 - (iii) of a type not appropriate for career service, as determined by the agency head with the concurrence of the [executive] director;
- (m) schedule AS includes any other employee:
 - (i) whose appointment is required by statute to be career service exempt;
 - (ii) whose agency is not subject to this chapter; or
 - (iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses for its employees;
- (n) schedule AT includes employees of the [Department] Division of Technology Services, designated as executive/professional positions by the [executive] director of the [Department] Division of Technology Services with the concurrence of the [executive] director of the division;
- (o) schedule AU includes patients and inmates employed in state institutions;
- (p) employees of the Department of Workforce Services, designated as schedule AW:
 - (i) who are temporary employees that are federally funded and are required to work under federally qualified merit principles as certified by the director; or
 - (ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay for performance program designed by the Department of Workforce Services with the concurrence of the [executive] director of the division; and
- (q) for employees in positions that are temporary, seasonal, time limited, funding

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limited, or variable hour in nature, under schedule codes and parameters established by the [department] division by administrative rule.

(2) The civil service shall consist of two schedules as follows:

(a) (i) Schedule A is the schedule consisting of positions under Subsection (1).

(ii) Removal from any appointive position under schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

(b) Schedule B is the competitive career service schedule, consisting of:

(i) all positions filled through competitive selection procedures as defined by the [executive] director; or

(ii) positions filled through a [department] division approved on-the-job examination intended to appoint a qualified person with a disability, or a veteran in accordance with Title 71, Chapter 10, Veterans Preference.

(3) (a) The [executive] director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.

(b) Agency heads shall make requests and obtain approval from the [executive] director before changing the schedule assignment and tenure rights of any position.

(c) Unless the [executive] director's decision is reversed by the governor, when the [executive] director denies an agency's request, the [executive] director's decision is final.

(4) (a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.

(b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.

(c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in Title 53B, Chapter 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education.

(d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the [executive] director [~~of the Department of Human Resource Management~~].

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(5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:

(a) remains in the position that the employee is in on June 30, 2010; and

(b) does not elect to convert to career service exempt status in accordance with a rule made by the [~~department~~] division.

Section 115. Section **63A-17-302**, which is renumbered from Section 67-19-15.1 is renumbered and amended to read:

~~[67-19-15.1]~~. **63A-17-302. Implementation of exempt status for Schedule AD and AR employees.**

(1) As used in this section, "appointee" means:

(a) a deputy director;

(b) a division director;

(c) any assistant directors and administrative assistants who report directly to a department head, deputy director, or their equivalent; and

(d) any other person whose appointment is required by law to be approved by the governor.

(2) After the effective date of this chapter, any new appointee is a merit exempt employee.

(3) Notwithstanding the requirements of this chapter, any appointee who is currently a nonexempt employee does not lose that nonexempt status because of this chapter.

(4) The [~~Department of Human Resource Management~~] division shall develop financial and other incentives to encourage appointees who are nonexempt to voluntarily convert to merit exempt status.

Section 116. Section **63A-17-303**, which is renumbered from Section 67-19-15.6 is renumbered and amended to read:

~~[67-19-15.6]~~. **63A-17-303. Longevity salary increases.**

(1) Except for those employees in schedules AB and AN, as provided under Section [~~67-19-15~~] 63A-17-301, and employees described in Subsection [~~67-19-15~~] 63A-17-301(1)(q), an employee shall receive an increase in salary of 2.75% if that employee:

(a) holds a position under schedule A or B as provided under Section [~~67-19-15~~] 63A-17-301;

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(b) has reached the maximum of the salary range in the position classification;
(c) has been employed with the state for eight years; and
(d) is rated eligible in job performance under guidelines established by the executive director.

(2) Any employee who meets the criteria under Subsection (1) is entitled to the same increase in salary for each additional three years of employment if the employee maintains the eligibility standards established by the [~~department~~] division.

Section 117. Section **63A-17-304**, which is renumbered from Section 67-19-15.7 is renumbered and amended to read:

~~[67-19-15.7]~~. **63A-17-304. Promotion -- Reclassification -- Market adjustment.**

(1) (a) If an employee is promoted or the employee's position is reclassified to a higher salary range maximum, the agency shall place the employee within the new range of the position.

(b) An agency may not set an employee's salary:

(i) higher than the maximum in the new salary range; and

(ii) lower than the minimum in the new salary range of the position.

(c) Except for an employee described in Subsection ~~[67-19-15]~~ 63A-17-301(1)(q), the agency shall grant a salary increase of at least 5% to an employee who is promoted.

(2) An agency shall adjust the salary range for an employee whose salary range is approved by the Legislature for a market comparability adjustment consistent with Subsection ~~[67-19-12]~~ 63A-17-307(5)(b)(i):

(a) at the beginning of the next fiscal year; and

(b) consistent with appropriations made by the Legislature.

(3) [~~Department-initiated~~] Division-initiated revisions in the state classification system that result in consolidation or reduction of class titles or broadening of pay ranges:

(a) may not be regarded as a reclassification of the position or promotion of the employee; and

(b) are exempt from the provisions of Subsection (1).

Section 118. Section **63A-17-305**, which is renumbered from Section 67-19-16 is renumbered and amended to read:

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~~[67-19-16].~~ 63A-17-305. Appointments to Schedule B positions -- Examinations -- Hiring lists -- Probationary service -- Dismissal.

(1) Each appointment to a position under Schedule B shall be made from hiring lists of applicants who have been selected by competitive procedures as defined by the ~~[executive]~~ director.

(2) The ~~[executive]~~ director shall publicly announce information regarding career service positions:

- (a) for periods of time to be determined by the ~~[executive]~~ director; and
- (b) in a manner designed to attract the highest number of qualified applicants.

(3) The ~~[executive]~~ director shall make rules establishing standards for the development, approval, and implementation of examining processes, including establishing a department approved on the job examination to appoint a qualified person with a disability.

(4) Applicants for employment to Schedule B positions shall be eligible for appointment based upon rules established by the ~~[executive]~~ director.

(5) (a) The agency head shall make appointments to fill vacancies from hiring lists for probationary periods as defined by rule.

(b) The ~~[executive]~~ director shall make rules establishing probationary periods.

(6) A person serving a probationary period may not use the grievance procedures provided in this chapter and in ~~{}~~Chapter 19a, Grievance Procedures ~~{}~~[Part 6, Complaints and Grievances](#), and may be dismissed at any time by the appointing officer without hearing or appeal.

(7) Career service status shall be granted upon the successful completion of the probationary period.

Section 119. Section **63A-17-306**, which is renumbered from Section 67-19-18 is renumbered and amended to read:

~~[67-19-18].~~ 63A-17-306. Dismissals and demotions -- Grounds -- Disciplinary action -- Procedure -- Reductions in force.

(1) A career service employee may be dismissed or demoted:

- (a) to advance the good of the public service; or
- (b) for just causes, including inefficiency, incompetency, failure to maintain skills or adequate performance levels, insubordination, disloyalty to the orders of a superior,

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misfeasance, malfeasance, or nonfeasance in office.

(2) An employee may not be dismissed because of race, sex, age, disability, national origin, religion, political affiliation, or other nonmerit factor including the exercise of rights under this chapter.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [executive] director shall establish rules governing the procedural and documentary requirements of disciplinary dismissals and demotions.

(4) If an agency head finds that a career service employee is charged with aggravated misconduct or that retention of a career service employee would endanger the peace and safety of others or pose a grave threat to the public interest, the employee may be suspended pending the administrative appeal to the department head as provided in Subsection (5).

(5) (a) A career service employee may not be demoted or dismissed unless the department head or designated representative has complied with this subsection.

(b) The department head or designated representative notifies the employee in writing of the reasons for the dismissal or demotion.

(c) The employee has no less than five working days to reply and have the reply considered by the department head.

(d) The employee has an opportunity to be heard by the department head or designated representative.

(e) Following the hearing, the employee may be dismissed or demoted if the department head finds adequate cause or reason.

(6) (a) Reductions in force required by inadequate funds, change of workload, or lack of work are governed by retention points established by the [executive] director.

(b) Under those circumstances:

(i) The agency head shall designate the category of work to be eliminated, subject to review by the [executive] director.

(ii) Temporary and probationary employees shall be separated before any career service employee.

(iii) (A) When more than one career service employee is affected, the employees shall be separated in the order of their retention points, the employee with the lowest points to be discharged first.

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(B) Retention points for each career service employee shall be computed according to rules established by the [executive] director, allowing appropriate consideration for proficiency and seniority in state government, including any active duty military service fulfilled subsequent to original state appointment.

(c) (i) A career service employee who is separated in a reduction in force under this section shall be given preferential consideration when applying for a career service position.

(ii) Preferential consideration under Subsection (6)(c)(i) applies only until the former career service employee accepts a career service position.

(iii) The [executive] director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, concerning the manner of granting preferential consideration under Subsection (6)(c)(i).

(d) (i) An employee separated due to a reduction in force may appeal to the department head for an administrative review.

(ii) The notice of appeal must be submitted within 20 working days after the employee's receipt of written notification of separation.

(iii) The employee may appeal the decision of the department head according to the grievance and appeals procedure of this chapter ~~{}~~ and Chapter 19a, Grievance Procedures ~~{}~~ [including Part 6, Complaints and Grievances](#).

Section 120. Section **63A-17-307**, which is renumbered from Section 67-19-12 is renumbered and amended to read:

~~[67-19-12].~~ **63A-17-307. State pay plans -- Applicability of section -- Exemptions -- Duties of director.**

(1) (a) This section, and the rules adopted by the [department] division to implement this section, apply to each career and noncareer employee not specifically exempted under Subsection (2).

(b) If not exempted under Subsection (2), an employee is considered to be in classified service.

(2) The following employees are exempt from this section:

(a) members of the Legislature and legislative employees;

(b) members of the judiciary and judicial employees;

(c) elected members of the executive branch and employees designated as schedule AC

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as provided under Subsection [~~67-19-15~~] 63A-17-301(1)(c);

- (d) employees of the State Board of Education;
- (e) officers, faculty, and other employees of state institutions of higher education;
- (f) employees in a position that is specified by statute to be exempt from this

Subsection (2);

- (g) employees in the Office of the Attorney General;
- (h) department heads and other persons appointed by the governor under statute;
- (i) schedule AS employees as provided under Subsection [~~67-19-15~~]

63A-17-301(1)(m);

(j) department deputy directors, division directors, and other employees designated as schedule AD as provided under Subsection [~~67-19-15~~] 63A-17-301(1)(d);

(k) employees that determine and execute policy designated as schedule AR as provided under Subsection [~~67-19-15~~] 63A-17-301(1)(l);

(l) teaching staff, educational interpreters, and educators designated as schedule AH as provided under Subsection [~~67-19-15~~] 63A-17-301(1)(g);

(m) temporary employees described in Subsection [~~67-19-15~~] 63A-17-301(1)(q);

(n) patients and inmates designated as schedule AU as provided under Subsection [~~67-19-15~~] 63A-17-301(1)(o) who are employed by state institutions; and

(o) members of state and local boards and councils and other employees designated as schedule AQ as provided under Subsection [~~67-19-15~~] 63A-17-301(1)(k).

(3) (a) The [~~executive~~] director shall prepare, maintain, and revise a position classification plan for each employee position not exempted under Subsection (2) to provide equal pay for equal work.

(b) Classification of positions shall be based upon similarity of duties performed and responsibilities assumed, so that the same job requirements and the same salary range may be applied equitably to each position in the same class.

(c) The [~~executive~~] director shall allocate or reallocate the position of each employee in classified service to one of the classes in the classification plan.

(d) (i) The [~~department~~] division shall conduct periodic studies and interviews to provide that the classification plan remains reasonably current and reflects the duties and responsibilities assigned to and performed by employees.

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(ii) The [executive] director shall determine the need for studies and interviews after considering factors such as changes in duties and responsibilities of positions or agency reorganizations.

(4) (a) With the approval of the executive director and the governor, the [executive] director shall develop and adopt pay plans for each position in classified service.

(b) The [executive] director shall design each pay plan to achieve, to the degree that funds permit, comparability of state salary ranges to the market using data obtained from private enterprise and other public employment for similar work.

(c) The [executive] director shall adhere to the following in developing each pay plan:

(i) [Each] each pay plan shall consist of sufficient salary ranges to:

(A) permit adequate salary differential among the various classes of positions in the classification plan; and

(B) reflect the normal growth and productivity potential of employees in that class.

(ii) The [executive] director shall issue rules for the administration of pay plans.

(d) The establishing of a salary range is a nondelegable activity and is not appealable under the grievance procedures of [~~Sections 67-19-30 through 67-19-32, Chapter 19a, Grievance Procedures~~] Part ~~67~~7, ~~Complaints and Grievances~~ Grievance Provisions, ~~Part 7~~Chapter 19a, ~~Miscellaneous~~ Grievance Provisions, or otherwise.

(e) The [executive] director shall issue rules providing for:

(i) agency approved salary adjustments within approved salary ranges, including an administrative salary adjustment;

(ii) legislatively approved salary adjustments within approved salary ranges, including a merit increase, subject to Subsection (4)(f), or general increase; and

(iii) structure adjustments that modify salary ranges, including a cost of living adjustment or market comparability adjustment.

(f) A merit increase shall be granted on a uniform and consistent basis to each employee who receives a rating of "successful" or higher in an annual evaluation of the employee's productivity and performance.

(5) (a) [~~By~~] On or before October 31 of each year, the [executive] director shall submit an annual compensation plan to the executive director and the governor for consideration in the executive budget.

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(b) The plan described in Subsection (5)(a) may include recommendations, including:

(i) salary increases that generally affect employees, including a general increase or merit increase;

(ii) salary increases that address compensation issues unique to an agency or occupation;

(iii) structure adjustments, including a cost of living adjustment or market comparability adjustment; or

(iv) changes to employee benefits.

(c) (i) (A) Subject to Subsection (5)(c)(i)(B) or (C), the [executive] director shall incorporate the results of a salary survey of a reasonable cross section of comparable positions in private and public employment in the state into the annual compensation plan.

(B) The salary survey for a law enforcement officer, as defined in Section 53-13-103, a correctional officer, as defined in Section 53-13-104, or a dispatcher, as defined in Section 53-6-102, shall at minimum include the three largest political subdivisions in the state that employ, respectively, comparable positions.

(C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1, Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit Insurance Corporation, Federal Reserve, and National Credit Union Administration.

(ii) The [executive] director may cooperate with or participate in any survey conducted by other public and private employers.

(iii) The [executive] director shall obtain information for the purpose of constructing the survey from the Division of Workforce Information and Payment Services and shall include employer name, number of persons employed by the employer, employer contact information and job titles, county code, and salary if available.

(iv) The [department] division shall acquire and protect the needed records in compliance with the provisions of Section 35A-4-312.

(d) The [executive] director may incorporate any other relevant information in the plan described in Subsection (5)(a), including information on staff turnover, recruitment data, or external market trends.

(e) The [executive] director shall:

(i) establish criteria to assure the adequacy and accuracy of data used to make

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recommendations described in this Subsection (5); and

(ii) when preparing recommendations use accepted methodologies and techniques similar to and consistent with those used in the private sector.

(f) (i) Upon request and subject to Subsection (5)(f)(ii), the [department] division shall make available foundational information used by the [department] division or director in the drafting of a plan described in Subsection (5)(a), including:

(A) demographic and labor market information;

(B) information on employee turnover;

(C) salary information;

(D) information on recruitment; and

(E) geographic data.

(ii) The [department] division may not provide under Subsection (5)(f)(i) information or other data that is proprietary or otherwise protected under the terms of a contract or by law.

(g) The governor shall:

(i) consider salary and structure adjustments recommended under Subsection (5)(b) in preparing the executive budget and shall recommend the method of distributing the adjustments;

(ii) submit compensation recommendations to the Legislature; and

(iii) support the recommendation with schedules indicating the cost to individual departments and the source of funds.

(h) If funding is approved by the Legislature in a general appropriations act, the adjustments take effect on the July 1 following the enactment unless otherwise indicated.

(6) (a) The [executive] director shall issue rules for the granting of incentive awards, including awards for cost saving actions, awards for commendable actions by an employee, or a market-based award to attract or retain employees.

(b) An agency may not grant a market-based award unless the award is previously approved by the [department] division.

(c) In accordance with Subsection (6)(b), an agency requesting the [department's] division's approval of a market-based award shall submit a request and documentation, subject to Subsection (6)(d), to the [department] division.

(d) In the documentation required in Subsection (6)(c), the requesting agency shall

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identify for the [~~department~~] division:

- (i) any benefit the market-based award would provide for the agency, including:
 - (A) budgetary advantages; or
 - (B) recruitment advantages;
- (ii) a mission critical need to attract or retain unique or hard to find skills in the market;

or

(iii) any other advantage the agency would gain through the utilization of a market-based award.

(7) (a) The [~~executive~~] director shall regularly evaluate the total compensation program of state employees in the classified service.

(b) The [~~department~~] division shall determine if employee benefits are comparable to those offered by other private and public employers using information from:

- (i) a study conducted by a third-party consultant; or
- (ii) the most recent edition of a nationally recognized benefits survey.

Section 121. Section **63A-17-401**, which is renumbered from Section 67-19-13 is renumbered and amended to read:

Part 4. Payroll

~~[67-19-13].~~ **63A-17-401. Examination of payrolls and certification of employee eligibility by the director.**

(1) The [~~executive~~] director may examine payrolls at any time to determine conformity with this chapter and [~~the regulations~~] administrative rules.

(2) No new employee shall be hired in a position covered by this chapter, and no employee shall be changed in pay, title or status, nor shall any employee be paid unless certified by the [~~executive~~] director as eligible under the provisions of or [~~regulations promulgated~~] rules made pursuant to this chapter.

Section 122. Section **63A-17-402**, which is renumbered from Section 67-19-13.5 is renumbered and amended to read:

~~[67-19-13.5].~~ **63A-17-402. Division provides payroll services to executive branch agencies -- Report.**

- (1) As used in this section:
 - (a) (i) "Executive branch entity" means a department, division, agency, board, or office

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within the executive branch of state government that employs a person who is paid through the central payroll system developed by the Division of Finance as of December 31, 2011.

(ii) "Executive branch entity" does not include:

- (A) the Office of the Attorney General;
- (B) the Office of the State Treasurer;
- (C) the Office of the State Auditor;
- (D) the Department of Transportation;
- (E) the [~~Department~~] Division of Technology Services;
- (F) the Department of Public Safety;
- (G) the Department of Natural Resources; or
- (H) the Utah Schools for the Deaf and the Blind.

(b) (i) "Payroll services" means using the central payroll system as directed by the Division of Finance to:

- (A) enter and validate payroll reimbursements, which include reimbursements for mileage, a service award, and other wage types;
- (B) calculate, process, and validate a retirement;
- (C) enter a leave adjustment; and
- (D) certify payroll by ensuring an entry complies with a rule or policy adopted by the department or the Division of Finance.

(ii) "Payroll services" does not mean:

- (A) a function related to payroll that is performed by an employee of the Division of Finance;
- (B) a function related to payroll that is performed by an executive branch agency on behalf of a person who is not an employee of the executive branch agency;
- (C) the entry of time worked by an executive branch agency employee into the central payroll system; or
- (D) approval or verification by a supervisor or designee of the entry of time worked.

(2) The [~~department~~] division shall provide payroll services to all executive branch entities.

(3) After September 19, 2012, an executive branch entity, other than the [~~department~~] division or the Division of Finance, may not create a full-time equivalent position or part-time

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position, or request an appropriation to fund a full-time equivalent position or part-time position for the purpose of providing payroll services to the entity.

Section 123. Section **63A-17-403**, which is renumbered from Section 67-19-42 is renumbered and amended to read:

~~[67-19-42]~~. **63A-17-403. Employee cost disclosure.**

The Division of Finance shall, at least annually, plainly disclose to all state employees the costs of compensation and benefits that are paid by the state in dollar figures.

Section 124. Section **63A-17-501** is enacted to read:

Part 5. Hours and Leave

63A-17-501. Definitions.

As used in this part:

(1) "Continuing medical and life insurance benefits" means the state provided policy of medical insurance and the state provided portion of a policy of life insurance, each offered at the same:

(a) benefit level and the same proportion of state/member participation in the total premium costs as an active member as defined in Section 49-11-102; and

(b) coverage level for a member, two person, or family policy as provided to the member at the time of retirement.

(2) "Converted sick leave" means leave that has been converted from unused sick leave in accordance with Section 63A-17-506 which may be used by an employee in the same manner as:

(a) annual leave;

(b) sick leave; or

(c) unused accumulated sick leave after the employee's retirement for the purchase of continuing medical and life insurance benefits under Sections 63A-17-507, 63A-17-508, and ~~63A-17-1004~~;63A-17-804.

Section 125. Section **63A-17-502**, which is renumbered from Section 67-19-6.7 is renumbered and amended to read:

~~[67-19-6.7]~~. **63A-17-502. Overtime policies for state employees.**

(1) As used in this section:

(a) "Accrued overtime hours" means:

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(i) for nonexempt employees, overtime hours earned during a fiscal year that, at the end of the fiscal year, have not been paid and have not been taken as time off by the nonexempt state employee who accrued them; and

(ii) for exempt employees, overtime hours earned during an overtime year.

(b) "Appointed official" means:

(i) each department executive director and deputy director, each division director, and each member of a board or commission; and

(ii) any other person employed by a department who is appointed by, or whose appointment is required by law to be approved by, the governor and who:

(A) is paid a salary by the state; and

(B) who exercises managerial, policy-making, or advisory responsibility.

(c) "Department" means the Department of ~~[Administrative Services]~~ Government Operations, the Department of Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage Control, the Insurance Department, the Public Service Commission, the Labor Commission, the Department of Agriculture and Food, the Department of Human Services, the Department of Natural Resources, ~~[the Department of Technology Services,]~~ the Department of Transportation, the Department of Commerce, the Department of Workforce Services, the State Tax Commission, the Department of Heritage and Arts, the Department of Health, the National Guard, the Department of Environmental Quality, the Department of Public Safety, ~~[the Department of Human Resource Management,]~~ the Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the Office of the Attorney General, merit employees in the Office of the State Treasurer, merit employees in the Office of the State Auditor, Department of Veterans and Military Affairs, and the Board of Pardons and Parole.

(d) "Elected official" means any person who is an employee of the state because the person was elected by the registered voters of Utah to a position in state government.

(e) "Exempt employee" means a state employee who is exempt as defined by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(g) "FLSA agreement" means the agreement authorized by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq., by which a nonexempt employee elects the form of

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compensation the nonexempt employee will receive for overtime.

(h) "Nonexempt employee" means a state employee who is nonexempt as defined by the [~~Department of Human Resource Management~~] division applying FLSA requirements.

(i) "Overtime" means actual time worked in excess of the employee's defined work period.

(j) "Overtime year" means the year determined by a department under Subsection (4)(b) at the end of which an exempt employee's accrued overtime lapses.

(k) "State employee" means every person employed by a department who is not:

(i) an appointed official;

(ii) an elected official; or

(iii) a member of a board or commission who is paid only for per diem or travel expenses.

(l) "Uniform annual date" means the date when an exempt employee's accrued overtime lapses.

(m) "Work period" means:

(i) for all nonexempt employees, except law enforcement and hospital employees, a consecutive seven day 24 hour work period of 40 hours;

(ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and

(iii) for nonexempt law enforcement and hospital employees, the period established by each department by rule for those employees according to the requirements of the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(2) Each department shall compensate each state employee who works overtime by complying with the requirements of this section.

(3) (a) Each department shall negotiate and obtain a signed FLSA agreement from each nonexempt employee.

(b) In the FLSA agreement, the nonexempt employee shall elect either to be compensated for overtime by:

(i) taking time off work at the rate of one and one-half hour off for each overtime hour worked; or

(ii) being paid for the overtime worked at the rate of one and one-half times the rate per hour that the state employee receives for nonovertime work.

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(c) Any nonexempt employee who elects to take time off under this Subsection (3) shall be paid for any overtime worked in excess of the cap established by the [~~Department of Human Resource Management~~] division.

(d) Before working any overtime, each nonexempt employee shall obtain authorization to work overtime from the employee's immediate supervisor.

(e) Each department shall:

(i) for employees who elect to be compensated with time off for overtime, allow overtime earned during a fiscal year to be accumulated; and

(ii) for employees who elect to be paid for overtime worked, pay them for overtime worked in the paycheck for the pay period in which the employee worked the overtime.

(f) If [~~the~~] a department pays a nonexempt employee for overtime, [~~the~~] that department shall charge that payment to [~~the~~] that department's budget.

(g) At the end of each fiscal year, the Division of Finance shall total all the accrued overtime hours for nonexempt employees and charge that total against the appropriate fund or subfund.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), each department shall compensate exempt employees who work overtime by granting them time off at the rate of one hour off for each hour of overtime worked.

(ii) The [~~executive~~] director of the [~~Department of Human Resource Management~~] division may grant limited exceptions to this requirement, where work circumstances dictate, by authorizing a department to pay employees for overtime worked at the rate per hour that the employee receives for nonovertime work, if [~~the~~] that department has funds available.

(b) (i) Each department shall:

(A) establish in its written human resource policies a uniform annual date for each division that is at the end of any pay period; and

(B) communicate the uniform annual date to its employees.

(ii) If any department fails to establish a uniform annual date as required by this Subsection (4), the [~~executive~~] director of the [~~Department of Human Resource Management~~] division, in conjunction with the director of the Division of Finance, shall establish the date for that department.

(c) (i) Any overtime earned under this Subsection (4) is not an entitlement, is not a

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benefit, and is not a vested right.

(ii) A court may not construe the overtime for exempt employees authorized by this Subsection (4) as an entitlement, a benefit, or as a vested right.

(d) At the end of the overtime year, upon transfer to another department at any time, and upon termination, retirement, or other situations where the employee will not return to work before the end of the overtime year:

(i) any of an exempt employee's overtime that is more than the maximum established by ~~[the Department of Human Resource Management]~~ division rule lapses; and

(ii) unless authorized by the ~~[executive]~~ director of the ~~[Department of Human Resource Management]~~ division under Subsection (4)(a)(ii), a department may not compensate the exempt employee for that lapsed overtime by paying the employee for the overtime or by granting the employee time off for the lapsed overtime.

(e) Before working any overtime, each exempt employee shall obtain authorization to work overtime from the exempt employee's immediate supervisor.

(f) If ~~[the]~~ a department pays an exempt employee for overtime under authorization from the ~~[executive]~~ director of the ~~[Department of Human Resource Management, the]~~ division, ~~that~~ department shall charge that payment to ~~[the]~~ that department's budget in the pay period earned.

(5) The ~~[Department of Human Resource Management]~~ division shall:

(a) ensure that the provisions of the FLSA and this section are implemented throughout state government;

(b) determine, for each state employee, whether that employee is exempt, nonexempt, law enforcement, or has some other status under the FLSA;

(c) in coordination with modifications to the systems operated by the Division of Finance, make rules:

(i) establishing procedures for recording overtime worked that comply with FLSA requirements;

(ii) establishing requirements governing overtime worked while traveling and procedures for recording that overtime that comply with FLSA requirements;

(iii) establishing requirements governing overtime worked if the employee is "on call" and procedures for recording that overtime that comply with FLSA requirements;

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(iv) establishing requirements governing overtime worked while an employee is being trained and procedures for recording that overtime that comply with FLSA requirements;

(v) subject to the FLSA, establishing the maximum number of hours that a nonexempt employee may accrue before a department is required to pay the employee for the overtime worked;

(vi) subject to the FLSA, establishing the maximum number of overtime hours for an exempt employee that do not lapse; and

(vii) establishing procedures for adjudicating appeals of any FLSA determinations made by the [~~Department of Human Resource Management~~] division as required by this section;

(d) monitor departments for compliance with the FLSA; and

(e) recommend to the Legislature and the governor any statutory changes necessary because of federal government action.

(6) (a) In coordination with the procedures for recording overtime worked established in rule by the [~~Department of Human Resource Management~~] division, the Division of Finance shall modify its payroll and human resource systems to accommodate those procedures.

~~[(a)]~~ (b) Notwithstanding the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, Section [~~67-19-31~~] ~~{63A-17-702}~~ 63A-17-602, and Section ~~{67-19a-301}~~ ~~{63A-17-608}~~, any employee who is aggrieved by the FLSA designation made by the [~~Department of Human Resource Management~~] division as required by this section may appeal that determination to the [~~executive~~] director of the [~~Department of Human Resource Management~~] division by following the procedures and requirements established in [~~Department of Human Resource Management~~] division rule.

~~[(b)]~~ (c) Upon receipt of an appeal under this section, the [~~executive~~] director shall notify the executive director of the employee's department that the appeal has been filed.

~~[(c)]~~ (d) If the employee is aggrieved by the decision of the [~~executive director of the Department of Human Resource Management~~] director, the employee shall appeal that determination to the Department of Labor, Wage and Hour Division, according to the procedures and requirements of federal law.

Section 126. Section **63A-17-503**, which is renumbered from Section 67-19-12.7 is renumbered and amended to read:

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~~[67-19-12.7]~~. **63A-17-503**. Accumulated annual leave -- Conversion to deferred compensation plan.

(1) The [~~department~~] division shall implement a program whereby an employee may, upon termination of employment or retirement, elect to convert any unused annual leave into any of the employee's designated deferred compensation accounts that:

- (a) are sponsored by the Utah State Retirement Board; and
- (b) are qualified under Section 401(k) or Section 457 of the Internal Revenue Code.

(2) Any annual leave converted under Subsection (1) shall be converted into the employee's deferred compensation account at the employee's pay rate at the time of termination or retirement.

(3) No employee may convert hours of accrued annual leave to the extent that any hours so converted would exceed the maximum amount authorized by the Internal Revenue Code for each calendar year.

Section 127. Section **63A-17-504**, which is renumbered from Section 67-19-12.9 is renumbered and amended to read:

~~[67-19-12.9]~~. **63A-17-504**. Accumulated annual leave -- Annual conversion to deferred compensation plan.

(1) If the Legislature in an annual appropriations act with accompanying intent language specifically authorizes and fully funds the estimated costs of this use, the [~~department~~] division shall implement a program that allows an employee, in the approved calendar year, to elect to convert up to 20 hours of annual leave, in whole hour increments not to exceed \$250 in value, into any of the employee's designated deferred compensation accounts that:

- (a) are sponsored by the Utah State Retirement Board; and
- (b) are qualified under Section 401(k) or Section 457 of the Internal Revenue Code.

(2) Any annual leave converted under Subsection (1) shall be:

(a) converted into the employee's deferred compensation account at the employee's pay rate at the time of conversion; and

(b) calculated in the last pay period of the leave year as determined by the Division of Finance.

(3) An employee may not convert hours of accrued annual leave to the extent that any

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hours converted would:

(a) exceed the maximum amount authorized by the Internal Revenue Code for the calendar year; or

(b) cause the employee's balance of accumulated annual leave to drop below the maximum accrual limit provided by rule.

Section 128. Section **63A-17-505**, which is renumbered from Section 67-19-14 is renumbered and amended to read:

~~[67-19-14].~~ 63A-17-505. Sick leave -- Definitions -- Unused sick days retirement programs -- Rulemaking.

~~[(1) As used in this section through Section 67-19-14.4.]~~

~~[(a) "Continuing medical and life insurance benefits" means the state provided policy of medical insurance and the state provided portion of a policy of life insurance, each offered at the same:]~~

~~[(i) benefit level and the same proportion of state/member participation in the total premium costs as an active member as defined in Section 49-11-102; and]~~

~~[(ii) coverage level for a member, two person, or family policy as provided to the member at the time of retirement:]~~

~~[(b) "Converted sick leave" means leave that has been converted from unused sick leave in accordance with Section 67-19-14.1 which may be used by an employee in the same manner as:]~~

~~[(i) annual leave;]~~

~~[(ii) sick leave; or]~~

~~[(iii) unused accumulated sick leave after the employee's retirement for the purchase of continuing medical and life insurance benefits under Sections 67-19-14.2, 67-19-14.3, and 67-19-14.4.]~~

~~[(2)]~~ (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the ~~[executive]~~ director shall make rules:

(a) for the procedures to implement the provisions of this section through Section ~~[67-19-14.4]~~ 63A-17-508; and

(b) to establish the maximum number of hours of converted sick leave an employee may accrue.

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~~[(3)]~~ (2) The Division of Finance shall develop and maintain a system of accounting for employee sick leave and converted sick leave as necessary to implement the provisions of this section through Section ~~[67-19-14.4]~~ 63A-17-508.

Section 129. Section **63A-17-506**, which is renumbered from Section 67-19-14.1 is renumbered and amended to read:

~~[67-19-14.1]~~. **63A-17-506. Converted sick leave.**

Converted sick leave hours that are not used prior to an employee's retirement date shall be used under the:

(1) Unused Sick Leave Retirement Option Program I under Section ~~[67-19-14.2]~~ 63A-17-507 if earned prior to January 1, 2006, unless the transfer is made under Subsection ~~[67-19-14.4]~~ 63A-17-508(1)(c); or

(2) Unused Sick Leave Retirement Option Program II under Section ~~[67-19-14.4]~~ 63A-17-508 if earned on or after January 1, 2006.

Section 130. Section **63A-17-507**, which is renumbered from Section 67-19-14.2 is renumbered and amended to read:

~~[67-19-14.2]~~. **63A-17-507. Unused Sick Leave Retirement Option Program I -- Creation -- Payout upon eligibility for allowance -- Continuing medical and life insurance benefits after retirement.**

(1) (a) There is created the "Unused Sick Leave Retirement Option Program I."

(b) An agency may offer the Unused Sick Leave Retirement Option Program I to an employee who is eligible to receive a retirement allowance in accordance with Title 49, Utah State Retirement and Insurance Benefit Act.

(2) The Unused Sick Leave Retirement Option Program I provides that upon becoming eligible to receive a retirement allowance an employee who was employed by the state prior to January 1, 2006:

(a) receives a contribution under Subsection (3) for 25% of the employee's unused accumulated sick leave accrued prior to January 1, 2006, at the employee's rate of pay at the time of retirement; and

(b) may purchase additional continuing medical and life insurance benefits in accordance with Subsection (4).

(3) (a) Subject to federal requirements and limitations, the contribution under

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Subsection (2)(a) shall be transferred directly to the employee's defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which is sponsored by the Utah State Retirement Board.

(b) If the amount calculated under Subsection (2)(a) exceeds the federal contribution limitations, the employee's unused accumulated sick leave hours representing the excess shall be used for the purchase of continuing medical and life insurance benefits under Subsection (4).

(4) (a) An employee may purchase continuing medical and life insurance benefits, at the rate of one month's coverage per policy for eight hours of unused sick leave remaining after the contribution of unused sick leave under Subsection (2)(a).

(b) The medical coverage level for member, two person, or family coverage that is provided to the member at the time of retirement is the maximum coverage level available to the member under this program.

(c) The purchase of continuing medical and life insurance benefits at the rate provided under Subsection (4)(a) may be used by the employee to extend coverage:

(i) until the employee reaches the age of eligibility for Medicare; or

(ii) if the employee has reached the age of eligibility for Medicare, continuing medical benefits for the employee's spouse may be purchased until the employee's spouse reaches the age of eligibility for Medicare.

(d) An employee and the employee's spouse who are or who later become eligible for Medicare may purchase Medicare supplemental insurance at the rate of one month's coverage for eight hours of the employee's unused sick leave per person.

(5) (a) The continuing medical and life insurance benefits purchased by an employee under Subsection (4):

(i) may not be suspended or deferred for future use; and

(ii) continues in effect until exhausted.

(b) An employer participating in the Program I benefits under this section may not provide medical or life insurance benefits to a person who is:

(i) reemployed after retirement; and

(ii) receiving benefits under this section.

Section 131. Section **63A-17-508**, which is renumbered from Section 67-19-14.4 is

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renumbered and amended to read:

~~[67-19-14.4].~~ **63A-17-508.** **Unused Sick Leave Retirement Program II -- Creation -- Remuneration upon eligibility for allowance -- Medical expense account after retirement.**

(1) (a) There is created the "Unused Sick Leave Retirement Program II."

(b) An agency shall offer the Unused Sick Leave Retirement Option Program II to an employee who is eligible to receive a retirement allowance in accordance with Title 49, Utah State Retirement and Insurance Benefit Act.

(c) An employee who is participating in the Unused Sick Leave Retirement Program I under Section ~~[67-19-14.2]~~ 63A-17-507 may make a one-time and irrevocable election to transfer all unused sick leave hours which shall include all converted sick leave hours under Section ~~[67-19-14.1]~~ 63A-17-506 for use under the Unused Sick Leave Retirement Program II under this section.

(2) (a) The Unused Sick Leave Retirement Program II provides that upon becoming eligible to receive a retirement allowance an employee employed by the state between January 1, 2006, and January 3, 2014, shall receive remuneration for the employee's unused accumulated sick leave and converted sick leave accrued between January 1, 2006, and January 3, 2014, in accordance with this section as follows:

(i) subject to federal requirements and limitations, a contribution at the employee's rate of pay at the time of retirement for 25% of the employee's unused accumulated sick leave and converted sick leave shall be transferred directly to the employee's defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which is sponsored by the Utah State Retirement Board; and

(ii) participation in a benefit plan that provides for reimbursement for medical expenses using money deposited at the employee's rate of pay at the time of retirement from remaining unused accumulated sick leave and converted sick leave balances.

(b) If the amount calculated under Subsection (2)(a)(i) exceeds the federal contribution limitations, the amount representing the excess shall be deposited under Subsection (2)(a)(ii).

(c) An employee's rate of pay at the time of retirement for purposes of Subsection (2)(a)(ii) may not be less than the average rate of pay of state employees who retired in the same retirement system under Title 49, Utah State Retirement and Insurance Benefit Act,

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during the previous calendar year.

(3) The Utah State Retirement Office shall develop and maintain a program to provide a benefit plan that provides for reimbursement for medical expenses under Subsection (2)(a)(ii) with money deposited under Subsection (2)(a)(ii).

Section 132. Section **63A-17-509**, which is renumbered from Section 67-19-14.5 is renumbered and amended to read:

~~[67-19-14.5].~~ **63A-17-509. Organ donor leave.**

(1) An employee who serves as a bone marrow donor shall be granted a paid leave of absence of up to seven days that are necessary for the donation and recovery from the donation.

(2) An employee who serves as a donor of a human organ shall be granted a paid leave of absence of up to 30 days that are necessary for the donation and recovery from the donation.

(3) In recognition of National Donate Life Month, 2015, created by Proclamation No. 9248, 80 F.R. 18511 (April 1, 2015), the department shall distribute an electronic message to each employee during the month of April publicizing the leave offered under this section.

Section 133. Section **63A-17-510**, which is renumbered from Section 67-19-14.6 is renumbered and amended to read:

~~[67-19-14.6].~~ **63A-17-510. Annual leave -- Definitions -- Previously accrued hours -- Recognition of liability.**

(1) As used in this section:

(a) (i) "Annual leave II" means leave hours an employing agency provides to an employee, beginning on the change date established in Subsection (2), as time off from work for personal use without affecting the employee's pay.

(ii) "Annual leave II" does not include:

(A) legal holidays under Section 63G-1-301;

(B) time off as compensation for actual time worked in excess of an employee's defined work period;

(C) sick leave;

(D) paid or unpaid administrative leave; or

(E) other paid or unpaid leave from work provided by state statute, administrative rule, or by federal law or regulation.

(b) "Change date" means the date established by the Division of Finance under

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Subsection (2) when annual leave II begins for a state agency.

(2) In accordance with the Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall establish a date that is no later than January 2, 2016, when a state agency shall offer annual leave II in lieu of annual leave to an employee who is eligible to receive paid leave.

(3) An employing agency shall allow an employee who has an unused balance of accrued annual leave before the change date, to use the annual leave under the same rules that applied to the leave on the change date.

(4) (a) At the time of employee accrual of annual leave II, an employing agency shall set aside the cost of each hour of annual leave II for each eligible employee in an amount determined in accordance with rules made by the Division of Finance.

(b) The rules made under Subsection (4)(a) shall consider:

- (i) the employee hourly rate of pay;
- (ii) applicable employer paid taxes that would be required if the employee was paid for the annual leave II instead of using it for time off;
- (iii) other applicable employer paid benefits; and
- (iv) adjustments due to employee hourly rate changes, including the effect on accrued annual leave II balances.

(c) The Division of Finance shall provide that the amount of costs set aside under Subsection (4)(a) and deposited into the fund increase by at least the projected increase in annual leave liability for that year, until the year-end trust fund balances are reached as required under Subsection ~~{67-19f-201}~~ ~~{63A-17-1202}~~(3)(b).

(5) The cost set aside under Subsection (4) shall be deposited by the Division of Finance into the State Employees' Annual Leave Trust Fund created in Section ~~{67-19f-201}~~ ~~{63A-17-1202}~~.

(6) For annual leave hours accrued before the change date, an employing agency shall continue to comply with the Division of Finance requirements for contributions to the termination pool.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) the ~~[department]~~ division shall make rules for the accrual and use of annual leave II provided under this section; and

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(b) the Division of Finance shall make rules for the set aside provisions under Subsections (4) and (5).

~~{ 63G-4-107. Petition to remove agency action from public access.~~

~~—— (1) An individual may petition the agency that maintains, on a state-controlled website available to the public, a record of administrative disciplinary action, to remove the record of administrative disciplinary action from public access on the state-controlled website, if:~~

~~—— (a) (i) five years have passed since:~~

~~—— (A) the date the final order was issued; or~~

~~—— (B) if no final order was issued, the date the administrative disciplinary action was commenced; or~~

~~—— (ii) the individual has obtained a criminal expungement order under Title 77, Chapter 40, Utah Expungement Act, for the individual's criminal records related to the same incident or conviction upon which the administrative disciplinary action was based;~~

~~—— (b) the individual has successfully completed all action required by the agency relating to the administrative disciplinary action within the time frame set forth in the final order, or if no time frame is specified in the final order, within the time frame set forth in Title 63G, Chapter 4, Administrative Procedures Act;~~

~~—— (c) from the time that the original administrative disciplinary action was filed, the individual has not violated the same statutory provisions or administrative rules related to those statutory provisions that resulted in the original administrative disciplinary action; and~~

~~—— (d) the individual pays an application fee determined by the agency in accordance with Section 63J-1-504.~~

~~—— (2) The individual petitioning the agency under Subsection (1) shall provide the agency with a written request containing the following information:~~

~~—— (a) the petitioner's full name, address, telephone number, and date of birth;~~

~~—— (b) the information the petitioner seeks to remove from public access; and~~

~~—— (c) an affidavit certifying that the petitioner is in compliance with the provisions of Subsection (1):~~

~~—— (3) Within 30 days of receiving the documents and information described in Subsection (2):~~

~~—— (a) the agency shall review the petition and all documents submitted with the petition~~

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~~to determine whether the petitioner has met the requirements of Subsections (1) and (2); and~~

~~—— (b) if the agency determines that the petitioner has met the requirements of Subsections (1) and (2), the agency shall immediately remove the record of administrative disciplinary action from public access on the state-controlled website.~~

~~—— (4) Notwithstanding the provisions of Subsection (3), an agency is not required to remove a recording, written minutes, or other electronic information from the Utah Public Notice Website, created under Section 63F-1-701, if the recording, written minutes, or other electronic information is required to be available to the public on the Utah Public Notice Website under the provisions of Title 52, Chapter 4, Open and Public Meetings Act.~~

~~—— 63G-6a-103. Definitions:~~

~~—— As used in this chapter:~~

~~—— (1) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.~~

~~—— (2) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.~~

~~—— (3) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.~~

~~—— (4) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.~~

~~—— (5) "Bidding process" means the procurement process described in Part 6, Bidding.~~

~~—— (6) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.~~

~~—— (7) "Building board" means the State Building Board, created in Section 63A-5b-201.~~

~~—— (8) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.~~

~~—— (9) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.~~

~~—— (10) "Chief procurement officer" means the individual appointed under Subsection 63G-6a-302(1).~~

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~~———— (11) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:~~

~~———— (a) except:~~

~~———— (i) reviewing a solicitation to verify that it is in proper form; and~~

~~———— (ii) causing the publication of a notice of a solicitation; and~~

~~———— (b) including:~~

~~———— (i) preparing any solicitation document;~~

~~———— (ii) appointing an evaluation committee;~~

~~———— (iii) conducting the evaluation process, except the process relating to scores calculated for costs of proposals;~~

~~———— (iv) selecting and recommending the person to be awarded a contract;~~

~~———— (v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and~~

~~———— (vi) contract administration.~~

~~———— (12) "Conservation district" means the same as that term is defined in Section 17D-3-102.~~

~~———— (13) "Construction project":~~

~~———— (a) means a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property, including all services, labor, supplies, and materials for the project; and~~

~~———— (b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.~~

~~———— (14) "Construction manager/general contractor":~~

~~———— (a) means a contractor who enters into a contract:~~

~~———— (i) for the management of a construction project; and~~

~~———— (ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and~~

~~———— (b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.~~

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~~—— (15) "Construction subcontractor":~~

~~—— (a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;~~

~~—— (b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act, and~~

~~—— (c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.~~

~~—— (16) "Contract" means an agreement for a procurement.~~

~~—— (17) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:~~

~~—— (a) implementing the contract;~~

~~—— (b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;~~

~~—— (c) executing change orders;~~

~~—— (d) processing contract amendments;~~

~~—— (e) resolving, to the extent practicable, contract disputes;~~

~~—— (f) curing contract errors and deficiencies;~~

~~—— (g) terminating a contract;~~

~~—— (h) measuring or evaluating completed work and contractor performance;~~

~~—— (i) computing payments under the contract; and~~

~~—— (j) closing out a contract.~~

~~—— (18) "Contractor" means a person who is awarded a contract with a procurement unit.~~

~~—— (19) "Cooperative procurement" means procurement conducted by, or on behalf of:~~

~~—— (a) more than one procurement unit; or~~

~~—— (b) a procurement unit and a cooperative purchasing organization.~~

~~—— (20) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.~~

~~—— (21) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the~~

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~~contractor's actual expenses or costs:~~

~~—— (22) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.~~

~~—— (23) "Days" means calendar days, unless expressly provided otherwise.~~

~~—— (24) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.~~

~~—— (25) "Design professional" means:~~

~~—— (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act;~~

~~—— (b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; or~~

~~—— (c) an individual certified as a commercial interior designer under Title 58, Chapter 86, State Certification of Commercial Interior Designers Act.~~

~~—— (26) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.~~

~~—— (27) "Design professional services" means:~~

~~—— (a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;~~

~~—— (b) professional engineering as defined in Section 58-22-102;~~

~~—— (c) master planning and programming services; or~~

~~—— (d) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.~~

~~—— (28) "Design-build" means the procurement of design professional services and construction by the use of a single contract.~~

~~—— (29) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.~~

~~—— (30) "Educational procurement unit" means:~~

~~—— (a) a school district;~~

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- ~~—— (b) a public school, including a local school board or a charter school;~~
- ~~—— (c) the Utah Schools for the Deaf and the Blind;~~
- ~~—— (d) the Utah Education and Telehealth Network;~~
- ~~—— (e) an institution of higher education of the state described in Section 53B-1-102; or~~
- ~~—— (f) the State Board of Education.~~
- ~~—— (31) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:~~
 - ~~—— (a) is regularly maintained by a manufacturer or contractor;~~
 - ~~—— (b) is published or otherwise available for inspection by customers; and~~
 - ~~—— (c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.~~
- ~~—— (32) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.~~
- ~~—— (33) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.~~
- ~~—— (34) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:~~
 - ~~—— (a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or~~
 - ~~—— (b) an adjustment is required by law.~~
- ~~—— (35) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:~~
 - ~~—— (a) is based on the consumer price index or another commercially acceptable index, source, or formula; and~~
 - ~~—— (b) is not based on a percentage of the cost to the contractor.~~
- ~~—— (36) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.~~
- ~~—— (37) "Immaterial error":~~

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- ~~_____ (a) means an irregularity or abnormality that is:~~
- ~~_____ (i) a matter of form that does not affect substance; or~~
- ~~_____ (ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and~~
- ~~_____ (b) includes:~~
- ~~_____ (i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;~~
- ~~_____ (ii) a typographical error;~~
- ~~_____ (iii) an error resulting from an inaccuracy or omission in the solicitation; and~~
- ~~_____ (iv) any other error that the procurement official reasonably considers to be immaterial.~~
- ~~_____ (38) "Indefinite quantity contract" means a fixed price contract that:~~
- ~~_____ (a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and~~
- ~~_____ (b) (i) does not require a minimum purchase amount; or~~
- ~~_____ (ii) provides a maximum purchase limit.~~
- ~~_____ (39) "Independent procurement unit" means:~~
- ~~_____ (a) (i) a legislative procurement unit;~~
- ~~_____ (ii) a judicial branch procurement unit;~~
- ~~_____ (iii) an educational procurement unit;~~
- ~~_____ (iv) a local government procurement unit;~~
- ~~_____ (v) a conservation district;~~
- ~~_____ (vi) a local building authority;~~
- ~~_____ (vii) a local district;~~
- ~~_____ (viii) a public corporation;~~
- ~~_____ (ix) a special service district; or~~
- ~~_____ (x) the Utah Communications Authority, established in Section 63H-7a-201;~~
- ~~_____ (b) the building board or the facilities division, but only to the extent of the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities;~~
- ~~_____ (c) the attorney general, but only to the extent of the procurement authority provided under Title 67, Chapter 5, Attorney General;~~

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~~—— (d) the Department of Transportation, but only to the extent of the procurement authority provided under Title 72, Transportation Code; or~~

~~—— (e) any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, but only to the extent of that statutory procurement authority.~~

~~—— (40) "Invitation for bids":~~

~~—— (a) means a document used to solicit:~~

~~—— (i) bids to provide a procurement item to a procurement unit; or~~

~~—— (ii) quotes for a price of a procurement item to be provided to a procurement unit; and~~

~~—— (b) includes all documents attached to or incorporated by reference in a document described in Subsection (40)(a).~~

~~—— (41) "Issuing procurement unit" means a procurement unit that:~~

~~—— (a) reviews a solicitation to verify that it is in proper form;~~

~~—— (b) causes the notice of a solicitation to be published; and~~

~~—— (c) negotiates and approves the terms and conditions of a contract.~~

~~—— (42) "Judicial procurement unit" means:~~

~~—— (a) the Utah Supreme Court;~~

~~—— (b) the Utah Court of Appeals;~~

~~—— (c) the Judicial Council;~~

~~—— (d) a state judicial district; or~~

~~—— (e) an office, committee, subcommittee, or other organization within the state judicial branch.~~

~~—— (43) "Labor hour contract" is a contract under which:~~

~~—— (a) the supplies and materials are not provided by, or through, the contractor; and~~

~~—— (b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.~~

~~—— (44) "Legislative procurement unit" means:~~

~~—— (a) the Legislature;~~

~~—— (b) the Senate;~~

~~—— (c) the House of Representatives;~~

~~—— (d) a staff office of the Legislature, the Senate, or the House of Representatives; or~~

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- ~~_____ (e) a committee, subcommittee, commission, or other organization;~~
- ~~_____ (i) within the state legislative branch; or~~
- ~~_____ (ii) (A) that is created by statute to advise or make recommendations to the Legislature;~~
- ~~_____ (B) the membership of which includes legislators; and~~
- ~~_____ (C) for which the Office of Legislative Research and General Counsel provides staff support.~~
- ~~_____ (45) "Local building authority" means the same as that term is defined in Section 17D-2-102.~~
- ~~_____ (46) "Local district" means the same as that term is defined in Section 17B-1-102.~~
- ~~_____ (47) "Local government procurement unit" means:~~
 - ~~_____ (a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;~~
 - ~~_____ (b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or~~
 - ~~_____ (c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.~~
- ~~_____ (48) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.~~
- ~~_____ (49) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.~~
- ~~_____ (50) "Municipality" means a city, town, or metro township.~~
- ~~_____ (51) "Nonadopting local government procurement unit" means:~~
 - ~~_____ (a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and~~
 - ~~_____ (b) each office or agency of a county or municipality described in Subsection (51)(a).~~
- ~~_____ (52) "Offeror" means a person who submits a proposal in response to a request for proposals.~~
- ~~_____ (53) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference~~

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~~under the requirements of this chapter:~~

~~—— (54) "Procure" means to acquire a procurement item through a procurement.~~

~~—— (55) "Procurement" means the acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership.~~

~~—— (56) "Procurement item" means an item of personal property, a technology, a service, or a construction project.~~

~~—— (57) "Procurement official" means:~~

~~—— (a) for a procurement unit other than an independent procurement unit, the chief procurement officer;~~

~~—— (b) for a legislative procurement unit, the individual, individuals, or body designated in a policy adopted by the Legislative Management Committee;~~

~~—— (c) for a judicial procurement unit, the Judicial Council or an individual or body designated by the Judicial Council by rule;~~

~~—— (d) for a local government procurement unit:~~

~~—— (i) the legislative body of the local government procurement unit; or~~

~~—— (ii) an individual or body designated by the local government procurement unit;~~

~~—— (e) for a local district, the board of trustees of the local district or the board of trustees' designee;~~

~~—— (f) for a special service district, the governing body of the special service district or the governing body's designee;~~

~~—— (g) for a local building authority, the board of directors of the local building authority or the board of directors' designee;~~

~~—— (h) for a conservation district, the board of supervisors of the conservation district or the board of supervisors' designee;~~

~~—— (i) for a public corporation, the board of directors of the public corporation or the board of directors' designee;~~

~~—— (j) for a school district or any school or entity within a school district, the board of the school district or the board's designee;~~

~~—— (k) for a charter school, the individual or body with executive authority over the charter school or the designee of the individual or body;~~

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~~—— (l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education or the president's designee;~~

~~—— (m) for the State Board of Education, the State Board of Education or the State Board of Education's designee;~~

~~—— (n) for the Utah Board of Higher Education, the Commissioner of Higher Education or the designee of the Commissioner of Higher Education;~~

~~—— (o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or the executive director's designee;~~

~~or~~

~~—— (p) (i) for the building board, and only to the extent of procurement activities of the building board as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the building board or the director's designee;~~

~~—— (ii) for the facilities division, and only to the extent of procurement activities of the facilities division as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the facilities division or the director's designee;~~

~~—— (iii) for the attorney general, and only to the extent of procurement activities of the attorney general as an independent procurement unit under the procurement authority provided under Title 67, Chapter 5, Attorney General, the attorney general or the attorney general's designee;~~

~~—— (iv) for the Department of Transportation created in Section 72-1-201, and only to the extent of procurement activities of the Department of Transportation as an independent procurement unit under the procurement authority provided under Title 72, Transportation Code, the executive director of the Department of Transportation or the executive director's designee; or~~

~~—— (v) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, and only to the extent of the procurement activities of the department, division, office, or entity as an independent procurement unit under the procurement authority provided outside this chapter for the department, division, office, or entity, the chief executive officer of the department, division, office, or entity or the~~

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~~chief executive officer's designee:~~

~~—— (58) "Procurement unit":~~

~~—— (a) means:~~

~~—— (i) a legislative procurement unit;~~

~~—— (ii) an executive branch procurement unit;~~

~~—— (iii) a judicial procurement unit;~~

~~—— (iv) an educational procurement unit;~~

~~—— (v) the Utah Communications Authority, established in Section 63H-7a-201;~~

~~—— (vi) a local government procurement unit;~~

~~—— (vii) a local district;~~

~~—— (viii) a special service district;~~

~~—— (ix) a local building authority;~~

~~—— (x) a conservation district;~~

~~—— (xi) a public corporation; and~~

~~—— (b) does not include a political subdivision created under Title 11, Chapter 13;~~

~~Interlocal Cooperation Act.~~

~~—— (59) "Professional service" means labor, effort, or work that requires specialized knowledge, expertise, and discretion, including labor, effort, or work in the field of:~~

~~—— (a) accounting;~~

~~—— (b) administrative law judge service;~~

~~—— (c) architecture;~~

~~—— (d) construction design and management;~~

~~—— (e) engineering;~~

~~—— (f) financial services;~~

~~—— (g) information technology;~~

~~—— (h) the law;~~

~~—— (i) medicine;~~

~~—— (j) psychiatry; or~~

~~—— (k) underwriting.~~

~~—— (60) "Protest officer" means:~~

~~—— (a) for the division or an independent procurement unit:~~

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- ~~—— (i) the procurement official;~~
- ~~—— (ii) the procurement official's designee who is an employee of the procurement unit; or~~
- ~~—— (iii) a person designated by rule made by the rulemaking authority; or~~
- ~~—— (b) for a procurement unit other than an independent procurement unit, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.~~
- ~~—— (61) "Public corporation" means the same as that term is defined in Section 63E-1-102.~~
- ~~—— (62) "Public entity" means the state or any other government entity within the state that expends public funds.~~
- ~~—— (63) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.~~
- ~~—— (64) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.~~
- ~~—— (65) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.~~
- ~~—— (66) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.~~
- ~~—— (67) "Qualified vendor" means a vendor who:~~
 - ~~—— (a) is responsible; and~~
 - ~~—— (b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.~~
- ~~—— (68) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.~~
- ~~—— (69) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.~~
- ~~—— (70) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that~~

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~~document or incorporated in that document by reference.~~

~~—— (71) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.~~

~~—— (72) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.~~

~~—— (73) "Requirements contract" means a contract:~~

~~—— (a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and~~

~~—— (b) that:~~

~~—— (i) does not require a minimum purchase amount; or~~

~~—— (ii) provides a maximum purchase limit.~~

~~—— (74) "Responsible" means being capable, in all respects, of:~~

~~—— (a) meeting all the requirements of a solicitation; and~~

~~—— (b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.~~

~~—— (75) "Responsive" means conforming in all material respects to the requirements of a solicitation.~~

~~—— (76) "Rule" includes a policy or regulation adopted by the rulemaking authority, if adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions that govern the applicable procurement unit.~~

~~—— (77) "Rulemaking authority" means:~~

~~—— (a) for a legislative procurement unit, the Legislative Management Committee;~~

~~—— (b) for a judicial procurement unit, the Judicial Council;~~

~~—— (c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:~~

~~—— (A) for the building board or the facilities division, the building board;~~

~~—— (B) for the Office of the Attorney General, the attorney general;~~

~~—— (C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and~~

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~~—— (D) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, the governing authority of the department, division, office, or entity; and~~

~~—— (ii) for each other executive branch procurement unit, the board;~~

~~—— (d) for a local government procurement unit:~~

~~—— (i) the governing body of the local government unit; or~~

~~—— (ii) an individual or body designated by the local government procurement unit;~~

~~—— (e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;~~

~~—— (f) for a state institution of higher education, the Utah Board of Higher Education;~~

~~—— (g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;~~

~~—— (h) for a public transit district, the chief executive of the public transit district;~~

~~—— (i) for a local district other than a public transit district or for a special service district, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:~~

~~—— (i) with respect to a subject addressed by board rules; or~~

~~—— (ii) that are in addition to board rules;~~

~~—— (j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah Board of Higher Education;~~

~~—— (k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;~~

~~—— (l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;~~

~~—— (m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority board, created in Section 63H-7a-203; or~~

~~—— (n) for any other procurement unit, the board.~~

~~—— (78) "Service":~~

~~—— (a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;~~

~~—— (b) includes a professional service; and~~

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~~—— (c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.~~

~~—— (79) "Small purchase process" means the procurement process described in Section 63G-6a-506.~~

~~—— (80) "Sole source contract" means a contract resulting from a sole source procurement.~~

~~—— (81) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.~~

~~—— (82) "Solicitation" means an invitation for bids, request for proposals, or request for statement of qualifications.~~

~~—— (83) "Solicitation response" means:~~

~~—— (a) a bid submitted in response to an invitation for bids;~~

~~—— (b) a proposal submitted in response to a request for proposals; or~~

~~—— (c) a statement of qualifications submitted in response to a request for statement of qualifications.~~

~~—— (84) "Special service district" means the same as that term is defined in Section 17D-1-102.~~

~~—— (85) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:~~

~~—— (a) a requirement for inspecting or testing a procurement item; or~~

~~—— (b) preparing a procurement item for delivery.~~

~~—— (86) "Standard procurement process" means:~~

~~—— (a) the bidding process;~~

~~—— (b) the request for proposals process;~~

~~—— (c) the approved vendor list process;~~

~~—— (d) the small purchase process; or~~

~~—— (e) the design professional procurement process.~~

~~—— (87) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.~~

~~—— (88) "Statement of qualifications" means a written statement submitted to a~~

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~~procurement unit in response to a request for statement of qualifications:~~

~~—— (89) "Subcontractor":~~

~~—— (a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and~~

~~—— (b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor:~~

~~—— (90) "Technology" means the same as "information technology," as defined in Section 63F-1-102:~~

~~—— (91) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price:~~

~~—— (92) "Time and materials contract" means a contract under which the contractor is paid:~~

~~—— (a) the actual cost of direct labor at specified hourly rates;~~

~~—— (b) the actual cost of materials and equipment usage; and~~

~~—— (c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor:~~

~~—— (93) "Transitional costs":~~

~~—— (a) means the costs of changing:~~

~~—— (i) from an existing provider of a procurement item to another provider of that procurement item; or~~

~~—— (ii) from an existing type of procurement item to another type;~~

~~—— (b) includes:~~

~~—— (i) training costs;~~

~~—— (ii) conversion costs;~~

~~—— (iii) compatibility costs;~~

~~—— (iv) costs associated with system downtime;~~

~~—— (v) disruption of service costs;~~

~~—— (vi) staff time necessary to implement the change;~~

~~—— (vii) installation costs; and~~

~~—— (viii) ancillary software, hardware, equipment, or construction costs; and~~

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- ~~_____ (c) does not include:~~
- ~~_____ (i) the costs of preparing for or engaging in a procurement process; or~~
- ~~_____ (ii) contract negotiation or drafting costs.~~
- ~~_____ (94) "Vendor":~~
- ~~_____ (a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and~~
- ~~_____ (b) includes:~~
- ~~_____ (i) a bidder;~~
- ~~_____ (ii) an offeror;~~
- ~~_____ (iii) an approved vendor;~~
- ~~_____ (iv) a design professional; and~~
- ~~_____ (v) a person who submits an unsolicited proposal under Section 63G-6a-712.~~

~~_____ 63G-9-303. Meeting to examine claims -- Notice of meeting.~~

- ~~_____ (1) At least 60 days preceding the annual general session of the Legislature, the board shall hold a session for the purpose of examining the claims referred to in Section 63G-9-302, and may adjourn from time to time until the work is completed.~~
- ~~_____ (2) The board shall cause notice of such meeting or meetings to be published on the Utah Public Notice Website created in Section 63F-1-701.~~

‡ Section 134. Section **63A-17-511 (Effective 07/01/21)**, which is renumbered from Section 67-19-14.7 (Effective 07/01/21) is renumbered and amended to read:

~~[67-19-14.7 (Effective 07/01/21)].~~ **63A-17-511 (Effective 07/01/21). Postpartum recovery leave.**

- (1) As used in this section:
 - (a) "Eligible employee" means an employee who:
 - (i) is in a position that receives retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act;
 - (ii) accrues paid leave benefits that can be used in the current and future calendar years;
 - (iii) is not reemployed as defined in Section 49-11-1202; and
 - (iv) gives birth to a child.
 - (b) "Postpartum recovery leave" means leave hours a state employer provides to an eligible employee to recover from childbirth.

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(c) "Retaliatory action" means to do any of the following to an employee:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections (1)(c)(i) through (iv).

(d) (i) "State employer" means:

(A) a state executive branch agency, including the State Tax Commission, the National Guard, and the Board of Pardons and Parole;

(B) the legislative branch of the state; or

(C) the judicial branch of the state.

(ii) "State employer" does not include:

(A) an institute of higher education;

(B) the Utah Board of Higher Education;

(C) the State Board of Education;

(D) an independent entity as defined in Section 63E-1-102;

(E) the Attorney General's Office;

(F) the State Auditor's Office; or

(G) the State Treasurer's Office.

(2) (a) Except as provided in Subsection (3), a state employer shall allow an eligible employee to use up to 120 hours of paid postpartum recovery leave based on a 40-hour work week for recovery from childbirth.

(b) A state employer shall allow an eligible employee who is part-time or who works in excess of a 40-hour work week or its equivalent to use the amount of postpartum recovery leave available to the eligible employee under this section on a pro rata basis as adopted by rule by the ~~[department]~~ division under Subsection (11).

(3) (a) Postpartum recovery leave described in Subsection (2):

(i) shall be used starting on the day on which the eligible employee gives birth, unless a health care provider certifies that an earlier start date is medically necessary;

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(ii) shall be used in a single continuous period; and

(iii) runs concurrently with any leave authorized under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.

(b) The amount of postpartum recovery leave authorized under Subsection (2) does not increase if an eligible employee has more than one child born from the same pregnancy.

(4) (a) Except as provided in Subsection (4)(b), an eligible employee shall give the state employer notice at least 30 days before the day on which the eligible employee plans to:

(i) begin using postpartum recovery leave under this section; and

(ii) stop using postpartum recovery leave under this section.

(b) If circumstances beyond the eligible employee's control prevent the eligible employee from giving notice in accordance with Subsection (4)(a), the eligible employee shall give each notice described in Subsection (4)(a) as soon as reasonably practicable.

(5) A state employer may not charge postpartum recovery leave under this section against sick, annual, or other leave.

(6) A state employer may not compensate an eligible employee for any unused postpartum recovery leave upon termination of employment.

(7) (a) Following the expiration of an eligible employee's postpartum recovery leave under this section, the state employer shall ensure that the eligible employee may return to:

(i) the position that the eligible employee held before using postpartum recovery leave;

or

(ii) a position within the state employer that is equivalent in seniority, status, benefits, and pay to the position that the eligible employee held before using postpartum recovery leave.

(b) If during the time an eligible employee uses postpartum recovery leave under this section the state employer experiences a reduction in force and, as part of the reduction in force, the eligible employee would have been separated had the eligible employee not been using the postpartum recovery leave, the state employer may separate the eligible employee in accordance with any applicable process or procedure as if the eligible employee were not using the postpartum recovery leave.

(8) During the time an eligible employee uses postpartum recovery leave under this section, the eligible employee shall continue to receive all employment related benefits and payments at the same level that the eligible employee received immediately before beginning

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the postpartum leave, provided that the eligible employee pays any required employee contributions.

(9) A state employer may not:

(a) interfere with or otherwise restrain an eligible employee from using postpartum recovery leave in accordance with this section; or

(b) take retaliatory action against an eligible employee for using postpartum recovery leave in accordance with this section.

(10) A state employer shall provide each employee written information regarding an eligible employee's right to use postpartum recovery leave under this section.

(11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~department~~] division shall, by July 1, 2021, make rules for the use and administration of postpartum recovery leave under this section, including a schedule that provides paid or postpartum recovery leave for an eligible employee who is part-time or who works in excess of a 40-hour work week on a pro rata basis.

Section 135. Section **63A-17-512**, which is renumbered from Section 67-19-27 is renumbered and amended to read:

~~[67-19-27]~~. **63A-17-512. Leave of absence with pay for employees with a disability who are covered under other civil service systems.**

(1) As used in this section:

(a) "Eligible officer" means a person who qualifies for a benefit under this section.

(b) (i) "Law enforcement officer" means a sworn and certified peace officer who is an employee of a law enforcement agency that is part of or administered by the state, and whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes of this state.

(ii) "Law enforcement officer" specifically includes the following:

(A) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

(B) all persons specified in Sections 23-20-1.5 and 79-4-501;

(C) investigators for the Motor Vehicle Enforcement Division;

(D) special agents or investigators employed by the attorney general;

(E) employees of the Department of Natural Resources designated as peace officers by

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law;

(F) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division; and

(G) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993.

(c) "State correctional officer" means a correctional officer as defined in Section 53-13-104 who is employed by the Department of Corrections.

(2) (a) A law enforcement officer or state correctional officer who is injured in the course of employment shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits during the period the employee has a temporary disability.

(b) The benefit provided under Subsection (2)(a):

(i) shall be offset as provided under Subsection (4); and

(ii) may not exceed 100% of the officer's regular monthly salary and benefits, including all offsets required under Subsection (4).

(3) (a) A law enforcement officer or state correctional officer who has a total disability as defined in Section 49-21-102, shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits until the officer is eligible for an unreduced retirement under Title 49, Utah State Retirement and Insurance Benefit Act, or reaches the retirement age of 62 years, whichever occurs first, if:

(i) the disability is a result of an injury sustained while in the lawful discharge of the officer's duties; and

(ii) the injury is the result of:

(A) a criminal act upon the officer; or

(B) an aircraft, vehicle, or vessel accident and the officer was not negligent in causing the accident.

(b) The benefit provided under Subsection (3)(a):

(i) shall be offset as provided under Subsection (4); and

(ii) may not exceed 100% of the officer's regular monthly salary and benefits, including all offsets required under Subsection (4).

(4) (a) The agency shall reduce or require the reimbursement of the monthly benefit

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provided under this section by any amount received by, or payable to, the eligible officer for the same period of time during which the eligible officer is entitled to receive a monthly disability benefit under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [department] division shall make rules establishing policies and procedures for the reductions required under Subsection (4)(a).

Section 136. Section **63A-17-601**, which is renumbered from Section ~~{67-19a-101}~~67-19-30 is renumbered and amended to read:

Part 6. ~~{Complaints and Grievances~~

~~{67-19a-101}. 63A-17-601. Definitions.~~

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

- ~~{(1) "Abusive conduct" means the same as that term is defined in Section [67-26-102] 63A-17-801.~~
- ~~{(2) "Administrator" means the person appointed under Section [67-19a-201] 63A-17-603 to head the Career Service Review Office.~~
- ~~{(3) "Career service employee" means a person employed in career service as defined in Section [67-19-3] 63A-17-102.~~
- ~~{(4) "Department" means the Department of Human Resource Management.}~~
- ~~{(5)} ~~{(4) "Employer" means the state of Utah and all supervisory personnel vested with the authority to implement and administer the policies of an agency.~~~~
- ~~{(6)} ~~{(5) "Excusable neglect" means harmless error, mistake, inadvertence, surprise, a failure to discover evidence that, through due diligence, could not have been discovered in time to meet the applicable time period, misrepresentation or misconduct by the employer, or any other reason justifying equitable relief.~~~~
- ~~{(7)} ~~{(6) "Grievance" means:~~~~
- ~~{(a) a complaint by a career service employee concerning any matter touching upon the relationship between the employee and the employer;~~
- ~~{(b) any dispute between a career service employee and the employer;~~
- ~~{(c) a complaint by a reporting employee that a public entity has engaged in retaliatory action against the reporting employee; and~~
- ~~{(d) a complaint that the employer subjected the employee to conditions that a reasonable~~

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~~person would consider intolerable, including abusive conduct.~~

~~[(8)] (7) "Office" means the Career Service Review Office created under Section [67-19a-201] 63A-17-603.~~

~~[(9)] (8) "Public entity" means the same as that term is defined in Section 67-21-2.~~

~~[(10)] (9) "Reporting employee" means an employee of a public entity who alleges that the public entity engaged in retaliatory action against the employee.~~

~~[(11)] (10) "Retaliatory action" means to do any of the following to an employee in violation of Section 67-21-3:~~

- ~~(a) dismiss the employee;~~
- ~~(b) reduce the employee's compensation;~~
- ~~(c) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;~~
- ~~(d) fail to promote the employee if the employee would have otherwise been promoted; or~~
- ~~(e) threaten to take an action described in Subsections [(11)] (10)(a) through (d).~~

~~[(12)] (11) "Supervisor" means the person:~~

- ~~(a) to whom an employee reports; or~~
- ~~(b) who assigns and oversees an employee's work.~~

~~Section 137. Section 63A-17-602, which is renumbered from Section 67-19a-102 is renumbered and amended to read:~~

~~[67-19a-102]. 63A-17-602. Work environment policy:~~

~~As recognized and provided in Section [67-26-201] 63A-17-803, it is the policy of the state of Utah to provide and maintain a work environment free from abusive conduct.~~

~~Section 138. Section 63A-17-603, which is renumbered from Section 67-19a-201 is renumbered and amended to read:~~

~~[67-19a-201]. 63A-17-603. Career Service Review Office created -- Appointment of an administrator -- Reporting -- Qualifications:~~

- ~~(1) There is created a Career Service Review Office.~~
- ~~(2) (a) The governor shall appoint, with the advice and consent of the Senate, an administrator of the office.~~
- ~~(b) The administrator shall have demonstrated an ability to administer personnel policies in performing the duties specified in this chapter.~~

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~~Section 139. Section 63A-17-604, which is renumbered from Section 67-19a-202 is renumbered and amended to read:~~

~~[67-19a-202]. 63A-17-604. Powers -- Scope of authority:~~

~~(1) The office shall serve as the final administrative body to review a grievance from a career service employee and an agency of a decision regarding:~~

~~(a) a dismissal;~~

~~(b) a demotion;~~

~~(c) a suspension;~~

~~(d) a reduction in force;~~

~~(e) a dispute concerning abandonment of position;~~

~~(f) a wage grievance if an employee is not placed within the salary range of the employee's current position;~~

~~(g) a violation of a rule adopted under Chapter ~~[19] 17, Utah State Personnel Management Act; or~~~~

~~(h) except as provided by Subsection (4), equitable administration of the following benefits:~~

~~(i) long-term disability insurance;~~

~~(ii) medical insurance;~~

~~(iii) dental insurance;~~

~~(iv) post-retirement health insurance;~~

~~(v) post-retirement life insurance;~~

~~(vi) life insurance;~~

~~(vii) defined contribution retirement;~~

~~(viii) defined benefit retirement; and~~

~~(ix) a leave benefit.~~

~~(2) The office shall serve as the final administrative body to review a grievance by a reporting employee alleging retaliatory action:~~

~~(3) The office shall serve as the final administrative body to review, without an evidentiary hearing, the findings of an abusive conduct investigation described in Section ~~[67-26-202] 63A-17-804~~ of a state executive branch agency employee:~~

~~(4) The office may not review or take action on:~~

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- ~~(a) a personnel matter not listed in Subsections (1) through (3);~~
- ~~(b) a personnel matter listed in Subsections (1) through (3) that alleges discrimination or retaliation related to a claim of discrimination that is a violation of a state or federal law for which review and action by the office is preempted by state or federal law; or~~
- ~~(c) a personnel matter related to a claim for which an administrative review process is provided by statute and administered by:
 - ~~(i) the Utah State Retirement Systems under Title 49, Utah State Retirement and Insurance Benefit Act;~~
 - ~~(ii) the Public Employees' Benefit and Insurance Program under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or~~
 - ~~(iii) the Public Employees' Long-Term Disability Program under Title 49, Chapter 21, Public Employees' Long-Term Disability Act.~~~~
- ~~(5) The time limits established in this chapter supersede the procedural time limits established in Title 63G, Chapter 4, Administrative Procedures Act.~~
- ~~Section 140. Section 63A-17-605, which is renumbered from Section 67-19a-203 is renumbered and amended to read:
 - ~~[67-19a-203]. 63A-17-605. Rulemaking authority.~~~~
- ~~(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the administrator may make rules governing:
 - ~~(a) definitions of terms, phrases, and words used in the grievance process established by this [chapter] part;~~
 - ~~(b) what matters constitute excusable neglect for purposes of the waiver of time limits established by this [chapter] part;~~
 - ~~(c) the application for and service of subpoenas, the service and filing of pleadings, and the issuance of rulings, orders, determinations, summary judgments, transcripts, and other legal documents necessary in grievance proceedings;~~
 - ~~(d) the use, calling, attendance, participation, and fees of witnesses in grievance proceedings;~~
 - ~~(e) continuances of grievance proceedings;~~
 - ~~(f) procedures in hearings, unless governed by Title 63G, Chapter 4, Administrative Procedures Act;~~~~

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- ~~(g) the presence of media representatives at grievance proceedings;~~
- ~~(h) procedures for sealing files or making data pertaining to a grievance unavailable to the public; and~~
- ~~(i) motions that will assist the parties in meeting the 150-day time limit.~~

~~(2) The rule made under Subsection (1)(i) shall:~~

- ~~(a) prohibit a party from filing a dispositive motion under Utah Rules of Civil Procedure, Rule 12(b)(6) or Rule 56 before an evidentiary hearing; and~~
- ~~(b) authorize a party to file a motion before an evidentiary hearing to:~~
 - ~~(i) dismiss for lack of authority to review the grievance under Utah Rules of Civil Procedure, Rule 12(b)(1) or Rule 12(b)(2); or~~
 - ~~(ii) limit the introduction of evidence.~~

~~Section 141. Section 63A-17-606, which is renumbered from Section 67-19a-204 is renumbered and amended to read:~~

~~[67-19a-204]. 63A-17-606. Administrator == Powers.~~

- ~~(1) In conjunction with any inquiry, investigation, hearing, or other proceeding, the administrator may:~~
 - ~~(a) administer an oath;~~
 - ~~(b) certify an official act;~~
 - ~~(c) subpoena a witness, document, and other evidence; and~~
 - ~~(d) grant a continuance as provided by rule.~~
- ~~(2) (a) The administrator may:~~
 - ~~(i) assign qualified, impartial hearing officers on a per case basis to adjudicate matters under the authority of the office;~~
 - ~~(ii) subpoena witnesses, documents, and other evidence in conjunction with any inquiry, investigation, hearing, or other proceeding;~~
 - ~~(iii) upon motion made by a party or person to whom the subpoena is directed and upon notice to the party who issued the subpoena, quash or modify the subpoena if it is unreasonable, requires an excessive number of witnesses, or requests evidence not relevant to any matter in issue; and~~
 - ~~(iv) act as a hearing officer if the aggrieved employee consents.~~
- ~~(b) In selecting and assigning hearing officers under authority of this section, the~~

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~~administrator shall appoint hearing officers that have demonstrated by education, training, and experience the ability to adjudicate and resolve personnel administration disputes by applying employee relations principles within a large, public work force.~~

~~Section 142. Section 63A-17-607, which is renumbered from Section 67-19a-205 is renumbered and amended to read:~~

~~{67-19a-205}. 63A-17-607. Employment transfer.~~

~~At any point during the grievance process, the employer and the employee may mutually agree to a transfer of the employee to another equivalent position, if and to the extent that such a position is available, in accordance with department rules for transfer and reassignment.~~

~~Section 143. Section 63A-17-608, which is renumbered from Section 67-19a-301 is renumbered and amended to read:~~

~~{67-19a-301}. 63A-17-608. Charges submissible under grievance procedure.~~

~~(1) This grievance procedure may only be used by career service employees who are not:~~

- ~~(a) public applicants for a position with the state's work force;~~
- ~~(b) public employees of the state's political subdivisions;~~
- ~~(c) public employees covered by other grievance procedures; or~~
- ~~(d) employees of state institutions of higher education.~~

~~(2) (a) Whenever a question or dispute exists as to whether an employee is qualified to use this grievance procedure, the administrator shall resolve the question or dispute.~~

~~(b) The administrator's decision under Subsection (2)(a) is reviewable only by the Court of Appeals.~~

~~(3) Any career service employee may submit a grievance based upon a claim or charge of injustice or oppression, including dismissal from employment, resulting from an act, occurrence, omission, or condition for solution through the grievance procedures [set forth in this chapter] described in this part.~~

~~(4) A reporting employee who desires to bring an administrative claim of retaliatory action shall use the grievance procedure described in Section [67-19a-402.5] 63A-17-613.~~

~~(5) A career service employee who desires to bring a grievance described in Subsection [67-19a-202] 63A-17-604(1) shall use and follow the grievance procedure described in [Part 3, Grievance Procedures, and Part 4, Procedural Steps to Be Followed by Aggrieved~~

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~~Employee| Sections 63A-17-608 through 63A-17-617.~~

~~(6) An employee who desires to initiate an administrative review challenging the findings of an abusive conduct investigation shall use and follow the procedure described in~~

~~Section [67-19a-501] 63A-17-618.~~

~~Section 144. Section 63A-17-609, which is renumbered from Section 67-19a-302 is renumbered and amended to read:~~

~~[67-19a-302]. 63A-17-609. Levels of procedure:~~

~~(1) The administration of all grievances under Subsection [67-19a-202] 63A-17-604(1) occurs on the following four levels:~~

~~(a) Level 1 - the supervisor;~~

~~(b) Level 2 - the division director or the director's designee;~~

~~(c) Level 3 - the agency director or the director's designee; and~~

~~(d) Level 4 - the office.~~

~~(2) (a) Except as provided in Subsection (2)(b) and Section [67-19a-501] 63A-17-618, an employee shall file a grievance or complaint at Level 1 and proceed through the levels of procedure within the applicable time limits provided in this chapter.~~

~~(b) If a supervisor or division director is a subject of a grievance or complaint, the employee may proceed directly to Level 2 or Level 3, respectively.~~

~~(3) A career service employee may advance all grievances to Level 3.~~

~~(4) In accordance with Section [67-19a-402.5] 63A-17-613 and subject to Section 67-21-4, a reporting employee may file a grievance alleging retaliatory action directly at Level 4.~~

~~Section 145. Section 63A-17-610, which is renumbered from Section 67-19a-303 is renumbered and amended to read:~~

~~[67-19a-303]. 63A-17-610. Employees' rights in grievance procedure:~~

~~(1) For the purpose of submitting and advancing a grievance, a career service employee, or a reporting employee alleging retaliatory action, may:~~

~~(a) obtain assistance by a representative of the employee's choice to act as an advocate at any level of the grievance procedure;~~

~~(b) request a reasonable amount of time during work hours to confer with the representative and prepare the grievance; and~~

~~(c) call other employees as witnesses at a grievance hearing.~~

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~~(2) The state shall allow employees to attend and testify at the grievance hearing as witnesses if the employee has given reasonable advance notice to the employee's immediate supervisor.~~

~~(3) No person may take any reprisals against a career service employee or a reporting employee for:~~

~~(a) use of or participation in a grievance procedure described in this chapter; or~~

~~(b) representing and providing assistance to a career service employee as an advocate in accordance with Subsection (1)(a).~~

~~(4) If the individual acting as an advocate for a career service employee under Subsection (1)(a) is a state employee, the individual may not receive state compensation for the time the employee spends in the course of that representation unless the individual uses approved leave during that time.~~

~~(5)(a) The employing agency of an employee who files a grievance may not place grievance forms, grievance materials, correspondence about the grievance, agency and department replies to the grievance, or other documents relating to the grievance in the employee's personnel file.~~

~~(b) The employing agency of an employee who files a grievance may place records of disciplinary action in the employee's personnel file.~~

~~(c) If any disciplinary action against an employee is rescinded through the grievance procedures described in this chapter, the agency and the [Department of Human Resource Management] division shall remove the record of the disciplinary action from the employee's agency personnel file and central personnel file.~~

~~(d) An agency may maintain a separate grievance file relating to an employee's grievance, but shall discard the file after three years.~~

~~Section 146. Section 63A-17-611, which is renumbered from Section 67-19a-401 is renumbered and amended to read:~~

~~{67-19a-401}. 63A-17-611. Time limits for submission and advancement of grievance by aggrieved employee -- Voluntary termination of employment -- Group grievances.~~

~~(1) When a career service employee files a grievance at Level 1, as described in Section {67-19a-302} 63A-17-609, the employee shall advance the grievance through the proper levels of procedure specified in this [chapter] part.~~

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- ~~(2) The employee and the person to whom the grievance is directed may agree in writing to waive or extend grievance steps specified under Subsection [67-19a-402] 63A-17-612(1), (2), or (3) or the time limits specified for those grievance steps, as [outlined] described in Section [67-19a-402] 63A-17-612.~~
- ~~(3) Any writing made under Subsection (2) shall be submitted to the administrator.~~
- ~~(4) Except as provided under Subsections (6) and (7), if the employee fails to advance the grievance to the next procedural step within the time limits established in this part:~~
- ~~(a) the employee waives the right to advance the grievance or to obtain judicial review of the grievance; and~~
- ~~(b) the grievance is considered to be settled based on the decision made at the last procedural step.~~
- ~~(5) An employee may file a grievance for review under this [chapter] part, except as provided in Subsections (6) and (7), if the employee submits the grievance within 30 working days after:~~
- ~~(a) the most recent event giving rise to the grievance; or~~
- ~~(b) the employee has knowledge of the most recent event giving rise to the grievance.~~
- ~~(6) (a) An employee may file with the office a motion for an enlargement of a time limit described in Subsection (5):~~
- ~~(b) In determining whether to grant a motion described in Subsection (6)(a), the office shall consider, giving reasonable deference to the employee, whether:~~
- ~~(i) the employee filed the motion before the time limit the employee seeks to enlarge; or~~
- ~~(ii) the enlargement is necessary to remedy the employee's excusable neglect.~~
- ~~(7) The provisions of Subsections (4) and (5) do not apply if the employee meets the requirements for excusable neglect as that term is defined in Section [67-19a-101] 63A-17-601.~~
- ~~(8) (a) If several employees allege the same grievance, the employees may submit a group grievance by following the procedures and requirements of this [chapter] part.~~
- ~~(b) In submitting a group grievance, each aggrieved employee shall sign the grievance.~~
- ~~(c) The administrator may not treat a group grievance as a class action, but may select one aggrieved employee's grievance and address that grievance as a test case.~~
- ~~Section 147. Section 63A-17-612, which is renumbered from Section 67-19a-402 is~~

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renumbered and amended to read:

~~{67-19a-402}. 63A-17-612. Procedural steps to be followed by aggrieved employee:~~

~~(1) (a) Subject to the provisions and levels of procedure provided in Section {67-19a-302} 63A-17-609, a career service employee who has a grievance shall submit the grievance in~~

~~writing to:~~

~~(i) the employee's supervisor; and~~

~~(ii) the administrator.~~

~~(b) Within five working days after receiving a written grievance, the employee's supervisor may issue a written decision on the grievance.~~

~~(2) (a) If the employee's supervisor fails to respond to the grievance within five working days or if the aggrieved employee is dissatisfied with the supervisor's written decision, the employee may advance the written grievance to the employee's agency or division director within 10 working days after the expiration of the period for response or receipt of the written decision, whichever is first.~~

~~(b) Within five working days after receiving the written grievance, the employee's agency or division director may issue a written response to the grievance stating the decision and the reasons for the decision.~~

~~(3) (a) If the employee's agency or division director fails to respond to the grievance within five working days after its submission, or if the aggrieved employee is dissatisfied with the agency or division director's written decision, the employee may advance the written grievance to the employee's department head within 10 working days after the expiration of the period for decision or receipt of the written decision, whichever is first.~~

~~(b) Within 10 working days after the employee's written grievance is submitted, the department head may issue a written response to the grievance stating the decision and the reasons for the decision.~~

~~(c) The decision of the department head is final in all matters except those matters that the office may review under the authority of {Part 3, Grievance Procedures} Sections 63A-17-608 through 63A-17-610.~~

~~(4) If the written grievance submitted to the employee's department head meets the subject matter requirements of Section {67-19a-202} 63A-17-604 and if the employee's department head fails to respond to the grievance within 10 working days after~~

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~~submission, or if the aggrieved employee is dissatisfied with the department head's written decision, the employee may advance the written grievance to the administrator within 10 working days after the expiration of the period for decision or receipt of the written decision, whichever is first.~~

~~Section 148. Section 63A-17-613, which is renumbered from Section 67-19a-402.5 is renumbered and amended to read:~~

~~[67-19a-402.5]. 63A-17-613. Procedural steps to be followed by reporting employee alleging retaliatory action.~~

~~(1) A reporting employee who desires to assert an administrative grievance of retaliatory action:~~

~~(a) shall submit the grievance in writing within 30 days after the day on which the retaliatory action occurs;~~

~~(b) is not required to comply with Section 63G-7-402 to file the grievance; and~~

~~(c) is subject to the provisions of Section 67-21-4.~~

~~(2) (a) When a reporting employee files a grievance with the administrator under Subsection (1), the administrator shall initially determine:~~

~~(i) whether the reporting employee is entitled, under this chapter and Chapter 21, Utah Protection of Public Employees Act, to bring the grievance and use the grievance procedure;~~

~~(ii) whether the office has authority to review the grievance;~~

~~(iii) whether, if the alleged grievance were found to be true, the reporting employee would be entitled to relief under Subsection 67-21-3.5(2); and~~

~~(iv) whether the reporting employee has been directly harmed.~~

~~(b) To make the determinations described in Subsection (2)(a), the administrator may:~~

~~(i) hold an initial hearing, where the parties may present oral arguments, written arguments, or both; or~~

~~(ii) conduct an administrative review of the grievance.~~

~~(3) (a) If the administrator holds an initial hearing, the administrator shall issue a written decision within 15 days after the day on which the hearing is adjourned.~~

~~(b) If the administrator chooses to conduct an administrative review of the grievance, the administrator shall issue the written decision within 15 days after the day on which the~~

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~~administrator receives the grievance:~~

~~(4) (a) If the administrator determines the office has authority to review the grievance, the administrator shall provide for an evidentiary hearing in accordance with Section~~

~~{67-19a-404} 63A-17-615.~~

~~(b) The administrator may dismiss the grievance, without holding a hearing or taking evidence, if the administrator:~~

~~(i) finds that, even if the alleged grievance were found to be true, the reporting employee would not be entitled to relief under Subsection 67-21-3.5(2); and~~

~~(ii) provides the administrator's findings, in writing, to the reporting employee.~~

~~(c) The office shall comply with Chapter 21, Utah Protection of Public Employees Act, in taking action under this section:~~

~~(5) A decision reached by the office in reviewing a retaliatory action grievance from a reporting employee may be appealed directly to the Utah Court of Appeals.~~

~~(6) (a) Except as provided in Subsection (6)(b), an appellate court may award costs and attorney fees, accrued at the appellate court level, to a prevailing employee.~~

~~(b) A court may not order the office to pay costs or attorney fees under this section.~~

~~Section 149. Section 63A-17-614, which is renumbered from Section 67-19a-403 is renumbered and amended to read:~~

~~{67-19a-403}. 63A-17-614. Advancement of grievance to administrator -- Initial hearing.~~

~~(1) At any time after a career service employee submits a written grievance to the administrator under Subsection {67-19a-402} 63A-17-612(4), the administrator may attempt to settle the grievance informally by conference, conciliation, and persuasion with the employee and the agency.~~

~~(2) (a) When an employee advances a grievance to the administrator under Subsection {67-19a-402} 63A-17-612(4), the administrator shall initially determine:~~

~~(i) whether the employee is a career service employee and is entitled to use the grievance system;~~

~~(ii) whether the office has authority to review the grievance; and~~

~~(iii) whether the employee has been directly harmed.~~

~~(b) In order to make the determinations required by Subsection (2)(a), the administrator may:~~

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~~(i) hold an initial hearing, where the parties may present oral arguments, written arguments, or both; or~~

~~(ii) conduct an administrative review of the file.~~

~~(3) (a) If the administrator holds an initial hearing, the administrator shall issue a written decision within 15 days after the hearing is adjourned.~~

~~(b) If the administrator chooses to conduct an administrative review of the file, the administrator shall issue the written decision within 15 days after the administrator receives the grievance.~~

~~Section 150. Section 63A-17-615, which is renumbered from Section 67-19a-404 is renumbered and amended to read:~~

~~[67-19a-404]. 63A-17-615. Evidentiary hearing:~~

~~(1) If the administrator determines that the office has authority to review the grievance, the administrator shall:~~

~~(a) appoint a hearing officer to adjudicate the grievance; and~~

~~(b) set a date for the evidentiary hearing that is either:~~

~~(i) not later than 30 days after the date the administrator determines that the office has authority to review the grievance; or~~

~~(ii) at a date:~~

~~(A) agreed upon by the parties and the administrator; and~~

~~(B) not greater than 150 days after the date the administrator determines that the office has authority to review the grievance.~~

~~(2) After the date for the evidentiary hearing has been set, the administrator or assigned hearing officer may grant each party one extension of reasonable length for extraordinary circumstances as determined by the administrator or assigned hearing officer.~~

~~(3) Notwithstanding Section 63G-4-205, and in order to accommodate the 150-day time limit, the administrator may only allow a motion for discovery for production of documents, records, and evidence under Utah Rules of Civil Procedure, Rule 34.~~

~~Section 151. Section 63A-17-616, which is renumbered from Section 67-19a-405 is renumbered and amended to read:~~

~~[67-19a-405]. 63A-17-616. Prehearing conference:~~

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- ~~(1) The administrator may require the presence of each party, the representatives of each party, and other designated persons at a prehearing conference.~~
- ~~(2) At the conference, the administrator may require the parties to:~~
- ~~(a) identify which allegations are admitted and which allegations are denied;~~
 - ~~(b) submit a joint statement detailing:~~
 - ~~(i) stipulated facts that are not in dispute;~~
 - ~~(ii) the issues to be decided; and~~
 - ~~(iii) applicable laws and rules;~~
 - ~~(c) submit a list of witnesses, exhibits, and papers or other evidence that each party intends to offer as evidence; and~~
 - ~~(d) confer in an effort to resolve or settle the grievance.~~
- ~~(3) At the conclusion of the prehearing conference, the administrator may require the parties to prepare a written statement identifying:~~
- ~~(a) the items presented or agreed to under Subsection (2); and~~
 - ~~(b) the issues remaining to be resolved by the hearing process.~~
- ~~(4) The prehearing conference is informal and is not open to the public or press.~~
- ~~Section 152. Section 63A-17-617, which is renumbered from Section 67-19a-406 is renumbered and amended to read:~~
- ~~[67-19a-406]. 63A-17-617. Procedural steps to be followed by aggrieved employee --~~
- ~~Hearing before hearing officer -- Evidentiary and procedural rules:~~
- ~~(1) (a) The administrator shall record the hearing and preserve the record.~~
 - ~~(b) The recording of the proceedings and all exhibits, briefs, motions, and pleadings received by the hearing officer are the official record of the proceeding.~~
 - ~~(2) (a) The agency has the burden of proof in all grievances.~~
 - ~~(b) The agency must prove the agency's case by substantial evidence.~~
- ~~(3) (a) The hearing officer shall issue a written decision within 20 working days after the hearing is adjourned.~~
- ~~(b) If the hearing officer does not issue a decision within 20 working days, the agency that is a party to the grievance is not liable for any claimed back wages or benefits after the date the decision is due.~~
- ~~(4) The hearing officer may:~~

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- ~~(a) not award attorney fees or costs to either party;~~
- ~~(b) close a hearing by complying with the procedures and requirements of Title 52, Chapter 4, Open and Public Meetings Act;~~
- ~~(c) seal the file and the evidence produced at the hearing if the evidence raises questions about an employee's character, professional competence, or physical or mental health;~~
- ~~(d) grant continuances according to rule; and~~
- ~~(e) decide a motion, an issue regarding discovery, or another issue in accordance with this [chapter] part.~~

~~(5) (a) A hearing officer shall affirm, rescind, or modify agency action.~~

~~(b) (i) If a hearing officer does not affirm agency action, the hearing officer shall order back pay and back benefits that the grievant would have received without the agency action.~~

~~(ii) An order under Subsection (5)(b)(i) shall include:~~

~~(A) reimbursement to the grievant for premiums that the grievant paid for benefits allowed under the Consolidated Omnibus Reconciliation Act of 1985; and~~

~~(B) an offset for any state paid benefits the grievant receives because of the agency action, including unemployment compensation benefits.~~

~~(c) In an order under Subsection (5)(b)(i), a hearing officer may not reduce the amount of back pay and benefits awarded a grievant because of income that the grievant earns during the grievance process.~~

~~(6) An employee who files a grievance in accordance with this chapter may appeal a decision of the office directly to the Utah Court of Appeals in accordance with Title 63G, Chapter 4, Administrative Procedures Act.~~

~~Section 153. Section 63A-17-618, which is renumbered from Section 67-19a-501 is renumbered and amended to read:~~

~~[67-19a-501]. 63A-17-618. Procedural steps to be followed in an administrative review of an abusive conduct investigation.~~

~~(1) An employee of a state executive branch agency, as defined in Section [67-26-102] 63A-17-801, may, under Subsection [67-19a-202] 63A-17-604(3), initiate an administrative review of the findings of an abusive conduct investigation within 10 days after the day on which the employee receives notification of the investigative findings.~~

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~~(2) (a) An employee bringing an administrative review of the findings described in Subsection (1) may file the request for the administrative review directly with the office.~~

~~(b) The request for administrative review may describe the reasons for the administrative review and include any submissions the employee desires to submit.~~

~~(3) (a) When an employee initiates the review described in Subsection (2) with the office:~~

~~(i) the role of the administrative review is to review and rule upon the findings of the abusive conduct investigation; and~~

~~(ii) an evidentiary hearing is not required.~~

~~(b) The department shall make the abusive conduct investigative file available for the office's in camera review.~~

~~(c) The office may:~~

~~(i) request additional relevant documents from the department or the affected employee; and~~

~~(ii) interview the employee who initiated the administrative review and the investigators who conducted the investigation.~~

~~(4) (a) The office may overturn the findings of the abusive conduct investigation if the office determines that:~~

~~(i) the findings are not reasonable, rational, or sufficiently supported by the evidence; or~~

~~(ii) the facts on which the findings are based are inaccurate.~~

~~(b) The office may uphold the findings of the abusive conduct investigation if the office determines that:~~

~~(i) the findings are reasonable, rational, and sufficiently supported by the evidence; and~~

~~(ii) the facts on which the findings are based are accurate.~~

~~(5) (a) Within 30 days after the day on which an employee initiates an administrative review under this section, the office shall issue a notice stating whether the office upheld or overturned the investigative findings.~~

~~(b) The office's determination upon administrative review of the findings resulting from an abusive conduct investigation is final and not subject to appeal.~~

~~(c) The following are classified as protected under Title 63G, Chapter 2, Government Records Access and Management Act, and any other applicable confidentiality provisions:~~

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~~(i) the request for administrative review and any accompanying documents;~~

~~(ii) documents that any party provides;~~

~~(iii) the contents of the administrative review file; and~~

~~(iv) the office's determination.~~

~~Section 154. Section 63A-17-701, which is renumbered from Section 67-19-30 is renumbered and amended to read:~~

~~Part 7. Miscellaneous~~ } Grievance Provisions

~~[67-19-30].~~ ~~{63A-17-701}~~ 63A-17-601. **Grievance resolution -- Jurisdiction.**

(1) Employees shall comply with the procedural and jurisdictional requirements of this section, Title 63G, Chapter 4, Administrative Procedures Act, and ~~{}~~ Chapter 19a, Grievance Procedures ~~{ Part 6, Complaints and Grievances }~~, in seeking resolution of grievances.

(2) All grievances based upon a claim or charge of injustice or oppression, including dismissal from employment, resulting from an act, occurrence, commission, or condition shall be governed by ~~{}~~ Chapter 19a, Grievance Procedures ~~{ Part 6, Complaints and Grievances }~~, and Title 63G, Chapter 4, Administrative Procedures Act.

(3) All grievances involving classification shall be governed by Section ~~[67-19-31]~~ ~~{63A-17-702}~~ 63A-17-602 and are designated as informal adjudicative proceedings as defined by Title 63G, Chapter 4, Administrative Procedures Act.

(4) All grievances by applicants for positions in state government involving an alleged discriminatory or prohibited employment practice shall be governed by Section ~~[67-19-32]~~ ~~{63A-17-703}~~ 63A-17-603 and Title 63G, Chapter 4, Administrative Procedures Act.

(5) A "grievance" under this chapter is a request for agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

Section ~~{155}~~ 137. Section ~~{63A-17-702}~~ 63A-17-602, which is renumbered from Section 67-19-31 is renumbered and amended to read:

~~[67-19-31].~~ ~~{63A-17-702}~~ 63A-17-602. **Position classification grievances -- Scope -- Procedure.**

(1) (a) For the purpose of position classification grievances, the process that culminates in assigning a career service position to an appropriate class specification is a matter of position classification and may be grieved.

(b) The process that culminates in assigning a salary range to the class specification is

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not a position classification and may not be grieved as a classification grievance.

(2) (a) Upon receipt of a position classification grievance, the [~~executive~~] director shall refer the grievance to a classification panel of three or more impartial persons trained in state classification procedures.

(b) The classification panel shall determine whether or not the classification assignment for career service positions was appropriate by applying the statutes, rules, and procedures adopted by the [~~department~~] division that were in effect at the time of the classification change.

(c) The classification panel may:

- (i) obtain access to previous audits, classification decisions, and reports;
- (ii) request new or additional audits by human resource analysts; and
- (iii) consider new or additional information.

(d) The classification panel may sustain or modify the original decision and, if applicable, recommend a new classification.

(e) The classification panel shall report [~~its~~] the classification panel's recommendation to the [~~executive~~] director, who shall make the classification decision and notify the grievant.

(3) (a) Either party may appeal the [~~executive~~] director's decision to an impartial hearing officer trained in state classification procedures selected through a public bid process by a panel consisting of the following members:

~~[(i) the executive director of the Department of Human Resource Management;]~~

(i) a current or former government employee with experience in human resource management;

- (ii) two department executive directors;
- (iii) a private sector human resources executive appointed by the governor; and
- (iv) a representative of the Utah Public Employees Association.

(b) The successful bid shall serve under contract for no more than three years. At the end of that time, the [~~Department of Human Resource Management~~] division shall reissue the bid.

(c) The hearing officer shall review the classification and make the final decision. The final decision is subject to judicial review pursuant to the provisions of Section 63G-4-402.

Section ~~{156}~~ 138. Section ~~{63A-17-703}~~ 63A-17-603, which is renumbered from

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Section 67-19-32 is renumbered and amended to read:

~~[67-19-32].~~ ~~{63A-17-703}~~63A-17-603. **Discriminatory/prohibited employment practices grievances -- Procedures.**

(1) An applicant for a position in state government, a probationary employee, career service employee, or an exempt employee who alleges a discriminatory or prohibited employment practice as defined in Section 34A-5-106 may submit a written grievance to the department head where the alleged unlawful act occurred.

(2) Within 10 working days after a written grievance is submitted under Subsection (1), the department head shall issue a written response to the grievance stating his decision and the reasons for the decision.

(3) If the department head does not issue a decision within 10 days, or if the grievant is dissatisfied with the decision, the grievant may submit a complaint to the Division of Antidiscrimination and Labor, pursuant to Section 34A-5-107.

Section ~~{157}~~139. Section ~~{63A-17-801}~~63A-17-701, which is renumbered from Section ~~{67-26-102}~~67-19e-102 is renumbered and amended to read:

~~Part {8. Utah Public Employees Healthy Workplace Act~~

~~{67-26-102}. 63A-17-801. Definitions.~~

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

~~(1) (a) "Abusive conduct" means verbal, nonverbal, or physical conduct of an employee to another employee of the same employer that, based on the severity, nature, or frequency of the conduct, a reasonable person would determine:~~

~~(i) is intended to cause intimidation, humiliation, or unwarranted distress;~~

~~(ii) results in substantial physical harm or substantial psychological harm as a result of intimidation, humiliation, or unwarranted distress; or~~

~~(iii) exploits an employee's known physical or psychological disability.~~

~~(b) "Abusive conduct" does not mean a single act unless the act is an especially severe and egregious act that meets the standard described in Subsection (1)(a)(i), (ii), or (iii).~~

~~(2) "Abusive conduct complaint process" means the process described in Section {67-26-202} 63A-17-804.~~

~~(3) "Administrative review process" means a process that allows an employee, in relation to the findings of an abusive conduct investigation, to seek an administrative review that:~~

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- ~~(a) an employer conducts in accordance with Section ~~[67-26-202]~~ 63A-17-804; or~~
- ~~(b) in relation to a state executive branch agency, the office conducts in accordance with Section ~~[67-19a-501]~~ 63A-17-618.~~

~~[(4)] (4) "Department" means the Department of Human Resource Management.~~

~~[(5)] (4) (a) "Employee" means an employee of an employer.~~

~~(b) "Employee" includes an elected or appointed official of an employer.~~

~~[(6)] (5) "Employer" means:~~

~~(a) a state executive branch agency; or~~

~~(b) an independent entity, as defined in Section 63E-1-102.~~

~~[(7)] (6) "Office" means the Career Service Review Office created under Section ~~[67-19a-201]~~ 63A-17-603.~~

~~[(8)] (7) "Physical harm" means the impairment of an individual's physical health or bodily integrity, as established by competent evidence.~~

~~[(9)] (8) "Psychological harm" means the impairment of an individual's mental health, as established by competent evidence.~~

~~[(10)] (9) (a) "State executive branch agency" means a department, division, office, bureau, or other organization within the state executive branch.~~

~~(b) "State executive branch agency" includes an agency under the authority of the governor, lieutenant governor, state treasurer, state auditor, or attorney general.~~

~~(c) "State executive branch agency" does not include the Utah System of Higher Education or an independent entity, as defined in Section 63E-1-102.~~

~~Section 158. Section 63A-17-802, which is renumbered from Section 67-26-103 is renumbered and amended to read:~~

~~~~[67-26-103].~~ 63A-17-802. Effect of part.~~

~~This ~~[chapter]~~ part does not:~~

~~(1) exempt or relieve a person from a liability, duty, or penalty provided by another federal or state law;~~

~~(2) create a private right of action;~~

~~(3) expand or diminish rights or remedies available to a person before July 1, 2020; or~~

~~(4) expand or diminish grounds for discipline that existed before July 1, 2020.~~

~~Section 159. Section 63A-17-803, which is renumbered from Section 67-26-201 is~~

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~~renumbered and amended to read:~~

~~[67-26-201]. 63A-17-803. State policy on abusive conduct.~~

~~It is the policy of the state to provide and maintain a work environment free from abusive conduct.~~

~~Section 160. Section 63A-17-804, which is renumbered from Section 67-26-202 is renumbered and amended to read:~~

~~[67-26-202]. 63A-17-804. Abusive conduct complaint, investigation, administrative review process.~~

~~(1) An employee may file a written complaint of abusive conduct with the human resources department of the employee's employer if the complaint is against an employee of the same employer as the employee filing the complaint.~~

~~(2) If an employee files a written complaint of abusive conduct under Subsection (1), the human resources department of the employee's employer shall conduct an abusive conduct investigation.~~

~~(3) (a) Each employer that is not a state executive branch agency:~~

~~(i) shall provide the employer's employees a process for:~~

~~(A) filing an abusive conduct complaint, including an alternative process if the complaint involves an individual who would otherwise receive or review an abusive conduct complaint; and~~

~~(B) an administrative review of the findings of an abusive conduct investigation described in Subsection (2) that is substantially similar to the administrative review process described in Section [67-19a-501] 63A-17-618; and~~

~~(ii) may request assistance from the [department] division, at the [department's] division's current consultant rate, or the office, at a reasonable rate established by the office, in developing a process described in this Subsection (3)(a).~~

~~(b) The [department] division shall provide a process for an employee of a state executive branch agency to file an abusive conduct complaint, including an alternative process if the complaint involves an individual who would otherwise receive or review an abusive conduct complaint.~~

~~(4) The complaint described in Subsection (1) and a subsequent abusive conduct investigation are subject to:~~

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- ~~(a) in relation to an employer other than a state executive branch agency, the administrative review process described in Subsection (3)(a); and~~
- ~~(b) in relation to a state executive branch agency, the office's administrative review process described in Section [67-19a-501] 63A-17-618.~~

~~Section 161. Section 63A-17-805, which is renumbered from Section 67-26-203 is renumbered and amended to read:~~

~~[67-26-203]. 63A-17-805. Abusive conduct -- Training -- Policy.~~

~~(1) As used in this section:~~

~~(a) "Abusive conduct" means verbal, nonverbal, or physical conduct of a covered employee to another covered employee of the same covered employer that, based on the severity, nature, or frequency of the conduct, a reasonable person would determine:~~

- ~~(i) is intended to cause intimidation, humiliation, or unwarranted distress;~~
- ~~(ii) results in substantial physical harm or substantial psychological harm as a result of intimidation, humiliation, or unwarranted distress; or~~
- ~~(iii) exploits a covered employee's known physical or psychological disability.~~

~~(b) "Covered employee" means:~~

- ~~(i) for the judicial branch, a judge or an employee of the judicial branch; or~~
- ~~(ii) for a higher education entity, each governing member and each employee of the higher education entity.~~

~~(c) "Covered employer" means:~~

- ~~(i) the judicial branch; or~~
- ~~(ii) a higher education entity.~~

~~(d) "Higher education entity" means an entity within the Utah System of Higher Education, including each member institution, the Utah Board of Higher Education, and the office of commissioner of higher education.~~

~~(2) The judicial branch shall, beginning on January 1, 2021:~~

- ~~(a) provide annual training to all covered employees on abusive conduct in the workplace; and~~
- ~~(b) implement a policy prohibiting, and for reporting and resolving, abusive conduct within the judicial branch.~~

~~(3) Each higher education entity shall, beginning on January 1, 2021:~~



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- ~~(a) provide annual training to all covered employees on abusive conduct in the workplace; and~~
- ~~(b) implement a policy prohibiting, and for reporting and resolving, abusive conduct within the higher education entity.~~
- ~~(4) The judicial branch and each higher education entity shall, before May 1, 2021, submit to the Government Operations Interim Committee a copy of the policies described in Subsections (2)(b) and (3)(b).~~

~~Section 162. Section 63A-17-806, which is renumbered from Section 67-26-301 is renumbered and amended to read:~~

~~{67-26-301}. 63A-17-806. Abusive conduct training.~~

- ~~(1) (a) The [department] division shall provide biennial training to educate all state executive branch agency employees and supervisors about how to prevent abusive workplace conduct.~~
  - ~~(b) The training described in Subsection (1)(a) shall include information on:~~
    - ~~(i) what constitutes abusive conduct and the ramifications of abusive conduct;~~
    - ~~(ii) resources available to employees who are subject to abusive conduct; and~~
    - ~~(iii) the abusive conduct complaint process described in Section {67-26-202} 63A-17-804.~~
- ~~(2) (a) The [department] division shall create a baseline training module for employers that are not state executive branch agencies to educate the employers' respective employees and supervisors about how to prevent abusive workplace conduct.~~
- ~~(b) The baseline training module described in Subsection (2)(a) shall include information on what constitutes abusive conduct and the ramifications of abusive conduct.~~
- ~~(c) Each employer that is not a state executive branch agency shall create and provide supplemental training to educate the employer's employees and supervisors that supplements the [department's] division's baseline training module with information regarding:~~
  - ~~(i) resources available to employees who are subject to abusive conduct; and~~
  - ~~(ii) the employer's abusive conduct complaint process described in Section {67-26-202} 63A-17-804.~~
- ~~(d) An employer may request assistance from the [department] division, at the [department's] division's current consultant rate, in developing the training described in~~

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### ~~Subsection (2)(c):~~

~~(3) (a) Each employer shall provide professional development training to promote:~~

~~(i) ethical conduct;~~

~~(ii) organizational leadership practices based in principles of integrity; and~~

~~(iii) the state policy described in Section [67-26-201] 63A-17-803.~~

~~(b) An employer may request assistance from the [department] division, at the [department's] division's current consultation rate, in developing training described in this Subsection (3):~~

~~(4) (a) Employers shall provide and employees shall participate in the training described in this section:~~

~~(i) at the time the employee is hired or within a reasonable time after the employee begins employment; and~~

~~(ii) at least every other year after the employee begins employment.~~

~~(b) An employer shall, at the times described in Subsection (4)(a), provide notification to the employee of the abusive conduct complaint process:~~

~~(5) The [department] division may use money appropriated to the [department] division or access support from outside resources to:~~

~~(a) develop policies against workplace abusive conduct; and~~

~~(b) enhance professional development training on topics such as:~~

~~(i) building trust;~~

~~(ii) effective motivation;~~

~~(iii) communication;~~

~~(iv) conflict resolution;~~

~~(v) accountability;~~

~~(vi) coaching;~~

~~(vii) leadership; or~~

~~(viii) ethics.~~

~~(6) (a) Beginning in 2021, and each year after 2021, an employer that is not a state executive branch agency shall, on or before July 31, report to the [department] division regarding:~~

~~(i) the employer's implementation of this chapter, including the requirement to provide a~~

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~~process under Section [67-26-202] 63A-17-804; and~~

~~(ii) the total number and outcomes of abusive conduct complaints that the employer's employees filed and that the employer investigated or reviewed.~~

~~(b) The [department] division shall annually report to the Economic Development and Workforce Services Interim Committee, no later than the November interim meeting, the following:~~

~~(i) a description the [department's] division's implementation of this chapter;~~

~~(ii) the [department's] division's recommendations, if any, to:~~

~~(A) appropriately address and reduce workplace abusive conduct; or~~

~~(B) change definitions or training required by this section;~~

~~(iii) an annual report of the total number and outcomes of abusive conduct complaints that employees filed and the department investigated; and~~

~~(iv) a summary of the reports the department receives under Subsection (6)(a).~~

~~Section 163. Section 63A-17-901, which is renumbered from Section 67-19e-102 is renumbered and amended to read:~~

### ~~Part 9}7. Administrative Law Judges~~

~~[67-19e-102]. {63A-17-901}63A-17-701. Definitions.~~

~~In addition to the definitions found in Section [67-19-3, the following definitions apply to this chapter] 63A-17-102, as used in this part:~~

~~(1) (a) "Administrative law judge" means an individual who is employed or contracted by a state agency who:~~

~~(i) presides over or conducts formal administrative hearings on behalf of an agency;~~

~~(ii) has the power to administer oaths, rule on the admissibility of evidence, take~~

~~testimony, evaluate evidence, and make determinations of fact; and~~

~~(iii) issues written orders, rulings, or final decisions on behalf of an agency.~~

~~(b) "Administrative law judge" does not mean:~~

~~(i) an individual who reviews an order or ruling of an administrative law judge; or~~

~~(ii) the executive director of a state agency.~~

~~(2) "Committee" means the Administrative Law Judge Conduct Committee created in Section [67-19e-108] {63A-17-908}63A-17-708.~~

~~(3) "Department" means the Department of Human Resource Management created in~~

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~~Section 67-19-5.]~~

~~[(4) "Executive director" means the executive director of the department.]~~

Section ~~{164}~~140. Section ~~{63A-17-902}~~63A-17-702, which is renumbered from Section 67-19e-103 is renumbered and amended to read:

~~[67-19e-103].~~ ~~{63A-17-902}~~63A-17-702. **Administrative law judges -- Applicability -- Destruction of evidence.**

(1) (a) Except as provided in Subsections (1)(b) and (2), the provisions of this [chapter] part apply to an administrative law judge who conducts formal adjudicative proceedings.

(b) Except as provided in Subsection (2), the provisions of this [chapter] part do not apply to an administrative law judge who is employed by or contracts with:

- (i) the Board of Pardons and Parole;
- (ii) the Department of Corrections; or
- (iii) the State Tax Commission.

(2) The code of conduct established by the [department] division under Subsection ~~[67-19e-104]~~ ~~{63A-17-903}~~63A-17-703(4) applies to all administrative law judges.

(3) An administrative law judge who tampers with or destroys evidence submitted to the administrative law judge is subject to the provisions of Section 76-8-510.5. This section does not apply to documents destroyed in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

Section ~~{165}~~141. Section ~~{63A-17-903}~~63A-17-703, which is renumbered from Section 67-19e-104 is renumbered and amended to read:

~~[67-19e-104].~~ ~~{63A-17-903}~~63A-17-703. **Rulemaking authority.**

The [department] division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (1) establishing minimum performance standards for all administrative law judges;
- (2) providing procedures for filing, addressing, and reviewing complaints against administrative law judges;
- (3) providing standards for complaints against administrative law judges;
- (4) promulgating a code of conduct for all administrative law judges in all state agencies; and
- (5) establishing a procedural fairness training program as described in Section

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[~~67-19e-109~~] ~~{63A-17-909}~~63A-17-709.

Section ~~{166}~~142. Section ~~{63A-17-904}~~63A-17-704, which is renumbered from Section 67-19e-104.5 is renumbered and amended to read:

~~[67-19e-104.5]~~. ~~{63A-17-904}~~63A-17-704. **Hiring of administrative law judges.**

(1) Except as provided in Subsection (6), each administrative law judge hired on or after May 10, 2016, shall be hired in accordance with this section.

(2) If an applicant for an administrative law judge position is selected for an interview in accordance with applicable law and [department] division rule, the agency shall interview the applicant by means of a hiring panel.

(3) The hiring panel described in Subsection (2) shall consist of:

- (a) the head of the hiring agency;
- (b) the head of another agency, appointed by the [~~executive~~] director; and
- (c) the [~~executive~~] director.

(4) Each individual described in Subsection (3) may designate another individual to serve on the hiring panel on the individual's behalf.

(5) After the hiring panel completes the interviews for an administrative law judge position:

(a) the hiring panel shall select the top three applicants for the administrative law judge position; and

(b) the head of the hiring agency shall:

(i) consider any opinions or feedback from the other members of the hiring panel with respect to the top three applicants; and

(ii) (A) hire an applicant from the top three applicants to fill the administrative law judge position; or

(B) decide not to hire any of the top three applicants and restart the hiring process to fill the administrative law judge position.

(6) This section does not apply to an administrative law judge who is appointed by the governor.

Section ~~{167}~~143. Section ~~{63A-17-905}~~63A-17-705, which is renumbered from Section 67-19e-105 is renumbered and amended to read:

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~~[67-19e-105].~~ ~~{63A-17-905}~~ 63A-17-705. **Performance evaluation of administrative law judges.**

(1) [~~Beginning January 1, 2014, the department~~] The division shall prepare a performance evaluation for each administrative law judge contracted or employed by a state agency.

(2) The performance evaluation for an administrative law judge shall include:

(a) the results of the administrative law judge's performance evaluations conducted by the employing agency since the administrative law judge's last performance evaluation conducted by the [~~department~~] division in accordance with the performance evaluation procedure for the agency;

(b) information from the employing agency concerning the administrative law judge's compliance with minimum performance standards;

(c) the administrative law judge's disciplinary record, if any;

(d) the results of any performance surveys conducted since the administrative law judge's last performance review conducted by the [~~department~~] division; and

(e) any other factor that the [~~department~~] division considers relevant to evaluating the administrative law judge's performance.

(3) If an administrative law judge fails to meet the minimum performance standards the [~~department~~] division shall provide a copy of the performance evaluation and survey to the employing agency.

(4) The [~~department~~] division shall conduct performance reviews every four years for administrative law judges contracted or employed by an agency.

Section ~~{168}~~ 144. Section ~~{63A-17-906}~~ 63A-17-706, which is renumbered from Section 67-19e-106 is renumbered and amended to read:

~~[67-19e-106].~~ ~~{63A-17-906}~~ 63A-17-706. **Performance surveys.**

(1) [~~For administrative law judges contracted or employed before July 1, 2013, performance surveys shall be conducted initially at either the two-, three-, or four-year mark beginning January 1, 2014. By July 1, 2018, all~~] All administrative law judges shall be on a four-year staggered cycle for performance evaluations.

(2) The performance survey shall include as respondents a sample of each of the following groups as applicable:

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- (a) attorneys who have appeared before the administrative law judge as counsel; and
- (b) staff who have worked with the administrative law judge.

(3) The [department] division may include an additional classification of respondents if the [department] division:

(a) considers a survey of that classification of respondents helpful to the [department] division; and

(b) establishes the additional classification of respondents by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A survey response is anonymous, including any comment included with a survey response.

(5) If the [department] division provides any information to an administrative law judge or the committee, the information shall be provided in [~~such a way as~~] a manner to protect the confidentiality of a survey respondent.

(6) If the [department] division establishes an additional classification, in accordance with Subsection (3), a survey shall be provided to a potential survey respondent within 30 days of the day on which the case in which the person appeared before the administrative law judge is closed, exclusive of any appeal. Staff and attorneys may be surveyed at any time during the survey period.

(7) The performance survey shall include questions relating to whether the administrative law judge's behavior furthers the following elements of procedural fairness:

(a) neutrality, including:

(i) consistent and equal treatment of the individuals who appear before the administrative law judge;

(ii) concern for the individual needs of the individuals who appear before the administrative law judge; and

(iii) careful deliberation;

(b) respectful treatment of others; and

(c) providing individuals a voice and opportunity to be heard.

(8) The performance survey may include questions concerning an administrative law judge's:

(a) legal ability, including the following:

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- (i) demonstration of understanding of the substantive law and any relevant rules of procedure and evidence;
- (ii) attentiveness to factual and legal issues before the administrative law judge;
- (iii) adherence to precedent and ability to clearly explain departures from precedent;
- (iv) grasp of the practical impact on the parties of the administrative law judge's rulings, including the effect of delay and increased litigation expense;
- (v) ability to write clear opinions and decisions; and
- (vi) ability to clearly explain the legal basis for opinions;
- (b) temperament and integrity, including the following:
  - (i) demonstration of courtesy toward attorneys, staff, and others in the administrative law judge's department;
  - (ii) maintenance of decorum in the courtroom;
  - (iii) demonstration of judicial demeanor and personal attributes that promote public trust and confidence in the administrative law judge system;
  - (iv) preparedness for oral argument;
  - (v) avoidance of impropriety or the appearance of impropriety;
  - (vi) display of fairness and impartiality toward all parties; and
  - (vii) ability to clearly communicate, including the ability to explain the basis for written rulings, court procedures, and decisions; and
- (c) administrative performance, including the following:
  - (i) management of workload;
  - (ii) sharing proportionally the workload within the [department] division; and
  - (iii) issuance of opinions and orders without unnecessary delay.
- (9) If the [department] division determines that a certain survey question or category of questions is not appropriate for a respondent group, the [department] division may omit that question or category of questions from the survey provided to that respondent group.
- (10) (a) The survey shall allow respondents to indicate responses in a manner determined by the [department] division, which shall be:
  - (i) on a numerical scale from one to five; or
  - (ii) in the affirmative or negative, with an option to indicate the respondent's inability to respond in the affirmative or negative.



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(b) To supplement the responses to questions on either a numerical scale or in the affirmative or negative, the [department] division may allow respondents to provide written comments.

(11) The [department] division shall compile and make available to each administrative law judge that administrative law judge's survey results with each of the administrative law judge's performance evaluations.

Section ~~{169}~~145. Section ~~{63A-17-907}~~63A-17-707, which is renumbered from Section 67-19e-107 is renumbered and amended to read:

~~[67-19e-107]~~. ~~{63A-17-907}~~63A-17-707. **Complaints.**

(1) A complaint against an administrative law judge shall be filed with the [department] division.

(2) Upon receipt of a complaint, the [department] division shall conduct an investigation.

(3) If the [department's] division's investigation determines that the complaint is frivolous or without merit, it may dismiss it without further action. A complaint that merely indicates disagreement, without further misconduct, with the administrative law judge's decision shall be treated as without merit.

(4) The contents of all complaints and subsequent investigations are classified as protected under Title 63G, Chapter 2, Government Records Access and Management Act.

Section ~~{170}~~146. Section ~~{63A-17-908}~~63A-17-708, which is renumbered from Section 67-19e-108 is renumbered and amended to read:

~~[67-19e-108]~~. ~~{63A-17-908}~~63A-17-708. **Administrative Law Judge Conduct Committee.**

(1) There is created the Administrative Law Judge Conduct Committee to investigate, review, and hear complaints filed against administrative law judges.

(2) The committee shall be composed of:

(a) the [executive] director, or the [executive] director's designee, as chair; and

(b) four executive directors, or their designees, of agencies that employ or contract with administrative law judges, to be selected by the [executive] director as needed.

(3) The [department] division shall provide staff for the committee as needed.

Section ~~{171}~~147. Section ~~{63A-17-909}~~63A-17-709, which is renumbered from

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Section 67-19e-109 is renumbered and amended to read:

~~[67-19e-109]~~. ~~{63A-17-909}~~63A-17-709. **Procedure for review of complaint by conduct committee.**

(1) Upon a determination that a complaint requires further action, the [~~executive~~] director shall select four executive directors or their designees and convene the committee. The executive director of the agency that employs or contracts with the administrative law judge who is the subject of the complaint may not be a member of the committee.

(2) The [~~department~~] division shall provide a copy of the complaint, along with the results of the [~~department's~~] division's investigation, to the committee and the administrative law judge who is the subject of the complaint. If the committee directs, a copy of the complaint and investigation may also be provided to the attorney general.

(3) The committee shall allow an administrative law judge who is the subject of a complaint to appear and speak at any committee meeting, except a closed meeting, during which the committee is deliberating the complaint.

(4) The committee may meet in a closed meeting to discuss a complaint against an administrative law judge by complying with Title 52, Chapter 4, Open and Public Meetings Act.

(5) After deliberation and discussion of the complaint and all information provided, the committee shall provide a report, with a recommendation, to the agency. The recommendation shall include:

(a) a brief description of the complaint and results of the [~~department's~~] division's investigation;

(b) the committee's findings; and

(c) a recommendation from the committee whether action should be taken against the administrative law judge.

(6) Actions recommended by the committee may include no action, disciplinary action, termination, or any other action an employer may take against an employee.

(7) The record of an individual committee member's vote on recommended actions against an administrative law judge is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

Section ~~{172}~~148. Section ~~{63A-17-910}~~63A-17-710, which is renumbered from

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Section 67-19e-110 is renumbered and amended to read:

~~[67-19e-110]~~. ~~{63A-17-910}~~63A-17-710. **Required training.**

(1) Each year that an administrative law judge receives a performance evaluation conducted by the [~~department~~] division under this chapter, the administrative law judge shall complete the procedural fairness training program described in this section.

(2) The [~~department~~] division shall establish a procedural fairness training program that includes training on how an administrative law judge's actions and behavior influence others' perceptions of the fairness of the adjudicative process.

(3) The procedural fairness training program shall include discussion of the following elements of procedural fairness:

(a) neutrality, including:

(i) consistent and equal treatment of the individuals who appear before the administrative law judge;

(ii) concern for the individual needs of the individuals who appear before the administrative law judge; and

(iii) unhurried and careful deliberation;

(b) respectful treatment of others; and

(c) providing individuals a voice and opportunity to be heard.

(4) The [~~department~~] division may contract with a public or private person to develop or provide the procedural fairness training program.

(5) The [~~department~~] division shall ensure that the procedural fairness training program complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section ~~{173}~~149. Section ~~{63A-17-1001}~~63A-17-801, which is renumbered from Section 67-19-6.3 is renumbered and amended to read:

### **Part ~~{10}~~8. Plans and Programs**

~~[67-19-6.3]~~. ~~{63A-17-1001}~~63A-17-801. **Equal employment opportunity plan.**

(1) In conjunction with the director's duties under Section [~~67-19-6~~] 63A-17-106, and notwithstanding the general prohibition in Subsection 34A-5-106(3)(c), the [~~executive~~] director shall prepare an equal employment opportunity plan for state employment consistent with the guidelines provided in federal equal employment opportunity laws and in related federal regulations.

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(2) The equal employment opportunity plan required by this section applies only to state career service employees described in Section ~~[67-19-15]~~ 63A-17-301.

(3) The Legislature shall review the equal employment opportunity plan required by this section before it may be implemented.

(4) Nothing in this section requires the establishment of hiring quotas or preferential treatment of any identifiable group.

Section ~~{174}~~ 150. Section ~~{63A-17-1002}~~ 63A-17-802, which is renumbered from Section 67-19-12.2 is renumbered and amended to read:

~~[67-19-12.2]~~. ~~{63A-17-1002}~~63A-17-802. **Education benefit plan for law enforcement and correctional officers.**

~~[(1) As used in this section, "law enforcement officer" has the same meaning as in Section 53-13-103 and "correctional officer" has the same meaning as in Section 53-13-104.]~~

(1) As used in this section:

(a) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(b) "Correctional officer" means the same as that term is defined in Section 53-13-104.

(2) The ~~[executive]~~ director shall establish a plan authorizing any agency to implement an educational compensation program for law enforcement officers and correctional officers employed by that agency.

(3) The program shall provide that in order for a law enforcement officer or correctional officer to qualify for education benefits for college or university education, the law enforcement officer or correctional officer shall:

(a) provide a certified transcript of grades, demonstrating a grade point average of 3.0 or greater, from an accredited college or university; and

(b) have successfully completed the probationary employment period with the employing agency.

(4) The program shall also provide that the agency may consider a law enforcement officer or correctional officer to receive additional compensation as follows for higher education degrees earned on or after April 30, 2001, in a subject area directly related to the law enforcement officer's or correctional officer's employment with the agency:

(a) 5.5% for an associate's degree;

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(b) 5.5% for a bachelor's degree; and

(c) 5.5% for a master's degree.

(5) Expenses incurred by an agency to provide additional compensation under this section may be only from the agency's existing budget.

Section ~~{175}~~151. Section ~~{63A-17-1003}~~63A-17-803, which is renumbered from Section 67-19-12.5 is renumbered and amended to read:

**~~[67-19-12.5]~~. ~~{63A-17-1003}~~63A-17-803. Creation of Flexible Benefit Program -- Rulemaking power granted to establish program.**

(1) The [department] division shall establish for calendar year 1990 and thereafter a Flexible Benefit Program under Section 125 of the Internal Revenue Code of 1986.

(2) The [department] division shall establish accounts for all employees eligible for benefits which meet the nondiscrimination requirements of the Internal Revenue Code of 1986.

(3) (a) Each account established under this section shall include employee paid premiums for health and dental services.

(b) The account may also include, at the option of the employee, out-of-pocket employee medical and dependent care expenses.

(c) Accounts may also include other expenses allowed under the Internal Revenue Code of 1986.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [department] division may make rules to implement the program established under this section.

Section ~~{176}~~152. Section ~~{63A-17-1004}~~63A-17-804, which is renumbered from Section 67-19-14.3 is renumbered and amended to read:

**~~[67-19-14.3]~~. ~~{63A-17-1004}~~63A-17-804. Continuation of Insurance Benefits Program -- Creation -- Coverage following death in the line of duty.**

(1) There is created the "Continuation of Insurance Benefits Program" to provide a continuation of insurance to the surviving spouse and family of any state employee whose death occurs in the line of duty.

(2) The insurance coverage shall be the same coverage as provided under Section 49-20-406.

(3) The program provides that unused accumulated sick leave of a deceased employee may be used for additional medical coverage in the same manner as provided under Section

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[~~67-19-14.2 or 67-19-14.4~~] 63A-17-507 or 63A-17-508 as applicable.

Section ~~{177}~~153. Section ~~{63A-17-1005}~~63A-17-805, which is renumbered from Section 67-19-43 is renumbered and amended to read:

~~[67-19-43]~~. 63A-17-100563A-17-805. **State employee matching supplemental defined contribution benefit.**

(1) As used in this section:

(a) "Qualifying account" means:

(i) a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, which is sponsored by the Utah State Retirement Board; ~~[or]~~

(ii) a deemed Individual Retirement Account authorized under the Internal Revenue Code, which is sponsored by the Utah State Retirement Board; or

(iii) a similar savings plan or account authorized under the Internal Revenue Code, which is sponsored by the Utah State Retirement Board.

(b) "Qualifying employee" means an employee who is:

(i) in a position that is:

(A) receiving retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act; and

(B) accruing paid leave benefits that can be used in the current and future calendar years; and

(ii) not an employee who is reemployed as that term is:

(A) defined in Section 49-11-1202; or

(B) used in Section 49-11-504.

(2) Subject to the requirements of Subsection (3) [~~and beginning on or after January 4, 2014~~], an employer shall make a biweekly matching contribution to every qualifying employee's defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, subject to federal requirements and limitations, which is sponsored by the Utah State Retirement Board.

(3) (a) In accordance with the requirements of this Subsection (3), each qualifying employee shall be eligible to receive the same dollar amount for the contribution under Subsection (2).

(b) A qualifying employee:

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(i) shall receive the contribution amount determined under Subsection (3)(c) if the qualifying employee makes a voluntary personal contribution to one or more qualifying accounts in an amount equal to or greater than the employer's contribution amount determined in Subsection (3)(c);

(ii) shall receive a partial contribution amount that is equal to the qualifying employee's personal contribution amount if the employee makes a voluntary personal contribution to one or more qualifying accounts in an amount less than the employer's contribution amount determined in Subsection (3)(c); or

(iii) may not receive a contribution under Subsection (2) if the qualifying employee does not make a voluntary personal contribution to a qualifying account.

(c) (i) Subject to the maximum limit under Subsection (3)(c)(iii), the Legislature shall annually determine the contribution amount that an employer shall provide to each qualifying employee under Subsection (2).

(ii) The [~~department~~] division shall make recommendations annually to the Legislature on the contribution amount required under Subsection (2), in consultation with the Governor's Office of Management and Budget and the Division of Finance.

(iii) The biweekly matching contribution amount required under Subsection (2) may not exceed \$26 for each qualifying employee.

(4) A qualifying employee is eligible to receive the biweekly contribution under this section for any pay period in which the employee is in a paid status or other status protected by federal or state law.

(5) The employer and employee contributions made and related earnings under this section vest immediately upon deposit and can be withdrawn by the employee at any time, subject to Internal Revenue Code regulations on the withdrawals.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~executive~~] director shall make rules establishing procedures to implement the provisions of this section.

Section ~~{178}~~ 154. Section ~~{63A-17-1006}~~ 63A-17-806, which is renumbered from Section 67-19-45 is renumbered and amended to read:

~~[67-19-45]~~. ~~{63A-17-1006}~~ 63A-17-806. **Definitions -- Infant at Work Pilot Program -- Administration -- Report.**

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(1) As used in this section:

(a) "Eligible employee" means an employee who has been employed by the Department of Health for a minimum of:

(i) 12 consecutive months; and

(ii) 1,250 hours, excluding paid time off during the 12-month period immediately preceding the day on which the employee applies for participation in the program.

(b) "Infant" means a baby that is at least six weeks of age and no more than six months of age.

(c) "Parent" means:

(i) a biological or adoptive parent of an infant; or

(ii) an individual who has an infant placed in the individual's foster care by the Division of Child and Family Services.

(d) "Program" means the Infant at Work Pilot Program established in this section.

(2) There is created the Infant at Work Pilot Program for eligible employees.

(3) The program shall:

(a) allow an eligible employee to bring the eligible employee's infant to work subject to the provisions of this section;

(b) be administered by the [~~department~~] division; and

(c) be implemented for a minimum of one year.

(4) The [~~department~~] division shall establish an application process for eligible employees of the Department of Health to apply to the program that includes:

(a) a process for evaluating whether an eligible employee's work environment is appropriate for an infant;

(b) guidelines for infant health and safety; and

(c) guidelines regarding an eligible employee's initial and ongoing participation in the program.

(5) If the [~~department~~] division approves the eligible employee for participation in the program, the eligible employee shall have the sole responsibility for the care and safety of the infant at the workplace.

(6) The [~~department~~] division may not require the Department of Health to designate or set aside space for an eligible employee's infant other than the eligible employee's existing



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work space.

(7) The [~~department~~] division, in consultation with the Department of Health, shall adopt rules that the department determines necessary to establish the program in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) [~~By~~] On or before June 30, 2022, the [~~department~~] division, in consultation with the Department of Health, shall submit a written report to the Business and Labor Interim Committee that describes the efficacy of the program, including any recommendations for additional legislative action.

Section ~~{179}~~155. Section ~~{63A-17-1007}~~63A-17-807, which is renumbered from Section 67-19c-101 is renumbered and amended to read:

~~{67-19c-101}~~. ~~{63A-17-1007}~~63A-17-807. **Department award program.**

(1) As used in this section:

(a) "Department" means the Department of [~~Administrative Services~~] Government Operations, the Department of Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of Workforce Services, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, [~~the Department of Human Resource Management;~~] the Department of Human Services, the Insurance Department, the National Guard, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Labor Commission, the State Board of Education, the Utah Board of Higher Education, the State Tax Commission, [~~the Department of Technology Services;~~] and the Department of Transportation.

(b) "Department head" means the individual or body of individuals in whom the ultimate legal authority of the department is vested by law.

(2) There is created a department awards program to award an outstanding employee in each department of state government.

(3) (a) [~~By~~] On or before April 1 of each year, each department head shall solicit nominations for outstanding employee of the year for [~~his~~] that department from the employees in [~~his~~] that department.

(b) [~~By~~] On or before July 1 of each year, the department head shall:

(i) select a person from the department to receive the outstanding employee of the year

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award using the criteria established in Subsection (3)(c); and

(ii) announce the recipient of the award to ~~[his]~~ the employees of the department.

(c) Department heads shall make the award to ~~[a person]~~ an employee who

demonstrates:

(i) extraordinary competence in performing ~~[his]~~ the employee's function;

(ii) creativity in identifying problems and devising workable, cost-effective solutions ~~[to them]~~;

(iii) excellent relationships with the public and other employees;

(iv) a commitment to serving the public as the client; and

(v) a commitment to economy and efficiency in government.

(4) (a) The ~~[Department of Human Resource Management]~~ division shall divide any appropriation for outstanding department employee awards that ~~[it]~~ the division receives from the Legislature equally among the departments.

(b) If ~~[the]~~ a department receives money from the ~~[Department of Human Resource Management]~~ division or if ~~[the]~~ a department budget allows, ~~[the]~~ that department head shall provide the employee with a bonus, a plaque, or some other suitable acknowledgement of the award.

(5) (a) ~~[The]~~ A department head may name the award after an exemplary present or former employee of the department.

(b) A department head may not name the award for ~~[himself]~~ oneself or for any relative as defined in Section 52-3-1.

~~[(c) Any awards or award programs existing in any department as of May 3, 1993, shall be modified to conform to the requirements of this section.]~~

Section ~~{180}~~156. Section ~~{63A-17-1101}~~63A-17-901, which is renumbered from Section ~~{67-19d-102}~~67-25-102 is renumbered and amended to read:

### **Part ~~{11. State Post-Retirement Benefits Trust Fund Act~~**

#### **~~{67-19d-102}. 63A-17-1101. Definitions.~~**

##### **As used in this ~~[chapter]~~ part:**

**~~(1) "Board of trustees" or "board" means the board of trustees created in Section~~**

**~~{67-19d-202} 63A-17-1104.~~**

**~~(2) "Income" means the revenues received by the state treasurer from investments of the~~**

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trust fund principal:

~~(3) "Trust fund" means the State Post-Retirement Benefits Trust Fund created by Section [67-19d-201] 63A-17-1102.~~

~~Section 181. Section 63A-17-1102, which is renumbered from Section 67-19d-201 is renumbered and amended to read:~~

~~[67-19d-201]. 63A-17-1102. Trust fund -- Creation -- Oversight -- Dissolution:~~

~~(1) There is created a post-retirement benefits trust fund entitled the "State Post-Retirement Benefits Trust Fund."~~

~~(2) The trust fund consists of:~~

~~(a) revenue provided from an ongoing labor additive as defined in Subsection [67-19d-202] 63A-17-1104(2)(g);~~

~~(b) appropriations made to the fund by the Legislature, if any;~~

~~(c) income as defined in Section [67-19d-102] 63A-17-1101; and~~

~~(d) other revenues received from other sources.~~

~~(3) The Division of Finance shall account for the receipt and expenditures of trust fund money.~~

~~(4) (a) The state treasurer shall invest trust fund money by following the procedures and requirements of [Part 3, Trust Fund Investments] Sections 63A-17-1105 and 63A-17-1106.~~

~~(b) (i) The trust fund shall earn interest.~~

~~(ii) The state treasurer shall deposit all interest or other income earned from investment of the trust fund back into the trust fund.~~

~~(5) The board of trustees created in Section [67-19d-202] 63A-17-1104 may expend money from the trust fund for:~~

~~(a) the employer portion of the costs of the programs established in Sections [67-19-14 through 67-19-14.4] 63A-17-505 through 63A-17-508; and~~

~~(b) reasonable administrative costs that the board of trustees incurs in performing their duties as trustees of the trust fund.~~

~~(6) The board of trustees shall ensure that:~~

~~(a) money deposited into the trust fund is irrevocable and is expended only for the employer portion of the costs of post-retirement benefits;~~

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~~(b) assets of the trust fund are dedicated to providing benefits to retirees and their beneficiaries according to the terms of the post-retirement benefit plans established by statute and rule; and~~

~~(c) creditors of the board of trustees and of employers liable for the post-retirement benefits may not seize, attach, or otherwise obtain assets of the trust fund.~~

~~(7) When all of the liabilities for which the trust fund was created are paid, the Division of Finance shall transfer any assets remaining in the state trust fund into the appropriate fund.~~

~~Section 182. Section 63A-17-1103, which is renumbered from Section 67-19d-201.5 is renumbered and amended to read:~~

~~[67-19d-201.5]. 63A-17-1103. Elected Official Post-Retirement Benefits Trust Fund -- Creation -- Oversight -- Dissolution.~~

~~(1) There is created the "Elected Official Post-Retirement Benefits Trust Fund."~~

~~(2) The Elected Official Post-Retirement Benefits Trust Fund consists of:~~

~~(a) appropriations made to the fund by the Legislature for the purpose of funding the post-retirement benefits in Section 49-20-404;~~

~~(b) revenues received by the state treasurer from the investment of the Elected Official Post-Retirement Benefits Trust Fund; and~~

~~(c) other revenues received from other sources.~~

~~(3) The Division of Finance shall account for the receipt and expenditures of money in the Elected Official Post-Retirement Benefits Trust Fund.~~

~~(4) (a) Except as provided in Subsection (4)(c), the state treasurer shall invest the Elected Official Post-Retirement Benefits Trust Fund money by following the same procedures and requirements for the investment of the State Post-Retirement Benefits Trust Fund in [Part 3, Trust Fund Investments] Sections 63A-17-1105 and 63A-17-1106.~~

~~(b) (i) The Elected Official Post-Retirement Benefits Trust Fund shall earn interest.~~

~~(ii) The state treasurer shall deposit all interest or other income earned from investment of the Elected Official Post-Retirement Benefits Trust Fund back into the Elected Official Post-Retirement Benefits Trust Fund.~~

~~(c) The Elected Official Post-Retirement Benefits Trust Fund is exempt from Title 51, Chapter 7, State Money Management Act.~~

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- ~~(5) The board of trustees created in Section [67-19d-202] 63A-17-1104 may expend money from the Elected Official Post-Retirement Benefits Trust Fund for:~~
- ~~(a) the employer portion of the cost of the program established in Section 49-20-404; and~~
  - ~~(b) reasonable administrative costs that the board of trustees incurs in performing its duties as trustees of the Elected Official Post-Retirement Benefits Trust Fund.~~
- ~~(6) The board of trustees shall ensure that:~~
- ~~(a) money deposited into the Elected Official Post-Retirement Benefits Trust Fund is irrevocable and is expended only for the employer portion of the costs of post-retirement benefits under Section 49-20-404; and~~
  - ~~(b) creditors of the board of trustees and of employers liable for the post-retirement benefits may not seize, attach, or otherwise obtain assets of the Elected Official Post-Retirement Benefits Trust Fund.~~
- ~~(7) When all of the liabilities for which the Elected Official Post-Retirement Benefits Trust Fund was created are paid, the Division of Finance shall transfer any assets remaining in the Elected Official Post-Retirement Benefits Trust Fund into the appropriate fund.~~
- ~~Section 183. Section 63A-17-1104, which is renumbered from Section 67-19d-202 is renumbered and amended to read:~~
- ~~[67-19d-202]. 63A-17-1104. Board of trustees of the State Post-Retirement Benefits Trust Fund and the Elected Official Post-Retirement Benefits Trust Fund.~~
- ~~(1) (a) There is created a board of trustees of the State Post-Retirement Benefits Trust Fund and the Elected Official Post-Retirement Benefits Trust Fund composed of three members:~~
- ~~(i) the state treasurer or designee;~~
  - ~~(ii) the director of the Division of Finance or designee; and~~
  - ~~(iii) the executive director of the Governor's Office of Management and Budget or designee.~~
- ~~(b) The state treasurer is chair of the board.~~
  - ~~(c) Three members of the board are a quorum.~~
- ~~(d) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:~~

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

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

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

~~(e) (i) Except as provided in Subsection (1)(e)(ii), the state treasurer shall staff the board of trustees:~~

~~(ii) The Division of Finance shall provide accounting services for the trust fund:~~

~~(2) The board shall:~~

~~(a) on behalf of the state, act as trustee of the State Post-Retirement Benefits Trust Fund created under Section [67-19d-201] 63A-17-1102 and the Elected Official Post-Retirement Benefits Trust Fund created under Section [67-19d-201.5] 63A-17-1103 and exercise the state's fiduciary responsibilities;~~

~~(b) meet at least twice per year;~~

~~(c) review and approve all policies, projections, rules, criteria, procedures, forms, standards, performance goals, and actuarial reports;~~

~~(d) review and approve the budget for each trust fund described under Subsection (2)(a);~~

~~(e) review financial records for each trust fund described under Subsection (2)(a), including trust fund receipts, expenditures, and investments;~~

~~(f) commission and obtain actuarial studies of the liabilities for each trust fund described under Subsection (2)(a);~~

~~(g) for purposes of the State Post-Retirement Benefits Trust Fund, establish labor additive rates to charge all federal, state, and other programs to cover:~~

~~(i) the annual required contribution as determined by actuary; and~~

~~(ii) the administrative expenses of the trust fund; and~~

~~(h) do any other things necessary to perform the state's fiduciary obligations under each trust fund described under Subsection (2)(a).~~

~~(3) The attorney general shall:~~

~~(a) act as legal counsel and provide legal representation to the board of trustees; and~~

~~(b) attend, or direct an attorney from the Office of the Attorney General to attend, each meeting of the board of trustees.~~

~~Section 184. Section 63A-17-1105, which is renumbered from Section 67-19d-301 is~~

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~~renumbered and amended to read:~~

~~[67-19d-301]. 63A-17-1105. Investment of State Post-Retirement Benefits Trust Fund.~~

~~(1) The state treasurer shall invest the assets of the State Post-Retirement Benefits Trust~~

~~Fund created under Section [67-19d-201] 63A-17-1102 and the Elected Official Post-Retirement Benefits Trust Fund created under Section [67-19d-201.5] 63A-17-1103 with the primary goal of providing for the stability, income, and growth of the principal.~~

~~(2) Nothing in this section requires a specific outcome in investing.~~

~~(3) The state treasurer may deduct any administrative costs incurred in managing trust fund assets from earnings before distributing them.~~

~~(4) (a) The state treasurer may employ professional asset managers to assist in the investment of assets of the trust fund.~~

~~(b) The treasurer may only provide compensation to asset managers from earnings generated by the trust fund's investments.~~

~~Section 185. Section 63A-17-1106, which is renumbered from Section 67-19d-302 is~~

~~renumbered and amended to read:~~

~~[67-19d-302]. 63A-17-1106. State treasurer to follow "prudent investor" rule--  
Standard of care.~~

~~(1) The state treasurer shall invest and manage the trust fund assets as a prudent investor would, by:~~

~~(a) considering the purposes, terms, distribution requirements, and other circumstances of the trust fund; and~~

~~(b) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.~~

~~(2) In determining whether or not the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:~~

~~(a) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and~~

~~(b) evaluate the state treasurer's investment and management decisions respecting individual assets:~~

~~(i) not in isolation, but in the context of a trust fund portfolio as a whole; and~~

~~(ii) as a part of an overall investment strategy that has risk and return objectives~~

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~~reasonably suited to the trust fund:~~

~~Section 186. Section 63A-17-1201, which is renumbered from Section 67-19f-102 is renumbered and amended to read:~~

### ~~Part 12. State Employees' Annual Leave Trust Fund Act~~

~~{67-19f-102}. 63A-17-1201. Definitions:~~

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

- ~~(1) "Annual leave H" [is as] means the same as that term is defined in Section {67-19-14.6} 63A-17-510.~~
- ~~(2) "Board of trustees" or "board" means the board of trustees created in Section {67-19f-202} 63A-17-1203.~~
- ~~(3) "Income" means the revenues received by the state treasurer from investments of the trust fund principal.~~
- ~~(4) "Trust fund" means the State Employees' Annual Leave Trust Fund created in Section {67-19f-201} 63A-17-1202.~~

~~Section 187. Section 63A-17-1202, which is renumbered from Section 67-19f-201 is renumbered and amended to read:~~

~~{67-19f-201}. 63A-17-1202. Trust fund -- Creation -- Oversight -- Dissolution.~~

~~(1) There is created a trust fund entitled the "State Employees' Annual Leave Trust Fund."~~

~~(2) The trust fund consists of:~~

~~(a) ongoing revenue provided from a state agency set aside for accrued annual leave H required under Section {67-19-14.6} 63A-17-510;~~

~~(b) appropriations made to the trust fund by the Legislature, if any;~~

~~(c) transfers from the termination pool described in Subsection {67-19-14.6} 63A-17-510(6) made by the Division of Finance to the trust fund for annual leave liabilities accrued before the change date established under Section {67-19-14.6} 63A-17-510;~~

~~(d) income; and~~

~~(e) revenue received from other sources.~~

~~(3) (a) The Division of Finance shall account for the receipt and expenditures of trust fund money.~~



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~~(b) The Division of Finance shall make the necessary adjustments to the amount of set aside costs required under Subsection [67-19-14.6] 63A-17-510(4)(a) to provide that upon the trust fund's accrual of funding equal to 10% of the annual leave liability, year-end trust fund balances remain equal to at least 10% of the total state employee annual leave liability.~~

~~(4) (a) The state treasurer shall invest trust fund money by following the procedures and requirements of [Part 3, Investment of Trust Funds] Sections 63A-17-1204 and 63A-17-1205.~~

~~(b) (i) The trust fund shall earn interest.~~

~~(ii) The state treasurer shall deposit all interest or other income earned from investment of the trust fund back into the trust fund.~~

~~(5) The board of trustees created in Section [67-19f-202] 63A-17-1203 may expend money from the trust fund for:~~

~~(a) reimbursement to the employer of the costs paid to the trust fund in accordance with Section [67-19-14.6] 63A-17-510 as annual leave II is used by an employee;~~

~~(b) payments based on accrued annual leave and on accrued annual leave II that are made upon termination of an employee; and~~

~~(c) reasonable administrative costs that the board of trustees incurs in performing its duties as trustee of the trust fund.~~

~~(6) The board of trustees shall ensure that:~~

~~(a) money deposited into the trust fund is irrevocable and is expended only for the costs described in Subsection (5); and~~

~~(b) assets of the trust fund are dedicated to providing annual leave and annual leave II established by statute and rule.~~

~~(7) A creditor of the board of trustees or a state agency liable for annual leave benefits may not seize, attach, or otherwise obtain assets of the trust fund.~~

~~Section 188. Section 63A-17-1203, which is renumbered from Section 67-19f-202 is renumbered and amended to read:~~

~~[67-19f-202]. 63A-17-1203. Board of trustees of the State Employees' Annual Leave Trust Fund.~~

~~(1) (a) There is created a board of trustees of the State Employees' Annual Leave Trust~~

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Fund composed of the following three members:

- ~~(i) the state treasurer or the state treasurer's designee;~~
- ~~(ii) the director of the Division of Finance or the director's designee; and~~
- ~~(iii) the executive director of the Governor's Office of Management and Budget or the executive director's designee.~~

~~(b) The state treasurer is chair of the board.~~

~~(c) Three members of the board is a quorum.~~

- ~~(d) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:~~

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

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

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

- ~~(e) (i) Except as provided in Subsection (1)(e)(ii), the state treasurer shall staff the board of trustees:~~

~~(ii) The Division of Finance shall provide accounting services for the trust fund.~~

~~(2) The board shall:~~

~~(a) on behalf of the state, act as trustee of the trust fund created under Section {67-19f-201} 63A-17-1202 and exercise the state's fiduciary responsibilities;~~

~~(b) meet at least twice per year;~~

~~(c) review and approve the policies, projections, rules, criteria, procedures, forms, standards, performance goals, and actuarial reports for the trust fund;~~

~~(d) review and approve the budget for the trust fund;~~

~~(e) review financial records for the trust fund, including trust fund receipts, expenditures, and investments; and~~

- ~~(f) do any other things necessary to perform the state's fiduciary obligations under the trust fund:~~

~~(3) The board may:~~

~~(a) commission and obtain actuarial studies of the liabilities for the trust fund; and~~

~~(b) for purposes of the trust fund, establish labor additive rates to charge for the administrative expenses of the trust fund.~~

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~~(4) The attorney general shall:~~

- ~~(a) act as legal counsel and provide legal representation to the board of trustees; and~~
- ~~(b) attend, or direct an attorney from the Office of the Attorney General to attend, each meeting of the board of trustees.~~

~~Section 189. Section 63A-17-1204, which is renumbered from Section 67-19f-301 is renumbered and amended to read:~~

~~{67-19f-301}. 63A-17-1204. Investment of State Employees' Annual Leave Program Trust Fund.~~

- ~~(1) The state treasurer shall invest the assets of the trust fund with the primary goal of providing for the stability, income, and growth of the principal.~~
- ~~(2) Nothing in this section requires a specific outcome in investing.~~
- ~~(3) The state treasurer may deduct any administrative costs incurred in managing trust fund assets from earnings before distributing the trust fund assets.~~
- ~~(4) (a) The state treasurer may employ professional asset managers to assist in the investment of assets of the trust fund.~~
- ~~(b) The treasurer may only provide compensation to asset managers from earnings generated by the trust fund's investments.~~

~~Section 190. Section 63A-17-1205, which is renumbered from Section 67-19f-302 is renumbered and amended to read:~~

~~{67-19f-302}. 63A-17-1205. State treasurer to follow "prudent investor" rule = Standard of care.~~

- ~~(1) The state treasurer shall invest and manage the trust fund assets as a prudent investor would, by:~~
  - ~~(a) considering the purposes, terms, distribution requirements, and other circumstances of the trust fund; and~~
  - ~~(b) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.~~
- ~~(2) In determining whether the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:~~
  - ~~(a) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and~~

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~~(b) evaluate the state treasurer's investment and management decisions respecting individual assets:~~

~~(i) not in isolation, but in the context of the trust fund portfolio as a whole; and~~

~~(ii) as a part of an overall investment strategy that has risk and return objectives reasonably suited to the trust fund.~~

~~Section 191. Section 63A-17-1301, which is renumbered from Section 67-25-102 is renumbered and amended to read:~~

### ~~Part 13}~~9. General Requirements for State Officers and Employees

~~[67-25-102].~~ ~~{63A-17-1301}~~63A-17-901. Definitions.

As used in this [chapter] part:

(1) "Career service employee" [is-as] means the same as that term is defined in Section [67-19-3] 63A-17-102.

(2) "Executive branch elected official" means:

(a) the governor;

(b) the lieutenant governor;

(c) the attorney general;

(d) the state treasurer; or

(e) the state auditor.

(3) "Executive branch official" means an individual who:

(a) is a management level employee of an executive branch elected official; and

(b) is not a career service employee.

(4) "State agency" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

Section ~~{192}~~157. Section ~~{63A-17-1302}~~63A-17-902, which is renumbered from Section 67-25-201 is renumbered and amended to read:

~~[67-25-201].~~ ~~{63A-17-1302}~~63A-17-902. State agency work week.

(1) Except as provided in Subsection (2), and subject to Subsection (3):

(a) a state agency with five or more employees shall, at least nine hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday to provide a service required by statute to another entity of the state, a political subdivision, or the public:

(i) in person;

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(ii) online; or

(iii) by telephone; and

(b) a state agency with fewer than five employees shall, at least eight hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday, provide a service required by statute to another entity of the state, a political subdivision, or the public:

(i) in person;

(ii) online; or

(iii) by telephone.

(2) (a) Subsection (1) does not require a state agency to operate a physical location, or provide a service, on a holiday established under Section 63G-1-301.

(b) Except for a legal holiday established under Section 63G-1-301, the following state agencies shall operate at least one physical location, and as many physical locations as necessary, at least nine hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday to provide a service required by statute to another entity of the state, a political subdivision, or the public:

(i) the [~~Department~~] Division of Technology Services, created in Section [~~63F-1-103~~] 63A-16-103;

(ii) the Division of Child and Family Services, created in Section 62A-4a-103; and

(iii) the Office of Guardian Ad Litem, created in Section 78A-6-901.

(3) A state agency shall make staff available, as necessary, to provide:

(a) services incidental to a court or administrative proceeding, during the hours of operation of a court or administrative body, including:

(i) testifying;

(ii) the production of records or evidence; and

(iii) other services normally available to a court or administrative body;

(b) security services; and

(c) emergency services.

(4) This section does not limit the days or hours a state agency may operate.

(5) To provide a service as required by Subsection (1), the chief administrative officer of a state agency may determine:

(a) the number of physical locations, if any are required by this section, operating each

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day;

- (b) the daily hours of operation of a physical location;
- (c) the number of state agency employees who work per day; and
- (d) the hours a state agency employee works per day.

(6) To provide a service as required by Subsection (2)(b), the chief administrative officer of a state agency, or a person otherwise designated by law, may determine:

- (a) the number of physical locations operating each day;
- (b) the daily hours of operation, as required by Subsection (2)(b), of each physical

location;

- (c) the number of state agency employees who work per day; and
- (d) the hours a state agency employee works per day.

(7) A state agency shall:

(a) provide information, accessible from a conspicuous link on the home page of the state agency's website, on a method that a person may use to schedule an in-person meeting with a representative of the state agency; and

(b) except as provided in Subsection (8), as soon as reasonably possible:

- (i) contact a person who makes a request for an in-person meeting; and
- (ii) when appropriate, schedule and hold an in-person meeting with the person that requests an in-person meeting.

(8) A state agency is not required to comply with Subsection (7)(b) to the extent that the contact or meeting:

- (a) would constitute a conflict of interest;
- (b) would conflict or interfere with a procurement governed by Title 63G, Chapter 6a,

Utah Procurement Code;

(c) would violate an ethical requirement of the state agency or an employee of the state agency; or

(d) would constitute a violation of law.

Section ~~{193}~~158. Section ~~{63A-17-1303}~~63A-17-903, which is renumbered from Section 67-25-302 is renumbered and amended to read:

~~[67-25-302]~~. ~~{63A-17-1303}~~63A-17-903. **Restrictions on outside employment by executive branch employees.**

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(1) An employee who is under the direction or control of an executive branch elected official may not engage in outside employment that:

- (a) constitutes a conflict of interest;
- (b) interferes with the ability of the employee to fulfill the employee's job responsibilities;
- (c) constitutes the provision of political services, political consultation, or lobbying;
- (d) involves the provision of consulting services, legal services, or other services to a person that the employee could, within the course and scope of the employee's primary employment, provide to the person; or
- (e) interferes with the hours that the employee is expected to perform work under the direction or control of an executive branch elected official, unless the employee takes authorized personal leave during the time that the person engages in the outside employment.

(2) An executive branch official shall be subject to the same restrictions on outside employment as a career service employee.

(3) This section does not prohibit an employee from advocating the position of the state office that employs the employee regarding legislative action or other government action.

Section ~~{194}~~159. Section ~~{63A-17-1304}~~63A-17-904, which is renumbered from Section 67-19-19 is renumbered and amended to read:

~~[67-19-19]~~. ~~{63A-17-1304}~~63A-17-904. **Political activity of employees -- Rules and regulations -- Highway patrol -- Hatch Act.**

(1) Except as otherwise provided by law or by rules ~~[promulgated]~~ made under this section for federally aided programs, the ~~[following]~~ provisions of this section apply with regard to political activity of career service employees in all grades and positions~~[-]~~.

~~[(+)]~~ (2) Career service employees may voluntarily participate in political activity subject to the following provisions:

(a) if any career service employee is elected to any partisan or full-time nonpartisan political office, that employee shall be granted a leave of absence without pay for times when monetary compensation is received for service in political office;

(b) no officer or employee in career service may engage in any political activity during the hours of employment, nor may any person solicit political contributions from employees of the executive branch during hours of employment for political purposes; and

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(c) partisan political activity may not be a basis for employment, promotion, demotion, or dismissal, except that the [executive] director shall adopt rules providing for the discipline or punishment of a state officer or employee who violates any provision of this section.

~~[(2)]~~ (3) (a) Notwithstanding any other provision of this section, no member of the Utah Highway Patrol may use [his] the member's official authority or influence for the purpose of interfering with an election or affecting the results of an election.

(b) No person may induce or attempt to induce any member of the Utah Highway Patrol to participate in any activity prohibited by this Subsection ~~[(2)]~~ (3).

~~[(3)]~~ (4) Nothing contained in this section may be construed to:

(a) preclude voluntary contributions by an employee to the party or candidate of the officer's or employee's choice; or

(b) permit partisan political activity by any employee who is prevented or restricted from engaging in the political activity by the provisions of the federal Hatch Act.

Section ~~{195}~~ 160. Section ~~{63A-17-1401}~~ 63A-17-1001, which is renumbered from Section 67-19-33 is renumbered and amended to read:

### Part ~~{14}~~ 10. Controlled Substances and Alcohol Use

~~[67-19-33]~~. ~~{63A-17-1401}~~ 63A-17-1001. **Controlled substances and alcohol use prohibited.**

Except as provided in Title 26, Chapter 61a, Utah Medical Cannabis Act, an employee may not:

(1) manufacture, dispense, possess, use, distribute, or be under the influence of a controlled substance or alcohol during work hours or on state property except where legally permissible;

(2) manufacture, dispense, possess, use, or distribute a controlled substance or alcohol if the activity prevents:

(a) state agencies from receiving federal grants or performing under federal contracts of \$25,000 or more; or

(b) the employee to perform his services or work for state government effectively as regulated by the rules of the executive director in accordance with Section ~~[67-19-34]~~ 63A-17-1402; or

(3) refuse to submit to a drug or alcohol test under Section ~~[67-19-36]~~ 63A-17-1404.



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Section ~~{196}~~161. Section ~~{63A-17-1402}~~63A-17-1002, which is renumbered from Section 67-19-34 is renumbered and amended to read:

~~[67-19-34]~~. ~~{63A-17-1402}~~63A-17-1002. **Rulemaking power to ~~{executive}~~ director.**

In accordance with this [chapter] part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~executive~~] director shall make rules regulating:

- (1) disciplinary actions for employees subject to discipline under Section ~~[67-19-37]~~ 63A-17-1405;
- (2) the testing of employees for the use of controlled substances or alcohol as provided in Section ~~[67-19-36]~~ 63A-17-1404;
- (3) the confidentiality of drug testing and test results performed under Section ~~[67-19-36]~~ 63A-17-1404 in accordance with Title 63G, Chapter 2, Government Records Access and Management Act; and
- (4) minimum blood levels of alcohol or drug content for work effectiveness of an employee.

Section ~~{197}~~162. Section ~~{63A-17-1403}~~63A-17-1003, which is renumbered from Section 67-19-35 is renumbered and amended to read:

~~[67-19-35]~~. ~~{63A-17-1403}~~63A-17-1003. **Reporting of convictions under federal and state drug laws.**

(1) An employee who is convicted under a federal or state criminal statute regulating the manufacture, distribution, dispensation, possession, or use of a controlled substance shall report the conviction to the director of [~~his~~] the employee's agency within five calendar days after the date of conviction.

(2) Upon notification either under Subsection (1) or otherwise, the director of the agency shall notify the federal agency for which a contract is being performed within 10 days after receiving notice.

Section ~~{198}~~163. Section ~~{63A-17-1404}~~63A-17-1004, which is renumbered from Section 67-19-36 is renumbered and amended to read:

~~[67-19-36]~~. ~~{63A-17-1404}~~63A-17-1004. **Drug testing of state employees.**

(1) Except as provided in Subsection (2), when there is reasonable suspicion that an employee is using a controlled substance or alcohol unlawfully during work hours, an

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employee may be required to submit to medically accepted testing procedures for a determination of whether the employee is using a controlled substance or alcohol in violation of this part.

(2) In highly sensitive positions, as identified in department class specifications, random drug testing of employees may be conducted by an agency in accordance with the rules of the [executive] director.

(3) All drug or alcohol testing shall be:

(a) conducted by a federally certified and licensed physician, a federally certified and licensed medical clinic, or testing facility federally certified and licensed to conduct medically accepted drug testing;

(b) conducted in accordance with the rules of the [executive] director made under Section [67-19-34] 63A-17-1402; and

(c) kept confidential in accordance with the rules of the [executive] director made in accordance with Section [67-19-34] 63A-17-1402.

(4) A physician, medical clinic, or testing facility may not be held liable in any civil action brought by a party for:

(a) performing or failing to perform a test under this section;

(b) issuing or failing to issue a test result under this section; or

(c) acting or omitting to act in any other way in good faith under this section.

Section ~~{199}~~164. Section ~~{63A-17-1405}~~63A-17-1005, which is renumbered from Section 67-19-37 is renumbered and amended to read:

~~[67-19-37]~~. ~~{63A-17-1405}~~63A-17-1005. **Discipline of employees.**

An employee shall be subject to the rules of discipline of the [executive] director made in accordance with Section [67-19-34] 63A-17-1402, if the employee:

(1) refuses to submit to testing procedures provided in Section [67-19-36] 63A-17-1404;

(2) refuses to complete a drug rehabilitation program in accordance with Subsection [67-19-38] 63A-17-1406(3);

(3) is convicted under a federal or state criminal statute regulating the manufacture, distribution, dispensation, possession, or use of a controlled substance; or

(4) manufactures, dispenses, possesses, uses, or distributes a controlled substance in

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violation of state or federal law during work hours or on state property.

Section ~~{200}~~165. Section ~~{63A-17-1406}~~63A-17-1006, which is renumbered from Section 67-19-38 is renumbered and amended to read:

~~[67-19-38].~~ ~~63A-17-1406}~~63A-17-1006. **Violations and penalties.**

In addition to other criminal penalties provided by law, an employee who:

(1) fails to notify the employee's director under Section ~~[67-19-35]~~ 63A-17-1403 is subject to disciplinary proceedings as established by the ~~[executive]~~ director by rule in accordance with Section ~~[67-19-34]~~ 63A-17-1402;

(2) refuses to submit to testing procedures provided for in Section ~~[67-19-36]~~ 63A-17-1404, may be suspended immediately without pay pending further disciplinary action as ~~[set forth in the rules of the executive]~~ provided by rule, made by the director in accordance with Section ~~[67-19-34]~~ 63A-17-1402; or

(3) tests positive for the presence of unlawfully used controlled substances or alcohol may be required, as part of the employee's disciplinary treatment, to complete a drug rehabilitation program at the employee's expense within 60 days after receiving the positive test results or be subject to further disciplinary procedures established by rule ~~[of the executive]~~ made by the director in accordance with Section ~~[67-19-34]~~ 63A-17-1402.

Section ~~{201}~~166. Section ~~{63A-17-1407}~~63A-17-1007, which is renumbered from Section 67-19-39 is renumbered and amended to read:

~~[67-19-39].~~ ~~63A-17-1407}~~63A-17-1007. **Exemptions.**

Peace officers, as defined under Title 53, Chapter 13, Peace Officer Classifications, acting in their official capacity as peace officers in undercover roles and assignments, are exempt from the provisions of this act.

Section ~~{202}~~167. Section ~~{63B-1-304}~~63B-7-501 is amended to read:

~~{~~ ~~63B-1-304. State Building Ownership Authority created -- Members --~~  
**Compensation -- Location in Department of Government Operations.**

~~————~~ (1) ~~There is created a body politic and corporate to be known as the State Building Ownership Authority composed of:~~

~~————~~ (a) ~~the governor;~~

~~————~~ (b) ~~the state treasurer; and~~

~~————~~ (c) ~~the chair of the state building board created under Section 63A-5b-201.~~

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~~—— (2) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:~~

~~—— (a) Section 63A-3-106;~~

~~—— (b) Section 63A-3-107; and~~

~~—— (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.~~

~~—— (3) (a) Upon request, the division shall provide staff support to the State Building Ownership Authority.~~

~~—— (b) The State Building Ownership Authority may seek and obtain independent financial advice, support, and information from the state financial advisor created under Section 67-4-16.~~

~~—— Section 203. Section **63B-7-501** is amended to read:~~

‡ **63B-7-501. Revenue bond authorizations.**

(1) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$1,568,600 for the construction of a Utah Correctional Industries Facility at the Central Utah Correctional Facility at Gunnison, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Corrections to seek out the most cost effective and prudent lease purchase plan available.

(c) It is the intent of the Legislature that program revenues be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (1).

(2) It is the intent of the Legislature that:

(a) the State Board of Regents, on behalf of the University of Utah, issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, income, and revenues of the University of Utah, other than appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping student housing;

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(b) University funds and housing rental revenues be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the bonds or other evidences of indebtedness authorized by this Subsection (2) may provide up to \$86,000,000 together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(3) It is the intent of the Legislature that:

(a) the State Board of Regents on behalf of the University of Utah issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, income, and revenues of the University of Utah, other than appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping a Health Sciences Parking Structure;

(b) University funds and parking revenues be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (3); and

(c) the bonds or other evidences of indebtedness authorized by this Subsection (3) may provide up to \$12,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(4) It is the intent of the Legislature that:

(a) the State Board of Regents, on behalf of the University of Utah, issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit and income and revenues of the University of Utah, other than appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping a Southwest Campus Parking Structure;

(b) University funds and parking revenues be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (4); and

(c) the bonds or other evidences of indebtedness authorized by this Subsection (4) may provide up to \$7,200,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(5) It is the intent of the Legislature that:

(a) the State Board of Regents, on behalf of the University of Utah, issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit and income and revenues of the University of Utah, other than

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appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping an expansion of the Eccles Broadcast Center;

(b) University funds and service revenues be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (5); and

(c) the bonds or other evidences of indebtedness authorized by this Subsection (5) may provide up to \$5,100,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(6) It is the intent of the Legislature that:

(a) the State Board of Regents, on behalf of the University of Utah, issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit and income and revenues of the University of Utah, other than appropriations of the Legislature, to finance the cost of constructing, furnishing, equipping, and remodeling facilities for perinatal services, adult critical care services, clinical training and support, and upgrade of the University Hospital Rehabilitation Unit, and for purchase of the University Neuropsychiatric Institute and Summit Health Center in Park West;

(b) University Hospital revenues be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (6); and

(c) the bonds or other evidences of indebtedness authorized by this Subsection (6) may provide up to \$23,300,000 together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(7) It is the intent of the Legislature that:

(a) the State Board of Regents, on behalf of Weber State University, issue, sell, and deliver revenue bonds or other evidences of indebtedness of Weber State University to borrow money on the credit and income and revenues of Weber State University, other than appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping student housing;

(b) University funds and housing rental revenues be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (7); and

(c) the bonds or other evidences of indebtedness authorized by this Subsection (7) may provide up to \$19,000,000 together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

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(8) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$1,100,000 for the construction of surplus property facilities for the Division of Fleet Operations, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of [~~Administrative Services~~] Government Operations to seek out the most cost effective and prudent lease purchase plan available.

(c) It is the intent of the Legislature that Internal Service Fund revenues be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (8).

(9) (a) Contingent upon the state of Utah receiving a perfected security interest in accordance with Senate Joint Resolution 14, 1998 Annual General Session, the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$25,000,000 for the cost of constructing, furnishing, and equipping housing facilities at the University of Utah, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority and the University of Utah may enter into real estate arrangements and security arrangements that are:

- (i) necessary to accomplish the purposes of this Subsection (9); and
- (ii) not inconsistent with the requirements of Senate Joint Resolution 14, 1998 Annual General Session.

(10) In order to achieve a debt service savings, it is the intent of the Legislature that the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange

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for a lease purchase agreement in which participation interests may be created, to provide sufficient funding to exercise the state's option to purchase the Youth Corrections Facility in Salt Lake County currently financed by Salt Lake County.

Section ~~{204}~~168. Section **63E-1-302** is amended to read:

**63E-1-302. Review by committee required for creating an independent entity.**

(1) If a government requestor proposes that the Legislature create an independent entity, that government requestor shall request that the committee review the proposal.

(2) After receiving a request for review under Subsection (1), the chairs of the committee:

(a) shall schedule a meeting of the committee to review the proposal; and

(b) may request information from executive and legislative branch entities and officers concerning the proposal including:

(i) whether or not the proposed independent entity should be exempt from any state statute;

(ii) the need for oversight of the proposed independent entity by an executive branch agency;

(iii) the need for and requirements of audits of the proposed independent entity;

(iv) the custody of the proposed independent entity's funds;

(v) the legal representation of the proposed independent entity;

(vi) whether or not the state should receive services from or provide services to the proposed independent entity; and

(vii) the legal liability, if any, to the state if the proposed independent entity is created.

(3) In requesting information from executive and legislative branch entities or officers under Subsection (2), the committee should specifically consider seeking information from:

(a) the state auditor;

(b) the state treasurer;

(c) the attorney general;

(d) the risk manager; and

(e) the executive director of the Department of [~~Administrative Services~~] Government Operations.

Section ~~{205}~~169. Section **63G-1-301** is amended to read:



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**63G-1-301. Legal holidays -- Personal preference day -- Governor authorized to declare additional days.**

(1) (a) The following-named days are legal holidays in this state:

- (i) every Sunday;
- (ii) January 1, called New Year's Day;
- (iii) the third Monday of January, called Dr. Martin Luther King, Jr. Day;
- (iv) the third Monday of February, called Washington and Lincoln Day;
- (v) the last Monday of May, called Memorial Day;
- (vi) July 4, called Independence Day;
- (vii) July 24, called Pioneer Day;
- (viii) the first Monday of September, called Labor Day;
- (ix) the second Monday of October, called Columbus Day;
- (x) November 11, called Veterans Day;
- (xi) the fourth Thursday of November, called Thanksgiving Day;
- (xii) December 25, called Christmas; and
- (xiii) all days which may be set apart by the President of the United States, or the governor of this state by proclamation as days of fast or thanksgiving.

(b) If any of the holidays under Subsection (1)(a), except the first mentioned, namely Sunday, falls on Sunday, then the following Monday shall be the holiday.

(c) If any of the holidays under Subsection (1)(a) falls on Saturday the preceding Friday shall be the holiday.

(d) Each employee may select one additional day, called Personal Preference Day, to be scheduled pursuant to rules adopted by the [~~Department~~] Division of Human Resource Management.

(2) (a) Whenever in the governor's opinion extraordinary conditions exist justifying the action, the governor may:

(i) declare, by proclamation, legal holidays in addition to those holidays under Subsection (1); and

(ii) limit the holidays to certain classes of business and activities to be designated by the governor.

(b) A holiday may not extend for a longer period than 60 consecutive days.

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(c) Any holiday may be renewed for one or more periods not exceeding 30 days each as the governor may consider necessary, and any holiday may, by like proclamation, be terminated before the expiration of the period for which it was declared.

Section ~~{206}~~170. Section **63G-2-501** is amended to read:

### **63G-2-501. State Records Committee created -- Membership -- Terms -- Vacancies -- Expenses.**

(1) There is created the State Records Committee within the Department of [~~Administrative Services~~] Government Operations consisting of the following seven individuals:

(a) an individual in the private sector whose profession requires the individual to create or manage records that, if created by a governmental entity, would be private or controlled;

(b) an individual with experience with electronic records and databases, as recommended by a statewide technology advocacy organization that represents the public, private, and nonprofit sectors;

(c) the director of the Division of Archives and Records Services or the director's designee;

(d) two citizen members;

(e) one person representing political subdivisions, as recommended by the Utah League of Cities and Towns; and

(f) one individual representing the news media.

(2) The governor shall appoint the members described in Subsections (1)(a), (b), (d), (e), and (f) with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(3) (a) Except as provided in Subsection (3)(b), the governor shall appoint each member to a four-year term.

(b) Notwithstanding Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) Each appointed member is eligible for reappointment for one additional term.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

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(5) A member of the State Records Committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) A member described in Subsection (1)(a), (b), (d), (e), or (f) shall comply with the conflict of interest provisions described in Chapter 24, Part 3, Conflicts of Interest.

Section ~~{207}~~171. Section **63G-3-102** is amended to read:

### **63G-3-102. Definitions.**

As used in this chapter:

(1) "Administrative record" means information an agency relies upon when making a rule under this chapter including:

- (a) the proposed rule, change in the proposed rule, and the rule analysis form;
- (b) the public comment received and recorded by the agency during the public comment period;
- (c) the agency's response to the public comment;
- (d) the agency's analysis of the public comment; and
- (e) the agency's report of its decision-making process.

(2) "Agency" means each state board, authority, commission, institution, department, division, officer, or other state government entity other than the Legislature, its committees, the political subdivisions of the state, or the courts, which is authorized or required by law to make rules, adjudicate, grant or withhold licenses, grant or withhold relief from legal obligations, or perform other similar actions or duties delegated by law.

(3) "Bulletin" means the Utah State Bulletin.

(4) "Catchline" means a short summary of each section, part, rule, or title of the code that follows the section, part, rule, or title reference placed before the text of the rule and serves the same function as boldface in legislation as described in Section 68-3-13.

(5) "Code" means the body of all effective rules as compiled and organized by the office and entitled "Utah Administrative Code."

(6) "Department" means the Department of [~~Administrative Services~~] Government

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Operations created in Section 63A-1-104.

- (7) "Director" means the director of the office.
- (8) "Effective" means operative and enforceable.
- (9) "Executive director" means the executive director of the department.
- (10) "File" means to submit a document to the office as prescribed by the office.
- (11) "Filing date" means the day and time the document is recorded as received by the office.
- (12) "Interested person" means any person affected by or interested in a proposed rule, amendment to an existing rule, or a nonsubstantive change made under Section 63G-3-402.
- (13) "Office" means the Office of Administrative Rules created in Section 63G-3-401.
- (14) "Order" means an agency action that determines the legal rights, duties, privileges, immunities, or other interests of one or more specific persons, but not a class of persons.
- (15) "Person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency.
- (16) "Publication" or "publish" means making a rule available to the public by including the rule or a summary of the rule in the bulletin.
- (17) "Publication date" means the inscribed date of the bulletin.
- (18) "Register" may include an electronic database.
- (19) (a) "Rule" means an agency's written statement that:
  - (i) is explicitly or implicitly required by state or federal statute or other applicable law;
  - (ii) implements or interprets a state or federal legal mandate; and
  - (iii) applies to a class of persons or another agency.
- (b) "Rule" includes the amendment or repeal of an existing rule.
- (c) "Rule" does not mean:
  - (i) orders;
  - (ii) an agency's written statement that applies only to internal management and that does not restrict the legal rights of a public class of persons or another agency;
  - (iii) the governor's executive orders or proclamations;
  - (iv) opinions issued by the attorney general's office;
  - (v) declaratory rulings issued by the agency according to Section 63G-4-503 except as required by Section 63G-3-201;

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(vi) rulings by an agency in adjudicative proceedings, except as required by Subsection 63G-3-201(6); or

(vii) an agency written statement that is in violation of any state or federal law.

(20) "Rule analysis" means the format prescribed by the office to summarize and analyze rules.

(21) "Small business" means a business employing fewer than 50 persons.

(22) "Substantive change" means a change in a rule that affects the application or results of agency actions.

Section ~~{208}~~172. Section 63G-3-401 is amended to read:

### **63G-3-401. Office of Administrative Rules created -- Director.**

(1) There is created within the Department of [~~Administrative Services~~] Government Operations the Office of Administrative Rules, to be administered by a director.

(2) (a) The executive director shall appoint the director.

(b) The director shall hire, train, and supervise staff necessary for the office to carry out the provisions of this chapter.

Section ~~{209}~~173. Section ~~{63G-6a-106}~~63G-4-107 is amended to read:

~~{63G-6a-106}~~63G-4-107. Petition {Independent procurement units} to remove agency action from public access.

(1) An ~~{independent procurement unit may, without the supervision, interference, oversight, control, or involvement of the division or the chief procurement officer, but}~~ individual may petition the agency that maintains, on a state-controlled website available to the public, a record of administrative disciplinary action, to remove the record of administrative disciplinary action from public access on the state-controlled website, if:

(a) (i) five years have passed since:

(A) the date the final order was issued; or

(B) if no final order was issued, the date the administrative disciplinary action was commenced; or

(ii) the individual has obtained a criminal expungement order under Title 77, Chapter 40, Utah Expungement Act, for the individual's criminal records related to the same incident or conviction upon which the administrative disciplinary action was based;

(b) the individual has successfully completed all action required by the agency relating

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to the administrative disciplinary action within the time frame set forth in the final order, or if no time frame is specified in the final order, within the time frame set forth in Title 63G, Chapter 4, Administrative Procedures Act;

(c) from the time that the original administrative disciplinary action was filed, the individual has not violated the same statutory provisions or administrative rules related to those statutory provisions that resulted in the original administrative disciplinary action; and

(d) the individual pays an application fee determined by the agency in accordance with ~~the requirements of this chapter:~~

~~—— (a) engage in a standard procurement process;~~

~~—— (b) acquire a procurement item under an exception, as provided in this chapter, to the requirement to use a standard procurement process; or~~

~~—— (c) otherwise engage in an act authorized or required by this chapter.~~

~~—— (2) Notwithstanding Subsection (1), an independent procurement unit may agree in writing with the division to extend the authority of the division or the chief procurement officer to the procurement unit, as provided in the agreement.~~

~~—— (3) With respect to a procurement or contract over which an independent procurement unit's procurement official has authority, the procurement official may:~~

~~—— (a) manage and supervise the procurement to ensure to the extent practicable that taxpayers receive the best value;~~

~~—— (b) prepare and issue standard specifications for procurement items;~~

~~—— (c) review contracts, coordinate contract compliance, conduct contract audits, and approve change orders;~~

~~—— (d) delegate duties and authority to an employee of the procurement unit, as the independent procurement unit's procurement official considers appropriate;~~

~~—— (e) for the procurement official of an executive branch procurement unit that is an independent procurement unit, coordinate with the [Department] Division of Technology Services, created in Section [63F-1-103] 63A-16-103, with respect to the procurement unit's procurement of information technology services;~~

~~—— (f) correct, amend, or cancel a procurement at any stage of the procurement process if the procurement is out of compliance with this chapter or a rule adopted by the rulemaking authority;~~

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~~—— (g) attempt to resolve a contract dispute in coordination with the legal counsel of the independent procurement unit; and~~

~~—— (h) at any time during the term of a contract awarded by the independent procurement unit, correct or amend a contract to bring it into compliance or cancel the contract;~~

~~—— (i) if the procurement official determines that correcting, amending, or canceling the contract is in the best interest of the procurement unit; and~~

~~—— (ii) after consulting with, as applicable, the attorney general's office or the procurement unit's legal counsel.~~

~~—— (4) The attorney general may, in accordance with~~ Section 63J-1-504.

(2) The individual petitioning the agency under Subsection (1) shall provide the agency with a written request containing the following information:

(a) the petitioner's full name, address, telephone number, and date of birth;

(b) the information the petitioner seeks to remove from public access; and

(c) an affidavit certifying that the petitioner is in compliance with the provisions of ~~{this chapter, but without involvement by the division or the chief procurement officer:~~

~~—— (a) retain outside counsel, subject to Section 67-5-33 if the attorney general retains outside counsel under a contingent fee contract, as defined in that section; or~~

~~—— (b) procure litigation support services, including retaining an expert witness.~~

~~—— (5) An independent procurement unit that is not represented by the attorney general's office may, in accordance with~~ Subsection (1).

(3) Within 30 days of receiving the documents and information described in Subsection (2):

(a) the agency shall review the petition and all documents submitted with the petition to determine whether the petitioner has met the requirements of Subsections (1) and (2); and

(b) if the agency determines that the petitioner has met the requirements of Subsections (1) and (2), the agency shall immediately remove the record of administrative disciplinary action from public access on the state-controlled website.

(4) Notwithstanding the provisions of ~~{this chapter, but without involvement by the division or the chief procurement officer:~~

~~—— (a) retain outside counsel; or~~

~~—— (b) procure litigation support services, including retaining an expert witness.~~

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~~\_\_\_\_\_ (6) The state auditor's office may, in accordance with~~ Subsection (3), an agency is not required to remove a recording, written minutes, or other electronic information from the Utah Public Notice Website, created under Section [63F-1-70+] 63A-16-601, if the recording, written minutes, or other electronic information is required to be available to the public on the Utah Public Notice Website under the provisions of ~~{this chapter, but without involvement by the division or the chief procurement officer, procure audit services:~~

~~\_\_\_\_\_ (7) The state treasurer may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer, procure:~~

~~\_\_\_\_\_ (a) deposit services; and~~

~~\_\_\_\_\_ (b) services related to issuing bonds:~~

~~\_\_\_\_\_ Section 210}~~ Title 52, Chapter 4, Open and Public Meetings Act.

Section 174. Section ~~{63G-6a-116}~~ 63G-6a-103 is amended to read:

~~{63G-6a-116. Procurement of administrative law judge service.~~

~~\_\_\_\_\_ (1) As used in this section:~~

~~\_\_\_\_\_ (a) "Administrative law judge" means the same as that term is defined in Section [67-19e-102] 63A-17-901.~~

~~\_\_\_\_\_ (b) "Administrative law judge service" means service provided by an administrative law judge:~~

~~\_\_\_\_\_ (2) A procurement unit shall use a standard procurement process under this chapter for the procurement of administrative law judge service:~~

~~\_\_\_\_\_ (3) For a procurement of administrative law judge service, an evaluation committee shall consist of:~~

~~\_\_\_\_\_ (a) the head of the conducting procurement unit, or the head's designee;~~

~~\_\_\_\_\_ (b) the head of an executive branch procurement unit other than the conducting procurement unit, appointed by the [executive] director of the [Department] Division of Human Resource Management, or the head's designee; and~~

~~\_\_\_\_\_ (c) the [executive] director of the [Department] Division of Human Resource Management, or the [executive] director's designee:~~

~~\_\_\_\_\_ (4) Within 30 days after the day on which a conducting procurement unit awards a contract for administrative law judge service, the conducting procurement unit shall give written notice to the [Department] Division of Human Resource Management that states:~~



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~~—— (a) that the conducting procurement unit awarded a contract for administrative law judge service;~~

~~—— (b) the name of the conducting procurement unit; and~~

~~—— (c) the expected term of the contract.~~

~~—— (5) A procurement of administrative law judge service using a small purchase process is subject to rules made pursuant to Subsection 63G-6a-506(2)(c).~~

~~—— Section 211. Section **63G-6a-202** is amended to read:~~

~~—— **63G-6a-202. Creation of Utah State Procurement Policy Board.**~~

~~—— (1) There is created the Utah State Procurement Policy Board:~~

~~—— (2) The board consists of up to 15 members as follows:~~

~~—— (a) two representatives of state institutions of higher education, appointed by the Utah Board of Higher Education;~~

~~—— (b) a representative of the Department of Human Services, appointed by the executive director of that department;~~

~~—— (c) a representative of the Department of Transportation, appointed by the executive director of that department;~~

~~—— (d) two representatives of school districts, appointed by the State Board of Education;~~

~~—— (e) a representative of the Division of Facilities Construction and Management, appointed by the director of that division;~~

~~—— (f) one representative of a county, appointed by the Utah Association of Counties;~~

~~—— (g) one representative of a city or town, appointed by the Utah League of Cities and Towns;~~

~~—— (h) two representatives of local districts or special service districts, appointed by the Utah Association of Special Districts;~~

~~—— (i) the [executive] director of the [Department] Division of Technology Services or the executive director's designee;~~

~~—— (j) the chief procurement officer or the chief procurement officer's designee; and~~

~~—— (k) two representatives of state agencies, other than a state agency already represented on the board, appointed by the executive director of the Department of [Administrative Services] Government Operations, with the approval of the executive director of the state agency that employs the employee.~~

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~~—— (3) Members of the board shall be knowledgeable and experienced in, and have supervisory responsibility for, procurement in their official positions:~~

~~—— (4) A board member may serve as long as the member meets the description in Subsection (2) unless removed by the person or entity with the authority to appoint the board member:~~

~~—— (5) (a) The board shall:~~

~~—— (i) adopt rules of procedure for conducting its business; and~~

~~—— (ii) elect a chair to serve for one year:~~

~~—— (b) The chair of the board shall be selected by a majority of the members of the board and may be elected to succeeding terms:~~

~~—— (c) The chief procurement officer shall designate an employee of the division to serve as the nonvoting secretary to the policy board:~~

~~—— (6) A member of the board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:~~

~~—— (a) Section 63A-3-106;~~

~~—— (b) Section 63A-3-107; and~~

~~—— (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107:~~

~~—— Section 212. Section **63G-6a-302** is amended to read:~~

~~—— **63G-6a-302. Chief procurement officer -- Appointment -- Qualifications -- Authority:**~~

~~—— (1) The executive director of the Department of [Administrative Services] Government Operations, with the consent of the governor, shall appoint the chief procurement officer after considering recommendations from the board:~~

~~—— (2) The chief procurement officer shall:~~

~~—— (a) have a minimum of eight years' experience:~~

~~—— (i) (A) in the large-scale procurement of supplies, services, or construction; or~~

~~—— (B) negotiating contract terms and conditions; and~~

~~—— (ii) at least five years of which shall have been in public or comparable private procurement within 12 years preceding the date of appointment; and~~

~~—— (b) be a person with demonstrated executive and organizational ability:~~

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~~—— (3) The chief procurement officer appointed under Subsection (1) is also the director of the Division of Purchasing and General Services.~~

~~—— (4) The chief procurement officer has authority over a procurement by a procurement unit, except:~~

~~—— (a) an independent procurement unit; or~~

~~—— (b) as otherwise expressly provided in this chapter.~~

~~—— Section 213. Section ~~63G-6a-303~~ is amended to read:~~

~~—— **63G-6a-303. Role, duties, and authority of chief procurement officer.**~~

~~—— (1) The chief procurement officer:~~

~~—— (a) is the director of the division;~~

~~—— (b) serves as the central procurement officer of the state;~~

~~—— (c) serves as a voting member of the board; and~~

~~—— (d) serves as the protest officer for a protest relating to a procurement of an executive branch procurement, except an executive branch procurement unit designated under Subsection 63G-6a-103(39)(b), (c), (d), or (e) as an independent procurement unit, or a state cooperative contract procurement, unless the chief procurement officer designates another to serve as protest officer, as authorized in this chapter.~~

~~—— (2) Except as otherwise provided in this chapter, the chief procurement officer shall:~~

~~—— (a) develop procurement policies and procedures supporting ethical procurement practices, fair and open competition among vendors, and transparency within the state's procurement process;~~

~~—— (b) administer the state's cooperative purchasing program, including state cooperative contracts and associated administrative fees;~~

~~—— (c) enter into an agreement with a public entity for services provided by the division, if the agreement is in the best interest of the state;~~

~~—— (d) ensure the division's compliance with any applicable law, rule, or policy, including a law, rule, or policy applicable to the division's role as an issuing procurement unit or conducting procurement unit, or as the state's central procurement organization;~~

~~—— (e) manage the division's electronic procurement system;~~

~~—— (f) oversee the recruitment, training, career development, certification requirements, and performance evaluation of the division's procurement personnel;~~

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~~—— (g) make procurement training available to procurement units and persons who do business with procurement units;~~

~~—— (h) provide exemplary customer service and continually improve the division's procurement operations;~~

~~—— (i) exercise all other authority, fulfill all other duties and responsibilities, and perform all other functions authorized under this chapter; and~~

~~—— (j) ensure that any training described in this Subsection (2) complies with Title 63G, Chapter 22, State Training and Certification Requirements.~~

~~—— (3) With respect to a procurement or contract over which the chief procurement officer has authority under this chapter, the chief procurement officer, except as otherwise provided in this chapter:~~

~~—— (a) shall:~~

~~—— (i) manage and supervise a procurement to ensure to the extent practicable that taxpayers receive the best value;~~

~~—— (ii) prepare and issue standard specifications for procurement items;~~

~~—— (iii) review contracts, coordinate contract compliance, conduct contract audits, and approve change orders;~~

~~—— (iv) in accordance with Section [63F-1-205] 63A-16-204, coordinate with the [Department] Division of Technology Services, created in Section [63F-1-103] 63A-16-103, with respect to the procurement of information technology services by an executive branch procurement unit;~~

~~—— (v) correct, amend, or cancel a procurement at any stage of the procurement process if the procurement is out of compliance with this chapter or a board rule;~~

~~—— (vi) after consultation with the attorney general's office, correct, amend, or cancel a contract at any time during the term of the contract if:~~

~~—— (A) the contract is out of compliance with this chapter or a board rule; and~~

~~—— (B) the chief procurement officer determines that correcting, amending, or canceling the contract is in the best interest of the state; and~~

~~—— (vii) make a reasonable attempt to resolve a contract dispute, in coordination with the attorney general's office; and~~

~~—— (b) may:~~

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- ~~—— (i) delegate limited purchasing authority to a state agency, with appropriate oversight and control to ensure compliance with this chapter;~~
- ~~—— (ii) delegate duties and authority to an employee of the division, as the chief procurement officer considers appropriate;~~
- ~~—— (iii) negotiate and settle contract overcharges, undercharges, and claims, in accordance with the law and after consultation with the attorney general's office;~~
- ~~—— (iv) authorize a procurement unit to make a procurement pursuant to a regional solicitation, as defined in Subsection 63G-6a-2105(7), even if the procurement item is also offered under a state cooperative contract, if the chief procurement officer determines that the procurement pursuant to a regional solicitation is in the best interest of the acquiring procurement unit; and~~
- ~~—— (v) remove an individual from the procurement process or contract administration for:~~
  - ~~—— (A) having a conflict of interest or the appearance of a conflict of interest with a person responding to a solicitation or with a contractor;~~
  - ~~—— (B) having a bias or the appearance of bias for or against a person responding to a solicitation or for or against a contractor;~~
  - ~~—— (C) making an inconsistent or unexplainable score for a solicitation response;~~
  - ~~—— (D) having inappropriate contact or communication with a person responding to a solicitation;~~
  - ~~—— (E) socializing inappropriately with a person responding to a solicitation or with a contractor;~~
  - ~~—— (F) engaging in any other action or having any other association that causes the chief procurement officer to conclude that the individual cannot fairly evaluate a solicitation response or administer a contract; or~~
  - ~~—— (G) any other violation of a law, rule, or policy.~~
- ~~—— (4) The chief procurement officer may not delegate to an individual outside the division the chief procurement officer's authority over a procurement described in Subsection (3)(a)(iv):~~
- ~~—— (5) The chief procurement officer has final authority to determine whether an executive branch procurement unit's anticipated expenditure of public funds, anticipated agreement to expend public funds, or provision of a benefit constitutes a procurement that is subject to this~~

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chapter:

~~—— (6) Except as otherwise provided in this chapter, the chief procurement officer shall review, monitor, and audit the procurement activities and delegated procurement authority of an executive branch procurement unit, except to the extent that an executive branch procurement unit is designated under Subsection 63G-6a-103(39)(b), (c), (d), or (e) as an independent procurement unit, to ensure compliance with this chapter, rules made by the applicable rulemaking authority, and division policies.~~

~~—— Section 214. Section 63G-6a-506 is amended to read:~~

~~—— 63G-6a-506. Small purchases:~~

~~—— (1) As used in this section:~~

~~—— (a) "Annual cumulative threshold" means the maximum total annual amount, established by the rulemaking authority under Subsection (2), that a procurement unit may expend to obtain procurement items from the same source under this section.~~

~~—— (b) "Individual procurement threshold" means the maximum amount, established by the rulemaking authority under Subsection (2), for which a procurement unit may purchase a procurement item under this section.~~

~~—— (c) "Single procurement aggregate threshold" means the maximum total amount, established by the rulemaking authority under Subsection (2), that a procurement unit may expend to obtain multiple procurement items from one source at one time under this section.~~

~~—— (2) (a) The rulemaking authority may make rules governing small purchases of any procurement item, including construction, job order contracting, design professional services, other professional services, information technology, and goods.~~

~~—— (b) Rules under Subsection (2)(a) may include provisions:~~

~~—— (i) establishing expenditure thresholds, including:~~

~~—— (A) an annual cumulative threshold;~~

~~—— (B) an individual procurement threshold; and~~

~~—— (C) a single procurement aggregate threshold;~~

~~—— (ii) establishing procurement requirements relating to the thresholds described in Subsection (2)(b)(i); and~~

~~—— (iii) providing for the use of electronic, telephone, or written quotes.~~

~~—— (c) If a procurement unit obtains administrative law judge service through a small~~

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~~purchase standard procurement process, rules made under Subsection (2)(a) shall provide that the process for the procurement of administrative law judge service include an evaluation committee described in Subsection 63G-6a-116(3):~~

~~—— (3) Expenditures made under this section by a procurement unit may not exceed a threshold established by the rulemaking authority, unless the procurement official gives written authorization to exceed the threshold that includes the reasons for exceeding the threshold.~~

~~—— (4) Except as provided in Subsection (5), an executive branch procurement unit may not obtain a procurement item through a small purchase standard procurement process if the procurement item may be obtained through a state cooperative contract or a contract awarded by the chief procurement officer under Subsection 63G-6a-2105(1):~~

~~—— (5) Subsection (4) does not apply if:~~

~~—— (a) the procurement item is obtained for an unanticipated, urgent, or emergency condition, including:~~

~~—— (i) an item needed to avoid stopping a public construction project;~~

~~—— (ii) an immediate repair to a facility or equipment; or~~

~~—— (iii) another emergency condition; or~~

~~—— (b) the chief procurement officer or the procurement official of a procurement unit that is an executive branch procurement unit with independent procurement authority:~~

~~—— (i) determines in writing that it is in the best interest of the procurement unit to obtain an individual procurement item outside of the state contract, comparing:~~

~~—— (A) the contract terms and conditions applicable to the procurement item under the state contract with the contract terms and conditions applicable to the procurement item if the procurement item is obtained outside of the state contract;~~

~~—— (B) the maintenance and service applicable to the procurement item under the state contract with the maintenance and service applicable to the procurement item if the procurement item is obtained outside of the state contract;~~

~~—— (C) the warranties applicable to the procurement item under the state contract with the warranties applicable to the procurement item if the procurement item is obtained outside of the state contract;~~

~~—— (D) the quality of the procurement item under the state contract with the quality of the procurement item if the procurement item is obtained outside of the state contract; and~~

## SB0181S01 compared with SB0181

~~—— (E) the ability of the vendor under the state contract to match the quoted cost of the procurement item if the procurement item is obtained outside of the state contract;~~

~~—— (ii) for a procurement item that, if defective in its manufacture, installation, or performance, may result in serious physical injury, death, or substantial property damage; determines in writing that the terms and conditions, relating to liability for injury, death, or property damage, available from the source other than the contractor who holds the state contract, are similar to, or better than, the terms and conditions available under the state contract; and~~

~~—— (iii) grants an exception, in writing, to the requirement described in Subsection (4);~~

~~—— (6) Except as otherwise expressly provided in this section, a procurement unit:~~

~~—— (a) may not use the small purchase standard procurement process described in this section for ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold; and~~

~~—— (b) shall make its ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold through a contract awarded through another standard procurement process described in this chapter or an applicable exception to another standard procurement process, described in Part 8, Exceptions to Procurement Requirements;~~

~~—— (7) This section does not prohibit regularly scheduled payments for a procurement item obtained under another provision of this chapter.~~

~~—— (8) (a) It is unlawful for a person knowingly to divide a single procurement into multiple smaller procurements, including by dividing an invoice or purchase order into multiple invoices or purchase orders, if:~~

~~—— (i) the single procurement would not have qualified as a small purchase under this section;~~

~~—— (ii) one or more of the multiple smaller procurements qualify as a small purchase under this section; and~~

~~—— (iii) the division is done with the intent to:~~

~~—— (A) avoid having to use a standard procurement process, other than the small purchase process, that the person would otherwise be required to use for the single procurement; or~~

~~—— (B) make one or more of the multiple smaller procurements fall below a small purchase expenditure threshold established by rule under Subsection (2)(b) that the single~~



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~~procurement would not have fallen below without the division:~~

~~—— (b) A violation of Subsection (8)(a) is subject to penalties as provided in Subsection 63G-6a-2404.3(2):~~

~~—— (9) The Division of Finance within the Department of [Administrative Services] Government Operations may conduct an audit of an executive branch procurement unit to verify compliance with the requirements of this section.~~

~~—— (10) An executive branch procurement unit may not make a small purchase after January 1, 2014, unless the chief procurement officer certifies that the person responsible for procurements in the procurement unit has satisfactorily completed training on this section and the rules made under this section:~~

~~—— Section 215. Section **63G-7-901** is amended to read:~~

~~—— **63G-7-901. Expenses of attorney general, general counsel for state judiciary, and general counsel for the Legislature in representing the state, the state's branches, members, or employees.**~~

~~—— (1) (a) The Office of the Attorney General has primary responsibility to provide legal representation to the judicial, executive, and legislative branches of state government in cases where coverage under the Risk Management Fund created by Section 63A-4-201 applies:~~

~~—— (b) When the attorney general has primary responsibility to provide legal representation to the judicial or legislative branches, the attorney general shall consult with the general counsel for the state judiciary and with the general counsel for the Legislature, to solicit their assistance in defending their respective branch, and in determining strategy and making decisions concerning the disposition of those claims:~~

~~—— (c) Notwithstanding Subsection (1)(b), the decision for settlement of monetary claims in those cases lies with the attorney general and the state risk manager:~~

~~—— (2) (a) If the Judicial Council, after consultation with the general counsel for the state judiciary, determines that the Office of the Attorney General cannot adequately defend the state judiciary, its members, or employees because of a conflict of interest, separation of powers concerns, or other political or legal differences, the Judicial Council may direct its general counsel to separately represent and defend it:~~

~~—— (b) If the general counsel for the state judiciary undertakes independent legal representation of the state judiciary, its members, or employees, the general counsel shall notify~~

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~~the state risk manager and the attorney general in writing before undertaking that representation:~~

~~—— (c) If the state judiciary elects to be represented by its own counsel under this section, the decision for settlement of claims against the state judiciary, its members, or employees, where Risk Management Fund coverage applies, lies with the general counsel for the state judiciary and the state risk manager.~~

~~—— (3) (a) If the Legislative Management Committee, after consultation with the general counsel for the Legislature, determines that the Office of the Attorney General cannot adequately defend the legislative branch, its members, or employees because of a conflict of interest, separation of powers concerns, or other political or legal differences, the Legislative Management Committee may direct its general counsel to separately represent and defend it:~~

~~—— (b) If the general counsel for the Legislature undertakes independent legal representation of the Legislature, its members, or employees, the general counsel shall notify the state risk manager and the attorney general in writing before undertaking that representation:~~

~~—— (c) If the legislative branch elects to be represented by its own counsel under this section, the decision for settlement of claims against the legislative branch, its members, or employees, where Risk Management Fund coverage applies, lies with the general counsel for the Legislature and the state risk manager.~~

~~—— (4) (a) Notwithstanding the provisions of Section 67-5-3 or any other provision of the Utah Code, the attorney general, the general counsel for the state judiciary, and the general counsel for the Legislature may bill the Department of [Administrative Services] Government Operations for all costs and legal fees expended by their respective offices, including attorneys' and secretarial salaries, in representing the state or any indemnified employee against any claim for which the Risk Management Fund may be liable and in advising state agencies and employees regarding any of those claims.~~

~~—— (b) The risk manager shall draw funds from the Risk Management Fund for this purpose:~~

~~—— Section 216. Section **63G-10-501** is amended to read:~~

~~—— **63G-10-501**; **63G-6a-103**. **Definitions.**~~

As used in this {part:

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~~(1) "Executive director" chapter:~~

(1) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(2) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(3) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(4) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(5) "Bidding process" means the procurement process described in Part 6, Bidding.

(6) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(7) "Building board" means the State Building Board, created in Section 63A-5b-201.

(8) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(9) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(10) "Chief procurement officer" means the individual appointed under ~~Section 63A-1-105 as~~ Subsection 63G-6a-302(1) Section 63A-2-102.

(11) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except the process relating to scores calculated for costs of proposals;

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(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(12) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(13) "Construction project":

(a) means a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property, including all services, labor, supplies, and materials for the project; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(14) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(15) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(16) "Contract" means an agreement for a procurement.

(17) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit

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and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

(18) "Contractor" means a person who is awarded a contract with a procurement unit.

(19) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(20) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(21) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(22) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(23) "Days" means calendar days, unless expressly provided otherwise.

(24) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(25) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects

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### Licensing Act;

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; or

(c) an individual certified as a commercial interior designer under Title 58, Chapter 86, State Certification of Commercial Interior Designers Act.

(26) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

(27) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102;

(c) master planning and programming services; or

(d) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.

(28) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

(29) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

(30) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) the Utah Schools for the Deaf and the Blind;

(d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section 53B-1-102; or

(f) the State Board of Education.

(31) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number

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of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(32) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(33) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(34) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(35) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(36) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(37) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the procurement official reasonably considers to be immaterial.

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(38) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(39) "Independent procurement unit" means:

(a) (i) a legislative procurement unit;

(ii) a judicial branch procurement unit;

(iii) an educational procurement unit;

(iv) a local government procurement unit;

(v) a conservation district;

(vi) a local building authority;

(vii) a local district;

(viii) a public corporation;

(ix) a special service district; or

(x) the Utah Communications Authority, established in Section 63H-7a-201;

(b) the building board or the facilities division, but only to the extent of the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities;

(c) the attorney general, but only to the extent of the procurement authority provided under Title 67, Chapter 5, Attorney General;

(d) the Department of Transportation, but only to the extent of the procurement authority provided under Title 72, Transportation Code; or

(e) any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, but only to the extent of that statutory procurement authority.

(40) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document



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described in Subsection (40)(a).

(41) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(42) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial

branch.

(43) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and

profit for a specified number of labor hours or days.

(44) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii) (A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff

support.

(45) "Local building authority" means the same as that term is defined in Section 17D-2-102.

(46) "Local district" means the same as that term is defined in Section 17B-1-102.

(47) "Local government procurement unit" means:

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(a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or

(c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.

(48) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

(49) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

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

(51) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (51)(a).

(52) "Offeror" means a person who submits a proposal in response to a request for proposals.

(53) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(54) "Procure" means to acquire a procurement item through a procurement.

(55) "Procurement" means the acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership.

(56) "Procurement item" means an item of personal property, a technology, a service, or a construction project.

(57) "Procurement official" means:

(a) for a procurement unit other than an independent procurement unit, the chief procurement officer;

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(b) for a legislative procurement unit, the individual, individuals, or body designated in a policy adopted by the Legislative Management Committee;

(c) for a judicial procurement unit, the Judicial Council or an individual or body designated by the Judicial Council by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a local district, the board of trustees of the local district or the board of trustees' designee;

(f) for a special service district, the governing body of the special service district or the governing body's designee;

(g) for a local building authority, the board of directors of the local building authority or the board of directors' designee;

(h) for a conservation district, the board of supervisors of the conservation district or the board of supervisors' designee;

(i) for a public corporation, the board of directors of the public corporation or the board of directors' designee;

(j) for a school district or any school or entity within a school district, the board of the school district or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school or the designee of the individual or body;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education or the president's designee;

(m) for the State Board of Education, the State Board of Education or the State Board of Education's designee;

(n) for the Utah Board of Higher Education, the Commissioner of Higher Education or the designee of the Commissioner of Higher Education;

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or the executive director's designee;

or

(p) (i) for the building board, and only to the extent of procurement activities of the

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building board as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the building board or the director's designee;

(ii) for the facilities division, and only to the extent of procurement activities of the facilities division as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the facilities division or the director's designee;

(iii) for the attorney general, and only to the extent of procurement activities of the attorney general as an independent procurement unit under the procurement authority provided under Title 67, Chapter 5, Attorney General, the attorney general or the attorney general's designee;

(iv) for the Department of Transportation created in Section 72-1-201, and only to the extent of procurement activities of the Department of Transportation as an independent procurement unit under the procurement authority provided under Title 72, Transportation Code, the executive director of the Department of ~~Administrative Services~~ Government Operations Transportation or the executive director's designee; or

(v) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, and only to the extent of the procurement activities of the department, division, office, or entity as an independent procurement unit under the procurement authority provided outside this chapter for the department, division, office, or entity, the chief executive officer of the department, division, office, or entity or the chief executive officer's designee.

(58) "Procurement unit":

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) the Utah Communications Authority, established in Section 63H-7a-201;

(vi) a local government procurement unit;

(vii) a local district;

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(viii) a special service district;

(ix) a local building authority;

(x) a conservation district;

(xi) a public corporation; and

(b) does not include a political subdivision created under Title 11, Chapter 13,

Interlocal Cooperation Act.

(59) "Professional service" means labor, effort, or work that requires specialized knowledge, expertise, and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

(60) "Protest officer" means:

(a) for the division or an independent procurement unit:

(i) the procurement official;

(ii) the procurement official's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the rulemaking authority; or

(b) for a procurement unit other than an independent procurement unit, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.

(61) "Public corporation" means the same as that term is defined in Section 63E-1-102.

(62) "Public entity" means the state or any other government entity within the state that expends public funds.

(63) "Public facility" means a building, structure, infrastructure, improvement, or other

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facility of a public entity.

(64) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

(65) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(66) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

(67) "Qualified vendor" means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

(68) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

(69) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

(70) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

(71) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

(72) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

(73) "Requirements contract" means a contract:

(a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

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(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(74) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(75) "Responsive" means conforming in all material respects to the requirements of a solicitation.

(76) "Rule" includes a policy or regulation adopted by the rulemaking authority, if adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions that govern the applicable procurement unit.

(77) "Rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the building board or the facilities division, the building board;

(B) for the Office of the Attorney General, the attorney general;

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(D) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, the governing authority of the department, division, office, or entity; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the governing body of the local government unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education, the Utah Board of Higher Education;

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(g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a local district other than a public transit district or for a special service district, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules;

(i) with respect to a subject addressed by board rules; or

(ii) that are in addition to board rules;

(j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah Board of Higher Education;

(k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

(l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;

(m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority board, created in Section ~~63A-1-104.~~

~~— (2) "Risk management fund" means the fund created~~ 63H-7a-203; or

(n) for any other procurement unit, the board.

(78) "Service":

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

(79) "Small purchase process" means the procurement process described in Section ~~63A-4-201.~~

~~— (3) "Risk manager" means the state risk manager appointed~~ 63G-6a-506.

(80) "Sole source contract" means a contract resulting from a sole source procurement.

(81) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.



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(82) "Solicitation" means an invitation for bids, request for proposals, or request for statement of qualifications.

(83) "Solicitation response" means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(84) "Special service district" means the same as that term is defined in Section 17D-1-102.

(85) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(86) "Standard procurement process" means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

(87) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

(88) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(89) "Subcontractor":

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

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(90) "Technology" means the same as "information technology," as defined in Section 63F-1-102.

(91) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.

(92) "Time and materials contract" means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

(93) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(94) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

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(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section

~~{63A-4-101}~~63G-6a-712.

Section ~~{217}~~175. Section ~~{63G-21-102}~~63G-6a-106 is amended to read:

~~{63G-21-102}~~63G-6a-106. {Definitions:

~~As used}~~ **Independent procurement units.**

(1) An independent procurement unit may, without the supervision, interference, oversight, control, or involvement of the division or the chief procurement officer, but in accordance with the requirements of this chapter:

(a) engage in a standard procurement process;

(b) acquire a procurement item under an exception, as provided in this chapter~~;~~

~~(1) "Designated agency" means:~~

~~(a) the Governor's Office of Economic Development;~~

~~(b) the Division of Wildlife Resources;~~

~~(c) the Department of Public Safety;~~

~~(d) the [Department] Division of Technology Services; or~~

~~(e) the Department of Workforce Services.~~

~~(2) (a) "State service" means a service or benefit regularly provided to the public by a designated agency:~~

~~(b) "State service" includes:~~

~~(i) for the Governor's Office of Economic Development or}~~ to the requirement to use a standard procurement process; or

(c) otherwise engage in an act authorized or required by this chapter.

(2) Notwithstanding Subsection (1), an independent procurement unit may agree in writing with the division to extend the authority of the division or the chief procurement officer to the procurement unit, as provided in the agreement.

(3) With respect to a procurement or contract over which an independent procurement unit's procurement official has authority, the procurement official may:

(a) manage and supervise the procurement to ensure to the extent practicable that

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taxpayers receive the best value;

(b) prepare and issue standard specifications for procurement items;

(c) review contracts, coordinate contract compliance, conduct contract audits, and approve change orders;

(d) delegate duties and authority to an employee of the procurement unit, as the independent procurement unit's procurement official considers appropriate;

(e) for the procurement official of an executive branch procurement unit that is an independent procurement unit, coordinate with the [Department] Division of Technology Services, {public high-speed Internet access;

~~—— (ii) for the Division of Wildlife Resources, fishing, hunting, and trapping licenses;~~

~~—— (iii) for the Department of Public Safety, fingerprinting, an online driver license renewal, online appointment scheduling, an online motor vehicle record request, and an online change of address with the Driver License Division; and~~

~~—— (iv) for the Department of Workforce Services, online job searches, verification of submission for benefits administered by the Department of Workforce Services, online unemployment applications, online food stamp applications, and online appointment scheduling.~~

~~—— (3) "USPS" means the United States Postal Service.~~

~~—— Section 218. Section ~~63J-1-206~~; created in Section [63F-1-103] 63A-16-103, with respect to the procurement unit's procurement of information technology services;~~

(f) correct, amend, or cancel a procurement at any stage of the procurement process if the procurement is out of compliance with this chapter or a rule adopted by the rulemaking authority;

(g) attempt to resolve a contract dispute in coordination with the legal counsel of the independent procurement unit; and

(h) at any time during the term of a contract awarded by the independent procurement unit, correct or amend a contract to bring it into compliance or cancel the contract;

(i) if the procurement official determines that correcting, amending, or canceling the contract is in the best interest of the procurement unit; and

(ii) after consulting with, as applicable, the attorney general's office or the procurement unit's legal counsel.

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(4) The attorney general may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer:

(a) retain outside counsel, subject to Section 67-5-33 if the attorney general retains outside counsel under a contingent fee contract, as defined in that section; or

(b) procure litigation support services, including retaining an expert witness.

(5) An independent procurement unit that is not represented by the attorney general's office may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer:

(a) retain outside counsel; or

(b) procure litigation support services, including retaining an expert witness.

(6) The state auditor's office may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer, procure audit services.

(7) The state treasurer may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer, procure:

(a) deposit services; and

(b) services related to issuing bonds.

Section 176. Section 63G-6a-116 is amended to read:

~~**{63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion:**~~

~~—— (1) (a) Except as provided in Subsections (1)(b) and (2)(c), or where expressly exempted in the appropriating act:~~

~~—— (i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and~~

~~—— (ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.~~

~~—— (b) This section does not apply to:~~

~~—— (i) the Legislature and its committees; and~~

~~—— (ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.~~

~~—— (2) (a) Each item of appropriation is to be expended subject to any schedule of programs and any restriction attached to the item of appropriation, as designated by the~~

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Legislature:

- ~~—— (b) Each schedule of programs or restriction attached to an appropriation item:~~
- ~~—— (i) is a restriction or limitation upon the expenditure of the respective appropriation made;~~
- ~~—— (ii) does not itself appropriate any money; and~~
- ~~—— (iii) is not itself an item of appropriation.~~
- ~~—— (c) (i) An appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item.~~
- ~~—— (ii) If the money appropriated to an agency to pay lease payments under the program established in Section 63A-5b-703 exceeds the amount required for the agency's lease payments to the Division of Facilities Construction and Management, the agency may:~~
  - ~~—— (A) transfer money from the lease payments line item to other line items within the agency; and~~
  - ~~—— (B) retain and use the excess money for other purposes.~~
- ~~—— (d) The money appropriated subject to a schedule of programs or restriction may be used only for the purposes authorized.~~
- ~~—— (e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program within a line item, the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.~~
- ~~—— (f) (i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.~~
- ~~—— (ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.~~
- ~~—— (3) Notwithstanding Subsection (2)(c)(i):~~
  - ~~—— (a) the state superintendent may transfer money appropriated for the Minimum School Program between line items in accordance with Section 53F-2-205;~~
  - ~~—— (b) the Department of [Administrative Services] Government Operations may transfer money appropriated for the purpose of paying the costs of paid employee postpartum recovery~~

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leave under Section ~~[67-19-14.7]~~ ~~63A-17-511~~ to another department, agency, institution, or division; and

~~— (c) the Department of [Administrative Services] Government Operations may transfer or divert money to another department, agency, institution, or division only for the purposes of coordinating and providing a state response to the coronavirus.~~

~~— Section 219. Section 63J-1-219 is amended to read:~~

~~— 63J-1-219. Definitions -- Federal receipts reporting requirements} 63G-6a-116.~~

### Procurement of administrative law judge service.

(1) As used in this section:

(a) ~~{(i) "Designated state agency" means the Department of [Administrative Services] Government Operations, the Department of Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, [the Department]~~ "Administrative law judge" means the same as that term is defined in Section ~~[67-19c-102]~~ 63A-17-701.

(b) "Administrative law judge service" means service provided by an administrative law judge.

(2) A procurement unit shall use a standard procurement process under this chapter for the procurement of administrative law judge service.

(3) For a procurement of administrative law judge service, an evaluation committee shall consist of:

(a) the head of the conducting procurement unit, or the head's designee;

(b) the head of an executive branch procurement unit other than the conducting procurement unit, appointed by the [executive] director of the [Department] Division of Human Resource Management, { } the Department of Human Services, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, [the Department of Technology Services,] the Department of Transportation, the Department of Veterans and Military Affairs, the Department of Workforce Services, the Labor Commission, the Office of Economic Development, the Public Service Commission, the Utah Board of Higher Education, the State Board of Education, the State Tax Commission, or the Utah National Guard.

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~~—— (ii) "Designated state agency" does not include the judicial branch, the legislative branch, or an office or other entity within the judicial branch or the legislative branch.~~

~~—— (b) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.~~

~~—— (c) "Single audit" is as defined in 31 U.S.C. Sec. 7501.~~

~~—— (2) Subject to Subsections (3) and (4), a designated state agency shall each year, on or before October 31, prepare a report that:~~

~~—— (a) reports the aggregate value of federal receipts the designated state agency received for the preceding fiscal year;~~

~~—— (b) reports the aggregate amount of federal funds appropriated by the Legislature to the designated state agency for the preceding fiscal year;~~

~~—— (c) calculates the percentage of the designated state agency's total budget for the preceding fiscal year that constitutes federal receipts that the designated state agency received for that fiscal year; and~~

~~—— (d) develops plans for operating the designated state agency if there is a reduction of:~~

~~—— (i) 5% or more in the federal receipts that the designated state agency receives; and~~

~~—— (ii) 25% or more in the federal receipts that the designated state agency receives.~~

~~—— (3) (a) The report required by Subsection (2) that the Utah Board of Higher Education prepares shall include the information required by Subsections (2)(a) through (c) for each state institution of higher education listed in Section 53B-2-101.~~

~~—— (b) The report required by Subsection (2) that the State Board of Education prepares shall include the information required by Subsections (2)(a) through (c) for each school district and each charter school within the public education system.~~

~~—— (4) A designated state agency that prepares a report in accordance with Subsection (2) shall submit the report to the Division of Finance on or before November 1 of each year.~~

~~—— (5) (a) The Division of Finance shall, on or before November 30 of each year, prepare a report that:~~

~~—— (i) compiles and summarizes the reports the Division of Finance receives in accordance with Subsection (4); and~~

~~—— (ii) compares the aggregate value of federal receipts each designated state agency received for the previous fiscal year to the aggregate amount of federal funds appropriated by~~



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~~the Legislature to that designated state agency for that fiscal year:~~

~~—— (b) The Division of Finance shall, as part of the report required by Subsection (5)(a), compile a list of designated state agencies that do not submit a report as required by this section:~~

~~—— (6) The Division of Finance shall submit the report required by Subsection (5) to the Executive Appropriations Committee on or before December 1 of each year:~~

~~—— (7) Upon receipt of the report required by Subsection (5), the chairs of the Executive Appropriations Committee shall place the report on the agenda for review and consideration at the next Executive Appropriations Committee meeting:~~

~~—— (8) When considering the report required by Subsection (5), the Executive Appropriations Committee may elect to:~~

~~—— (a) recommend that the Legislature reduce or eliminate appropriations for a designated state agency;~~

~~—— (b) take no action; or~~

~~—— (c) take another action that a majority of the committee approves:~~

~~—— Section 220. Section ~~63J-1-602.2~~ or the head's designee; and~~

~~(c) the [executive] director of the [Department] Division of Human Resource Management, or the [executive] director's designee.~~

~~(4) Within 30 days after the day on which a conducting procurement unit awards a contract for administrative law judge service, the conducting procurement unit shall give written notice to the [Department] Division of Human Resource Management that states:~~

~~(a) that the conducting procurement unit awarded a contract for administrative law judge service;~~

~~(b) the name of the conducting procurement unit; and~~

~~(c) the expected term of the contract.~~

~~(5) A procurement of administrative law judge service using a small purchase process is subject to rules made pursuant to Subsection 63G-6a-506(2)(c).~~

~~Section 177. Section ~~63G-6a-202~~ is amended to read:~~

~~{63J-1-602.2. List of nonlapsing appropriations to programs:~~

~~—— Appropriations made to the following programs are nonlapsing:~~

~~—— (1) The Legislature and the Legislature's committees:~~

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- ~~—— (2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.~~
- ~~—— (3) The Percent-for-Art Program created in Section 9-6-404.~~
- ~~—— (4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.~~
- ~~—— (5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).~~
- ~~—— (6) The Trip Reduction Program created in Section 19-2a-104.~~
- ~~—— (7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.~~
- ~~—— (8) The emergency medical services grant program in Section 26-8a-207.~~
- ~~—— (9) The primary care grant program created in Section 26-10b-102.~~
- ~~—— (10) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).~~
- ~~—— (11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.~~
- ~~—— (12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.~~
- ~~—— (13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.~~
- ~~—— (14) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(8)(a) or (b).~~
- ~~—— (15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.~~
- ~~—— (16) A new program or agency that is designated as nonlapsing under Section 36-24-101.~~
- ~~—— (17) The Utah National Guard, created in Title 39, Militia and Armories.~~
- ~~—— (18) The State Tax Commission under Section 41-1a-1201 for the:~~
  - ~~—— (a) purchase and distribution of license plates and decals; and~~
  - ~~—— (b) administration and enforcement of motor vehicle registration requirements.~~
- ~~—— (19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.~~

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~~— (20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.~~

~~— (21) The } 63G-6a-202. Creation of Utah State Procurement Policy Board.~~

~~(1) There is created the Utah State Procurement Policy Board.~~

~~(2) The board consists of up to 15 members as follows:~~

~~(a) two representatives of state institutions of higher education, appointed by the Utah Board of Higher Education { for teacher preparation programs, as provided in Section 53B-6-104.~~

~~— (22) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.~~

~~— (23) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.~~

~~— (24) The } :~~

~~(b) a representative of the Department of Human Services, appointed by the executive director of that department;~~

~~(c) a representative of the Department of Transportation, appointed by the executive director of that department;~~

~~(d) two representatives of school districts, appointed by the State Board of Education;~~

~~(e) a representative of the Division of {Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.~~

~~— (25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.~~

~~— (26) Appropriations to } Facilities Construction and Management, appointed by the director of that division;~~

~~(f) one representative of a county, appointed by the Utah Association of Counties;~~

~~(g) one representative of a city or town, appointed by the Utah League of Cities and Towns;~~

~~(h) two representatives of local districts or special service districts, appointed by the Utah Association of Special Districts;~~

~~(i) the [executive] director of the [Department] Division of Technology Services {for technology innovation as provided under Section [63F-4-202] 63A-16-903.~~

~~— (27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.~~

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~~—— (28) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.~~

~~—— (29) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.~~

~~—— (30) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A-2-8.~~

~~—— (31) The [Department] Division of Human Resource Management user training program, as provided in Section [67-19-6] 63A-17-305.~~

~~—— (32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.~~

~~—— (33) The Traffic Noise Abatement Program created in Section 72-6-112.~~

~~—— (34) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.~~

~~—— (35) A state rehabilitative employment program, as provided in Section 78A-6-210.~~

~~—— (36) The Utah Geological Survey, as provided in Section 79-3-401.~~

~~—— (37) The Bonneville Shoreline Trail Program created under Section 79-5-503.~~

~~—— (38) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.~~

~~—— (39) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.~~

~~—— (40) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.~~

~~—— Section 221. Section **67-1-8.1** is amended to read:~~

~~—— **67-1-8.1. Executive Residence Commission -- Recommendations as to use, maintenance, and operation of executive residence:**~~

~~—— (1) The Legislature finds and declares that:~~

~~—— (a) the state property known as the Thomas Kearns Mansion is a recognized state landmark possessing historical and architectural qualities that should be preserved; and~~

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~~—— (b) the Thomas Kearns Mansion was the first building listed on the National Register of Historic Places in the state:~~

~~—— (2) As used in this section:~~

~~—— (a) "Executive residence" includes the:~~

~~—— (i) Thomas Kearns Mansion;~~

~~—— (ii) Carriage House building; and~~

~~—— (iii) grounds and landscaping surrounding the Thomas Kearns Mansion and the Carriage House building:~~

~~—— (b) "Commission" means the Executive Residence Commission established in this section:~~

~~—— (3) (a) An Executive Residence Commission is established to make recommendations to the State Building Board for the use, operation, maintenance, repair, rehabilitation, alteration, restoration, placement of art and monuments, or adoptive use of the executive residence:~~

~~—— (b) The commission shall meet at least once a year and make any recommendations to the State Building Board prior to August 1 of each year:~~

~~—— (4) The commission shall consist of nine voting members and one ex officio, nonvoting member representing the Governor's Mansion Foundation. The membership shall consist of:~~

~~—— (a) three private citizens appointed by the governor, who have demonstrated an interest in historical preservation;~~

~~—— (b) three additional private citizens appointed by the governor with the following background:~~

~~—— (i) an interior design professional with a background in historic spaces;~~

~~—— (ii) an architect with a background in historic preservation and restoration recommended by the Utah chapter of the American Institute of Architects; and~~

~~—— (iii) a landscape architect with a background and knowledge of historic properties recommended by the Utah chapter of the American Society of Landscape Architects;~~

~~—— (c) the director, or director's designee, of the Division of Art and Museums;~~

~~—— (d) the director, or director's designee, of the Division of State History; and~~

~~—— (e) the executive director, or executive director's designee, of the Department of~~

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~~[Administrative Services] Government Operations:~~

~~—— (5) (a) Except as required by Subsection (5)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term ending on March 1.~~

~~—— (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.~~

~~—— (6) (a) The governor shall appoint a chair from among the membership of the commission:~~

~~—— (b) Six} or the executive director's designee;~~

~~(j) the chief procurement officer or the chief procurement officer's designee; and~~

~~(k) two representatives of state agencies, other than a state agency already represented on the board, appointed by the executive director of the Department of [Administrative Services] Government Operations, with the approval of the executive director of the state agency that employs the employee.~~

~~(3) Members of the board shall be knowledgeable and experienced in, and have supervisory responsibility for, procurement in their official positions.~~

~~(4) A board member may serve as long as the member meets the description in Subsection (2) unless removed by the person or entity with the authority to appoint the board member.~~

~~(5) (a) The board shall:~~

~~(i) adopt rules of procedure for conducting its business; and~~

~~(ii) elect a chair to serve for one year.~~

~~(b) The chair of the board shall be selected by a majority of the members of the ~~{commission shall constitute a quorum, and either the chair or two other members of the commission may call meetings of the commission.~~~~

~~—— (7) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.~~

~~—— (8) A member} board and may be elected to succeeding terms.~~

~~(c) The chief procurement officer shall designate an employee of the division to serve~~

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as the nonvoting secretary to the policy board.

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

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

~~{ (9) The Division of Facilities Construction and Management shall provide the administrative support to the commission.~~

~~‡~~ Section ~~{222}~~ 178. Section ~~{67-5-7}~~ 63G-6a-302 is amended to read:

~~{67-5-7. Establishment of career service system.~~

~~—— (1) The purpose of this chapter is to establish a career service system for employees of the Office of the Attorney General that will attract and retain employees of proven ability and experience who will devote their full time to the service of the state.~~

~~—— (2) The Office of the Attorney General may adopt policies necessary to implement this chapter, including personnel and work policies different from those made by the [Department] Division of Human Resource Management.~~

~~—— Section 223. Section 67-5-22;~~ 63G-6a-302. Chief procurement officer -- Qualifications -- Authority.

[(1) The executive director of the Department of Administrative Services, with the consent of the governor, shall appoint the chief procurement officer after considering recommendations from the board.]

[(2)] (1) The chief procurement officer shall:

(a) have a minimum of eight years' experience:

(i) (A) in the large-scale procurement of supplies, services, or construction; or

(B) negotiating contract terms and conditions; and

(ii) at least five years of which shall have been in public or comparable private procurement within 12 years preceding the date of appointment; and

(b) be a person with demonstrated executive and organizational ability.

[(3)] (2) The chief procurement officer [appointed under Subsection (1)] is also the director of the Division of Purchasing and General Services.

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~~[(4)] (3) The chief procurement officer has authority over a procurement by a procurement unit, except:~~

~~(a) an independent procurement unit; or~~

~~(b) as otherwise expressly provided in this chapter.~~

Section 179. Section 63G-6a-303 is amended to read:

~~{67-5-22. Identity theft reporting information system -- Internet website and database -- Access -- Maintenance and rulemaking -- Criminal provisions:~~

~~———— (1) There is created within the Office of the Attorney General the Identity Theft Reporting Information System (IRIS) Program to establish a database and Internet website to:~~

~~———— (a) allow persons in the state to submit reports of identity theft;~~

~~———— (b) assist the Office of the Attorney General in notifying state and local law enforcement agencies of reports of identity theft;~~

~~———— (c) provide assistance and resources to victims of identity theft;~~

~~———— (d) provide a centralized location where information related to incidents of identity theft may be securely stored and accessed for the benefit of victims of identity theft; and~~

~~———— (e) provide public education and information relating to identity theft.~~

~~———— (2) (a) The Internet website shall be maintained by the Office of the Attorney General and shall be made available to the public and to victims of identity-related crimes:~~

~~———— (b) The Internet website shall:~~

~~———— (i) allow a victim of an identity-related crime to report the crime on the website and have the victim's report routed to the appropriate law enforcement agency for the jurisdiction in which the crime occurred; and~~

~~———— (ii) provide public education and information relating to identity theft.~~

~~———— (c) The Internet website may be expanded to provide other identity-related services to victims according to the procedures of Subsection (4).~~

~~———— (3) (a) The [Department] Division of Technology Services shall administer and maintain the database established under this section in an electronic file or other format as established by the department:~~

~~———— (b) (i) The database shall be maintained for the purpose of identifying victims of identity theft who have filed a report with the program established under this section, and may contain the personally identifiable information for each victim, which may include the~~



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~~following information related to an incident of identify theft:~~

- ~~—— (A) the victim's name, address, email addresses, and telephone numbers;~~
- ~~—— (B) the victim's Social Security number and other identifying information;~~
- ~~—— (C) the victim's financial institution information, account numbers, and transaction information;~~
- ~~—— (D) the victim's benefit information;~~
- ~~—— (E) the victim's credit account information;~~
- ~~—— (F) the victim's loan information;~~
- ~~—— (G) the victim's employment information;~~
- ~~—— (H) the victim's Internal Revenue Service or tax information;~~
- ~~—— (I) the victim's utility service information;~~
- ~~—— (J) information concerning legal matters or collections related to the incident;~~
- ~~—— (K) information concerning unauthorized or illegal transactions, denied credit, stolen identification, and all other unauthorized actions related to the identity theft; and~~
- ~~—— (L) any other information related to the incident of identity theft that the victim or the Office of the Attorney General elects to include in the database.~~
- ~~—— (ii) The database shall record and maintain:~~
  - ~~—— (A) identification information for each person who requests or receives information from the database;~~
  - ~~—— (B) a record of the information that is requested or received by each person who requests or receives information from the database; and~~
  - ~~—— (C) a record of the date and time that any information is requested or provided from the database.~~
- ~~—— (c) Information in the database is considered to be the property of the Office of the Attorney General, and retains any classification given it under}~~ **63G-6a-303. Role, duties, and authority of chief procurement officer.**

**(1) The chief procurement officer:**

**(a) is the director of the division;**

**(b) serves as the central procurement officer of the state;**

**(c) serves as a voting member of the board; and**

**(d) serves as the protest officer for a protest relating to a procurement of an executive**

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branch procurement, except an executive branch procurement unit designated under Subsection 63G-6a-103(39)(b), (c), (d), or (e) as an independent procurement unit, or a state cooperative contract procurement, unless the chief procurement officer designates another to serve as protest officer, as authorized in this chapter.

(2) Except as otherwise provided in this chapter, the chief procurement officer shall:

(a) develop procurement policies and procedures supporting ethical procurement practices, fair and open competition among vendors, and transparency within the state's procurement process;

(b) administer the state's cooperative purchasing program, including state cooperative contracts and associated administrative fees;

(c) enter into an agreement with a public entity for services provided by the division, if the agreement is in the best interest of the state;

(d) ensure the division's compliance with any applicable law, rule, or policy, including a law, rule, or policy applicable to the division's role as an issuing procurement unit or conducting procurement unit, or as the state's central procurement organization;

(e) manage the division's electronic procurement system;

(f) oversee the recruitment, training, career development, certification requirements, and performance evaluation of the division's procurement personnel;

(g) make procurement training available to procurement units and persons who do business with procurement units;

(h) provide exemplary customer service and continually improve the division's procurement operations;

(i) exercise all other authority, fulfill all other duties and responsibilities, and perform all other functions authorized under this chapter; and

(j) ensure that any training described in this Subsection (2) complies with Title 63G, Chapter ~~2, Government Records Access and Management Act.~~

~~—(4) The~~ 22, State Training and Certification Requirements.

(3) With respect to a procurement or contract over which the chief procurement officer has authority under this chapter, the chief procurement officer, except as otherwise provided in this chapter:

(a) shall:

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(i) manage and supervise a procurement to ensure to the extent practicable that taxpayers receive the best value;

(ii) prepare and issue standard specifications for procurement items;

(iii) review contracts, coordinate contract compliance, conduct contract audits, and approve change orders;

(iv) in accordance with Section [63F-1-205] 63A-16-204, coordinate with the [Department] Division of Technology Services, ~~{with the approval of the Office of the Attorney General,~~ may make rules to:

~~—— (a) permit the following persons to have access to the database:~~

~~—— (i) federal, state, and local law enforcement authorities, provided that the authority is acting within a specified duty of the authority's employment in enforcing laws;~~

~~—— (ii) participating merchants and financial institutions, provided that the merchant or institution has entered into an access agreement with the Office of the Attorney General; and~~

~~—— (iii) other persons, to be established by rule, provided that the person's access to the information is necessary and reasonable to accomplish the purposes of the program as provided}~~created in Section [63F-1-103] 63A-16-103, with respect to the procurement of information technology services by an executive branch procurement unit;

(v) correct, amend, or cancel a procurement at any stage of the procurement process if the procurement is out of compliance with this chapter or a board rule;

(vi) after consultation with the attorney general's office, correct, amend, or cancel a contract at any time during the term of the contract if:

(A) the contract is out of compliance with this chapter or a board rule; and

(B) the chief procurement officer determines that correcting, amending, or canceling the contract is in the best interest of the state; and

(vii) make a reasonable attempt to resolve a contract dispute, in coordination with the attorney general's office; and

(b) may:

(i) delegate limited purchasing authority to a state agency, with appropriate oversight and control to ensure compliance with this chapter;

(ii) delegate duties and authority to an employee of the division, as the chief procurement officer considers appropriate;

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(iii) negotiate and settle contract overcharges, undercharges, and claims, in accordance with the law and after consultation with the attorney general's office;

(iv) authorize a procurement unit to make a procurement pursuant to a regional solicitation, as defined in Subsection 63G-6a-2105(7), even if the procurement item is also offered under a state cooperative contract, if the chief procurement officer determines that the procurement pursuant to a regional solicitation is in the best interest of the acquiring procurement unit; and

(v) remove an individual from the procurement process or contract administration for:

(A) having a conflict of interest or the appearance of a conflict of interest with a person responding to a solicitation or with a contractor;

(B) having a bias or the appearance of bias for or against a person responding to a solicitation or for or against a contractor;

(C) making an inconsistent or unexplainable score for a solicitation response;

(D) having inappropriate contact or communication with a person responding to a solicitation;

(E) socializing inappropriately with a person responding to a solicitation or with a contractor;

(F) engaging in any other action or having any other association that causes the chief procurement officer to conclude that the individual cannot fairly evaluate a solicitation response or administer a contract; or

(G) any other violation of a law, rule, or policy.

(4) The chief procurement officer may not delegate to an individual outside the division the chief procurement officer's authority over a procurement described in Subsection (1);

~~—— (b) define and enforce limitations on access to information via the Internet website or in the database; and~~

~~—— (c) establish standards and procedures to ensure accurate identification of individuals that are requesting or receiving information from the Internet website or the database.~~

~~—— (5) (a) In addition to the penalties provided under Title 63G, Chapter 2, Government Records Access and Management Act, a person may not knowingly and intentionally release or disclose information from the database in violation of the limitations provided}~~3)(a)(iv).

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(5) The chief procurement officer has final authority to determine whether an executive branch procurement unit's anticipated expenditure of public funds, anticipated agreement to expend public funds, or provision of a benefit constitutes a procurement that is subject to this chapter.

(6) Except as otherwise provided in this chapter, the chief procurement officer shall review, monitor, and audit the procurement activities and delegated procurement authority of an executive branch procurement unit, except to the extent that an executive branch procurement unit is designated under Subsection ~~{(4)(a)}~~.

~~—— (b) A violation of Subsection (5)(a) is a third degree felony.~~

~~—— (6) (a) A person may not obtain or attempt to obtain information from the database by misrepresentation or fraud.~~

~~—— (b) A violation of Subsection (6)(a) is a third degree felony.~~

~~—— (7) (a) A person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person or entity any information obtained from the database for any purpose other than those specified under Subsection (4)(a).~~

~~—— (b) Each separate violation of Subsection (7)(a) is a third degree felony.~~

~~—— Section 224. Section ~~67-8-3~~; 63G-6a-103(39)(b), (c), (d), or (e) as an independent procurement unit, to ensure compliance with this chapter, rules made by the applicable rulemaking authority, and division policies.~~

Section 180. Section 63G-6a-506 is amended to read:

~~{67-8-3. Compensation plan for appointive officers -- Exceptions -- Legislative approval -- Career status attorneys.~~

~~—— (1) (a) The executive director of the [Department] Division of Human Resource Management, based upon recommendations of the Executive and Judicial Compensation Commission shall, before October 31 of each year, recommend to the governor a compensation plan for appointed officers of the state except those officers whose compensation is set under Section 49-11-203, 53E-3-302, 53B-1-408, or 53C-1-301.~~

~~—— (b) The plan shall include salaries and wages, paid leave, group insurance plans, retirement programs, and any other benefits that may be offered to state officers.~~

~~—— (2) The governor shall include in each annual budget proposal to the Legislature specific recommendations on compensation for those appointed state officers in Subsection (1).~~

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~~—— (3) (a) After consultation with the attorney general, the [executive] director of the [Department] Division of Human Resource Management shall place career status attorneys on a state salary schedule at a range comparable with salaries paid attorneys in private and other public employment:~~

~~—— (b) The attorney general and the executive director shall take into consideration the experience of the attorney, length of service with the Office of the Attorney General, quality of performance, and responsibility involved in legal assignments:~~

~~—— (c) The attorney general and the executive director shall periodically adjust the salary levels for attorneys in a career status to reasonably compensate them for full-time employment and the restrictions placed on the private practice of law:~~

~~—— Section 225. Section ~~67-8-5~~ is amended to read:~~

~~—— **67-8-5. Duties of commission -- Salary recommendations.**~~

~~—— (1) The commission shall recommend to the Legislature:~~

~~—— (a) salaries for the governor, the lieutenant governor, the attorney general, the state auditor, and the state treasurer; and~~

~~—— (b) salaries for justices of the Supreme Court and judges of the constitutional and statutory courts of record.~~

~~—— (2) In making the salary recommendations described in Subsection (1), the commission shall:~~

~~—— (a) consider:~~

~~—— (i) the education and experience required for the position;~~

~~—— (ii) the responsibility required of the position;~~

~~—— (iii) whether the position requires accountability for funds or staff;~~

~~—— (iv) wages paid for other comparable public and private employment in the state and in other similarly situated states;~~

~~—— (v) any increase in the Consumer Price Index since the commission's last recommendations; and~~

~~—— (vi) any other factors typically used to make similar recommendations;~~

~~—— (b) consult with the [Department] Division of Human Resource Management; and~~

~~—— (c) for the salary recommendations described in Subsection (1)(b), consult with the Judicial Council.~~

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~~—— (3) No later than January 2, the commission shall submit an annual electronic report to the Executive Appropriations Committee, the president of the Senate, the speaker of the House of Representatives, and the governor that:~~

~~—— (a) briefly summarizes the commission's activities during the previous calendar year; and~~

~~—— (b) provides any recommendations to modify the salaries of:~~

~~—— (i) the governor, lieutenant governor, attorney general, state auditor, or state treasurer; or~~

~~—— (ii) the justices of the Supreme Court or judges of the constitutional and statutory courts of record.~~

~~—— (4) The Judicial Council shall cooperate with the commission in providing information relevant to the duties of the commission.~~

~~—— Section 226. Section 67-20-8 is amended to read:~~

~~—— **67-20-8. Volunteer experience credit.**~~

~~—— (1) State agencies shall designate positions for which approved volunteer experience satisfies the job requirements for purposes of employment.~~

~~—— (2) When evaluating applicants for those designated positions, state agencies shall consider documented approved volunteer experience in the same manner as similar paid employment.~~

~~—— (3) The [Department] Division of Human Resource Management shall make statewide rules governing the:~~

~~—— (a) designation of volunteer positions; and~~

~~—— (b) a uniform process to document the approval, use, and hours worked by volunteers.~~

~~—— Section 227. Section 67-22-2 is amended to read:~~

~~—— **67-22-2. Compensation -- Other state officers.**~~

~~† **63G-6a-506. Small purchases.**~~

~~(1) As used in this section:~~

~~(a) "~~{~~Appointed executive" means the:~~

~~—— (i) commissioner of the Department of Agriculture and Food;~~

~~—— (ii) commissioner of the Insurance Department;~~

~~—— (iii) commissioner of the Labor Commission;~~

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- ~~— (iv) director, Department of Alcoholic Beverage Control;~~
- ~~— (v) commissioner of the Department of Financial Institutions;~~
- ~~— (vi) executive director, Department of Commerce;~~
- ~~— (vii) executive director, Commission on Criminal and Juvenile Justice;~~
- ~~— (viii) adjutant general;~~
- ~~— (ix) executive director, Department of Heritage and Arts;~~
- ~~— (x) executive director, Department of Corrections;~~
- ~~— (xi) commissioner, Department of Public Safety;~~
- ~~— (xii) executive director, Department of Natural Resources;~~
- ~~— (xiii) executive director, Governor's Office of Management and Budget;~~
- ~~— (xiv) executive director, Department of [Administrative Services] Government Operations;~~
- ~~— (xv) [executive] director, [Department] Division of Human Resource Management;~~
- ~~— (xvi) executive director, Department of Environmental Quality;~~
- ~~— (xvii) director, Governor's Office of Economic Development;~~
- ~~— (xviii) executive director, Utah Science Technology and Research Governing Authority;~~
- ~~— (xix) executive director, Department of Workforce Services;~~
- ~~— (xx) executive director, Department of Health, Nonphysician;~~
- ~~— (xxi) executive director, Department of Human Services;~~
- ~~— (xxii) executive director, Department of Transportation; and~~
- ~~— [(xxiii) executive director, Department of Technology Services; and]~~
- ~~— [(xxiv)] (xxiii) executive director, Department of Veterans and Military Affairs.~~
- ~~— (b) "Board or commission executive" means:~~
  - ~~— (i) members, Board of Pardons and Parole;~~
  - ~~— (ii) chair, State Tax Commission;~~
  - ~~— (iii) commissioners, State Tax Commission;~~
  - ~~— (iv) executive director, State Tax Commission;~~
  - ~~— (v) chair, Public Service Commission; and~~
  - ~~— (vi) commissioners, Public Service Commission.~~
- ~~— (c) "Deputy" means the person who acts as the appointed executive's second in~~



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~~command as determined by the [Department] Division of Human Resource Management;~~ Annual cumulative threshold" means the maximum total annual amount, established by the rulemaking authority under Subsection (2), that a procurement unit may expend to obtain procurement items from the same source under this section.

(b) "Individual procurement threshold" means the maximum amount, established by the rulemaking authority under Subsection (2), for which a procurement unit may purchase a procurement item under this section.

(c) "Single procurement aggregate threshold" means the maximum total amount, established by the rulemaking authority under Subsection (2), that a procurement unit may expend to obtain multiple procurement items from one source at one time under this section.

~~(2) (a) The ~~executive~~ director of the [Department] Division of Human Resource Management shall:~~

~~—— (i) before October 31 of each year, recommend to the governor a compensation plan for the appointed executives and the board or commission executives; and~~

~~—— (ii) base those recommendations on market salary studies conducted by the [Department] Division of Human Resource Management.~~

~~—— (b) (i) The [Department] Division of Human Resource Management shall determine the salary range for the appointed executives by:~~

~~—— (A) identifying the salary range assigned to the appointed executive's deputy;~~

~~—— (B) designating the lowest minimum salary from those deputies' salary ranges as the minimum salary for the appointed executives' salary range; and~~

~~—— (C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.~~

~~—— (ii) If the deputy is a medical doctor, the [Department] Division of Human Resource Management may not consider that deputy's salary range in designating the salary range for appointed executives.~~

—— (c) (i) rulemaking authority may make rules governing small purchases of any procurement item, including construction, job order contracting, design professional services, other professional services, information technology, and goods.

(b) Rules under Subsection (2)(a) may include provisions:

(i) establishing expenditure thresholds, including:

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(A) an annual cumulative threshold;

(B) an individual procurement threshold; and

(C) a single procurement aggregate threshold;

(ii) establishing procurement requirements relating to the thresholds described in Subsection (2)(b)(i); and

(iii) providing for the use of electronic, telephone, or written quotes.

(c) If a procurement unit obtains administrative law judge service through a small purchase standard procurement process, rules made under Subsection (2)(a) shall provide that the process for the procurement of administrative law judge service include an evaluation committee described in Subsection 63G-6a-116(3).

(3) Expenditures made under this section by a procurement unit may not exceed a threshold established by the rulemaking authority, unless the procurement official gives written authorization to exceed the threshold that includes the reasons for exceeding the threshold.

(4) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the [Department] Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

~~—— (ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii) or (iii), the [Department] Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.~~

~~—— (3) (a) (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a specific salary for each appointed executive within the range established;~~ 5), an executive

branch procurement unit may not obtain a procurement item through a small purchase standard procurement process if the procurement item may be obtained through a state cooperative contract or a contract awarded by the chief procurement officer under Subsection (2)(b).

~~—— (ii) If the executive director of;~~ 63G-6a-2105(1).

(5) Subsection (4) does not apply if:

(a) the procurement item is obtained for an unanticipated, urgent, or emergency condition, including:

(i) an item needed to avoid stopping a public construction project;

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(ii) an immediate repair to a facility or equipment; or

(iii) another emergency condition; or

(b) the chief procurement officer or the procurement official of a procurement unit that is an executive branch procurement unit with independent procurement authority;

(i) determines in writing that it is in the best interest of the procurement unit to obtain an individual procurement item outside of the state contract, comparing:

(A) the contract terms and conditions applicable to the procurement item under the state contract with the contract terms and conditions applicable to the procurement item if the procurement item is obtained outside of the state contract;

(B) the maintenance and service applicable to the procurement item under the state contract with the maintenance and service applicable to the procurement item if the procurement item is obtained outside of the state contract;

(C) the warranties applicable to the procurement item under the state contract with the warranties applicable to the procurement item if the procurement item is obtained outside of the state contract;

(D) the quality of the procurement item under the state contract with the quality of the procurement item if the procurement item is obtained outside of the state contract; and

(E) the ability of the vendor under the state contract to match the quoted cost of the procurement item if the procurement item is obtained outside of the state contract;

(ii) for a procurement item that, if defective in its manufacture, installation, or performance, may result in serious physical injury, death, or substantial property damage, determines in writing that the terms and conditions, relating to liability for injury, death, or property damage, available from the source other than the contractor who holds the state contract, are similar to, or better than, the terms and conditions available under the state contract; and

(iii) grants an exception, in writing, to the requirement described in Subsection (4).

(6) Except as otherwise expressly provided in this section, a procurement unit:

(a) may not use the small purchase standard procurement process described in this section for ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold; and

(b) shall make its ongoing, continuous, and regularly scheduled procurements that

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exceed the annual cumulative threshold through a contract awarded through another standard procurement process described in this chapter or an applicable exception to another standard procurement process, described in Part 8, Exceptions to Procurement Requirements.

(7) This section does not prohibit regularly scheduled payments for a procurement item obtained under another provision of this chapter.

(8) (a) It is unlawful for a person knowingly to divide a single procurement into multiple smaller procurements, including by dividing an invoice or purchase order into multiple invoices or purchase orders, if:

(i) the single procurement would not have qualified as a small purchase under this section;

(ii) one or more of the multiple smaller procurements qualify as a small purchase under this section; and

(iii) the division is done with the intent to:

(A) avoid having to use a standard procurement process, other than the small purchase process, that the person would otherwise be required to use for the single procurement; or

(B) make one or more of the multiple smaller procurements fall below a small purchase expenditure threshold established by rule under Subsection (2)(b) that the single procurement would not have fallen below without the division.

(b) A violation of Subsection (8)(a) is subject to penalties as provided in Subsection 63G-6a-2404.3(2).

(9) The Division of Finance within the Department of {Health is a physician, the governor shall establish a salary within the highest physician salary range established by the [Department] Division of Human Resource Management.

~~—— (iii) The governor may provide salary increases for appointed executives within the range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).~~

~~—— (b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.~~

~~—— (c) The governor may develop standards and criteria for reviewing the appointed executives.~~

~~—— (4) Salaries for other Schedule A employees, as defined in Section [67-19-15] 63A-17-301, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected~~

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~~Official and Judicial Salary Act, shall be established as provided in Section [67-19-15] 63A-17-301.~~

~~—— (5) (a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:~~

~~—— (i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;~~

~~—— (ii) health insurance;~~

~~—— (iii) dental insurance;~~

~~—— (iv) basic life insurance;~~

~~—— (v) unemployment compensation;~~

~~—— (vi) workers' compensation;~~

~~—— (vii) required employer contribution to Social Security;~~

~~—— (viii) long-term disability income insurance;~~

~~—— (ix) the same additional state-paid life insurance available to other noncareer service employees;~~

~~—— (x) the same severance pay available to other noncareer service employees;~~

~~—— (xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:~~

~~—— (A) sick leave;~~

~~—— (B) converted sick leave if accrued prior to; [Administrative Services] Government Operations may conduct an audit of an executive branch procurement unit to verify compliance with the requirements of this section.~~

~~—— (10) An executive branch procurement unit may not make a small purchase after January 1, 2014;~~

~~—— (C) educational allowances;~~

~~—— (D) holidays; and~~

~~—— (E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;~~

~~—— (xii) the option to convert accumulated sick leave to cash or insurance benefits as~~

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~~provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;~~

~~—— (xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and~~

~~—— (xiv) professional memberships if being a member of the professional organization is a requirement of the position;~~

~~—— (b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.~~

~~—— (6) The Legislature fixes the following additional benefits:~~

~~—— (a) for the executive director of the State Tax Commission a vehicle for official and personal use;~~

~~—— (b) for the executive director of the Department of Transportation a vehicle for official and personal use;~~

~~—— (c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;~~

~~—— (d) for the commissioner of Public Safety:~~

~~—— (i) an accidental death insurance policy if POST certified; and~~

~~—— (ii) a public safety vehicle for official and personal use;~~

~~—— (e) for the executive director of the Department of Corrections:~~

~~—— (i) an accidental death insurance policy if POST certified; and~~

~~—— (ii) a public safety vehicle for official and personal use;~~

~~—— (f) for the adjutant general a vehicle for official and personal use; and~~

~~—— (g) for each member of the Board of Pardons and Parole a vehicle for commute and official use.~~

~~—— Section 228. Section ~~72-1-202~~, unless the chief procurement officer certifies that the person responsible for procurements in the procurement unit has satisfactorily completed training on this section and the rules made under this section.~~

Section 181. Section ~~63G-7-901~~ is amended to read:

~~{72-1-202. Executive director of department -- Appointment -- Qualifications -- Term -- Responsibility -- Power to bring suits -- Salary.~~

~~—— (1) (a) The governor, with the advice and consent of the Senate, shall appoint an~~

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~~executive director to be the chief executive officer of the department.~~

~~—— (b) The executive director shall be a registered professional engineer and qualified executive with technical and administrative experience and training appropriate for the position.~~

~~—— (c) The executive director shall remain in office until a successor is appointed.~~

~~—— (d) The executive director may be removed by the governor.~~

~~—— (2) In addition to the other functions, powers, duties, rights, and responsibilities prescribed in this chapter, the executive director shall:~~

~~—— (a) have responsibility for the administrative supervision of the state transportation systems and the various operations of the department;~~

~~—— (b) have the responsibility for the implementation of rules, priorities, and policies established by the department and the commission;~~

~~—— (c) have the responsibility for the oversight and supervision of any transportation project for which state funds are expended;~~

~~—— (d) have full power to bring suit in courts of competent jurisdiction in the name of the department as the executive director considers reasonable and necessary for the proper attainment of the goals of this chapter;~~

~~—— (e) receive a salary, to be established by the governor within the salary range fixed by 63G-7-901. Expenses of attorney general, general counsel for state judiciary, and general counsel for the Legislature in {Title 67, Chapter 22, State Officer Compensation, together with actual traveling expenses while away from the executive director's office on official business;~~

~~—— (f) purchase all equipment, services, and supplies necessary to achieve the department's functions, powers, duties, rights, and responsibilities delegated under Section 72-1-201;~~

~~—— (g) have the} representing the state, the state's branches, members, or employees.~~

~~(1) (a) The Office of the Attorney General has primary responsibility to {determine whether a purchase from, contribution to, or other participation with a public entity or association of public entities in a pooled fund program to acquire, develop, or share information, data, reports, or other services related to the department's mission are procurement items under Title 63G, Chapter 6a, Utah Procurement Code;~~

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~~(h) have~~ provide legal representation to the judicial, executive, and legislative branches of state government in cases where coverage under the Risk Management Fund created by Section 63A-4-201 applies.

(b) When the attorney general has primary responsibility ~~for administrative supervision of the Comptroller Division, the Internal Audit Division, and the Communications Division; and~~

~~(i) appoint assistants, to serve at the discretion of the executive director, to administer the divisions of the department.~~

~~(3) The executive director may employ other assistants and advisers as the executive director finds necessary and fix salaries in accordance with the salary standards adopted by the [Department] Division of Human Resource Management.~~

~~Section 229. Section 79-2-401~~ to provide legal representation to the judicial or legislative branches, the attorney general shall consult with the general counsel for the state judiciary and with the general counsel for the Legislature, to solicit their assistance in defending their respective branch, and in determining strategy and making decisions concerning the disposition of those claims.

(c) Notwithstanding Subsection (1)(b), the decision for settlement of monetary claims in those cases lies with the attorney general and the state risk manager.

(2) (a) If the Judicial Council, after consultation with the general counsel for the state judiciary, determines that the Office of the Attorney General cannot adequately defend the state judiciary, its members, or employees because of a conflict of interest, separation of powers concerns, or other political or legal differences, the Judicial Council may direct its general counsel to separately represent and defend it.

(b) If the general counsel for the state judiciary undertakes independent legal representation of the state judiciary, its members, or employees, the general counsel shall notify the state risk manager and the attorney general in writing before undertaking that representation.

(c) If the state judiciary elects to be represented by its own counsel under this section, the decision for settlement of claims against the state judiciary, its members, or employees, where Risk Management Fund coverage applies, lies with the general counsel for the state judiciary and the state risk manager.



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(3) (a) If the Legislative Management Committee, after consultation with the general counsel for the Legislature, determines that the Office of the Attorney General cannot adequately defend the legislative branch, its members, or employees because of a conflict of interest, separation of powers concerns, or other political or legal differences, the Legislative Management Committee may direct its general counsel to separately represent and defend it.

(b) If the general counsel for the Legislature undertakes independent legal representation of the Legislature, its members, or employees, the general counsel shall notify the state risk manager and the attorney general in writing before undertaking that representation.

(c) If the legislative branch elects to be represented by its own counsel under this section, the decision for settlement of claims against the legislative branch, its members, or employees, where Risk Management Fund coverage applies, lies with the general counsel for the Legislature and the state risk manager.

(4) (a) Notwithstanding the provisions of Section 67-5-3 or any other provision of the Utah Code, the attorney general, the general counsel for the state judiciary, and the general counsel for the Legislature may bill the Department of [~~Administrative Services~~] Government Operations for all costs and legal fees expended by their respective offices, including attorneys' and secretarial salaries, in representing the state or any indemnified employee against any claim for which the Risk Management Fund may be liable and in advising state agencies and employees regarding any of those claims.

(b) The risk manager shall draw funds from the Risk Management Fund for this purpose.

Section 182. Section **63G-9-303** is amended to read:

### **63G-9-303. Meeting to examine claims -- Notice of meeting.**

(1) At least 60 days preceding the annual general session of the Legislature, the board shall hold a session for the purpose of examining the claims referred to in Section 63G-9-302, and may adjourn from time to time until the work is completed.

(2) The board shall cause notice of such meeting or meetings to be published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601.

Section 183. Section **63G-10-501** is amended to read:

### **63G-10-501. Definitions.**

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As used in this part:

(1) "Executive director" means the individual appointed under Section 63A-1-105 as the executive director of the Department of [~~Administrative Services~~] Government Operations, created in Section 63A-1-104.

(2) "Risk management fund" means the fund created in Section 63A-4-201.

(3) "Risk manager" means the state risk manager appointed under Section 63A-4-101.

Section 184. Section **63G-21-102** is amended to read:

### **63G-21-102. Definitions.**

As used in this chapter:

(1) "Designated agency" means:

(a) the Governor's Office of Economic Development;

(b) the Division of Wildlife Resources;

(c) the Department of Public Safety;

(d) the [~~Department~~] Division of Technology Services; or

(e) the Department of Workforce Services.

(2) (a) "State service" means a service or benefit regularly provided to the public by a designated agency.

(b) "State service" includes:

(i) for the Governor's Office of Economic Development or the [~~Department~~] Division of Technology Services, public high-speed Internet access;

(ii) for the Division of Wildlife Resources, fishing, hunting, and trapping licenses;

(iii) for the Department of Public Safety, fingerprinting, an online driver license renewal, online appointment scheduling, an online motor vehicle record request, and an online change of address with the Driver License Division; and

(iv) for the Department of Workforce Services, online job searches, verification of submission for benefits administered by the Department of Workforce Services, online unemployment applications, online food stamp applications, and online appointment scheduling.

(3) "USPS" means the United States Postal Service.

Section 185. Section **63J-1-206** is amended to read:

**63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures --**

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### Transfer of funds -- Exclusion.

(1) (a) Except as provided in Subsections (1)(b) and (2)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(2) (a) Each item of appropriation is to be expended subject to any schedule of programs and any restriction attached to the item of appropriation, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) (i) An appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item.

(ii) If the money appropriated to an agency to pay lease payments under the program established in Section 63A-5b-703 exceeds the amount required for the agency's lease payments to the Division of Facilities Construction and Management, the agency may:

(A) transfer money from the lease payments line item to other line items within the agency; and

(B) retain and use the excess money for other purposes.

(d) The money appropriated subject to a schedule of programs or restriction may be used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it

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from one program to another program within a line item, the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.

(f) (i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.

(3) Notwithstanding Subsection (2)(c)(i):

(a) the state superintendent may transfer money appropriated for the Minimum School Program between line items in accordance with Section 53F-2-205;

(b) the Department of [Administrative Services] Government Operations may transfer money appropriated for the purpose of paying the costs of paid employee postpartum recovery leave under Section [67-19-14.7] 63A-17-511 to another department, agency, institution, or division; and

(c) the Department of [Administrative Services] Government Operations may transfer or divert money to another department, agency, institution, or division only for the purposes of coordinating and providing a state response to the coronavirus.

Section 186. Section 63J-1-219 is amended to read:

**63J-1-219. Definitions -- Federal receipts reporting requirements.**

(1) As used in this section:

(a) (i) "Designated state agency" means the Department of [Administrative Services] Government Operations, the Department of Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, [the Department of Human Resource Management,] the Department of Human Services, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, [the Department of Technology Services,] the Department of Transportation, the Department of Veterans and Military Affairs, the Department of Workforce Services, the Labor Commission, the Office of Economic Development, the Public Service Commission, the Utah Board of Higher Education,

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the State Board of Education, the State Tax Commission, or the Utah National Guard.

(ii) "Designated state agency" does not include the judicial branch, the legislative branch, or an office or other entity within the judicial branch or the legislative branch.

(b) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.

(c) "Single audit" is as defined in 31 U.S.C. Sec. 7501.

(2) Subject to Subsections (3) and (4), a designated state agency shall each year, on or before October 31, prepare a report that:

(a) reports the aggregate value of federal receipts the designated state agency received for the preceding fiscal year;

(b) reports the aggregate amount of federal funds appropriated by the Legislature to the designated state agency for the preceding fiscal year;

(c) calculates the percentage of the designated state agency's total budget for the preceding fiscal year that constitutes federal receipts that the designated state agency received for that fiscal year; and

(d) develops plans for operating the designated state agency if there is a reduction of:

(i) 5% or more in the federal receipts that the designated state agency receives; and

(ii) 25% or more in the federal receipts that the designated state agency receives.

(3) (a) The report required by Subsection (2) that the Utah Board of Higher Education prepares shall include the information required by Subsections (2)(a) through (c) for each state institution of higher education listed in Section 53B-2-101.

(b) The report required by Subsection (2) that the State Board of Education prepares shall include the information required by Subsections (2)(a) through (c) for each school district and each charter school within the public education system.

(4) A designated state agency that prepares a report in accordance with Subsection (2) shall submit the report to the Division of Finance on or before November 1 of each year.

(5) (a) The Division of Finance shall, on or before November 30 of each year, prepare a report that:

(i) compiles and summarizes the reports the Division of Finance receives in accordance with Subsection (4); and

(ii) compares the aggregate value of federal receipts each designated state agency

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received for the previous fiscal year to the aggregate amount of federal funds appropriated by the Legislature to that designated state agency for that fiscal year.

(b) The Division of Finance shall, as part of the report required by Subsection (5)(a), compile a list of designated state agencies that do not submit a report as required by this section.

(6) The Division of Finance shall submit the report required by Subsection (5) to the Executive Appropriations Committee on or before December 1 of each year.

(7) Upon receipt of the report required by Subsection (5), the chairs of the Executive Appropriations Committee shall place the report on the agenda for review and consideration at the next Executive Appropriations Committee meeting.

(8) When considering the report required by Subsection (5), the Executive Appropriations Committee may elect to:

(a) recommend that the Legislature reduce or eliminate appropriations for a designated state agency;

(b) take no action; or

(c) take another action that a majority of the committee approves.

Section 187. Section 63J-1-602.2 is amended to read:

**63J-1-602.2. List of nonlapsing appropriations to programs.**

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(6) The Trip Reduction Program created in Section 19-2a-104.

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

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- (8) The emergency medical services grant program in Section 26-8a-207.
- (9) The primary care grant program created in Section 26-10b-102.
- (10) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).
- (11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.
- (12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.
- (13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.
- (14) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(8)(a) or (b).
- (15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.
- (16) A new program or agency that is designated as nonlapsing under Section 36-24-101.
- (17) The Utah National Guard, created in Title 39, Militia and Armories.
- (18) The State Tax Commission under Section 41-1a-1201 for the:
  - (a) purchase and distribution of license plates and decals; and
  - (b) administration and enforcement of motor vehicle registration requirements.
- (19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.
- (20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.
- (21) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.
- (22) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.
- (23) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.
- (24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.
- (25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.
- (26) Appropriations to the [Department] Division of Technology Services for

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technology innovation as provided under Section [63F-4-202] 63A-16-903.

(27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(28) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(29) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(30) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(31) The [Department] Division of Human Resource Management user training program, as provided in Section [67-19-6] 63A-17-106.

(32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(33) The Traffic Noise Abatement Program created in Section 72-6-112.

(34) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(35) A state rehabilitative employment program, as provided in Section 78A-6-210.

(36) The Utah Geological Survey, as provided in Section 79-3-401.

(37) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(38) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(39) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(40) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

Section 188. Section 67-1-8.1 is amended to read:

**67-1-8.1. Executive Residence Commission -- Recommendations as to use, maintenance, and operation of executive residence.**



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(1) The Legislature finds and declares that:

(a) the state property known as the Thomas Kearns Mansion is a recognized state landmark possessing historical and architectural qualities that should be preserved; and

(b) the Thomas Kearns Mansion was the first building listed on the National Register of Historic Places in the state.

(2) As used in this section:

(a) "Executive residence" includes the:

(i) Thomas Kearns Mansion;

(ii) Carriage House building; and

(iii) grounds and landscaping surrounding the Thomas Kearns Mansion and the Carriage House building.

(b) "Commission" means the Executive Residence Commission established in this section.

(3) (a) An Executive Residence Commission is established to make recommendations to the State Building Board for the use, operation, maintenance, repair, rehabilitation, alteration, restoration, placement of art and monuments, or adoptive use of the executive residence.

(b) The commission shall meet at least once a year and make any recommendations to the State Building Board prior to August 1 of each year.

(4) The commission shall consist of nine voting members and one ex officio, nonvoting member representing the Governor's Mansion Foundation. The membership shall consist of:

(a) three private citizens appointed by the governor, who have demonstrated an interest in historical preservation;

(b) three additional private citizens appointed by the governor with the following background:

(i) an interior design professional with a background in historic spaces;

(ii) an architect with a background in historic preservation and restoration recommended by the Utah chapter of the American Institute of Architects; and

(iii) a landscape architect with a background and knowledge of historic properties recommended by the Utah chapter of the American Society of Landscape Architects;

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(c) the director, or director's designee, of the Division of Art and Museums;

(d) the director, or director's designee, of the Division of State History; and

(e) the executive director, or executive director's designee, of the Department of  
[Administrative Services] Government Operations.

(5) (a) Except as required by Subsection (5)(b), as terms of current commission  
members expire, the governor shall appoint each new member or reappointed member to a  
four-year term ending on March 1.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the  
time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
commission members are staggered so that approximately half of the commission is appointed  
every two years.

(6) (a) The governor shall appoint a chair from among the membership of the  
commission.

(b) Six members of the commission shall constitute a quorum, and either the chair or  
two other members of the commission may call meetings of the commission.

(7) When a vacancy occurs in the membership for any reason, the replacement shall be  
appointed for the unexpired term.

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

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

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

(9) The Division of Facilities Construction and Management shall provide the  
administrative support to the commission.

Section 189. Section 67-5-7 is amended to read:

**67-5-7. Establishment of career service system.**

(1) The purpose of this chapter is to establish a career service system for employees of  
the Office of the Attorney General that will attract and retain employees of proven ability and  
experience who will devote their full time to the service of the state.

(2) The Office of the Attorney General may adopt policies necessary to implement this

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chapter, including personnel and work policies different from those made by the [Department] Division of Human Resource Management.

Section 190. Section 67-5-22 is amended to read:

### **67-5-22. Identity theft reporting information system -- Internet website and database -- Access -- Maintenance and rulemaking -- Criminal provisions.**

(1) There is created within the Office of the Attorney General the Identity Theft Reporting Information System (IRIS) Program to establish a database and Internet website to:

(a) allow persons in the state to submit reports of identity theft;

(b) assist the Office of the Attorney General in notifying state and local law enforcement agencies of reports of identity theft;

(c) provide assistance and resources to victims of identity theft;

(d) provide a centralized location where information related to incidents of identity theft may be securely stored and accessed for the benefit of victims of identity theft; and

(e) provide public education and information relating to identity theft.

(2) (a) The Internet website shall be maintained by the Office of the Attorney General and shall be made available to the public and to victims of identity-related crimes.

(b) The Internet website shall:

(i) allow a victim of an identity-related crime to report the crime on the website and have the victim's report routed to the appropriate law enforcement agency for the jurisdiction in which the crime occurred; and

(ii) provide public education and information relating to identity theft.

(c) The Internet website may be expanded to provide other identity-related services to victims according to the procedures of Subsection (4).

(3) (a) The [Department] Division of Technology Services shall administer and maintain the database established under this section in an electronic file or other format as established by the department.

(b) (i) The database shall be maintained for the purpose of identifying victims of identity theft who have filed a report with the program established under this section, and may contain the personally identifiable information for each victim, which may include the following information related to an incident of identify theft:

(A) the victim's name, address, email addresses, and telephone numbers;

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(B) the victim's Social Security number and other identifying information;

(C) the victim's financial institution information, account numbers, and transaction information;

(D) the victim's benefit information;

(E) the victim's credit account information;

(F) the victim's loan information;

(G) the victim's employment information;

(H) the victim's Internal Revenue Service or tax information;

(I) the victim's utility service information;

(J) information concerning legal matters or collections related to the incident;

(K) information concerning unauthorized or illegal transactions, denied credit, stolen identification, and all other unauthorized actions related to the identity theft; and

(L) any other information related to the incident of identity theft that the victim or the Office of the Attorney General elects to include in the database.

(ii) The database shall record and maintain:

(A) identification information for each person who requests or receives information from the database;

(B) a record of the information that is requested or received by each person who requests or receives information from the database; and

(C) a record of the date and time that any information is requested or provided from the database.

(c) Information in the database is considered to be the property of the Office of the Attorney General, and retains any classification given it under Title 63G, Chapter 2, Government Records Access and Management Act.

(4) The [Department] Division of Technology Services, with the approval of the Office of the Attorney General, may make rules to:

(a) permit the following persons to have access to the database:

(i) federal, state, and local law enforcement authorities, provided that the authority is acting within a specified duty of the authority's employment in enforcing laws;

(ii) participating merchants and financial institutions, provided that the merchant or institution has entered into an access agreement with the Office of the Attorney General; and

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(iii) other persons, to be established by rule, provided that the person's access to the information is necessary and reasonable to accomplish the purposes of the program as provided in Subsection (1);

(b) define and enforce limitations on access to information via the Internet website or in the database; and

(c) establish standards and procedures to ensure accurate identification of individuals that are requesting or receiving information from the Internet website or the database.

(5) (a) In addition to the penalties provided under Title 63G, Chapter 2, Government Records Access and Management Act, a person may not knowingly and intentionally release or disclose information from the database in violation of the limitations provided under Subsection (4)(a).

(b) A violation of Subsection (5)(a) is a third degree felony.

(6) (a) A person may not obtain or attempt to obtain information from the database by misrepresentation or fraud.

(b) A violation of Subsection (6)(a) is a third degree felony.

(7) (a) A person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person or entity any information obtained from the database for any purpose other than those specified under Subsection (4)(a).

(b) Each separate violation of Subsection (7)(a) is a third degree felony.

Section 191. Section 67-8-3 is amended to read:

**67-8-3. Compensation plan for appointive officers -- Exceptions -- Legislative approval -- Career status attorneys.**

(1) (a) The [executive] director of the [Department] Division of Human Resource Management, based upon recommendations of the Executive and Judicial Compensation Commission shall, before October 31 of each year, recommend to the governor a compensation plan for appointed officers of the state except those officers whose compensation is set under Section 49-11-203, 53E-3-302, 53B-1-408, or 53C-1-301.

(b) The plan shall include salaries and wages, paid leave, group insurance plans, retirement programs, and any other benefits that may be offered to state officers.

(2) The governor shall include in each annual budget proposal to the Legislature specific recommendations on compensation for those appointed state officers in Subsection (1).

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(3) (a) After consultation with the attorney general, the [executive] director of the [Department] Division of Human Resource Management shall place career status attorneys on a state salary schedule at a range comparable with salaries paid attorneys in private and other public employment.

(b) The attorney general and the executive director shall take into consideration the experience of the attorney, length of service with the Office of the Attorney General, quality of performance, and responsibility involved in legal assignments.

(c) The attorney general and the executive director shall periodically adjust the salary levels for attorneys in a career status to reasonably compensate them for full-time employment and the restrictions placed on the private practice of law.

Section 192. Section 67-8-5 is amended to read:

### **67-8-5. Duties of commission -- Salary recommendations.**

(1) The commission shall recommend to the Legislature:

(a) salaries for the governor, the lieutenant governor, the attorney general, the state auditor, and the state treasurer; and

(b) salaries for justices of the Supreme Court and judges of the constitutional and statutory courts of record.

(2) In making the salary recommendations described in Subsection (1), the commission shall:

(a) consider:

(i) the education and experience required for the position;

(ii) the responsibility required of the position;

(iii) whether the position requires accountability for funds or staff;

(iv) wages paid for other comparable public and private employment in the state and in other similarly situated states;

(v) any increase in the Consumer Price Index since the commission's last recommendations; and

(vi) any other factors typically used to make similar recommendations;

(b) consult with the [Department] Division of Human Resource Management; and

(c) for the salary recommendations described in Subsection (1)(b), consult with the Judicial Council.

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(3) No later than January 2, the commission shall submit an annual electronic report to the Executive Appropriations Committee, the president of the Senate, the speaker of the House of Representatives, and the governor that:

(a) briefly summarizes the commission's activities during the previous calendar year;

and

(b) provides any recommendations to modify the salaries of:

(i) the governor, lieutenant governor, attorney general, state auditor, or state treasurer;

or

(ii) the justices of the Supreme Court or judges of the constitutional and statutory courts of record.

(4) The Judicial Council shall cooperate with the commission in providing information relevant to the duties of the commission.

Section 193. Section 67-19a-101 is amended to read:

### 67-19a-101. Definitions.

As used in this chapter:

(1) "Abusive conduct" means the same as that term is defined in Section 67-26-102.

(2) "Administrator" means the person appointed under Section 67-19a-201 to head the Career Service Review Office.

(3) "Career service employee" means a person employed in career service as defined in Section 67-19-3.

(4) [~~"Department"~~] "Division" means the [~~Department~~] Division of Human Resource Management.

(5) "Employer" means the state of Utah and all supervisory personnel vested with the authority to implement and administer the policies of an agency.

(6) "Excusable neglect" means harmless error, mistake, inadvertence, surprise, a failure to discover evidence that, through due diligence, could not have been discovered in time to meet the applicable time period, misrepresentation or misconduct by the employer, or any other reason justifying equitable relief.

(7) "Grievance" means:

(a) a complaint by a career service employee concerning any matter touching upon the relationship between the employee and the employer;

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(b) any dispute between a career service employee and the employer;

(c) a complaint by a reporting employee that a public entity has engaged in retaliatory action against the reporting employee; and

(d) a complaint that the employer subjected the employee to conditions that a reasonable person would consider intolerable, including abusive conduct.

(8) "Office" means the Career Service Review Office created under Section 67-19a-201.

(9) "Public entity" means the same as that term is defined in Section 67-21-2.

(10) "Reporting employee" means an employee of a public entity who alleges that the public entity engaged in retaliatory action against the employee.

(11) "Retaliatory action" means to do any of the following to an employee in violation of Section 67-21-3:

(a) dismiss the employee;

(b) reduce the employee's compensation;

(c) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(d) fail to promote the employee if the employee would have otherwise been promoted;

or

(e) threaten to take an action described in Subsections (11)(a) through (d).

(12) "Supervisor" means the person:

(a) to whom an employee reports; or

(b) who assigns and oversees an employee's work.

Section 194. Section 67-19a-202 is amended to read:

**67-19a-202. Powers -- Scope of authority.**

(1) The office shall serve as the final administrative body to review a grievance from a career service employee and an agency of a decision regarding:

(a) a dismissal;

(b) a demotion;

(c) a suspension;

(d) a reduction in force;

(e) a dispute concerning abandonment of position;



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(f) a wage grievance if an employee is not placed within the salary range of the employee's current position;

(g) a violation of a rule adopted under Chapter [19] 17, Utah State Personnel Management Act; or

(h) except as provided by Subsection (4), equitable administration of the following benefits:

(i) long-term disability insurance;

(ii) medical insurance;

(iii) dental insurance;

(iv) post-retirement health insurance;

(v) post-retirement life insurance;

(vi) life insurance;

(vii) defined contribution retirement;

(viii) defined benefit retirement; and

(ix) a leave benefit.

(2) The office shall serve as the final administrative body to review a grievance by a reporting employee alleging retaliatory action.

(3) The office shall serve as the final administrative body to review, without an evidentiary hearing, the findings of an abusive conduct investigation described in Section 67-26-202 of a state executive branch agency employee.

(4) The office may not review or take action on:

(a) a personnel matter not listed in Subsections (1) through (3);

(b) a personnel matter listed in Subsections (1) through (3) that alleges discrimination or retaliation related to a claim of discrimination that is a violation of a state or federal law for which review and action by the office is preempted by state or federal law; or

(c) a personnel matter related to a claim for which an administrative review process is provided by statute and administered by:

(i) the Utah State Retirement Systems under Title 49, Utah State Retirement and Insurance Benefit Act;

(ii) the Public Employees' Benefit and Insurance Program under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

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(iii) the Public Employees' Long-Term Disability Program under Title 49, Chapter 21, Public Employees' Long-Term Disability Act.

(5) The time limits established in this chapter supersede the procedural time limits established in Title 63G, Chapter 4, Administrative Procedures Act.

Section 195. Section 67-19a-205 is amended to read:

### **67-19a-205. Employment transfer.**

At any point during the grievance process, the employer and the employee may mutually agree to a transfer of the employee to another equivalent position, if and to the extent that such a position is available, in accordance with [department] division rules for transfer and reassignment.

Section 196. Section 67-19a-303 is amended to read:

### **67-19a-303. Employees' rights in grievance procedure.**

(1) For the purpose of submitting and advancing a grievance, a career service employee, or a reporting employee alleging retaliatory action, may:

(a) obtain assistance by a representative of the employee's choice to act as an advocate at any level of the grievance procedure;

(b) request a reasonable amount of time during work hours to confer with the representative and prepare the grievance; and

(c) call other employees as witnesses at a grievance hearing.

(2) The state shall allow employees to attend and testify at the grievance hearing as witnesses if the employee has given reasonable advance notice to the employee's immediate supervisor.

(3) No person may take any reprisals against a career service employee or a reporting employee for:

(a) use of or participation in a grievance procedure described in this chapter; or

(b) representing and providing assistance to a career service employee as an advocate in accordance with Subsection (1)(a).

(4) If the individual acting as an advocate for a career service employee under Subsection (1)(a) is a state employee, the individual may not receive state compensation for the time the employee spends in the course of that representation unless the individual uses approved leave during that time.

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(5) (a) The employing agency of an employee who files a grievance may not place grievance forms, grievance materials, correspondence about the grievance, agency and [department] division replies to the grievance, or other documents relating to the grievance in the employee's personnel file.

(b) The employing agency of an employee who files a grievance may place records of disciplinary action in the employee's personnel file.

(c) If any disciplinary action against an employee is rescinded through the grievance procedures described in this chapter, the agency and the [Department] Division of Human Resource Management shall remove the record of the disciplinary action from the employee's agency personnel file and central personnel file.

(d) An agency may maintain a separate grievance file relating to an employee's grievance, but shall discard the file after three years.

Section 197. Section 67-19a-501 is amended to read:

**67-19a-501. Procedural steps to be followed in an administrative review of an abusive conduct investigation.**

(1) An employee of a state executive branch agency, as defined in Section 67-26-102, may, under Subsection 67-19a-202(3), initiate an administrative review of the findings of an abusive conduct investigation within 10 days after the day on which the employee receives notification of the investigative findings.

(2) (a) An employee bringing an administrative review of the findings described in Subsection (1) may file the request for the administrative review directly with the office.

(b) The request for administrative review may describe the reasons for the administrative review and include any submissions the employee desires to submit.

(3) (a) When an employee initiates the review described in Subsection (2) with the office:

(i) the role of the administrative review is to review and rule upon the findings of the abusive conduct investigation; and

(ii) an evidentiary hearing is not required.

(b) The [department] division shall make the abusive conduct investigative file available for the office's in camera review.

(c) The office may:

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(i) request additional relevant documents from the [department] division or the affected employee; and

(ii) interview the employee who initiated the administrative review and the investigators who conducted the investigation.

(4) (a) The office may overturn the findings of the abusive conduct investigation if the office determines that:

(i) the findings are not reasonable, rational, or sufficiently supported by the evidence;

or

(ii) the facts on which the findings are based are inaccurate.

(b) The office may uphold the findings of the abusive conduct investigation if the office determines that:

(i) the findings are reasonable, rational, and sufficiently supported by the evidence; and

(ii) the facts on which the findings are based are accurate.

(5) (a) Within 30 days after the day on which an employee initiates an administrative review under this section, the office shall issue a notice stating whether the office upheld or overturned the investigative findings.

(b) The office's determination upon administrative review of the findings resulting from an abusive conduct investigation is final and not subject to appeal.

(c) The following are classified as protected under Title 63G, Chapter 2, Government Records Access and Management Act, and any other applicable confidentiality provisions:

(i) the request for administrative review and any accompanying documents;

(ii) documents that any party provides;

(iii) the contents of the administrative review file; and

(iv) the office's determination.

Section 198. Section 67-19d-201 is amended to read:

**67-19d-201. Trust fund -- Creation -- Oversight -- Dissolution.**

(1) There is created a post-retirement benefits trust fund entitled the "State Post-Retirement Benefits Trust Fund."

(2) The trust fund consists of:

(a) revenue provided from an ongoing labor additive as defined in Subsection 67-19d-202(2)(g);

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(b) appropriations made to the fund by the Legislature, if any;

(c) income as defined in Section 67-19d-102; and

(d) other revenues received from other sources.

(3) The Division of Finance shall account for the receipt and expenditures of trust fund money.

(4) (a) The state treasurer shall invest trust fund money by following the procedures and requirements of Part 3, Trust Fund Investments.

(b) (i) The trust fund shall earn interest.

(ii) The state treasurer shall deposit all interest or other income earned from investment of the trust fund back into the trust fund.

(5) The board of trustees created in Section 67-19d-202 may expend money from the trust fund for:

(a) the employer portion of the costs of the programs established in Sections ~~[67-19-14 through 67-19-14.4]~~ 63A-17-505 through 63A-17-508; and

(b) reasonable administrative costs that the board of trustees incurs in performing their duties as trustees of the trust fund.

(6) The board of trustees shall ensure that:

(a) money deposited into the trust fund is irrevocable and is expended only for the employer portion of the costs of post-retirement benefits;

(b) assets of the trust fund are dedicated to providing benefits to retirees and their beneficiaries according to the terms of the post-retirement benefit plans established by statute and rule; and

(c) creditors of the board of trustees and of employers liable for the post-retirement benefits may not seize, attach, or otherwise obtain assets of the trust fund.

(7) When all of the liabilities for which the trust fund was created are paid, the Division of Finance shall transfer any assets remaining in the state trust fund into the appropriate fund.

Section 199. Section **67-19f-102** is amended to read:

**67-19f-102. Definitions.**

As used in this chapter:

(1) "Annual leave II" ~~[is as]~~ means the same as that term is defined in Section

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[67-19-14.6] 63A-17-510.

(2) "Board of trustees" or "board" means the board of trustees created in Section 67-19f-202.

(3) "Income" means the revenues received by the state treasurer from investments of the trust fund principal.

(4) "Trust fund" means the State Employees' Annual Leave Trust Fund created in Section 67-19f-201.

Section 200. Section 67-19f-201 is amended to read:

### 67-19f-201. Trust fund -- Creation -- Oversight -- Dissolution.

(1) There is created a trust fund entitled the "State Employees' Annual Leave Trust Fund."

(2) The trust fund consists of:

(a) ongoing revenue provided from a state agency set aside for accrued annual leave II required under Section [67-19-14.6] 63A-17-510;

(b) appropriations made to the trust fund by the Legislature, if any;

(c) transfers from the termination pool described in Subsection [67-19-14.6] 63A-17-510(6) made by the Division of Finance to the trust fund for annual leave liabilities accrued before the change date established under Section [67-19-14.6] 63A-17-510;

(d) income; and

(e) revenue received from other sources.

(3) (a) The Division of Finance shall account for the receipt and expenditures of trust fund money.

(b) The Division of Finance shall make the necessary adjustments to the amount of set aside costs required under Subsection [67-19-14.6] 63A-17-510(4)(a) to provide that upon the trust fund's accrual of funding equal to 10% of the annual leave liability, year-end trust fund balances remain equal to at least 10% of the total state employee annual leave liability.

(4) (a) The state treasurer shall invest trust fund money by following the procedures and requirements of Part 3, Investment of Trust Funds.

(b) (i) The trust fund shall earn interest.

(ii) The state treasurer shall deposit all interest or other income earned from investment of the trust fund back into the trust fund.

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(5) The board of trustees created in Section 67-19f-202 may expend money from the trust fund for:

(a) reimbursement to the employer of the costs paid to the trust fund in accordance with Section [67-19-14.6] 63A-17-510 as annual leave II is used by an employee;

(b) payments based on accrued annual leave and on accrued annual leave II that are made upon termination of an employee; and

(c) reasonable administrative costs that the board of trustees incurs in performing its duties as trustee of the trust fund.

(6) The board of trustees shall ensure that:

(a) money deposited into the trust fund is irrevocable and is expended only for the costs described in Subsection (5); and

(b) assets of the trust fund are dedicated to providing annual leave and annual leave II established by statute and rule.

(7) A creditor of the board of trustees or a state agency liable for annual leave benefits may not seize, attach, or otherwise obtain assets of the trust fund.

Section 201. Section 67-20-8 is amended to read:

### **67-20-8. Volunteer experience credit.**

(1) State agencies shall designate positions for which approved volunteer experience satisfies the job requirements for purposes of employment.

(2) When evaluating applicants for those designated positions, state agencies shall consider documented approved volunteer experience in the same manner as similar paid employment.

(3) The [Department] Division of Human Resource Management shall make statewide rules governing the:

(a) designation of volunteer positions; and

(b) a uniform process to document the approval, use, and hours worked by volunteers.

Section 202. Section 67-22-2 is amended to read:

### **67-22-2. Compensation -- Other state officers.**

(1) As used in this section:

(a) "Appointed executive" means the:

(i) commissioner of the Department of Agriculture and Food;

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- (ii) commissioner of the Insurance Department;
- (iii) commissioner of the Labor Commission;
- (iv) director, Department of Alcoholic Beverage Control;
- (v) commissioner of the Department of Financial Institutions;
- (vi) executive director, Department of Commerce;
- (vii) executive director, Commission on Criminal and Juvenile Justice;
- (viii) adjutant general;
- (ix) executive director, Department of Heritage and Arts;
- (x) executive director, Department of Corrections;
- (xi) commissioner, Department of Public Safety;
- (xii) executive director, Department of Natural Resources;
- (xiii) executive director, Governor's Office of Management and Budget;
- (xiv) executive director, Department of [Administrative Services] Government

### Operations:

- [~~(xv)~~ executive director, Department of Human Resource Management;]
- [~~(xvi)~~] (xv) executive director, Department of Environmental Quality;
- [~~(xvii)~~] (xvi) executive director, Governor's Office of Economic Development;
- [~~(xviii)~~] (xvii) executive director, Utah Science Technology and Research Governing

### Authority:

- [~~(xix)~~] (xviii) executive director, Department of Workforce Services;
  - [~~(xx)~~] (xix) executive director, Department of Health, Nonphysician;
  - [~~(xxi)~~] (xx) executive director, Department of Human Services;
  - [~~(xxii)~~] (xxi) executive director, Department of Transportation; and
  - [~~(xxiii)~~ executive director, Department of Technology Services; and]
  - [~~(xxiv)~~] (xxii) executive director, Department of Veterans and Military Affairs.
- (b) "Board or commission executive" means:
- (i) members, Board of Pardons and Parole;
  - (ii) chair, State Tax Commission;
  - (iii) commissioners, State Tax Commission;
  - (iv) executive director, State Tax Commission;
  - (v) chair, Public Service Commission; and



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(vi) commissioners, Public Service Commission.

(c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the [Department] Division of Human Resource Management.

(2) (a) The [executive] director of the [Department] Division of Human Resource Management shall:

(i) before October 31 of each year, recommend to the governor a compensation plan for the appointed executives and the board or commission executives; and

(ii) base those recommendations on market salary studies conducted by the [Department] Division of Human Resource Management.

(b) (i) The [Department] Division of Human Resource Management shall determine the salary range for the appointed executives by:

(A) identifying the salary range assigned to the appointed executive's deputy;

(B) designating the lowest minimum salary from those deputies' salary ranges as the minimum salary for the appointed executives' salary range; and

(C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.

(ii) If the deputy is a medical doctor, the [Department] Division of Human Resource Management may not consider that deputy's salary range in designating the salary range for appointed executives.

(c) (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the [Department] Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii) or (iii), the [Department] Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a specific salary for each appointed executive within the range established under Subsection (2)(b).

(ii) If the executive director of the Department of Health is a physician, the governor

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shall establish a salary within the highest physician salary range established by the [Department] Division of Human Resource Management.

(iii) The governor may provide salary increases for appointed executives within the range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

(b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.

(c) The governor may develop standards and criteria for reviewing the appointed executives.

(4) Salaries for other Schedule A employees, as defined in Section [67-19-15] 63A-17-301, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial Salary Act, shall be established as provided in Section [67-19-15] 63A-17-301.

(5) (a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:

(i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(ii) health insurance;

(iii) dental insurance;

(iv) basic life insurance;

(v) unemployment compensation;

(vi) workers' compensation;

(vii) required employer contribution to Social Security;

(viii) long-term disability income insurance;

(ix) the same additional state-paid life insurance available to other noncareer service employees;

(x) the same severance pay available to other noncareer service employees;

(xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:

(A) sick leave;

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(B) converted sick leave if accrued prior to January 1, 2014;

(C) educational allowances;

(D) holidays; and

(E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;

(xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;

(xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and

(xiv) professional memberships if being a member of the professional organization is a requirement of the position.

(b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.

(6) The Legislature fixes the following additional benefits:

(a) for the executive director of the State Tax Commission a vehicle for official and personal use;

(b) for the executive director of the Department of Transportation a vehicle for official and personal use;

(c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;

(d) for the commissioner of Public Safety:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(e) for the executive director of the Department of Corrections:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(f) for the adjutant general a vehicle for official and personal use; and

(g) for each member of the Board of Pardons and Parole a vehicle for commute and official use.

Section 203. Section 67-26-102 is amended to read:

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### **67-26-102. Definitions.**

As used in this chapter:

(1) (a) "Abusive conduct" means verbal, nonverbal, or physical conduct of an employee to another employee of the same employer that, based on the severity, nature, or frequency of the conduct, a reasonable person would determine:

(i) is intended to cause intimidation, humiliation, or unwarranted distress;

(ii) results in substantial physical harm or substantial psychological harm as a result of intimidation, humiliation, or unwarranted distress; or

(iii) exploits an employee's known physical or psychological disability.

(b) "Abusive conduct" does not mean a single act unless the act is an especially severe and egregious act that meets the standard described in Subsection (1)(a)(i), (ii), or (iii).

(2) "Abusive conduct complaint process" means the process described in Section 67-26-202.

(3) "Administrative review process" means a process that allows an employee, in relation to the findings of an abusive conduct investigation, to seek an administrative review that:

(a) an employer conducts in accordance with Section 67-26-202; or

(b) in relation to a state executive branch agency, the [office] Career Service Review Office conducts in accordance with Section 67-19a-501.

(4) ["Department"] "Division" means the [Department] Division of Human Resource Management.

(5) (a) "Employee" means an employee of an employer.

(b) "Employee" includes an elected or appointed official of an employer.

(6) "Employer" means:

(a) a state executive branch agency; or

(b) an independent entity, as defined in Section 63E-1-102.

(7) "Office" means the Career Service Review Office created under Section 67-19a-201.

(8) "Physical harm" means the impairment of an individual's physical health or bodily integrity, as established by competent evidence.

(9) "Psychological harm" means the impairment of an individual's mental health, as

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established by competent evidence.

(10) (a) "State executive branch agency" means a department, division, office, bureau, or other organization within the state executive branch.

(b) "State executive branch agency" includes an agency under the authority of the governor, lieutenant governor, state treasurer, state auditor, or attorney general.

(c) "State executive branch agency" does not include the Utah System of Higher Education or an independent entity, as defined in Section 63E-1-102.

Section 204. Section 67-26-202 is amended to read:

**67-26-202. Abusive conduct complaint, investigation, administrative review process.**

(1) An employee may file a written complaint of abusive conduct with the human resources department of the employee's employer if the complaint is against an employee of the same employer as the employee filing the complaint.

(2) If an employee files a written complaint of abusive conduct under Subsection (1), the human resources department of the employee's employer shall conduct an abusive conduct investigation.

(3) (a) Each employer that is not a state executive branch agency:

(i) shall provide the employer's employees a process for:

(A) filing an abusive conduct complaint, including an alternative process if the complaint involves an individual who would otherwise receive or review an abusive conduct complaint; and

(B) an administrative review of the findings of an abusive conduct investigation described in Subsection (2) that is substantially similar to the administrative review process described in Section 67-19a-501; and

(ii) may request assistance from the [department] division, at the [department's] division's current consultant rate, or the office, at a reasonable rate established by the office, in developing a process described in this Subsection (3)(a).

(b) The [department] division shall provide a process for an employee of a state executive branch agency to file an abusive conduct complaint, including an alternative process if the complaint involves an individual who would otherwise receive or review an abusive conduct complaint.

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(4) The complaint described in Subsection (1) and a subsequent abusive conduct investigation are subject to:

(a) in relation to an employer other than a state executive branch agency, the administrative review process described in Subsection (3)(a); and

(b) in relation to a state executive branch agency, the office's administrative review process described in Section 67-19a-501.

Section 205. Section 67-26-301 is amended to read:

### **67-26-301. Abusive conduct training.**

(1) (a) The [department] division shall provide biennial training to educate all state executive branch agency employees and supervisors about how to prevent abusive workplace conduct.

(b) The training described in Subsection (1)(a) shall include information on:

(i) what constitutes abusive conduct and the ramifications of abusive conduct;

(ii) resources available to employees who are subject to abusive conduct; and

(iii) the abusive conduct complaint process described in Section 67-26-202.

(2) (a) The [department] division shall create a baseline training module for employers that are not state executive branch agencies to educate the employers' respective employees and supervisors about how to prevent abusive workplace conduct.

(b) The baseline training module described in Subsection (2)(a) shall include information on what constitutes abusive conduct and the ramifications of abusive conduct.

(c) Each employer that is not a state executive branch agency shall create and provide supplemental training to educate the employer's employees and supervisors that supplements the [department's] division's baseline training module with information regarding:

(i) resources available to employees who are subject to abusive conduct; and

(ii) the employer's abusive conduct complaint process described in Section 67-26-202.

(d) An employer may request assistance from the [department] division, at the [department's] division's current consultant rate, in developing the training described in Subsection (2)(c).

(3) (a) Each employer shall provide professional development training to promote:

(i) ethical conduct;

(ii) organizational leadership practices based in principles of integrity; and

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(iii) the state policy described in Section 67-26-201.

(b) An employer may request assistance from the [department] division, at the [department's] division's current consultation rate, in developing training described in this Subsection (3).

(4) (a) Employers shall provide and employees shall participate in the training described in this section:

(i) at the time the employee is hired or within a reasonable time after the employee begins employment; and

(ii) at least every other year after the employee begins employment.

(b) An employer shall, at the times described in Subsection (4)(a), provide notification to the employee of the abusive conduct complaint process.

(5) The [department] division may use money appropriated to the [department] division or access support from outside resources to:

(a) develop policies against workplace abusive conduct; and

(b) enhance professional development training on topics such as:

(i) building trust;

(ii) effective motivation;

(iii) communication;

(iv) conflict resolution;

(v) accountability;

(vi) coaching;

(vii) leadership; or

(viii) ethics.

(6) (a) Beginning in 2021, and each year after 2021, an employer that is not a state executive branch agency shall, on or before July 31, report to the [department] division regarding:

(i) the employer's implementation of this chapter, including the requirement to provide a process under Section 67-26-202; and

(ii) the total number and outcomes of abusive conduct complaints that the employer's employees filed and that the employer investigated or reviewed.

(b) The [department] division shall annually report to the Economic Development and

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Workforce Services Interim Committee, no later than the November interim meeting, the following:

- (i) a description the [department's] division's implementation of this chapter;
- (ii) the [department's] division's recommendations, if any, to:
  - (A) appropriately address and reduce workplace abusive conduct; or
  - (B) change definitions or training required by this section;
- (iii) an annual report of the total number and outcomes of abusive conduct complaints

that employees filed and the department investigated; and

- (iv) a summary of the reports the department receives under Subsection (6)(a).

Section 206. Section 72-1-202 is amended to read:

**72-1-202. Executive director of department -- Appointment -- Qualifications -- Term -- Responsibility -- Power to bring suits -- Salary.**

(1) (a) The governor, with the advice and consent of the Senate, shall appoint an executive director to be the chief executive officer of the department.

(b) The executive director shall be a registered professional engineer and qualified executive with technical and administrative experience and training appropriate for the position.

(c) The executive director shall remain in office until a successor is appointed.

(d) The executive director may be removed by the governor.

(2) In addition to the other functions, powers, duties, rights, and responsibilities prescribed in this chapter, the executive director shall:

(a) have responsibility for the administrative supervision of the state transportation systems and the various operations of the department;

(b) have the responsibility for the implementation of rules, priorities, and policies established by the department and the commission;

(c) have the responsibility for the oversight and supervision of any transportation project for which state funds are expended;

(d) have full power to bring suit in courts of competent jurisdiction in the name of the department as the executive director considers reasonable and necessary for the proper attainment of the goals of this chapter;

(e) receive a salary, to be established by the governor within the salary range fixed by



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the Legislature in Title 67, Chapter 22, State Officer Compensation, together with actual traveling expenses while away from the executive director's office on official business;

(f) purchase all equipment, services, and supplies necessary to achieve the department's functions, powers, duties, rights, and responsibilities delegated under Section 72-1-201;

(g) have the responsibility to determine whether a purchase from, contribution to, or other participation with a public entity or association of public entities in a pooled fund program to acquire, develop, or share information, data, reports, or other services related to the department's mission are procurement items under Title 63G, Chapter 6a, Utah Procurement Code;

(h) have responsibility for administrative supervision of the Comptroller Division, the Internal Audit Division, and the Communications Division; and

(i) appoint assistants, to serve at the discretion of the executive director, to administer the divisions of the department.

(3) The executive director may employ other assistants and advisers as the executive director finds necessary and fix salaries in accordance with the salary standards adopted by the [Department] Division of Human Resource Management.

Section 207. Section 79-2-401 is amended to read:

### **79-2-401. Volunteer workers authorized.**

(1) The department and its divisions may use volunteer workers to supplement the salaried work force.

(2) A volunteer may be reimbursed for expenses actually and necessarily incurred, including transportation, meals, lodging, uniforms, and other items as approved by the Division of Finance, in the amounts and in accordance with the rules of the Division of Finance.

(3) A volunteer is considered an employee of the state for the purposes stated in Section 67-20-3.

(4) A volunteer may not donate a service to the department or a division unless the work program in which the volunteer would serve has first been approved, in writing, by the executive director and the [executive] director of the [Department] Division of Human Resource Management.

(5) Volunteer services shall comply with the rules adopted by the [Department] Division of Human Resource Management relating to the services that are not inconsistent with

## SB0181S01 compared with SB0181

this section.

Section ~~{230}~~208. Repealer.

This bill repeals:

Section 63F-1-105, Appointment of executive director -- Compensation --

**Authority.**

Section 63F-1-302, Information Technology Rate Committee -- Membership --

**Duties.**

Section 63F-1-401, Title.

Section 63F-1-501, Title.

Section 63F-1-601, Title.

Section 63F-2-101, Title.

Section 63F-3-101, Title.

Section 63F-4-101, Title.

Section 67-19-29, Violation a misdemeanor.

Section 67-19d-101, Title.

Section 67-19e-101, Title.

Section 67-19f-101, Title.

Section 67-25-101, Title.

Section 67-25-301, Title.

Section 67-26-101, Title.

Section ~~{231}~~209. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

Subsection 209(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**ITEM 1**

To Department of Human Resource Management - Human Resource Management

From General Fund

(42,400)

## SB0181S01 compared with SB0181

From Beginning Nonlapsing Balances (82,600)

From Closing Nonlapsing Balances 105,900

Schedule of Programs:

Statewide Management Liability Training (19,100)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Human Resource Management - Human Resource Management as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Human Resource Management.

ITEM 2

To Department of Government Operations - Human Resource Management

From General Fund 42,400

From Beginning Nonlapsing Balances 82,600

From Closing Nonlapsing Balances (105,900)

Schedule of Programs:

Statewide Management Liability Training 19,100

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Human Resource Management - Human Resource Management as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Human Resource Management.

ITEM 3

To Department of Administrative Services - Administrative Rules

From General Fund (705,500)

From General Fund, One-time (1,900)

From Beginning Nonlapsing Balances (261,600)

From Closing Nonlapsing Balances 324,300

Schedule of Programs:

DAR Administration (644,700)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of

## **SB0181S01 compared with SB0181**

Administrative Services - Administrative Rules as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Administrative Rules.

### ITEM 4

To Department of Government Operations - Administrative Rules

From General Fund 705,500

From General Fund, One-time 1,900

From Beginning Nonlapsing Balances 261,600

From Closing Nonlapsing Balances (324,300)

Schedule of Programs:

DAR Administration 644,700

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Administrative Rules as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Administrative Rules.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the Office of Administrative Rules line item, whose mission is "to enable citizen participation in their own government by supporting agency rulemaking and ensuring agency compliance with the Utah Administrative Rulemaking Act." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) average number of business days to review rule filings (target: 4 days or less); and 2) average number of days from the effective date to publish the final version of an administrative rule after the rule becomes effective (target: 14 days or less).

### ITEM 5

To Department of Administrative Services - DFCM Administration

From General Fund (3,659,300)

From General Fund, One-time (11,500)

From Education Fund (734,600)

From Education Fund, One-time (2,600)

From Dedicated Credits Revenue (1,003,900)

## SB0181S01 compared with SB0181

|                                                 |                    |
|-------------------------------------------------|--------------------|
| <u>From Dedicated Credits Revenue, One-time</u> | <u>(3,400)</u>     |
| <u>From Capital Projects Fund</u>               | <u>(3,858,100)</u> |
| <u>From Capital Projects Fund, One-time</u>     | <u>(13,400)</u>    |
| <u>From Beginning Nonlapsing Balances</u>       | <u>(577,100)</u>   |
| <u>From Closing Nonlapsing Balances</u>         | <u>189,300</u>     |
| <u>Schedule of Programs:</u>                    |                    |
| <u>DFCM Administration</u>                      | <u>(8,959,300)</u> |
| <u>Energy Program</u>                           | <u>(538,200)</u>   |
| <u>Governor's Residence</u>                     | <u>(177,100)</u>   |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - DFCM Administration as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - DFCM Administration.

### ITEM 6

|                                                                     |                  |
|---------------------------------------------------------------------|------------------|
| <u>To Department of Government Operations - DFCM Administration</u> |                  |
| <u>From General Fund</u>                                            | <u>3,659,300</u> |
| <u>From General Fund, One-time</u>                                  | <u>11,500</u>    |
| <u>From Education Fund</u>                                          | <u>734,600</u>   |
| <u>From Education Fund, One-time</u>                                | <u>2,600</u>     |
| <u>From Dedicated Credits Revenue</u>                               | <u>1,003,900</u> |
| <u>From Dedicated Credits Revenue, One-time</u>                     | <u>3,400</u>     |
| <u>From Capital Projects Fund</u>                                   | <u>3,858,100</u> |
| <u>From Capital Projects Fund, One-time</u>                         | <u>13,400</u>    |
| <u>From Beginning Nonlapsing Balances</u>                           | <u>577,100</u>   |
| <u>From Closing Nonlapsing Balances</u>                             | <u>(189,300)</u> |
| <u>Schedule of Programs:</u>                                        |                  |
| <u>DFCM Administration</u>                                          | <u>8,959,300</u> |
| <u>Energy Program</u>                                               | <u>538,200</u>   |
| <u>Governor's Residence</u>                                         | <u>177,100</u>   |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of

## **SB0181S01 compared with SB0181**

Administrative Services - DFCM Administration as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - DFCM Administration.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the DFCM Administration line item, whose mission is "to provide professional services to assist State entities in meeting their facility needs for the benefit of the public." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) capital improvement projects completed in the fiscal year they are funded (target: at least 86%); and 2) accuracy of Capital Budget Estimates (CBE) (baseline +/- 10%; target +/- 5%).

The Legislature intends that any excess DFCM Project Reserve Funds or Contingency Reserve Funds, as determined by DFCM's analysis of current balances and projected needs, will be transferred to the Utah State Correctional Facility project before any other uses of these funds for FY 2022.

### ITEM 7

To Department of Administrative Services - Finance - Elected Official Post-Retirement Benefits Contribution

From General Fund (1,248,800)

Schedule of Programs:

Elected Official Post-Retirement Trust Fund (1,248,800)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance - Elected Official Post-Retirement Benefits Contribution as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance - Elected Official Post-Retirement Benefits Contribution.

### ITEM 8

To Department of Government Operations - Finance - Elected Official Post-Retirement Benefits Contribution

From General Fund 1,248,800

Schedule of Programs:

## **SB0181S01 compared with SB0181**

Elected Official Post-Retirement Trust Fund                      1,248,800

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance - Elected Official Post-Retirement Benefits Contribution as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance - Elected Official Post-Retirement Benefits Contribution.

### ITEM 9

To Department of Administrative Services - Executive Director

|                                                 |                    |
|-------------------------------------------------|--------------------|
| <u>From General Fund</u>                        | <u>(1,558,300)</u> |
| <u>From General Fund, One-time</u>              | <u>(2,700)</u>     |
| <u>From Dedicated Credits Revenue</u>           | <u>(238,700)</u>   |
| <u>From Dedicated Credits Revenue, One-time</u> | <u>(600)</u>       |
| <u>From Beginning Nonlapsing Balances</u>       | <u>(250,000)</u>   |
| <u>From Closing Nonlapsing Balances</u>         | <u>150,000</u>     |

Schedule of Programs:

Executive Director                                              (1,900,300)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Executive Director as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Executive Director.

### ITEM 10

To Department of Government Operations - Executive Director

|                                                 |                  |
|-------------------------------------------------|------------------|
| <u>From General Fund</u>                        | <u>1,558,300</u> |
| <u>From General Fund, One-time</u>              | <u>2,700</u>     |
| <u>From Dedicated Credits Revenue</u>           | <u>238,700</u>   |
| <u>From Dedicated Credits Revenue, One-time</u> | <u>600</u>       |
| <u>From Beginning Nonlapsing Balances</u>       | <u>250,000</u>   |
| <u>From Closing Nonlapsing Balances</u>         | <u>(150,000)</u> |

Schedule of Programs:

Executive Director                                              1,900,300

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of

## SB0181S01 compared with SB0181

Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Executive Director as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Executive Director.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the Executive Director line item, whose mission is "to create innovative solutions to transform government services." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) independent evaluation/audit of divisions/key programs (target: at least 4 annually); and 2) air quality improvement activities across state agencies (targets: 25 activities each year).

### ITEM 11

#### To Department of Administrative Services - Finance - Mandated

|                                                                             |                    |
|-----------------------------------------------------------------------------|--------------------|
| <u>From General Fund</u>                                                    | <u>(5,278,000)</u> |
| <u>From General Fund, One-time</u>                                          | <u>4,500,000</u>   |
| <u>From General Fund Restricted - Economic Incentive Restricted Account</u> | <u>(3,255,000)</u> |
| <u>From Gen. Fund Rest. - Land Exchange Distribution Account</u>            | <u>(308,200)</u>   |

#### Schedule of Programs:

|                                         |                    |
|-----------------------------------------|--------------------|
| <u>Development Zone Partial Rebates</u> | <u>(3,255,000)</u> |
| <u>Land Exchange Distribution</u>       | <u>(308,200)</u>   |
| <u>State Employee Benefits</u>          | <u>(778,000)</u>   |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance - Mandated as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance - Mandated.

### ITEM 12

#### To Department of Government Operations - Finance - Mandated

|                                                                             |                    |
|-----------------------------------------------------------------------------|--------------------|
| <u>From General Fund</u>                                                    | <u>5,278,000</u>   |
| <u>From General Fund, One-time</u>                                          | <u>(4,500,000)</u> |
| <u>From General Fund Restricted - Economic Incentive Restricted Account</u> | <u>3,255,000</u>   |
| <u>From Gen. Fund Rest. - Land Exchange Distribution Account</u>            | <u>308,200</u>     |



## SB0181S01 compared with SB0181

### Schedule of Programs:

|                                         |                  |
|-----------------------------------------|------------------|
| <u>Development Zone Partial Rebates</u> | <u>3,255,000</u> |
| <u>Land Exchange Distribution</u>       | <u>308,200</u>   |
| <u>State Employee Benefits</u>          | <u>778,000</u>   |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance - Mandated as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance - Mandated.

### ITEM 13

|                                                                                           |                 |
|-------------------------------------------------------------------------------------------|-----------------|
| <u>To Department of Administrative Services - Finance - Mandated - Ethics Commissions</u> |                 |
| <u>From General Fund</u>                                                                  | <u>(17,300)</u> |
| <u>From Beginning Nonlapsing Balances</u>                                                 | <u>(99,100)</u> |
| <u>From Closing Nonlapsing Balances</u>                                                   | <u>100,700</u>  |

### Schedule of Programs:

|                                                 |                 |
|-------------------------------------------------|-----------------|
| <u>Executive Branch Ethics Commission</u>       | <u>(5,700)</u>  |
| <u>Political Subdivisions Ethics Commission</u> | <u>(10,000)</u> |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance - Mandated - Ethics Commissions as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance - Mandated - Ethics Commissions.

### ITEM 14

|                                                                                         |                  |
|-----------------------------------------------------------------------------------------|------------------|
| <u>To Department of Government Operations - Finance - Mandated - Ethics Commissions</u> |                  |
| <u>From General Fund</u>                                                                | <u>17,300</u>    |
| <u>From Beginning Nonlapsing Balances</u>                                               | <u>99,100</u>    |
| <u>From Closing Nonlapsing Balances</u>                                                 | <u>(100,700)</u> |

### Schedule of Programs:

|                                                 |               |
|-------------------------------------------------|---------------|
| <u>Executive Branch Ethics Commission</u>       | <u>5,700</u>  |
| <u>Political Subdivisions Ethics Commission</u> | <u>10,000</u> |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of

## SB0181S01 compared with SB0181

Administrative Services - Finance - Mandated - Ethics Commissions as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance - Mandated - Ethics Commissions.

### ITEM 15

To Department of Administrative Services - Finance Administration

|                                                                        |                    |
|------------------------------------------------------------------------|--------------------|
| <u>From General Fund</u>                                               | <u>(7,047,100)</u> |
| <u>From General Fund, One-time</u>                                     | <u>(21,900)</u>    |
| <u>From Transportation Fund</u>                                        | <u>(450,000)</u>   |
| <u>From Dedicated Credits Revenue</u>                                  | <u>(1,844,500)</u> |
| <u>From Dedicated Credits Revenue, One-time</u>                        | <u>(7,300)</u>     |
| <u>From Gen. Fund Rest. - Internal Service Fund Overhead</u>           | <u>(1,337,600)</u> |
| <u>From Gen. Fund Rest. - Internal Service Fund Overhead, One-time</u> | <u>(3,000)</u>     |
| <u>From Qualified Patient Enterprise Fund</u>                          | <u>(2,500)</u>     |
| <u>From Beginning Nonlapsing Balances</u>                              | <u>(835,800)</u>   |
| <u>From Closing Nonlapsing Balances</u>                                | <u>200,500</u>     |

Schedule of Programs:

|                                      |                    |
|--------------------------------------|--------------------|
| <u>Finance Director's Office</u>     | <u>(550,900)</u>   |
| <u>Financial Information Systems</u> | <u>(4,336,300)</u> |
| <u>Financial Reporting</u>           | <u>(2,039,100)</u> |
| <u>Payables/Disbursing</u>           | <u>(2,095,900)</u> |
| <u>Payroll</u>                       | <u>(2,027,600)</u> |
| <u>Technical Services</u>            | <u>(299,400)</u>   |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance Administration as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance Administration.

### ITEM 16

To Department of Government Operations - Finance Administration

|                                    |                  |
|------------------------------------|------------------|
| <u>From General Fund</u>           | <u>7,047,100</u> |
| <u>From General Fund, One-time</u> | <u>21,900</u>    |
| <u>From Transportation Fund</u>    | <u>450,000</u>   |

## SB0181S01 compared with SB0181

|                                                                        |                  |
|------------------------------------------------------------------------|------------------|
| <u>From Dedicated Credits Revenue</u>                                  | <u>1,844,500</u> |
| <u>From Dedicated Credits Revenue, One-time</u>                        | <u>7,300</u>     |
| <u>From Gen. Fund Rest. - Internal Service Fund Overhead</u>           | <u>1,337,600</u> |
| <u>From Gen. Fund Rest. - Internal Service Fund Overhead, One-time</u> | <u>3,000</u>     |
| <u>From Qualified Patient Enterprise Fund</u>                          | <u>2,500</u>     |
| <u>From Beginning Nonlapsing Balances</u>                              | <u>835,800</u>   |
| <u>From Closing Nonlapsing Balances</u>                                | <u>(200,500)</u> |

### Schedule of Programs:

|                                      |                  |
|--------------------------------------|------------------|
| <u>Finance Director's Office</u>     | <u>550,900</u>   |
| <u>Financial Information Systems</u> | <u>4,336,300</u> |
| <u>Financial Reporting</u>           | <u>2,039,100</u> |
| <u>Payables/Disbursing</u>           | <u>2,095,900</u> |
| <u>Payroll</u>                       | <u>2,027,600</u> |
| <u>Technical Services</u>            | <u>299,400</u>   |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance Administration as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance Administration.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the Finance Administration line item, whose mission is "to serve Utah citizens and state agencies with fiscal leadership and quality financial systems, processes, and information." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measure for FY 2022: close the fiscal year within 60 days of the end of the fiscal year (baseline: 101 days after June 30; target: 60 days after June 30).

### ITEM 17

|                                                                                          |                    |
|------------------------------------------------------------------------------------------|--------------------|
| <u>To Department of Administrative Services - Inspector General of Medicaid Services</u> |                    |
| <u>From General Fund</u>                                                                 | <u>(1,261,500)</u> |
| <u>From General Fund, One-time</u>                                                       | <u>(4,300)</u>     |
| <u>From Federal Funds</u>                                                                | <u>(8,000)</u>     |

## SB0181S01 compared with SB0181

|                                               |                    |
|-----------------------------------------------|--------------------|
| <u>From Medicaid Expansion Fund</u>           | <u>(36,700)</u>    |
| <u>From Medicaid Expansion Fund, One-time</u> | <u>(100)</u>       |
| <u>From Revenue Transfers</u>                 | <u>(2,499,000)</u> |
| <u>From Revenue Transfers, One-time</u>       | <u>(8,500)</u>     |
| <u>From Beginning Nonlapsing Balances</u>     | <u>(155,200)</u>   |
| <u>From Closing Nonlapsing Balances</u>       | <u>155,200</u>     |
| <u>Schedule of Programs:</u>                  |                    |
| <u>Inspector General of Medicaid Services</u> | <u>(3,818,100)</u> |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Inspector General of Medicaid Services as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Inspector General of Medicaid Services.

### ITEM 18

|                                                                                        |                  |
|----------------------------------------------------------------------------------------|------------------|
| <u>To Department of Government Operations - Inspector General of Medicaid Services</u> |                  |
| <u>From General Fund</u>                                                               | <u>1,261,500</u> |
| <u>From General Fund, One-time</u>                                                     | <u>4,300</u>     |
| <u>From Federal Funds</u>                                                              | <u>8,000</u>     |
| <u>From Medicaid Expansion Fund</u>                                                    | <u>36,700</u>    |
| <u>From Medicaid Expansion Fund, One-time</u>                                          | <u>100</u>       |
| <u>From Revenue Transfers</u>                                                          | <u>2,499,000</u> |
| <u>From Revenue Transfers, One-time</u>                                                | <u>8,500</u>     |
| <u>From Beginning Nonlapsing Balances</u>                                              | <u>155,200</u>   |
| <u>From Closing Nonlapsing Balances</u>                                                | <u>(155,200)</u> |
| <u>Schedule of Programs:</u>                                                           |                  |
| <u>Inspector General of Medicaid Services</u>                                          | <u>3,818,100</u> |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Inspector General of Medicaid Services as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Inspector General of Medicaid Services.

## **SB0181S01 compared with SB0181**

In accordance with UCA 63J-1-201, the Legislature intends that the Office of Inspector General of Medicaid Services, whose goal is to "eliminate fraud, waste, and abuse within the Medicaid program" report its performance measures to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) cost avoidance projected over one year and three years; 2) Medicaid dollars recovered through cash collections, directed re-bills, and credit adjustments; 3) the number of credible allegations of provider and/or recipient fraud received, initial investigations conducted, and referred to an outside entity (e.g. Medicaid Fraud Control Unit, Department of Workforce Services, local law enforcement, etc.); 4) the number of fraud, waste, and abuse cases identified and evaluated; and 5) the number of recommendations for improvement made to the Department of Health.

The Legislature intends that the Inspector General of Medicaid Services retain up to an additional \$60,000 of the State's share of Medicaid collections during FY 2022 to pay the Office of the Attorney General for the State costs of the one attorney FTE that the Office of the Inspector General is using.

### ITEM 19

To Department of Administrative Services - Judicial Conduct Commission

From General Fund (281,600)

From General Fund, One-time (700)

From Beginning Nonlapsing Balances (5,100)

From Closing Nonlapsing Balances 9,800

Schedule of Programs:

Judicial Conduct Commission (277,600)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Judicial Conduct Commission as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Judicial Conduct Commission.

### ITEM 20

To Department of Government Operations - Judicial Conduct Commission

## SB0181S01 compared with SB0181

|                                           |                |
|-------------------------------------------|----------------|
| <u>From General Fund</u>                  | <u>281,600</u> |
| <u>From General Fund, One-time</u>        | <u>700</u>     |
| <u>From Beginning Nonlapsing Balances</u> | <u>5,100</u>   |
| <u>From Closing Nonlapsing Balances</u>   | <u>(9,800)</u> |
| <u>Schedule of Programs:</u>              |                |
| <u>Judicial Conduct Commission</u>        | <u>277,600</u> |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Judicial Conduct Commission as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Judicial Conduct Commission.

### ITEM 21

|                                                                                    |                  |
|------------------------------------------------------------------------------------|------------------|
| <u>To Department of Administrative Services - Post Conviction Indigent Defense</u> |                  |
| <u>From General Fund</u>                                                           | <u>(33,900)</u>  |
| <u>From Beginning Nonlapsing Balances</u>                                          | <u>(136,500)</u> |
| <u>From Closing Nonlapsing Balances</u>                                            | <u>136,500</u>   |
| <u>Schedule of Programs:</u>                                                       |                  |
| <u>Post Conviction Indigent Defense Fund</u>                                       | <u>(33,900)</u>  |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Post Conviction Indigent Defense as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Post Conviction Indigent Defense.

### ITEM 22

|                                                                                  |                  |
|----------------------------------------------------------------------------------|------------------|
| <u>To Department of Government Operations - Post Conviction Indigent Defense</u> |                  |
| <u>From General Fund</u>                                                         | <u>33,900</u>    |
| <u>From Beginning Nonlapsing Balances</u>                                        | <u>136,500</u>   |
| <u>From Closing Nonlapsing Balances</u>                                          | <u>(136,500)</u> |
| <u>Schedule of Programs:</u>                                                     |                  |
| <u>Post Conviction Indigent Defense Fund</u>                                     | <u>33,900</u>    |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of

## SB0181S01 compared with SB0181

Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Post Conviction Indigent Defense as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Post Conviction Indigent Defense.

### ITEM 23

To Department of Administrative Services - Purchasing

From General Fund (860,800)

From General Fund, One-time (4,500)

Schedule of Programs:

Purchasing and General Services (865,300)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Purchasing as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Purchasing.

### ITEM 24

To Department of Government Operations - Purchasing

From General Fund 860,800

From General Fund, One-time 4,500

Schedule of Programs:

Purchasing and General Services 865,300

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Purchasing as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Purchasing.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the Purchasing and General Services line item, whose purpose is to ensure that the state agencies adhere to the requirement of the Utah Procurement Code when conducting procurements. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) increase the average

## SB0181S01 compared with SB0181

discount on State of Utah Best Value Cooperative Contracts (baseline: 32%, target: 40%); 2) increase the number of State of Utah Best Value Cooperative Contracts for public entities to use (baseline: 950, target: 1,000); and 3) increase the amount of total spend on State of Utah Best Value Cooperative Contracts (baseline: \$550 million, target: \$600 million).

### ITEM 25

#### To Department of Administrative Services - State Archives

|                                                 |                    |
|-------------------------------------------------|--------------------|
| <u>From General Fund</u>                        | <u>(3,322,200)</u> |
| <u>From General Fund, One-time</u>              | <u>(11,500)</u>    |
| <u>From Federal Funds</u>                       | <u>(44,100)</u>    |
| <u>From Federal Funds, One-time</u>             | <u>(500)</u>       |
| <u>From Dedicated Credits Revenue</u>           | <u>(67,600)</u>    |
| <u>From Dedicated Credits Revenue, One-time</u> | <u>(100)</u>       |
| <u>From Beginning Nonlapsing Balances</u>       | <u>(58,300)</u>    |
| <u>From Closing Nonlapsing Balances</u>         | <u>92,800</u>      |

#### Schedule of Programs:

|                                |                    |
|--------------------------------|--------------------|
| <u>Archives Administration</u> | <u>(1,735,500)</u> |
| <u>Open Records</u>            | <u>(100)</u>       |
| <u>Patron Services</u>         | <u>(702,200)</u>   |
| <u>Preservation Services</u>   | <u>(262,300)</u>   |
| <u>Records Analysis</u>        | <u>(711,500)</u>   |
| <u>Records Services</u>        | <u>100</u>         |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - State Archives as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - State Archives.

### ITEM 26

#### To Department of Government Operations - State Archives

|                                     |                  |
|-------------------------------------|------------------|
| <u>From General Fund</u>            | <u>3,322,200</u> |
| <u>From General Fund, One-time</u>  | <u>11,500</u>    |
| <u>From Federal Funds</u>           | <u>44,100</u>    |
| <u>From Federal Funds, One-time</u> | <u>500</u>       |



## SB0181S01 compared with SB0181

|                                                 |                  |
|-------------------------------------------------|------------------|
| <u>From Dedicated Credits Revenue</u>           | <u>67,600</u>    |
| <u>From Dedicated Credits Revenue, One-time</u> | <u>100</u>       |
| <u>From Beginning Nonlapsing Balances</u>       | <u>58,300</u>    |
| <u>From Closing Nonlapsing Balances</u>         | <u>(92,800)</u>  |
| <u>Schedule of Programs:</u>                    |                  |
| <u>Archives Administration</u>                  | <u>1,735,500</u> |
| <u>Open Records</u>                             | <u>100</u>       |
| <u>Patron Services</u>                          | <u>702,200</u>   |
| <u>Preservation Services</u>                    | <u>262,300</u>   |
| <u>Records Analysis</u>                         | <u>711,500</u>   |
| <u>Records Services</u>                         | <u>(100)</u>     |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - State Archives as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - State Archives.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the State Archives line item, whose mission is to assist Utah government agencies in the efficient management of their records, to preserve those records of enduring value, and to provide quality access to public information." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) percentage of reformatted records that meet or exceed estimated completion date (target: 80%); 2) percentage of reformatted records projects completed that were error-free in quality control checks (target: 90%); and 3) government employees receiving training and certified as a records officer (target: at least a 10% increase).

### ITEM 27

|                                                                                                              |                     |
|--------------------------------------------------------------------------------------------------------------|---------------------|
| <u>To Department of Administrative Services - Finance Mandated - Mineral Lease Special Service Districts</u> |                     |
| <u>From General Fund Restricted - Mineral Lease</u>                                                          | <u>(27,797,500)</u> |
| <u>Schedule of Programs:</u>                                                                                 |                     |

## **SB0181S01 compared with SB0181**

Mineral Lease Payments (24,162,700)

Mineral Lease Payments in Lieu (3,634,800)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance Mandated - Mineral Lease Special Service Districts as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance Mandated - Mineral Lease Special Service Districts.

### ITEM 28

To Department of Government Operations - Finance Mandated - Mineral Lease Special Service Districts

From General Fund Restricted - Mineral Lease 27,797,500

Schedule of Programs:

Mineral Lease Payments 24,162,700

Mineral Lease Payments in Lieu 3,634,800

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance Mandated - Mineral Lease Special Service Districts as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance Mandated - Mineral Lease Special Service Districts.

### ITEM 29

To Department of Technology Services - Chief Information Officer

From General Fund (668,200)

From General Fund, One-time (700)

Schedule of Programs:

Chief Information Officer (668,900)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Technology Services - Chief Information Officer as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Chief Information Officer.

### ITEM 30

To Department of Government Operations - Chief Information Officer

## SB0181S01 compared with SB0181

|                                    |                |
|------------------------------------|----------------|
| <u>From General Fund</u>           | <u>668,200</u> |
| <u>From General Fund, One-time</u> | <u>700</u>     |
| <u>Schedule of Programs:</u>       |                |
| <u>Chief Information Officer</u>   | <u>668,900</u> |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Technology Services - Chief Information Officer as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Chief Information Officer.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the Chief Information Officer line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) data security - ongoing systematic prioritization of high-risk areas across the state (target: score below 5,000); 2) application development - satisfaction scores on application development projects from agencies (target: average at least 83%); and 3) procurement and deployment - ensure state employees receive computers in a timely manner (target: at least 75%).

### ITEM 31

|                                                                              |                    |
|------------------------------------------------------------------------------|--------------------|
| <u>To Department of Technology Services - Integrated Technology Division</u> |                    |
| <u>From General Fund</u>                                                     | <u>(1,245,100)</u> |
| <u>From General Fund, One-time</u>                                           | <u>(2,600)</u>     |
| <u>From Federal Funds</u>                                                    | <u>(707,200)</u>   |
| <u>From Federal Funds, One-time</u>                                          | <u>(1,700)</u>     |
| <u>From Dedicated Credits Revenue</u>                                        | <u>(1,224,300)</u> |
| <u>From Dedicated Credits Revenue, One-time</u>                              | <u>(2,500)</u>     |
| <u>From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct.</u>           | <u>(337,100)</u>   |
| <u>From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct., One-time</u> | <u>(700)</u>       |
| <u>Schedule of Programs:</u>                                                 |                    |
| <u>Automated Geographic Reference Center</u>                                 | <u>(3,521,200)</u> |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of

## **SB0181S01 compared with SB0181**

Finance reflect all closing nonlapsing appropriation balances from Department of Technology Services - Integrated Technology Division as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Integrated Technology Division.

### ITEM 32

#### To Department of Government Operations - Integrated Technology Division

|                                                                              |                  |
|------------------------------------------------------------------------------|------------------|
| <u>From General Fund</u>                                                     | <u>1,245,100</u> |
| <u>From General Fund, One-time</u>                                           | <u>2,600</u>     |
| <u>From Federal Funds</u>                                                    | <u>707,200</u>   |
| <u>From Federal Funds, One-time</u>                                          | <u>1,700</u>     |
| <u>From Dedicated Credits Revenue</u>                                        | <u>1,224,300</u> |
| <u>From Dedicated Credits Revenue, One-time</u>                              | <u>2,500</u>     |
| <u>From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct.</u>           | <u>337,100</u>   |
| <u>From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct., One-time</u> | <u>700</u>       |

#### Schedule of Programs:

|                                              |                  |
|----------------------------------------------|------------------|
| <u>Automated Geographic Reference Center</u> | <u>3,521,200</u> |
|----------------------------------------------|------------------|

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Technology Services - Integrated Technology Division as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Integrated Technology Division.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the Integrated Technology Division line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) uptime for the Automated Geographic Reference Center's (AGRC) portfolio of streaming geographic data web services and State Geographic Information Database connection services (target: at least 99.5%); 2) road centerline and addressing map data layer required for Next Generation 911 services is published monthly to the State Geographic Information Database (target: at least 120 county-sourced updates including 50

## **SB0181S01 compared with SB0181**

updates from Utah's class I and II counties); and 3) uptime for AGRC's TURN GPS real-time, high precision geo-positioning service that provides differential correction services to paying and partner subscribers in the surveying, mapping, construction, and agricultural industries (target: at least 99.5%).

### **Subsection 209(b). Expendable Funds and Accounts.**

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

#### **ITEM 33**

##### **To Department of Administrative Services - State Archives Fund**

From Beginning Fund Balance (2,600)

From Closing Fund Balance 2,600

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services - State Archives Fund as fiscal year 2022 beginning fund balances in Department of Government Operations - State Archives Fund.

#### **ITEM 34**

##### **To Department of Government Operations - State Archives Fund**

From Beginning Fund Balance 2,600

From Closing Fund Balance (2,600)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services - State Archives Fund as fiscal year 2022 beginning fund balances in Department of Government Operations - State Archives Fund.

#### **ITEM 35**

##### **To Department of Administrative Services - State Debt Collection Fund**

From Dedicated Credits Revenue (3,623,300)

From Dedicated Credits Revenue, One-time (7,100)

From Other Financing Sources (200)

## SB0181S01 compared with SB0181

From Beginning Fund Balance (792,400)

From Closing Fund Balance 909,200

Schedule of Programs:

State Debt Collection Fund (3,513,800)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services - State Debt Collection Fund as fiscal year 2022 beginning fund balances in Department of Government Operations - State Debt Collection Fund.

ITEM 36

To Department of Government Operations - State Debt Collection Fund

From Dedicated Credits Revenue 3,623,300

From Dedicated Credits Revenue, One-time 7,100

From Other Financing Sources 200

From Beginning Fund Balance 792,400

From Closing Fund Balance (909,200)

Schedule of Programs:

State Debt Collection Fund 3,513,800

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services - State Debt Collection Fund as fiscal year 2022 beginning fund balances in Department of Government Operations - State Debt Collection Fund.

ITEM 37

To Department of Administrative Services - Wire Estate Memorial Fund

From Beginning Fund Balance (168,200)

From Closing Fund Balance 168,200

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services - Wire Estate Memorial Fund as fiscal year 2022 beginning fund balances in Department of Government Operations - Wire Estate Memorial Fund.

ITEM 38

To Department of Government Operations - Wire Estate Memorial Fund

## SB0181S01 compared with SB0181

|                                    |                  |
|------------------------------------|------------------|
| <u>From Beginning Fund Balance</u> | <u>168,200</u>   |
| <u>From Closing Fund Balance</u>   | <u>(168,200)</u> |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services - Wire Estate Memorial Fund as fiscal year 2022 beginning fund balances in Department of Government Operations - Wire Estate Memorial Fund.

### Subsection 209(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

### ITEM 39

#### To Department of Human Resource Management - Human Resources Internal Service Fund

|                                       |                     |
|---------------------------------------|---------------------|
| <u>From Dedicated Credits Revenue</u> | <u>(14,494,300)</u> |
| <u>From Beginning Fund Balance</u>    | <u>(1,780,800)</u>  |
| <u>From Closing Fund Balance</u>      | <u>919,800</u>      |

#### Schedule of Programs:

|                                     |                    |
|-------------------------------------|--------------------|
| <u>Administration</u>               | <u>(1,599,300)</u> |
| <u>Information Technology</u>       | <u>(1,079,200)</u> |
| <u>ISF - Core HR Services</u>       | <u>(246,900)</u>   |
| <u>ISF - Field Services</u>         | <u>(9,689,800)</u> |
| <u>ISF - Payroll Field Services</u> | <u>(674,900)</u>   |
| <u>Policy</u>                       | <u>(2,065,200)</u> |
| <u>Budgeted FTE</u>                 | <u>(122.0)</u>     |
| <u>Authorized Capital Outlay</u>    | <u>(1,500,000)</u> |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Human Resource Management - Human Resources Internal Service Fund as fiscal year 2022 beginning fund balances in

## SB0181S01 compared with SB0181

### Department of Government Operations - Human Resources Internal Service Fund.

#### ITEM 40

##### To Department of Government Operations - Human Resources Internal Service Fund

|                                       |                   |
|---------------------------------------|-------------------|
| <u>From Dedicated Credits Revenue</u> | <u>14,494,300</u> |
| <u>From Beginning Fund Balance</u>    | <u>1,780,800</u>  |
| <u>From Closing Fund Balance</u>      | <u>(919,800)</u>  |

##### Schedule of Programs:

|                                     |                  |
|-------------------------------------|------------------|
| <u>Administration</u>               | <u>1,599,300</u> |
| <u>Information Technology</u>       | <u>1,079,200</u> |
| <u>ISF - Core HR Services</u>       | <u>246,900</u>   |
| <u>ISF - Field Services</u>         | <u>9,689,800</u> |
| <u>ISF - Payroll Field Services</u> | <u>674,900</u>   |
| <u>Policy</u>                       | <u>2,065,200</u> |
| <u>Budgeted FTE</u>                 | <u>122.0</u>     |
| <u>Authorized Capital Outlay</u>    | <u>1,500,000</u> |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Human Resource Management - Human Resources Internal Service Fund as fiscal year 2022 beginning fund balances in Department of Government Operations - Human Resources Internal Service Fund.

#### ITEM 41

##### To Department of Administrative Services Internal Service Funds - Division of Facilities Construction and Management - Facilities Management

|                                       |                     |
|---------------------------------------|---------------------|
| <u>From Dedicated Credits Revenue</u> | <u>(37,041,000)</u> |
| <u>From Beginning Fund Balance</u>    | <u>(3,825,800)</u>  |
| <u>From Closing Fund Balance</u>      | <u>347,200</u>      |

##### Schedule of Programs:

|                                    |                     |
|------------------------------------|---------------------|
| <u>ISF - Facilities Management</u> | <u>(40,519,600)</u> |
| <u>Budgeted FTE</u>                | <u>(162.0)</u>      |
| <u>Authorized Capital Outlay</u>   | <u>(396,600)</u>    |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal



## **SB0181S01 compared with SB0181**

Service Funds - Division of Facilities Construction and Management - Facilities Management as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds - Division of Facilities Construction and Management - Facilities Management.

### ITEM 42

To Department of Government Operations Internal Service Funds - Division of Facilities Construction and Management - Facilities Management

|                                       |                   |
|---------------------------------------|-------------------|
| <u>From Dedicated Credits Revenue</u> | <u>37,041,000</u> |
| <u>From Beginning Fund Balance</u>    | <u>3,825,800</u>  |
| <u>From Closing Fund Balance</u>      | <u>(347,200)</u>  |

Schedule of Programs:

|                                    |                   |
|------------------------------------|-------------------|
| <u>ISF - Facilities Management</u> | <u>40,519,600</u> |
| <u>Budgeted FTE</u>                | <u>162.0</u>      |
| <u>Authorized Capital Outlay</u>   | <u>396,600</u>    |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds - Division of Facilities Construction and Management - Facilities Management as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds - Division of Facilities Construction and Management - Facilities Management.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the ISF - Facilities Management line item, whose mission is "to provide professional building maintenance services to State facilities, agency customers, and the general public." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measure for FY 2022: average maintenance cost per square foot compared to the private sector (target: at least 18% less than the private market).

### ITEM 43

To Department of Administrative Services Internal Service Funds - Division of Finance

|                                       |                  |
|---------------------------------------|------------------|
| <u>From Dedicated Credits Revenue</u> | <u>(621,300)</u> |
| <u>From Beginning Fund Balance</u>    | <u>(34,100)</u>  |
| <u>From Closing Fund Balance</u>      | <u>42,900</u>    |

## SB0181S01 compared with SB0181

### Schedule of Programs:

|                              |                  |
|------------------------------|------------------|
| <u>ISF - Purchasing Card</u> | <u>(612,500)</u> |
| <u>Budgeted FTE</u>          | <u>(2.5)</u>     |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds - Division of Finance as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds - Division of Finance.

### ITEM 44

|                                                                                            |                 |
|--------------------------------------------------------------------------------------------|-----------------|
| <u>To Department of Government Operations Internal Service Funds - Division of Finance</u> |                 |
| <u>From Dedicated Credits Revenue</u>                                                      | <u>621,300</u>  |
| <u>From Beginning Fund Balance</u>                                                         | <u>34,100</u>   |
| <u>From Closing Fund Balance</u>                                                           | <u>(42,900)</u> |

### Schedule of Programs:

|                              |                |
|------------------------------|----------------|
| <u>ISF - Purchasing Card</u> | <u>612,500</u> |
| <u>Budgeted FTE</u>          | <u>2.5</u>     |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds - Division of Finance as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds - Division of Finance.

### ITEM 45

|                                                                                                       |                     |
|-------------------------------------------------------------------------------------------------------|---------------------|
| <u>To Department of Administrative Services Internal Service Funds - Division of Fleet Operations</u> |                     |
| <u>From Dedicated Credits Revenue</u>                                                                 | <u>(60,263,700)</u> |
| <u>From Beginning Fund Balance</u>                                                                    | <u>(50,454,400)</u> |
| <u>From Closing Fund Balance</u>                                                                      | <u>49,713,900</u>   |

### Schedule of Programs:

|                            |                     |
|----------------------------|---------------------|
| <u>ISF - Fuel Network</u>  | <u>(27,146,200)</u> |
| <u>ISF - Motor Pool</u>    | <u>(32,688,100)</u> |
| <u>ISF - Travel Office</u> | <u>(496,200)</u>    |
| <u>Transactions Group</u>  | <u>(673,700)</u>    |
| <u>Budgeted FTE</u>        | <u>(41.0)</u>       |

**SB0181S01 compared with SB0181**

Authorized Capital Outlay (21,000,000)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds - Division of Fleet Operations as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds - Division of Fleet Operations.

ITEM 46

To Department of Government Operations Internal Service Funds - Division of Fleet Operations

From Dedicated Credits Revenue 60,263,700

From Beginning Fund Balance 50,454,400

From Closing Fund Balance (49,713,900)

Schedule of Programs:

ISF - Fuel Network 27,146,200

ISF - Motor Pool 32,688,100

ISF - Travel Office 496,200

Transactions Group 673,700

Budgeted FTE 41.0

Authorized Capital Outlay 21,000,000

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds - Division of Fleet Operations as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds - Division of Fleet Operations.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the Fleet Operations line item, whose mission is "emphasizing customer service, provide safe, efficient, dependable, and responsible transportation options." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) improve EPA emission standard certification level for the State's light duty fleet in non-attainment areas (target: reduce average fleet emission by 1 mg/mile annually); 2) maintain the financial solvency of the Division of Fleet Operations

## SB0181S01 compared with SB0181

(target: 30% or less of the allowable debt); and 3) audit agency customers' mobility options and develop improvement plans for audited agencies (target: at least 4 annually).

### ITEM 47

|                                                                                      |                     |
|--------------------------------------------------------------------------------------|---------------------|
| <u>To Department of Administrative Services Internal Service Funds - Division of</u> |                     |
| <u>Purchasing and General Services</u>                                               |                     |
| <u>From Dedicated Credits Revenue</u>                                                | <u>(20,233,000)</u> |
| <u>From Other Financing Sources</u>                                                  | <u>(27,500)</u>     |
| <u>From Beginning Fund Balance</u>                                                   | <u>(9,500,600)</u>  |
| <u>From Closing Fund Balance</u>                                                     | <u>9,499,200</u>    |
| <u>Schedule of Programs:</u>                                                         |                     |
| <u>ISF - Central Mailing</u>                                                         | <u>(12,750,000)</u> |
| <u>ISF - Cooperative Contracting</u>                                                 | <u>(4,242,000)</u>  |
| <u>ISF - Federal Surplus Property</u>                                                | <u>(66,400)</u>     |
| <u>ISF - Print Services</u>                                                          | <u>(2,543,500)</u>  |
| <u>ISF - State Surplus Property</u>                                                  | <u>(660,000)</u>    |
| <u>Budgeted FTE</u>                                                                  | <u>(97.3)</u>       |
| <u>Authorized Capital Outlay</u>                                                     | <u>(4,070,000)</u>  |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds - Division of Purchasing and General Services as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds - Division of Purchasing and General Services.

### ITEM 48

|                                                                                    |                    |
|------------------------------------------------------------------------------------|--------------------|
| <u>To Department of Government Operations Internal Service Funds - Division of</u> |                    |
| <u>Purchasing and General Services</u>                                             |                    |
| <u>From Dedicated Credits Revenue</u>                                              | <u>20,233,000</u>  |
| <u>From Other Financing Sources</u>                                                | <u>27,500</u>      |
| <u>From Beginning Fund Balance</u>                                                 | <u>9,500,600</u>   |
| <u>From Closing Fund Balance</u>                                                   | <u>(9,499,200)</u> |
| <u>Schedule of Programs:</u>                                                       |                    |
| <u>ISF - Central Mailing</u>                                                       | <u>12,750,000</u>  |

## SB0181S01 compared with SB0181

|                                       |                  |
|---------------------------------------|------------------|
| <u>ISF - Cooperative Contracting</u>  | <u>4,242,000</u> |
| <u>ISF - Federal Surplus Property</u> | <u>66,400</u>    |
| <u>ISF - Print Services</u>           | <u>2,543,500</u> |
| <u>ISF - State Surplus Property</u>   | <u>660,000</u>   |
| <u>Budgeted FTE</u>                   | <u>97.3</u>      |
| <u>Authorized Capital Outlay</u>      | <u>4,070,000</u> |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds - Division of Purchasing and General Services as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds - Division of Purchasing and General Services.

### ITEM 49

#### To Department of Administrative Services Internal Service Funds - Risk Management

|                                       |                     |
|---------------------------------------|---------------------|
| <u>From Dedicated Credits Revenue</u> | <u>(610,700)</u>    |
| <u>From Premiums</u>                  | <u>(54,670,700)</u> |
| <u>From Interest Income</u>           | <u>(1,181,700)</u>  |
| <u>From Other Financing Sources</u>   | <u>(415,700)</u>    |
| <u>From Beginning Fund Balance</u>    | <u>(5,223,700)</u>  |
| <u>From Closing Fund Balance</u>      | <u>5,513,700</u>    |

#### Schedule of Programs:

|                                             |                     |
|---------------------------------------------|---------------------|
| <u>ISF - Risk Management Administration</u> | <u>(1,311,000)</u>  |
| <u>ISF - Workers' Compensation</u>          | <u>(7,842,300)</u>  |
| <u>Risk Management - Auto</u>               | <u>(2,496,600)</u>  |
| <u>Risk Management - Liability</u>          | <u>(26,244,400)</u> |
| <u>Risk Management - Property</u>           | <u>(18,694,500)</u> |
| <u>Budgeted FTE</u>                         | <u>(32.0)</u>       |
| <u>Authorized Capital Outlay</u>            | <u>(500,000)</u>    |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds - Risk Management as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds - Risk Management.

## SB0181S01 compared with SB0181

### ITEM 50

#### To Department of Government Operations Internal Service Funds - Risk Management

|                                       |                    |
|---------------------------------------|--------------------|
| <u>From Dedicated Credits Revenue</u> | <u>610,700</u>     |
| <u>From Premiums</u>                  | <u>54,670,700</u>  |
| <u>From Interest Income</u>           | <u>1,181,700</u>   |
| <u>From Other Financing Sources</u>   | <u>415,700</u>     |
| <u>From Beginning Fund Balance</u>    | <u>5,223,700</u>   |
| <u>From Closing Fund Balance</u>      | <u>(5,513,700)</u> |

#### Schedule of Programs:

|                                             |                   |
|---------------------------------------------|-------------------|
| <u>ISF - Risk Management Administration</u> | <u>1,311,000</u>  |
| <u>ISF - Workers' Compensation</u>          | <u>7,842,300</u>  |
| <u>Risk Management - Auto</u>               | <u>2,496,600</u>  |
| <u>Risk Management - Liability</u>          | <u>26,244,400</u> |
| <u>Risk Management - Property</u>           | <u>18,694,500</u> |
| <u>Budgeted FTE</u>                         | <u>32.0</u>       |
| <u>Authorized Capital Outlay</u>            | <u>500,000</u>    |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds - Risk Management as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds - Risk Management.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the Risk Management line item, whose mission is "to insure, restore and protect State resources through innovation and collaboration." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) follow up on life safety findings on onsite inspections (target: 100%); 2) annual independent claims management audit (target: at least 96%); and 3) ensure liability fund reserves are actuarially and economically sound (baseline: 90.57%; target: 100% of the actuary's recommendation).

### ITEM 51

## **SB0181S01 compared with SB0181**

To Department of Technology Services Internal Service Funds - Enterprise Technology Division

|                                       |                      |
|---------------------------------------|----------------------|
| <u>From Dedicated Credits Revenue</u> | <u>(127,672,400)</u> |
| <u>From Beginning Fund Balance</u>    | <u>(26,960,600)</u>  |
| <u>From Closing Fund Balance</u>      | <u>26,636,200</u>    |

Schedule of Programs:

|                                             |                      |
|---------------------------------------------|----------------------|
| <u>ISF - Enterprise Technology Division</u> | <u>(127,996,800)</u> |
| <u>Budgeted FTE</u>                         | <u>(730.6)</u>       |
| <u>Authorized Capital Outlay</u>            | <u>(6,000,000)</u>   |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Technology Services Internal Service Funds - Enterprise Technology Division as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds - Enterprise Technology Division.

ITEM 52

To Department of Government Operations Internal Service Funds - Enterprise Technology Division

|                                       |                     |
|---------------------------------------|---------------------|
| <u>From Dedicated Credits Revenue</u> | <u>127,672,400</u>  |
| <u>From Beginning Fund Balance</u>    | <u>26,960,600</u>   |
| <u>From Closing Fund Balance</u>      | <u>(26,636,200)</u> |

Schedule of Programs:

|                                             |                    |
|---------------------------------------------|--------------------|
| <u>ISF - Enterprise Technology Division</u> | <u>127,996,800</u> |
| <u>Budgeted FTE</u>                         | <u>730.6</u>       |
| <u>Authorized Capital Outlay</u>            | <u>6,000,000</u>   |

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Technology Services Internal Service Funds - Enterprise Technology Division as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds - Enterprise Technology Division.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the Enterprise Technology Division

## **SB0181S01 compared with SB0181**

line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) customer satisfaction - measure customers' experiences and satisfaction with IT services (target: an average of at least 4.5 out of 5); 2) application availability - monitor DTS performance and availability of key agency business applications/systems (target: at least 99%); and 3) competitive rates - ensure all DTS rates are market competitive or better (target: 100%).

### Subsection 209(d). Intent language.

Notwithstanding the effective date of this bill, the Legislature intends that the affected agencies have until July 1, 2022, to update the financial and information systems necessary to come into full compliance with the provisions of this bill.

### Section 210. Effective date.

This bill takes effect on July 1, 2021.

### Section ~~{232}~~211. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if S.B. 182, Department of Government Operations - Cross Reference Changes, does not pass.

### Section 212. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, on July 1, 2021:

(1) replace "Department of Administrative Services" with "Department of Government Operations" in any new language added to the Utah Code by legislation passed during the 2021 General Session;

(2) replace "Department of Technology Services" with "Division of Technology Services" in any new language added to the Utah Code by legislation passed during the 2021 General Session; and

(3) replace "Department of Human Resource Management" with "Division of Human Resource Management" in any new language added to the Utah Code by legislation passed during the 2021 General Session.

### Section 213. Coordinating S.B. 181 with H.B. 27 -- Technical amendments.



## **SB0181S01 compared with SB0181**

If this S.B. 181 and H.B. 27, Public Information Website Modifications, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

- (1) renumbering Section 63F-1-701 to 63A-16-601 instead of 63A-12-201;
- (2) changing all cross-references in H.B. 27 that refer to Section 63A-12-201 to instead refer to Section 63A-16-601;
- (3) renumbering Section 63F-1-702 to 63A-16-602 instead of 63A-12-202; and
- (4) changing all cross-references in H.B. 27 that refer to Section 63A-12-202 to instead refer to Section 63A-16-602.