

SB0131S02 compared with SB0131S01

~~{deleted text}~~ shows text that was in SB0131S01 but was deleted in SB0131S02.

inserted text shows text that was not in SB0131S01 but was inserted into SB0131S02.

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~~{Senator Stephen H. Urquhart}~~ Representative Don L. Ipson proposes the following substitute bill:

UTAH COLLEGE OF APPLIED TECHNOLOGY~~{}~~

GOVERNANCE~~{~~

~~}~~ AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: ~~{_____}~~ Don L. Ipson

LONG TITLE

General Description:

This bill modifies provisions related to governance of the Utah College of Applied Technology.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ renames a Utah College of Applied Technology college campus an applied technology college;

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- ▶ renames the president of the Utah College of Applied Technology the ~~{director}~~commissioner of ~~{the Utah College of Applied Technology}~~technical education;
- ▶ amends the duties of the ~~{director}~~commissioner of ~~{the Utah College of Applied Technology}~~technical education;
- ▶ amends provisions related to the membership of the Utah College of Applied Technology Board of Trustees;
- ▶ ~~{implements}~~establishes a term limit for a member of the Utah College of Applied Technology Board of Trustees;
- ▶ amends provisions related to the appointment of ~~{a Utah College of Applied Technology campus}~~an applied technology college president; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

[35A-1-206](#), as last amended by Laws of Utah 2014, Chapters 371 and 387

[35A-5-402](#), as enacted by Laws of Utah 2015, Chapter 273

[53A-1-402](#), as last amended by Laws of Utah 2005, Chapter 227

[53A-1a-501.3](#), as last amended by Laws of Utah 2014, Chapter 363

[53A-1a-521](#), as last amended by Laws of Utah 2014, Chapters 189 and 363

[53A-15-102](#), as last amended by Laws of Utah 1995, Chapter 96

[53A-15-202](#), as last amended by Laws of Utah 2013, Chapter 465

[53A-17a-114](#), as last amended by Laws of Utah 2012, Chapter 288

[53B-1-103](#), as last amended by Laws of Utah 2014, Chapter 88

[53B-2-104](#), as last amended by Laws of Utah 2010, Chapters 211 and 286

[53B-2-106](#), as last amended by Laws of Utah 2009, Chapter 370

[53B-2a-101](#), as last amended by Laws of Utah 2009, Chapter 346

[53B-2a-102](#), as last amended by Laws of Utah 2012, Chapter 78

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53B-2a-103, as last amended by Laws of Utah 2014, Chapter 128
53B-2a-104, as last amended by Laws of Utah 2013, Chapter 310
53B-2a-105, as last amended by Laws of Utah 2009, Chapter 346
53B-2a-106, as last amended by Laws of Utah 2015, Chapter 404
53B-2a-107, as last amended by Laws of Utah 2009, Chapter 346
53B-2a-108, as last amended by Laws of Utah 2014, Chapter 128
53B-2a-109, as last amended by Laws of Utah 2010, Chapter 286
53B-2a-110, as last amended by Laws of Utah 2013, Chapter 310
53B-2a-112, as last amended by Laws of Utah 2009, Chapter 346
53B-2a-113, as last amended by Laws of Utah 2009, Chapter 346
53B-6-106, as last amended by Laws of Utah 2009, Chapter 370
53B-8d-102, as last amended by Laws of Utah 2008, Chapter 3
53B-16-102, as last amended by Laws of Utah 2009, Chapter 346
53B-17-105, as enacted by Laws of Utah 2014, Chapter 63
59-12-102, as last amended by Laws of Utah 2015, Chapters 182, 294, and 461
63A-9-101, as last amended by Laws of Utah 2008, Chapter 65
63I-2-253, as last amended by Laws of Utah 2015, Chapters 258, 418, and 456
63M-2-202, as last amended by Laws of Utah 2015, Chapter 357
63N-12-203, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-12-212, as renumbered and amended by Laws of Utah 2015, Chapter 283
67-1-12, as last amended by Laws of Utah 1999, Chapter 269

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

Section 1. Section 35A-1-206 is amended to read:

**35A-1-206. State Council on Workforce Services -- Appointment -- Membership
-- Terms of members -- Compensation.**

- (1) There is created a State Council on Workforce Services that shall:
 - (a) perform the activities described in Subsection (8);
 - (b) advise on issues requested by the department and the Legislature; and
 - (c) make recommendations to the department regarding:
 - (i) the implementation of Chapter 2, Economic Service Areas, Chapter 3, Employment

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Support Act, and Chapter 5, Training and Workforce Improvement Act; and

(ii) the coordination of apprenticeship training.

(2) (a) The council shall consist of the following voting members:

(i) a private sector representative from each economic service area as designated by the economic service area director;

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

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

(iv) the following members appointed by the governor in consultation with the executive director:

(A) four representatives of small employers as defined by rule by the department;

(B) four representatives of large employers as defined by rule by the department;

(C) four representatives of employees or employee organizations, including at least one representative from nominees suggested by public employees organizations;

(D) two representatives of the clients served under this title including community-based organizations;

(E) a representative of veterans in the state;

(F) the executive director of the Utah State Office of Rehabilitation; and

(G) the ~~[Applied Technology College president]~~ Utah College of Applied Technology commissioner of technical education.

(b) The following shall serve as nonvoting ex officio members of the council:

(i) the executive director or the executive director's designee;

(ii) a legislator appointed by the governor from nominations of the speaker of the House of Representatives and president of the Senate;

(iii) the executive director of the Department of Human Services;

(iv) the director of the Governor's Office of Economic Development or the director's designee; and

(v) the executive director of the Department of Health.

(3) (a) The governor shall appoint one nongovernmental member from the council as the chair of the council.

(b) The chair shall serve at the pleasure of the governor.

(4) (a) A member appointed by the governor shall serve a term of four years and may

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be reappointed to one additional term.

(b) A member shall continue to serve until the member's successor has been appointed and qualified.

(c) Except as provided in Subsection (4)(d), as terms of council members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(d) Notwithstanding the requirements of Subsection (4)(c), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately one half of the council is appointed every two years.

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

(5) A majority of the voting members constitutes a quorum for the transaction of business.

(6) (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.

(7) The department shall provide staff and administrative support to the council at the direction of the executive director.

(8) The council shall:

(a) develop a state workforce services plan in accordance with Section 35A-1-207;

(b) review economic service area plans to certify consistency with state policy guidelines;

(c) improve the understanding and visibility of state workforce services efforts through external and internal marketing strategies;

(d) include in the annual written report described in Section 35A-1-109, information and accomplishments related to the activities of the department;

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(e) issue other studies, reports, or documents the council considers advisable that are not required under Subsection (8)(d);

(f) coordinate the planning and delivery of workforce development services with public education, higher education, vocational rehabilitation, and human services; and

(g) perform other responsibilities within the scope of workforce services as requested by:

(i) the Legislature;

(ii) the governor; or

(iii) the executive director.

Section ~~33~~2. Section **35A-5-402** is amended to read:

35A-5-402. Career and Technical Education Board creation -- Membership.

(1) There is created the Career and Technical Education Board, within the department, composed of the following members:

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

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

(c) the [~~president~~ director] of the Utah College of Applied Technology commissioner of technical education or the [~~president~~ director] of the Utah College of Applied Technology's Technology commissioner of technical education's designee;

(d) the executive director of the department or the executive director of the department's designee;

(e) the executive director of the Governor's Office of Economic Development or the executive director of the Governor's Office of Economic Development's designee;

(f) one member of the governor's staff, appointed by the governor;

(g) five private sector members, representing business or industry that employs individuals who hold certificates issued by a CTE program, appointed by the governor;

(h) a member of the Senate, appointed by the president of the Senate; and

(i) a member of the House of Representatives, appointed by the speaker of the House of Representatives.

(2) The CTE Board shall select a chair and vice chair from among the members of the

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CTE Board.

(3) The CTE Board shall meet at least quarterly.

(4) Attendance of a simple majority of the members of the CTE Board constitutes a quorum for the transaction of official CTE Board business.

(5) Formal action by the CTE Board requires the majority vote of a quorum.

(6) A member of the CTE Board:

(a) may not receive compensation or benefits for the member's service; and

(b) 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.

Section 3. Section 53A-1-402 is amended to read:

53A-1-402. Board to establish minimum standards for public schools.

(1) The State Board of Education shall establish rules and minimum standards for the public schools that are consistent with this title, including rules and minimum standards governing the following:

(a) (i) the qualification and certification of educators and ancillary personnel who provide direct student services;

(ii) required school administrative and supervisory services; and

(iii) the evaluation of instructional personnel;

(b) (i) access to programs;

(ii) attendance;

(iii) competency levels;

(iv) graduation requirements; and

(v) discipline and control;

(c) (i) school accreditation;

(ii) the academic year;

(iii) alternative and pilot programs;

(iv) curriculum and instruction requirements;

(v) school libraries; and

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(vi) services to:

(A) persons with a disability as defined by and covered under:

(I) the Americans with Disabilities Act of 1990, 42 U.S.C. 12102;

(II) the Rehabilitation Act of 1973, 29 U.S.C. 705(20)(A); and

(III) the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3); and

(B) other special groups;

(d) (i) state reimbursed bus routes;

(ii) bus safety and operational requirements; and

(iii) other transportation needs; and

(e) (i) school productivity and cost effectiveness measures;

(ii) federal programs;

(iii) school budget formats; and

(iv) financial, statistical, and student accounting requirements.

(2) The board shall determine if:

(a) the minimum standards have been met; and

(b) required reports are properly submitted.

(3) The board may apply for, receive, administer, and distribute to eligible applicants funds made available through programs of the federal government.

(4) (a) ~~[The]~~ An applied technology college within the Utah College of Applied Technology shall provide competency-based career and technical education courses that fulfill high school graduation requirements, as requested and authorized by the State Board of Education.

(b) A school district may grant a high school diploma to a student participating in courses described under Subsection (4)(a) that are provided by ~~[the]~~ an applied technology college within the Utah College of Applied Technology.

Section 4. Section 53A-1a-501.3 is amended to read:

53A-1a-501.3. Definitions.

As used in this part:

(1) "Asset" means property of all kinds, real and personal, tangible and intangible, and includes:

(a) cash;

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- (b) stock or other investments;
- (c) real property;
- (d) equipment and supplies;
- (e) an ownership interest;
- (f) a license;
- (g) a cause of action; and
- (h) any similar property.

(2) "Board of trustees of a higher education institution" or "board of trustees" means:

(a) the board of trustees of:

- (i) the University of Utah;
- (ii) Utah State University;
- (iii) Weber State University;
- (iv) Southern Utah University;
- (v) Snow College;
- (vi) Dixie State University;
- (vii) Utah Valley University; or
- (viii) Salt Lake Community College; or

(b) the [campus] board of directors of [a college campus] an applied technology college within the Utah College of Applied Technology.

(3) "Charter agreement" or "charter" means an agreement made in accordance with Section 53A-1a-508, that authorizes the operation of a charter school.

(4) "Charter school authorizer" or "authorizer" means the State Charter School Board, local school board, or board of trustees of a higher education institution that authorizes the establishment of a charter school.

(5) "Governing board" means the board that operates a charter school.

Section 5. Section 53A-1a-521 is amended to read:

53A-1a-521. Charter schools authorized by a board of trustees of a higher education institution -- Application process -- Board of trustees responsibilities.

(1) Subject to the approval of the State Board of Education and except as provided in Subsection (8), an applicant identified in Section 53A-1a-504 may enter into an agreement with a board of trustees of a higher education institution authorizing the applicant to establish and

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operate a charter school.

(2) (a) An applicant applying for authorization from a board of trustees to establish and operate a charter school shall provide a copy of the application to the State Charter School Board and the local school board of the school district in which the proposed charter school shall be located either before or at the same time the applicant files the application with the board of trustees.

(b) The State Charter School Board and the local school board may review the application and offer suggestions or recommendations to the applicant or the board of trustees before acting on the application.

(c) The board of trustees shall give due consideration to suggestions or recommendations made by the State Charter School Board or the local school board under Subsection (2)(b).

(3) (a) If a board of trustees approves an application to establish and operate a charter school, the board of trustees shall submit the application to the State Board of Education.

(b) The State Board of Education shall, by majority vote, within 60 days of receipt of the application, approve or deny an application approved by a board of trustees.

(c) The State Board of Education's action under Subsection (3)(b) is final action subject to judicial review.

(4) The State Board of Education shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by a board of trustees.

(5) After approval of a charter school application, the applicant and the board of trustees shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(6) (a) The school's charter may include a provision that the charter school pay an annual fee for the board of trustees' costs in providing oversight of, and technical support to, the charter school in accordance with Subsection (7).

(b) In the first two years that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 3% of the revenue the charter school receives from the state in the current fiscal year.

(c) Beginning with the third year that a charter school is in operation, an annual fee

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described in Subsection (6)(a) may not exceed the product of 1% of the revenue a charter school receives from the state in the current fiscal year.

(d) An annual fee described in Subsection (6)(a) shall be:

- (i) paid to the board of trustees' higher education institution; and
- (ii) expended as directed by the board of trustees.

(7) A board of trustees shall:

(a) annually review and evaluate the performance of charter schools authorized by the board of trustees and hold the schools accountable for their performance;

(b) monitor charter schools authorized by the board of trustees for compliance with federal and state laws, rules, and regulations; and

(c) provide technical support to charter schools authorized by the board of trustees to assist them in understanding and performing their charter obligations.

(8) (a) In addition to complying with the requirements of this section, a ~~campus~~ board of directors of ~~a college campus~~ an applied technology college within the Utah College of Applied Technology shall obtain the approval of the Utah College of Applied Technology Board of Trustees before entering into an agreement to establish and operate a charter school.

(b) If a ~~campus~~ board of directors of ~~a college campus with~~ an applied technology college within the Utah College of Applied Technology approves an application to establish and operate a charter school, the ~~campus board of directors of the college campus~~ applied technology college board of directors shall submit the application to the Utah College of Applied Technology Board of Trustees.

(c) The Utah College of Applied Technology Board of Trustees shall, by majority vote, within 60 days of receipt of the application, approve or deny the application approved by the ~~campus~~ applied technology college board of directors.

(d) The Utah College of Applied Technology Board of Trustees may deny an application approved by ~~a campus~~ an applied technology college board of directors if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53A-1a-503.

(e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

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- (i) an enrollment decline;
- (ii) a decrease in funding; or
- (iii) a modification of programs or services.

(9) (a) Subject to the requirements of this part, ~~[a campus board of directors of a college campus within the Utah College of Applied Technology]~~ an applied technology college board of directors may establish:

(i) procedures for submitting applications to establish and operate a charter school ~~[to a campus board of directors of a college campus within the Utah College of Applied Technology]~~; and

(ii) criteria for ~~[a campus board of directors']~~ approval of an application to establish and operate a charter school.

(b) The Utah College of Applied Technology Board of Trustees may not establish policy governing the procedures or criteria described in Subsection (9)(a).

(10) Before ~~[a board of trustees]~~ an applied technology college board of directors accepts a charter school application, the ~~[board of trustees]~~ applied technology college board of directors shall, in accordance with State Board of Education rules, establish and make public ~~[the board of trustees']~~:

- (a) application requirements, in accordance with Section 53A-1a-504;
- (b) application process, including timelines, in accordance with this section; and
- (c) minimum academic, financial, and enrollment standards.

Section 6. Section 53A-15-102 is amended to read:

53A-15-102. Early graduation incentives -- Incentive to school district -- Partial tuition scholarship for student -- Payments.

(1) Any secondary public school student who has completed all required courses or demonstrated mastery of required skills and competencies may, with the approval of the student, the student's parent or guardian, and an authorized local school official, graduate at any time.

(2) Each public high school shall receive an amount equal to 1/2 of the scholarship awarded to each student who graduates from the school at or prior to the conclusion of the eleventh grade, or a proportionately lesser amount for any student who graduates after the conclusion of the eleventh grade but prior to the conclusion of the twelfth grade.

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(3) (a) A student who graduates from high school at or prior to the conclusion of the eleventh grade shall receive a centennial scholarship in the lesser amount of full tuition for one year or \$1,000 to be used for full time enrollment at a Utah public college, university, community college, ~~[applied technology center]~~ applied technology college within the Utah College of Applied Technology, or any other institution in the state of Utah, accredited by the Northwest Association of Schools and Colleges that offers postsecondary courses of the student's choice upon verification that the student has registered at the institution during the fiscal year following graduation from high school.

(b) In the case of a student who graduates after the conclusion of the eleventh grade but prior to the conclusion of the twelfth grade, the student shall receive a centennial scholarship of a proportionately lesser amount.

(4) (a) The payments authorized in Subsections (2) and (3)(a) shall be made during the fiscal year that follows the student's graduation.

(b) The payments authorized in Subsection (3)(b) may be made during the fiscal year in which the student graduates or the fiscal year following the student's graduation.

(5) (a) The State Board of Education shall administer the payment program authorized in Subsections (2), (3), and (4).

(b) (i) The Legislature shall make an annual appropriation from the Uniform School Fund to the State Board of Education for the costs associated with the Centennial Scholarship Program based on the projected number of students who will graduate before the conclusion of the twelfth grade in any given year.

(ii) It is understood that the appropriation is offset by the state money that would otherwise be required and appropriated for these students if they were enrolled in an additional grade for a full year.

Section 7. Section 53A-15-202 is amended to read:

53A-15-202. Powers of the board.

The State Board of Education:

(1) shall establish minimum standards for career and technical education programs in the public education system;

(2) may apply for, receive, administer, and distribute funds made available through programs of federal and state governments to promote and aid career and technical education;

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(3) shall cooperate with federal and state governments to administer programs which promote and maintain career and technical education;

(4) shall cooperate with the Utah College of Applied Technology, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern to ensure that students in the public education system have access to career and technical education at Utah College of Applied Technology ~~[campuses]~~ applied technology colleges, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern;

(5) shall require that before a minor student may participate in clinical experiences as part of a health care occupation program at a high school or other institution to which the student has been referred, the student's parent or legal guardian has:

(a) been first given written notice through appropriate disclosure when registering and prior to participation that the program contains a clinical experience segment in which the student will observe and perform specific health care procedures that may include personal care, patient bathing, and bathroom assistance; and

(b) provided specific written consent for the student's participation in the program and clinical experience; and

(6) shall, after consulting with school districts, charter schools, the Utah College of Applied Technology, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern, prepare and submit an annual report to the governor and to the Legislature's Education Interim Committee by October 31 of each year detailing:

(a) how the career and technical education needs of secondary students are being met; and

(b) what access secondary students have to programs offered:

(i) at applied technology colleges; and

(ii) within the regions served by Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern.

Section 8. Section 53A-17a-114 is amended to read:

53A-17a-114. Career and technical education program alternatives.

(1) A secondary student may attend ~~[a campus of]~~ an applied technology college within the Utah College of Applied Technology ~~[created under Title 53B, Chapter 2a, Utah College of Applied Technology, if]~~ if the secondary student's career and technical education goals are better

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achieved by attending ~~[the Utah College of Applied Technology]~~ an applied technology college as determined by:

- (a) the secondary student; and
- (b) if the secondary student is a minor, the secondary student's parent or legal guardian.

(2) ~~[Beginning with the school year that occurs during the fiscal year that begins on July 1, 2011 and ends on June 30, 2012, a]~~ A secondary student served under this section ~~[in a campus of]~~ by an applied technology college within the Utah College of Applied Technology shall be counted in the average daily membership of the sending school district or charter school.

Section 9. Section 53B-1-103 is amended to read:

53B-1-103. Establishment of State Board of Regents -- Powers and authority.

(1) There is established a State Board of Regents.

(2) (a) Except as provided in Subsection (2)(b), the board is vested with the control, management, and supervision of the institutions of higher education designated in Section 53B-1-102 in a manner consistent with the policy and purpose of this title and the specific powers and responsibilities granted to it.

(b) The board may only exercise powers relating to the Utah College of Applied Technology and ~~[its college campuses]~~ applied technology colleges within the Utah College of Applied Technology that are specifically provided in this title.

(c) The board shall coordinate and support articulation agreements between the Utah College of Applied Technology or applied technology colleges within the Utah College of Applied Technology and other institutions of higher education.

(d) The board shall prepare and submit an annual report detailing its progress and recommendations on career and technical education issues to the governor and to the Legislature's Education Interim Committee by October 31 of each year, which shall include information detailing:

(i) how the career and technical education needs of secondary students are being met by institutions of higher education other than applied technology colleges within the Utah College of Applied Technology, including what access secondary students have to programs offered by Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern;

(ii) how the emphasis on high demand, high wage, and high skill jobs in business and

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industry is being provided;

(iii) performance outcomes, including:

(A) entered employment;

(B) job retention; and

(C) earnings; and

(iv) student tuition and fees.

(e) Except for the Utah College of Applied Technology, the board may modify the name of an institution under its control and management, as designated in Section 53B-1-102, to reflect the role and general course of study of the institution.

(f) The board may not conduct a feasibility study or perform another act relating to merging any of the following institutions with another institution of higher education:

(i) ~~the~~ Bridgerland Applied Technology College ~~Campus~~;

(ii) ~~the~~ Ogden-Weber Applied Technology College ~~Campus~~;

(iii) ~~the~~ Davis Applied Technology College ~~Campus~~;

(iv) ~~the~~ Tooele Applied Technology College ~~Campus~~;

(v) ~~the~~ Mountainland Applied Technology College ~~Campus~~;

(vi) ~~the~~ Uintah Basin Applied Technology College ~~Campus~~;

(vii) ~~the~~ Southwest Applied Technology College ~~Campus~~; and

(viii) ~~the~~ Dixie Applied Technology College ~~Campus~~.

(3) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(4) The board shall conduct a study regarding the feasibility of providing a veterans' walk-in center or services at each state institution of higher education. The study shall include:

(a) an implementation plan for providing a walk-in center or services at each institution of higher education;

(b) criteria, based upon the size of the institution, to determine whether the institution should be required to provide a walk-in center or services;

(c) responsibilities of the walk-in center or services;

(d) a notification process about the walk-in center or services to veterans upon their application for admission;

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(e) the possibility of staffing a veterans walk-in center or services with veterans, including through work-study positions to be filled by veterans;

(f) annual reports from each walk-in center and services to the board which includes summary information of veterans served; and

(g) funding requirements for a veterans walk-in center and services.

(5) Presentation of the study, including the implementation plan with funding and other recommendations, shall be made to a legislative committee, commission, or task force upon request no later than the October 2014 interim meeting.

Section 10. Section 53B-2-104 is amended to read:

53B-2-104. Memberships of board of trustees -- Terms -- Vacancies -- Oath -- Officers -- Bylaws -- Quorum -- Committees -- Compensation.

(1)(a) The board of trustees of an institution of higher education consists of the following:

(i) except as provided in Subsection 53B-18-1201(3)(b), eight persons appointed by the governor and approved by the Senate; and

(ii) two ex officio members who are the president of the institution's alumni association, and the president of the associated students of the institution.

(b) The appointed members of the boards of trustees for Utah Valley University and Salt Lake Community College shall be representative of the interests of business, industry, and labor.

(2)(a) The governor shall appoint four members of each board of trustees during each odd-numbered year to four-year terms commencing on July 1 of the year of appointment.

(b) An appointed member holds office until a successor is appointed and qualified.

(c) The ex officio members serve for the same period as they serve as presidents and until their successors have qualified.

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

(4)(a) Each member shall take the official oath of office prior to assuming the office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(5) Each board of trustees shall elect a chair and vice chair, who serve for two years and until their successors are elected and qualified.

(6)(a) Each board of trustees may enact bylaws for its own government, including provision for regular meetings.

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(b) (i) The board of trustees may provide for an executive committee in its bylaws.

(ii) If established, the committee shall have full authority of the board of trustees to act upon routine matters during the interim between board of trustees meetings.

(iii) The committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) The committee shall report its activities to the board of trustees at its next regular meeting following the action.

(c) Copies of the board of trustees' bylaws shall be filed with the board.

(7) A quorum is required to conduct business and consists of six members.

(8) A board of trustees may establish advisory committees.

(9) 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.

(10) This section does not apply to a board of directors of an applied technology college within the Utah College of Applied Technology.

Section 11. Section 53B-2-106 is amended to read:

53B-2-106. Duties and responsibilities of the president of each institution -- Approval by board of trustees.

(1) (a) The president of each institution may exercise grants of power and authority as delegated by the board, as well as the necessary and proper exercise of powers and authority not specifically denied to the institution, its administration, faculty, or students by the board or by law, to assure the effective and efficient administration and operation of the institution consistent with the statewide master plan for higher education.

(b) The president of each institution may, after consultation with the institution's board of trustees, exercise powers relating to the institution's employees, including faculty and persons under contract with the institution, by implementing any of the following:

(i) furloughs;

(ii) reductions in force;

(iii) benefit adjustments;

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- (iv) program reductions or discontinuance;
- (v) early retirement incentives that provide cost savings to the institution; and
- (vi) other measures that provide cost savings to the institution.

(2) Except as provided by the board, the president of each institution, with the approval of the institution's board of trustees may:

(a) (i) appoint a secretary, a treasurer, administrative officers, deans, faculty members, and other professional personnel, prescribe their duties, and determine their salaries;

(ii) appoint support personnel, prescribe their duties, and determine their salaries from the institution's position classification plan, which may:

(A) be based upon similarity of duties and responsibilities within the institution; and

(B) as funds permit, provide salary and benefits comparable with private enterprise;

(iii) adopt policies for:

(A) employee sick leave use and accrual; and

(B) service recognition for employees with more than 15 years of employment with the institution; and

(iv) subject to the authority of, policy established by, and the approval of the board of regents, and recognizing the status of the institutions within the state system of higher education as bodies politic and corporate, appoint attorneys to provide legal advice to the institution's administration and to coordinate legal affairs within the institution. The board of regents shall coordinate activities of attorneys at the institutions of higher education. The institutions shall provide an annual report to the board of regents on the activities of appointed attorneys. These appointed attorneys may not conduct litigation, settle claims covered by the State Risk Management Fund, or issue formal legal opinions but shall, in all respects, cooperate with the Office of the Attorney General in providing legal representation to the institution;

(b) provide for the constitution, government, and organization of the faculty and administration, and enact implementing rules, including the establishment of a prescribed system of tenure;

(c) authorize the faculty to determine the general initiation and direction of instruction and of the examination, admission, and classification of students. In recognition of the diverse nature and traditions of the various institutions governed by the board, the systems of faculty government need not be identical but should be designed to further faculty identification with and involvement

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in the institution's pursuit of achievement and excellence and in fulfillment of the institution's role as established in the statewide master plan for higher education; and

(d) enact rules for administration and operation of the institution which are consistent with the prescribed role established by the board, rules enacted by the board, or the laws of the state. The rules may provide for administrative, faculty, student, and joint committees with jurisdiction over specified institutional matters, for student government and student affairs organization, for the establishment of institutional standards in furtherance of the ideals of higher education fostered and subscribed to by the institution, its administration, faculty, and students, and for the holding of classes on legal holidays, other than Sunday.

(3) Compensation costs and related office expenses for appointed attorneys shall be funded within existing budgets.

(4) The State Board of Regents shall establish guidelines relating to the roles and relationships between institutional presidents and boards of trustees, including those matters which must be approved by a board of trustees before implementation by the president.

(5) This section does not apply to a president of an applied technology college within the Utah College of Applied Technology.

Section ~~{2}~~12. Section **53B-2a-101** is amended to read:

53B-2a-101. Definitions.

As used in this chapter:

(1) "Applied technology college" means a member college of the Utah College of Applied Technology.

~~[(1)]~~ (2) "Board of trustees" means the Utah College of Applied Technology Board of Trustees.

~~[(2)]~~ "College campus" means a college campus of the Utah College of Applied Technology.

~~[(3)]~~

(3) "Commissioner of technical education" means the Utah College of Applied Technology commissioner of technical education.

~~[(3)]~~ (4) "Competency-based" means mastery of subject matter or skill level, as demonstrated through business and industry approved standards and assessments, achieved through participation in a hands-on learning environment, and which is tied to observable, measurable

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performance objectives.

~~{ (4) "Director" means the director of the Utah College of Applied Technology.~~

{ (5) "Member" means a member of the board of trustees.

~~{(4)}~~ (6) "Open-entry, open-exit" means:

(a) a method of instructional delivery that allows for flexible scheduling in response to individual student needs or requirements and demonstrated competency when knowledge and skills have been mastered;

(b) students have the flexibility to begin or end study at any time, progress through course material at their own pace, and demonstrate competency when knowledge and skills have been mastered; and

(c) if competency is demonstrated in a program of study, a credential, certificate, or diploma may be awarded.

Section ~~{3}~~13. Section **53B-2a-102** is amended to read:

53B-2a-102. ~~{Director}~~Commissioner of technical education -- Appointment -- Duties.

(1) (a) The board of trustees, ~~{}~~ upon approval from the governor and ~~{}~~ with the consent of the Senate [for each appointee nominated on or after May 8, 2012], shall appoint a [president for the Utah College of Applied Technology] ~~{director}~~commissioner of technical education to serve as the board of trustees' chief executive officer.

~~[(b) The president of the Utah College of Applied Technology does not need to have a doctorate degree, but shall]~~

(b) The ~~{director shall:~~

~~_____ (i) _____ have a master's degree, or a degree more advanced than a master's degree}~~commissioner of technical education shall:

(i) have an appropriate and relevant educational background; and

(ii) have extensive experience in career and technical education.

(c) The [president] ~~{director}~~commissioner of technical education shall serve at the board of trustees' discretion and may be terminated by:

(i) the board of trustees; or

(ii) the governor, after consultation with the board of trustees.

(d) If the board of trustees intends to appoint an interim or acting ~~{director}~~commissioner

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of technical education during a leave of absence of the ~~{director}~~commissioner of technical education, the board of trustees shall appoint the interim or acting ~~{director}~~commissioner of technical education with the consent of the Senate.

~~[(d)]~~ (e) The name of each final candidate for [~~president of the Utah College of Applied Technology~~] ~~{director}~~commissioner of technical education shall be publicly disclosed.

~~[(2) The president shall:]~~

~~[(a) direct the Utah College of Applied Technology and coordinate the activities of each of its college campuses;]~~

~~[(b) in consultation with the board of trustees, campus presidents, and campus boards of directors, prepare a comprehensive strategic plan for delivering career and technical education through the Utah College of Applied Technology college campuses;]~~

~~[(c) after consulting with school districts, charter schools, and other higher education institutions in the regions, ensure that the curricula of the Utah College of Applied Technology meet the needs of the state, the regions, the school districts, and charter schools;]~~

~~[(d) in consultation with the board of trustees, campus presidents, and campus boards of directors, and after consulting with school districts, charter schools, and other higher education institutions in the region, develop strategies for providing career and technical education in rural areas, specifically considering the distances between rural career and technical education providers;]~~

~~[(e) establish minimum standards for career and technical education programs of the Utah College of Applied Technology college campuses;]~~

~~[(f) in conjunction with the board of trustees:]~~

~~[(i) develop and implement a system of common definitions, standards, and criteria for tracking and measuring the effectiveness of career and technical education;]~~

~~[(ii) maintain a central administration office for coordination, prioritization, support, and reporting of college functions dealing with:]~~

~~[(A) budgets and audits;]~~

~~[(B) facilities, including capital, capital development, and leases;]~~

~~[(C) management information systems;]~~

~~[(D) campus and college master planning efforts;]~~

~~[(E) strategic planning;]~~

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~~[(F) articulation with institutions of higher education and public education;]~~

~~[(G) legislative, State System of Public Education, State System of Higher Education, and Board of Regents contact;]~~

~~[(H) general data collection; and]~~

~~[(I) programs, certificates, and curriculum; and]~~

~~[(iii) develop and implement a plan to inform citizens about the availability, cost, and advantages of career and technical education;]~~

~~[(g) after consulting with the State Board of Education, school districts, and charter schools, ensure that secondary students in the public education system have access to career and technical education through the Utah College of Applied Technology college campuses;]~~

~~[(h) in conjunction with the board of trustees, establish benchmarks, provide oversight, evaluate program performance, and obtain independent audits to ensure that college campuses follow the non-credit career and technical education mission described in this part; and]~~

~~[(i) with the approval of the board of trustees, appoint each campus president in accordance with Section 53B-2a-107 and annually set the compensation of each campus president.]~~

(2) The board of trustees shall:

(a) set the salary of the ~~{director}~~ commissioner of technical education;

(b) prescribe the duties and functions of the ~~{director}~~ commissioner of technical education; and

(c) select a ~~{director}~~ commissioner of technical education on the basis of outstanding professional qualifications.

(3) The ~~{director}~~ commissioner of technical education is responsible to the board of trustees to:

(a) ensure that the policies and programs of the board of trustees are properly executed;

(b) ~~{ }~~ furnish information about the Utah College of Applied Technology and make recommendations regarding ~~{that}~~ the information to the board of trustees;

(c) provide state-level leadership in an activity affecting ~~{a}~~ an applied technology college ~~{ campus }~~; and

(d) perform other duties as assigned by the board of trustees in carrying out the board of trustees' duties and responsibilities.

Section ~~{4}~~ 14. Section **53B-2a-103** is amended to read:

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53B-2a-103. Utah College of Applied Technology Board of Trustees -- Membership -- Terms -- Vacancies -- Oath -- Officers -- Quorum -- Committees -- Compensation.

(1) There is created the Utah College of Applied Technology Board of Trustees[5].

(2) Except as provided in Subsections (3) and (4), the board of trustees is composed of the following members:

(a) one member of the State Board of Education appointed by the chair of the State Board of Education, to serve as a nonvoting member;

(b) one member of the State Board of Regents appointed by the chair of the State Board of Regents, to serve as a nonvoting member;

(c) one member representing business and industry employers from ~~[the campus]~~ each applied technology college board of directors ~~[of each applied technology college campus]~~, appointed by a majority vote of the business and industry employer members of the ~~[campus board]~~ applied technology college board of directors;

(d) one member representing business and industry employers from the Snow College Economic Development and Workforce Preparation Advisory Committee appointed by a majority of the business and industry employer members of the advisory committee;

(e) one member representing business and industry employers from the Utah State University Eastern career and technical education advisory committee appointed by a majority of the business and industry employer members of the advisory committee;

(f) one member representing business and industry employers from the Salt Lake Community College School of Applied Technology Board of Directors appointed by a majority of the business and industry employer members of the board of directors;

(g) one business or industry employer representative appointed by the governor with the consent of the Senate from nominations submitted by the speaker of the House of Representatives and president of the Senate;

(h) one representative of union craft, trade, or apprenticeship programs that prepare workers for employment in career and technical education fields, appointed by the governor with the consent of the Senate;

(i) one representative of non-union craft, trade, or apprenticeship programs that prepare workers for employment in career and technical education fields, appointed by the governor with the consent of the Senate; and

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(j) the executive director of the Governor's Office of Economic Development or the executive director's designee.

~~[(2)(a) In making appointments to the board of trustees, the governor shall consider:]~~

(3)(a) Beginning on July 1, 2019, the board of trustees is composed of 15 voting members appointed by the governor with the consent of the Senate, as follows:

(i) one member representing each applied technology college ~~{ campus }~~, selected from at least two nominees presented to the governor by the board of directors of each ~~{ college campus }~~ and

~~— (ii) seven members appointed at large, considering individuals: }~~ applied technology college; and

(ii) one member representing each of the following sectors:

(A) information technology;

(B) manufacturing;

(C) life sciences;

(D) health care;

(E) transportation;

(F) union craft, trade, or apprenticeship; and

(G) non-union craft, trade or apprenticeship.

(b) The seven members described in Subsection (3)(a)(ii) shall be selected from the state at large, subject to the following conditions:

(i) at least four members shall reside in a geographic area served by an applied technology college described in Section 53B-2a-105; and

(ii) no more than two members may reside in a single geographic area served by an applied technology college described in Section 53B-2a-105.

~~[(i) individuals ~~{ (A) }~~ from the state at large with due consideration for geographical representation;]~~

~~[(ii) individuals ~~{ (B) }~~ recognized for their knowledge and expertise; and]~~

~~[(iii) individuals ~~{ (C) }~~ who represent current and emerging business and industry sectors of the state.]~~

~~[(b) ~~{ Appointments }~~ Appointments]~~

(c) (i) In addition to the 15 voting members described in Subsection (3)(a), one member

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of the Board of Regents, appointed by the chair of the Board of Regents, shall serve as a nonvoting member of the board of trustees.

(ii) The nonvoting member from the Board of Regents is not subject to the term limit described in Subsection (5)(b).

(d) The governor shall make appointments to the board [shall be made] of trustees on a nonpartisan basis.

~~{ (c) An individual may not serve on the board of trustees and a college campus board of directors at the same time.~~

~~{ (4) (a) Except as provided in Subsection (4)(d), to transition from the composition of the board of trustees described in Subsection (2) to the composition described in Subsection (3), for a member who was appointed to the board of trustees on or before May 10, 2016, the governor shall appoint a replacement{:~~

~~— (i) } when the member's current term expires{, for a member who, on May 10, 2016, has served less than two consecutive full terms on the board of trustees; or~~

~~— (ii) on May 10, 2016, for a member who, on May 10, 2016, has served two or more consecutive full terms on the board of trustees}.~~

(b) In replacing a member who was appointed under Subsection (2)(c), the governor shall appoint a member to represent the applied technology college represented by the member whose term expires by:

(i) soliciting the ~~{college campus's}~~applied technology college's board of directors to nominate at least two individuals for the position; and

(ii) selecting from the nominees presented.

(c) In replacing a member who was appointed under Subsections (2)(d) through (2)(~~fi~~), the governor shall appoint a new member at large, ~~{considering}~~ensuring representation from the ~~{factors}~~sectors described in Subsection (3)(a)(ii).

(d) (i) A member appointed under Subsection (2)(a~~f~~), (2)(b), or (2)(~~fi~~) shall remain on the board of trustees until June 30, 2019.

(ii) A member appointed under Subsection (2)(b) may remain on the board following the transition to the board composition described in Subsection (3).

(e) In making an appointment under this Subsection (4), the governor:

(i) shall appoint a member on a nonpartisan basis; and

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(ii) may not reappoint the member who is being replaced ~~if the member has served on the board of trustees for at least two consecutive full terms.~~

~~[(3)(a)] (5) (a) (i) Except as provided under Subsection [(3)(b), members of the board of trustees] [(4)(a)(ii) or (5)(a)(ii)], a member shall be appointed commencing on July 1 of each odd-numbered year to a four-year term.~~

~~[(b) Initial terms of the board members beginning on July 1, 2009 shall be staggered with two-year and four-year terms so that]~~

~~(ii) The governor shall ensure that member terms are staggered so that approximately one-half of the members' terms [will] expire in any odd-numbered year.~~

~~[(c) An appointed member holds office until a successor is appointed and qualified.]~~

~~(b) A member may not hold office for more than two consecutive full terms.~~

~~[(4)] (6) When a vacancy occurs [in] on the [membership] board of trustees for any reason, the governor shall appoint a replacement [shall be appointed] for the unexpired term.~~

~~[(5)] (7) (a) Each member shall take the official oath of office prior to assuming the office.~~

~~(b) The oath shall be filed with the Division of Archives and Records Services.~~

~~[(6)] (8) (a) The board of trustees shall elect a chair and vice chair, who serve for two years and until their successors are elected and qualified.~~

~~(b) A member may not serve more than two consecutive terms as the chair or vice chair.~~

~~[(7)] (9) (a) The board of trustees [may] shall enact bylaws for [its] the board of trustees' own government, including [provision] provisions for regular meetings.~~

~~(b) (i) The board of trustees [may] shall provide for an executive committee in [its] the board of trustees' bylaws.~~

~~(ii) [If established, the] The executive committee shall have full authority of the board of trustees to act upon routine matters during the interim between board of trustees meetings.~~

~~(iii) The executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.~~

~~(iv) The executive committee shall report its activities to the board of trustees at [its] the board of trustees' next regular meeting following the executive committee's action.~~

~~[(8)] (10) A quorum shall be required to conduct business which shall consist of a majority of voting board of trustee members.~~

~~[(9)] (11) The board of trustees may establish advisory committees.~~

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~~[(10)]~~ (12) 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.
- Section ~~{5}~~ 15. Section **53B-2a-104** is amended to read:

53B-2a-104. Utah College of Applied Technology Board of Trustees -- Powers and duties.

(1) The Utah College of Applied Technology Board of Trustees is vested with the control, management, and supervision of applied technology colleges within the Utah College of Applied Technology ~~[college campuses]~~ in a manner consistent with the policy and purpose of this title and the specific powers and responsibilities granted to ~~[it]~~ the board of trustees.

(2) The ~~[Utah College of Applied Technology Board of Trustees]~~ board of trustees shall:

(a) ensure that ~~[the Utah College of Applied Technology]~~ ~~{a}~~ an applied technology college ~~[campuses comply]~~ ~~{campus}~~ complies with the requirements in Section 53B-2a-106;

(b) appoint the ~~[president for the Utah College of Applied Technology]~~ ~~{director}~~ commissioner of applied technology in accordance with Section 53B-2a-102;

(c) advise the ~~[president of the Utah College of Applied Technology]~~ ~~{director}~~ commissioner of applied technology and the State Board of Regents on issues related to career and technical education, including articulation with institutions of higher education and public education;

(d) ensure that a secondary student in the public education system has access to career and technical education through ~~{a}~~ an applied technology college ~~{campus}~~ in the secondary student's service region;

(e) in consultation with the State Board of Education, the State Board of Regents, and applied technology college ~~{campus}~~ presidents, develop strategies for providing career and technical education in rural areas, considering distances between rural career and technical education providers;

~~[(d)]~~ (f) receive budget requests from each applied technology college ~~[campus]~~, compile and prioritize the requests, and submit the request to:

- (i) the Legislature; and

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(ii) the Governor's Office of Management and Budget;

~~[(e)]~~ (g) receive funding requests pertaining to capital facilities and land purchases from each applied technology college ~~[campus]~~, ensure that the requests comply with Section 53B-2a-112, prioritize the requests, and submit the prioritized requests to the State Building Board;

~~[(f)]~~ (h) in conjunction with the ~~[Utah College of Applied Technology president]~~ ~~{director}~~ commissioner of applied technology, establish benchmarks, provide oversight, evaluate program performance, and obtain independent audits to ensure that ~~{college}~~ ~~[campuses follow]~~ an applied technology college follows the non-credit career and technical education mission described in this part;

~~[(g)]~~ (i) approve programs for the Utah College of Applied Technology;

~~[(h)]~~ (j) approve the tuition rates for applied technology colleges within the Utah College of Applied Technology;

~~[(i)]~~ (k) prepare and submit an annual report detailing ~~[its]~~ the board of trustees' progress and recommendations on career and technical education issues to the governor and to the Legislature's Education Interim Committee by October 31 of each year, which shall include information detailing:

(i) how the career and technical education needs of secondary students are being met, including what access secondary students have to programs offered at ~~[college campuses]~~ applied technology colleges;

(ii) how the emphasis on high demand, high wage, and high skill jobs in business and industry described in ~~[Subsection]~~ Section 53B-2a-106~~[(f)](c)(ii)~~ is being provided;

(iii) performance outcomes, including:

(A) entered employment;

(B) job retention; and

(C) earnings; and

(iv) student tuition and fees; and

~~[(j)]~~ (l) collaborate with the State Board of Regents, the State Board of Education, the state system of public education, the state system of higher education, the Department of Workforce Services, and the Governor's Office of Economic Development on the delivery of career and technical education.

~~[(3)]~~ The ~~{}~~ Utah College of Applied Technology Board of Trustees, the president of the

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Utah College of Applied Technology, and the Utah College of Applied Technology's ~~{ } board of trustees, the director, or the~~ college campuses, presidents, ~~{ }~~ and ~~{ } or~~ boards]

(3) The board of trustees, the commissioner of applied technology, or an applied technology college, president, or board of directors may not conduct a feasibility study or perform another act relating to offering a degree or awarding credit.

Section 16. Section 53B-2a-105 is amended to read:

53B-2a-105. Utah College of Applied Technology -- Composition.

The Utah College of Applied Technology is composed of the following ~~[college campuses]~~ applied technology colleges:

(1) ~~[the]~~ Bridgerland Applied Technology College ~~[Campus]~~, which serves the geographic area encompassing:

- (a) the Box Elder School District;
- (b) the Cache School District;
- (c) the Logan School District; and
- (d) the Rich School District;

(2) ~~[the]~~ Ogden-Weber Applied Technology College ~~[Campus]~~, which serves the geographic area encompassing:

- (a) the Ogden City School District; and
- (b) the Weber School District;

(3) ~~[the]~~ Davis Applied Technology College ~~[Campus]~~, which serves the geographic area encompassing:

- (a) the Davis School District; and
- (b) the Morgan School District;

(4) ~~[the]~~ Tooele Applied Technology College ~~[Campus]~~, which serves the geographic area encompassing the Tooele County School District;

(5) ~~[the]~~ Mountainland Applied Technology College ~~[Campus]~~, which serves the geographic area encompassing:

- (a) the Alpine School District;
- (b) the Nebo School District;
- (c) the Provo School District;
- (d) the South Summit School District;

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- (e) the North Summit School District;
- (f) the Wasatch School District; and
- (g) the Park City School District;
- (6) ~~the~~ Uintah Basin Applied Technology College ~~Campus~~, which serves the

geographic area encompassing:

- (a) the Daggett School District;
- (b) the Duchesne School District; and
- (c) the Uintah School District;

- (7) ~~the~~ Southwest Applied Technology College ~~Campus~~, which serves the geographic

area encompassing:

- (a) the Beaver School District;
- (b) the Garfield School District;
- (c) the Iron School District; and
- (d) the Kane School District; and

- (8) ~~the~~ Dixie Applied Technology College ~~Campus~~, which serves the geographic area

encompassing the Washington School District.

Section 17. Section 53B-2a-106 is amended to read:

53B-2a-106. ~~{College campuses}~~ Applied technology colleges -- Duties.

(1) Each applied technology college within the Utah College of Applied Technology ~~college campus~~ shall, within the geographic area served by the applied technology college ~~campus~~:

(a) offer a non-credit post-secondary and secondary career and technical education curriculum;

(b) offer that curriculum at:

(i) low cost to adult students, as approved by the board of trustees; and

(ii) no tuition to secondary students;

(c) provide career and technical education that will result in:

(i) appropriate licensing, certification, or other evidence of completion of training; and

(ii) qualification for specific employment, with an emphasis on high demand, high wage, and high skill jobs in business and industry;

(d) develop cooperative agreements with school districts, charter schools, other higher

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education institutions, businesses, industries, and community and private agencies to maximize the availability of instructional facilities within the geographic area served by the applied technology college ~~[campus]~~; and

(e) after consulting with school districts and charter schools within the geographic area served by the applied technology college ~~[campus]~~:

(i) ensure that secondary students in the public education system have access to career and technical education at ~~[each college campus]~~ the applied technology college; and

(ii) prepare and submit an annual report to the ~~[Utah College of Applied Technology]~~ board of trustees detailing:

(A) how the career and technical education needs of secondary students within the region are being met;

(B) what access secondary students within the region have to programs offered at ~~[college campuses]~~ the applied technology college;

(C) how the emphasis on high demand, high wage, high skill jobs in business and industry described in Subsection (1)(c)(ii) is being provided; and

(D) student tuition and fees.

(2) ~~[A]~~ An applied technology college ~~[campus]~~ may offer:

(a) a competency-based high school diploma approved by the State Board of Education in accordance with Section 53A-1-402;

(b) non-credit, basic instruction in areas such as reading, language arts, and mathematics that are necessary for student success in a chosen career and technical education or job-related program;

(c) non-credit courses of interest when similar offerings to the community are limited and courses are financially self-supporting; and

(d) secondary school level courses through the Statewide Online Education Program in accordance with Section 53A-15-1205.

(3) Except as provided in Subsection (2)(d), ~~[a college campus]~~ an applied technology college may not:

(a) offer courses other than non-credit career and technical education or the non-credit, basic instruction described in Subsections (2)(b) and (c);

(b) offer a degree;

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(c) offer career and technical education or basic instruction outside the geographic area served by the ~~[college campus]~~ applied technology college without a cooperative agreement between an affected institution, except as provided in Subsection (6);

(d) provide tenure or academic rank for its instructors; ~~[and]~~ or

(e) participate in intercollegiate athletics.

(4) The mission of ~~[a college campus]~~ an applied technology college is limited to non-credit career and technical education and may not expand to include credit-based academic programs typically offered by community colleges or other institutions of higher education.

(5) ~~[A campus]~~ An applied technology college shall be recognized as a ~~[college campus]~~ member applied technology college of the Utah College of Applied Technology, and regional affiliation shall be retained and recognized through local designations such as "Bridgerland Applied Technology College: A member applied technology college of the Utah College of Applied Technology ~~[Campus]~~."

(6) (a) ~~[A college campus]~~ An applied technology college may offer career and technical education or basic instruction outside the geographic area served by the ~~[college campus]~~ applied technology college without a cooperative agreement, as required in Subsection (3)(c), if:

(i) the career and technical education or basic instruction is specifically requested by:

(A) an employer; or

(B) a craft, trade, or apprenticeship program;

(ii) the ~~[college campus]~~ applied technology college notifies the affected institution about the request; and

(iii) the affected institution is given an opportunity to make a proposal, prior to any contract being finalized or training being initiated by the applied technology college ~~[campus]~~, to the employer, craft, trade, or apprenticeship program about offering the requested career and technical education or basic instruction, provided that the proposal shall be presented no later than one business week from the delivery of the notice described under Subsection (6)(b).

(b) The requirements under Subsection (6)(a)(iii) do not apply if there is a prior training relationship.

Section ~~{6}~~ 18. Section **53B-2a-107** is amended to read:

53B-2a-107. ~~{Campus}~~ Applied technology college presidents -- Appointments -- Duties.

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(1) (a) The [~~president of the Utah College of Applied Technology~~] board of trustees shall, after consultation with [~~a campus~~] an applied technology college board of directors [~~and with the approval of the board of trustees~~ {}], appoint a campus an applied technology college president for [~~a college campus~~] an applied technology college.

(b) The board of trustees shall establish a policy for appointing ~~fa campus~~ an applied technology college president that:

(i) requires the board of trustees to create a search committee that:

(A) shall include an equal number of board of trustee members and members from the applied technology college ~~campus~~ board of directors; and

(B) may include applied technology college ~~campus~~ faculty, students, or other individuals;

(ii) requires the search committee to seek nominations, interview candidates, and forward qualified candidates to the board of trustees for consideration;

(iii) provides for at least two members of the applied technology college ~~campus~~ board of directors to participate in board of trustees' interviews of finalists; and

(iv) provides for the board of trustees to vote to appoint ~~fa campus~~ an applied technology college president in a meeting that complies with Title 52, Chapter 4, Open and Public Meetings Act.

~~[(b) A campus]~~ (2) (a) ~~fa campus~~ An applied technology college president shall serve as the chief administrative officer of the college campus.

~~[(c) {} (b)]~~ ~~A campus~~ (b) An applied technology college president does not need to have a doctorate degree, but shall have extensive experience in career and technical education.

~~[(d) {} (c)]~~ ~~A campus~~ (c) An applied technology college president is subject to regular review and evaluation administered by the [~~Utah College of Applied Technology president~~] board of trustees, in cooperation with the [~~campus~~] applied technology college board of directors, through a process approved by the board of trustees.

~~[(e) {} (d)]~~ ~~A campus~~ (d) An applied technology college president serves at the discretion of [~~the Utah College of Applied Technology president, in cooperation with the campus board of directors and~~] the board of trustees, in cooperation with the ~~campus~~ applied technology college board of directors.

(e) The board of trustees, in cooperation with ~~fa~~ an applied technology college ~~campus~~

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board of directors, shall set the compensation for ~~for~~ an applied technology college president.

~~[(2) Each (A) campus president of a college campus shall:]~~

(3) An applied technology college president shall:

(a) serve as the executive officer of the ~~campus~~ applied technology college board of directors;

(b) administer the day-to-day operations of the ~~college campus~~ applied technology college;

(c) consult with the ~~campus~~ applied technology college board of directors; and

(d) administer human resource policies and employee compensation plans in accordance with the requirements of the ~~[Utah College of Applied Technology Board of Trustees]~~ board of trustees.

Section 19. Section 53B-2a-108 is amended to read:

53B-2a-108. ~~Campus~~ Applied technology college boards of directors -- Membership -- Appointments.

~~[A campus]~~ An applied technology college shall have ~~[a campus]~~ an applied technology college board of directors appointed as follows:

(1) the Bridgerland Applied Technology College ~~Campus~~ Board of Directors shall be composed of the following 12 members:

(a) one elected local school board member appointed by the board of education for the Box Elder School District;

(b) one elected local school board member appointed by the board of education for the Cache School District;

(c) one elected local school board member appointed by the board of education for the Logan School District;

(d) one elected local school board member appointed by the board of education for the Rich School District;

(e) one member of the Utah State University board of trustees; and

(f) seven representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (1)(a) through (e);

(2) the Ogden-Weber Applied Technology College ~~Campus~~ Board of Directors shall be composed of the following 10 members:

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(a) one elected local school board member appointed by the board of education for the Ogden City School District;

(b) one elected local school board member appointed by the board of education for the Weber School District;

(c) one member of the Weber State University board of trustees; and

(d) seven representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (2)(a) through (c);

(3) the Davis Applied Technology College ~~[-Campus]~~ Board of Directors shall be composed of the following 10 members:

(a) one elected local school board member appointed by the board of education for the Davis School District;

(b) one elected local school board member appointed by the board of education for the Morgan School District;

(c) one member of the Weber State University board of trustees; and

(d) seven representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (3)(a) through (c);

(4) the Tooele Applied Technology College ~~[-Campus]~~ Board of Directors shall be composed of the following 12 members:

(a) one elected local school board member appointed by the board of education for the Tooele County School District;

(b) one member of the Utah State University board of trustees; and

(c) 10 representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (4)(a) and (b);

(5) the Mountainland Applied Technology College ~~[-Campus]~~ Board of Directors shall be composed of the following 18 members:

(a) one elected local school board member appointed by the board of education for the Alpine School District;

(b) one elected local school board member appointed by the board of education for the Nebo School District;

(c) one elected local school board member appointed by the board of education for the Provo School District;

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(d) one elected local school board member appointed by the board of education for the South Summit School District;

(e) one elected local school board member appointed by the board of education for the North Summit School District;

(f) one elected local school board member appointed by the board of education for the Wasatch School District;

(g) one elected local school board member appointed by the board of education for the Park City School District;

(h) one member of the Utah Valley University board of trustees; and

(i) 10 representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (5)(a) through (h);

(6) the Uintah Basin Applied Technology College ~~[-Campus]~~ Board of Directors shall be composed of the following 10 members:

(a) one elected local school board member appointed by the board of education for the Daggett School District;

(b) one elected local school board member appointed by the board of education for the Duchesne School District;

(c) one elected local school board member appointed by the board of education for the Uintah School District;

(d) one member of the Utah State University board of trustees; and

(e) six representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (6)(a) through (d);

(7) the Southwest Applied Technology College ~~[-Campus]~~ Board of Directors shall be composed of the following 12 members:

(a) one elected local school board member appointed by the board of education for the Beaver School District;

(b) one elected local school board member appointed by the board of education for the Garfield School District;

(c) one elected local school board member appointed by the board of education for the Iron School District;

(d) one elected local school board member appointed by the board of education for the

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Kane School District;

(e) one member of the Southern Utah University board of trustees; and

(f) seven representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (7)(a) through (e);

(8) the Dixie Applied Technology College [~~Campus~~] Board of Directors shall be composed of the following 10 members:

(a) one elected local school board member appointed by the board of education for the Washington School District;

(b) one member of the Dixie State University board of trustees; and

(c) eight representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (8)(a) and (b); and

(9) the representatives of business or industry employers shall be:

(a) appointed jointly by the designated members from a list of names provided by local organizations or associations whose members employ workers with career and technical education;

(b) individuals recognized for their knowledge and expertise;

(c) individuals who represent current and emerging business and industry sectors of the state; and

(d) appointed on a nonpartisan basis.

Section 20. Section 53B-2a-109 is amended to read:

53B-2a-109. ~~{Campus}~~Applied technology college boards of directors -- Terms -- Quorum -- Chair-- Compensation.

(1) (a) At the first meeting of [~~a campus~~]an applied technology college board of directors after July 1, 2009:

(i) the representatives from the local school boards shall divide up their positions so that approximately half of them serve for two-year terms and half serve for four-year terms; and

(ii) the representatives from business and industry employers shall divide up their positions so that approximately half of them serve for two-year terms and half serve for four-year terms.

(b) Except as provided in Subsection (1)(a), individuals appointed to [~~a campus~~]an applied technology college board of directors shall serve four-year terms.

(2) The original appointing authority shall fill any vacancies that occur on [~~the campus~~]an applied technology college board of directors.

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(3) A majority of ~~[the campus]~~ an applied technology college board of directors is a quorum.

(4) ~~[A campus]~~ An applied technology college board of directors shall elect a chair from its membership.

(5) A member of an applied technology college board of directors 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) (a) ~~[A campus]~~ An applied technology college board of directors may enact bylaws for ~~[its]~~ the applied technology college's own government, including provision for regular meetings, that are in accordance with the policies of the ~~[Utah College of Applied Technology]~~ board of trustees.

(b) (i) ~~[The campus]~~ An applied technology college board of directors may provide for an executive committee in ~~[its]~~ the applied technology college board of directors' bylaws.

(ii) If established, ~~[the]~~ an executive committee shall have the full authority of the ~~[campus]~~ applied technology college board of directors to act upon routine matters during the interim between board meetings.

(iii) ~~[The]~~ An executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) ~~[The]~~ An executive committee shall report ~~[its]~~ the executive committee's activities to the ~~[campus]~~ applied technology college board of directors at ~~[its]~~ the applied technology board of directors' next regular meeting following the action.

(7) ~~[A campus]~~ An applied technology college board of directors may establish advisory committees.

Section 21. Section 53B-2a-110 is amended to read:

53B-2a-110. ~~{Campus}~~Applied technology college board of ~~{directors}--~~directors' powers and duties.

(1) ~~[A campus]~~ An applied technology college board of directors shall:

(a) assist the ~~[campus]~~ applied technology college president in preparing a budget request

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for ~~[its] the applied technology college's~~ annual operations to the ~~[Utah College of Applied Technology Board of Trustees]~~ board of trustees;

(b) after consulting with the ~~[Utah College of Applied Technology]~~ board of trustees, other higher education institutions, school districts, and charter schools within ~~[its] the applied technology college's~~ region, prepare a comprehensive strategic plan for delivering career and technical education within ~~[its] the~~ region;

(c) consult with business, industry, the Department of Workforce Services, the Governor's Office of Economic Development, and the Governor's Office of Management and Budget on an ongoing basis to determine what workers and skills are needed for employment in Utah businesses and industries;

(d) develop programs based upon the information gathered in accordance with Subsection (1)(c), including expedited program approval and termination procedures to meet market needs;

(e) adopt an annual budget and fund balances;

(f) develop policies for the operation of career and technical education facilities under ~~[its]~~ the applied technology college board of directors' jurisdiction;

(g) establish human resources and compensation policies for all employees in accordance with policies of the ~~[Utah College of Applied Technology Board of Trustees]~~ board of trustees;

(h) approve credentials for employees and assign employees to duties in accordance with ~~[the Utah College of Applied Technology Board of Trustees]~~ board of trustees policies and accreditation guidelines;

(i) conduct annual program evaluations;

(j) appoint program advisory committees and other advisory groups to provide counsel, support, and recommendations for updating and improving the effectiveness of training programs and services;

(k) approve regulations, both regular and emergency, to be issued and executed by the ~~[campus president]~~ applied technology college president;

(l) coordinate with local school boards, school districts, and charter schools to meet the career and technical education needs of secondary students; and

(m) develop policies and procedures for the admission, classification, instruction, and examination of students in accordance with the policies and accreditation guidelines of the ~~[Utah College of Applied Technology]~~ board of trustees and the State Board of Education.

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(2) Subsection (1)(g) does not apply to ~~[a campus]~~ an applied technology college president.

(3) ~~[A campus]~~ An applied technology college board of directors may not exercise ~~[any]~~ jurisdiction over career and technical education provided by a school district or charter school or provided by a higher education institution independently of ~~[a college campus]~~ an applied technology college.

(4) If a program advisory committee or other advisory group submits a printed recommendation to ~~[the campus]~~ an applied technology college board of directors, the ~~[campus]~~ applied technology college board of directors shall acknowledge the recommendation with a printed response that explains the ~~[campus]~~ applied technology college board of directors' action regarding the recommendation and the reasons for the action.

Section 22. Section 53B-2a-112 is amended to read:

53B-2a-112. ~~{College campuses}~~ Applied technology colleges -- Relationships with other public and higher education institutions -- Agreements -- Priorities -- New capital facilities.

(1) As used in this section, "higher education institution" means, for each ~~[college campus]~~ applied technology college, the higher education institution designated in Section 53B-2a-108 that has a representative on ~~[its campus]~~ the applied technology college's board of directors.

(2) ~~[A college campus]~~ An applied technology college shall avoid any unnecessary duplication of career and technical education instructional facilities, programs, administration, and staff between the applied technology college ~~[campus]~~ and other public and higher education institutions.

(3) ~~[A]~~ An applied technology college ~~[campus]~~ may enter into agreements:

(a) with other higher education institutions to cultivate cooperative relationships;

(b) with other public and higher education institutions to enhance career and technical education within its region; or

(c) to comply with Subsection (2).

(4) Before ~~[a]~~ an applied technology college ~~[campus]~~ develops ~~[its own]~~ new instructional facilities, ~~[it]~~ the applied technology college shall give priority to:

(a) maintaining ~~[its own]~~ the applied technology college's existing instructional facilities for both secondary and adult students;

(b) coordinating with the president of a higher education institution and entering into any

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necessary agreements to provide career and technical education to both secondary and adult students that:

(i) maintain and support existing higher education career and technical education programs; and

(ii) maximize the use of existing higher education facilities; and

(c) developing cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of career and technical education instructional facilities for both secondary and adult students.

(5) (a) Before submitting a funding request pertaining to new capital facilities and land purchases to the ~~[Utah College of Applied Technology, a college campus]~~ board of trustees, an applied technology college shall:

(i) ensure that all available instructional facilities are maximized in accordance with Subsections (4)(a) through (c); and

(ii) coordinate the request with the president of a higher education institution, if applicable.

(b) The State Building Board shall make a finding that the requirements of this section are met before ~~[it]~~ the State Building Board may consider a funding request ~~[of the Utah College of Applied Technology]~~ from the board of trustees pertaining to new capital facilities and land purchases.

(c) ~~[A]~~ An applied technology college ~~[campus]~~ may not construct, approve the construction of, plan for the design or construction of, or consent to the construction of a career and technical education facility without approval of the Legislature.

(6) Before acquiring new fiscal and administrative support structures, ~~[a college campus]~~ an applied technology college shall:

(a) review the use of existing public or higher education administrative and accounting systems, financial record systems, and student and financial aid systems for the delivery of career and technical education in the region;

(b) determine whether it is feasible to use those existing systems; and

(c) with the approval of the ~~[campus]~~ applied technology college board of directors and the board of trustees, use those existing systems.

Section ~~{7}~~ 23. Section **53B-2a-113** is amended to read:

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53B-2a-113. ~~{College campuses}~~ Applied technology colleges -- Leasing authority -- Lease-purchase agreements -- Report.

(1) In accordance with Subsection 53B-2a-112(2), ~~[a college campus]~~ an applied technology college may enter into a lease with other higher education institutions, school districts, charter schools, state agencies, or business and industry for a term of:

(a) one year or less with the approval of the ~~[campus]~~ applied technology college board of directors; and

(b) more than one year with the approval of the board of trustees and:

(i) the approval of funding for the lease by the Legislature prior to ~~[a college campus]~~ an applied technology college entering into the lease; or

(ii) the lease agreement includes language that allows termination of the lease without penalty.

(2) (a) In accordance with Subsection 53B-2a-112(2), ~~[a]~~ an applied technology college ~~[campus]~~ may enter into a lease-purchase agreement if:

(i) there is a long-term benefit to the state;

(ii) the project is included in both the ~~[campus]~~ applied technology college and Utah College of Applied Technology master plans;

(iii) the lease-purchase agreement includes language that allows termination of the lease;

(iv) the lease-purchase agreement is approved by the ~~[campus]~~ applied technology college board of directors and the board of trustees; and

(v) the lease-purchase agreement is:

(A) reviewed by the Division of Facilities Construction and Management;

(B) reviewed by the State Building Board; and

(C) approved by the Legislature.

(b) An approval under Subsection (2)(a) shall include a recognition of:

(i) all parties, dates, and elements of the agreement;

(ii) the equity or collateral component that creates the benefit; and

(iii) the options dealing with the sale and division of equity.

(3) (a) Each ~~[college campus]~~ applied technology college shall provide an annual lease report to the board of trustees that details each of ~~[its]~~ the applied technology college's leases, annual costs, location, square footage, and recommendations for lease continuation.

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(b) The [~~president of the Utah College of Applied Technology~~] ~~{~~director~~}~~ board of trustees shall compile and distribute an annual combined lease report for all ~~[college campuses]~~ applied technology colleges to the Division of Facilities Construction Management and to others upon request.

(4) The [~~Utah College of Applied Technology~~] board of trustees shall use the annual combined lease report in determining planning, utilization, and budget requests.

Section 24. Section 53B-6-106 is amended to read:

53B-6-106. Jobs Now and Economic Development Initiatives.

(1) (a) The Utah College of Applied Technology Board of Trustees shall develop, establish, and maintain a Jobs Now Initiative, to promote workforce preparation programs that meet critical needs and shortages throughout the state.

(b) The State Board of Regents shall develop, establish, and maintain economic development initiatives within the system of higher education.

(2) The initiatives specified in Subsection (1) shall provide support for technical training expansion that trains skilled potential employees within a period not to exceed 12 months for technical jobs in critical needs occupations and other innovative economic development policy initiatives.

(3) (a) Subject to future budget constraints, the Legislature shall provide an annual appropriation to the Utah College of Applied Technology to fund the Jobs Now Initiative established in Subsection (1)(a).

(b) (i) The Utah College of Applied Technology Board of Trustees shall allocate the appropriation for the Jobs Now Initiative to ~~[college campuses]~~ ~~{~~ within the college.

~~———(ii)———}~~ applied technology colleges within the [college] the Utah College of Applied Technology.

(ii) [A college campus] An applied technology college shall use money received under Subsection (3)(b)(i) for technical training expansion referred to in Subsection (2).

(c) Subject to future budget constraints, the Legislature shall provide an annual appropriation to the State Board of Regents to fund economic development initiatives established pursuant Subsection (1)(b).

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) the Utah College of Applied Technology Board of Trustees shall make rules to

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implement the Jobs Now Initiative; and ~~{~~

(ii) the board shall make rules to implement economic development initiatives.

Section 25. Section 53B-8d-102 is amended to read:

53B-8d-102. Definitions.

As used in this chapter:

(1) "Division" means the Division of Child and Family Services.

(2) "Long-term foster care" means an individual who remains in the custody of the division, whether or not the individual resides:

(a) with licensed foster parents; or

(b) in independent living arrangements under the supervision of the division.

(3) "State institution of higher education" means:

(a) ~~[those institutions]~~ an institution designated in Section 53B-1-102; and

(b) ~~[any]~~ a public institution that offers postsecondary education in consideration of the payment of tuition or fees for the attainment of educational or vocational objectives leading to a degree or certificate, including:

~~[(i) business schools;]~~

~~[(ii) technical schools;]~~

~~[(iii) applied technology centers;]~~

~~[(iv) trade schools; and {~~

~~— [(v) institutions}]]~~

(i) a business school;

(ii) a technical school;

(iii) an applied technology college within the Utah College of Applied Technology;

(iv) a trade school; or

(v) [institutions] an institution offering related apprenticeship programs.

(4) "Tuition" means tuition at the rate for residents of the state.

(5) "Ward of the state" means an individual:

(a) who is:

(i) at least 17 years of age; and

(ii) not older than 26 years of age;

(b) who had a permanency goal in the individual's child and family plan, as described in

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Sections 62A-4a-205 and 78A-6-314, of long-term foster care while in the custody of the division;
and

(c) for whom the custody of the division was not terminated as a result of adoption.

Section 26. Section 53B-16-102 is amended to read:

53B-16-102. Changes in curriculum -- Substantial alterations in institutional operations -- Periodic review of programs -- Career and technical education curriculum changes.

(1) Under procedures and policies approved by the board and developed in consultation with each institution of higher education, each institution may make such changes in its curriculum as necessary to better effectuate the institutional role previously approved by the board.

(2) Notice of a change in the curriculum shall in all cases be promptly submitted to the board.

(3) The board shall establish procedures and policies for considering institutional proposals for substantial alterations in the scope of existing institutional operations.

(4) Alterations shall not be made without prior approval of the state board.

(5) For purposes of this section, "substantial alteration" means the establishment of a branch, extension center, college, professional school, division, institute, department, or a new program in instruction, research, or public services or a new degree, diploma, or certificate.

(6) The board shall conduct periodic reviews of all programs of instruction, research, and public service at each institution, including those funded by gifts, grants, and contracts, and may require the modification or termination of any program.

(7) Prior to requiring modification or termination of a program, the board shall give the institution adequate opportunity for a hearing before the board.

(8) In making decisions related to career and technical education curriculum changes, the board shall request a review of the proposed changes by the State Board of Education and the Utah College of Applied Technology Board of Trustees to ensure an orderly and systematic career and technical education curriculum that eliminates overlap and duplication of course work with the high schools and [the] applied technology colleges within the Utah College of Applied Technology.

Section ~~8~~27. Section 53B-17-105 is amended to read:

53B-17-105. Utah Education and Telehealth Network.

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(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 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;

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- (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) four members representing the state system of higher education appointed by the commissioner of higher education;
 - (ii) four members representing the state system of public education including:
 - (A) three members appointed by the State Board of Education; and
 - (B) one member representing the Utah State Office of Education appointed by the state superintendent;
 - (iii) one member representing applied technology centers appointed by the ~~[president]~~ director of the ~~Utah College of Applied Technology~~ commissioner of technical education;
 - (iv) one member representing the state library appointed by the state librarian;
 - (v) two members representing hospitals as follows:
 - (A) the members may not be employed by the same hospital system;
 - (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
 - (vi) 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.

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- (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.
- (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 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 28. Section 59-12-102 is amended to read:

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59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal

Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber;

or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

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(4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(5) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (6); and

(b) that are imposed within a local taxing jurisdiction.

(6) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-402.1;

(i) Section 59-12-703;

(j) Section 59-12-802;

(k) Section 59-12-804;

(l) Section 59-12-1102;

(m) Section 59-12-1302;

(n) Section 59-12-1402;

(o) Section 59-12-1802;

(p) Section 59-12-2003;

(q) Section 59-12-2103;

(r) Section 59-12-2213;

(s) Section 59-12-2214;

(t) Section 59-12-2215;

(u) Section 59-12-2216;

(v) Section 59-12-2217; or

(w) Section 59-12-2218.

(7) "Aircraft" is as defined in Section 72-10-102.

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(8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(9) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(10) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

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(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(11) (a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(12) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(13) "Area agency on aging" is as defined in Section 62A-3-101.

(14) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

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(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(15) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(16) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

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(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(18) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this

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chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

- (I) food and food ingredients;
- (II) a drug;
- (III) durable medical equipment;
- (IV) mobility enhancing equipment;
- (V) an over-the-counter drug;
- (VI) a prosthetic device; or
- (VII) a medical supply; and

(B) subject to Subsection (18)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

- (I) accompanies the sale of the tangible personal property, product, or service; and
- (II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service

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on the following, regardless of whether the following is in paper format or electronic format:

- (A) a binding sales document; or
- (B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

- (A) a bill of sale;
- (B) a contract;
- (C) an invoice;
- (D) a lease agreement;
- (E) a periodic notice of rates and services;
- (F) a price list;
- (G) a rate card;
- (H) a receipt; or
- (I) a service agreement.

(e)(i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (18)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject

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to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(19) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (19)(a)(i).

(20) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (56) or residential use under Subsection (106).

(24) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person who, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah

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Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(25) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(26) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(27) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(28) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (28)(a) and (b).

(29) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).

(30) "Construction materials" means any tangible personal property that will be converted into real property.

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(31) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(32) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) services; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(33) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(34) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);

(c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

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- (A) tablet form;
- (B) capsule form;
- (C) powder form;
- (D) softgel form;
- (E) gelcap form; or
- (F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections

(34)(c)(i)(A) through (F), is not represented:

- (A) as conventional food; and
- (B) for use as a sole item of:
 - (I) a meal; or
 - (II) the diet; and
- (d) is required to be labeled as a dietary supplement:
 - (i) identifiable by the "Supplemental Facts" box found on the label; and
 - (ii) as required by 21 C.F.R. Sec. 101.36.

(35) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(36) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(37) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(38)(a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

- (i) to:
 - (A) a mass audience; or
 - (B) addressees on a mailing list provided:
 - (I) by a purchaser of the mailing list; or
 - (II) at the discretion of the purchaser of the mailing list; and
 - (ii) if the cost of the printed material is not billed directly to the recipients.
- (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a

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purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(39) "Directory assistance" means an ancillary service of providing:

- (a) address information; or
- (b) telephone number information.

(40) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

- (i) cannot withstand repeated use; and
- (ii) are purchased by, for, or on behalf of a person other than:
 - (A) a health care facility as defined in Section 26-21-2;
 - (B) a health care provider as defined in Section 78B-3-403;
 - (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
 - (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

- (i) a drug;
- (ii) durable medical equipment;
- (iii) a hearing aid;
- (iv) a hearing aid accessory;
- (v) mobility enhancing equipment; or
- (vi) tangible personal property used to correct impaired vision, including:
 - (A) eyeglasses; or
 - (B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(41) "Drilling equipment manufacturer" means a facility:

- (a) located in the state;
- (b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

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(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(42) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (43)(a).

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(c) "Durable medical equipment" does not include mobility enhancing equipment.

(44) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (44)(b)(i) through (vi).

(45) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(46) "Employee" is as defined in Section 59-10-401.

(47) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(48) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(49) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(50) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

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(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(51) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(52) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

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(53) "Governing board of the agreement" means the governing board of the agreement that is:

- (a) authorized to administer the agreement; and
- (b) established in accordance with the agreement.

(54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) ~~[a college campus of]~~ an applied technology college within the the Utah College of Applied Technology;

(ii) a school;

(iii) the State Board of Education;

(iv) the State Board of Regents; or

(v) an institution of higher education.

(55) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

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- (ii) irrigation pumps;
 - (iii) farm machinery;
 - (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and
 - (v) other farming activities;
 - (c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
 - (d) by a scrap recycler if:
 - (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:
 - (A) iron;
 - (B) steel;
 - (C) nonferrous metal;
 - (D) paper;
 - (E) glass;
 - (F) plastic;
 - (G) textile; or
 - (H) rubber; and
 - (ii) the new products under Subsection (56)(d)(i) would otherwise be made with nonrecycled materials; or
 - (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a cogeneration facility as defined in Section 54-2-1.
- (57)(a) Except as provided in Subsection (57)(b), "installation charge" means a charge for installing:
- (i) tangible personal property; or
 - (ii) a product transferred electronically.
 - (b) "Installation charge" does not include a charge for:
 - (i) repairs or renovations of:
 - (A) tangible personal property; or
 - (B) a product transferred electronically; or

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(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(58) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(59) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) \$100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(60) "Life science establishment" means an establishment in this state that is classified

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under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(61) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(62) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(63) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(64) "Manufactured home" is as defined in Section 15A-1-302.

(65) "Manufacturing facility" means:

(a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

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(ii) the new products under Subsection (65)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(66) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (66)(a) through (g); or

(j) person similar to a person described in Subsections (66)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(67) "Mobile home" is as defined in Section 15A-1-302.

(68) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(69) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (69)(a)(i) and the termination point described in Subsection (69)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

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(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(70)(a) Except as provided in Subsection (70)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (70)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(71) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(72) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (72)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(73)(a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

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- (ii) total annual sales revenues of at least \$500,000,000;
- (iii) a proprietary system that calculates the amount of tax:
 - (A) for an agreement sales and use tax; and
 - (B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(74) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(75) "Modular home" means a modular unit as defined in Section 15A-1-302.

(76) "Motor vehicle" is as defined in Section 41-1a-102.

(77) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(78) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(79) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(80) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(81) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (81)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(82) "Pawnbroker" is as defined in Section 13-32a-102.

(83) "Pawn transaction" is as defined in Section 13-32a-102.

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(84) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (84)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (84)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule

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made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (124)(c).

(85) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(86) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(87) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a

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telecommunications service.

(88) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(89) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(90) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

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(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(91) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item;

or

(iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV); and

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(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (91)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

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(i) a container; or

(ii) packaging.

(92) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (93)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

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(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(94) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(95) (a) Except as provided in Subsection (95)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(96) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

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(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(97) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(99) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

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(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser;

and

(II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

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(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

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(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(100) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(101) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(102) "Rental" is as defined in Subsection (59).

(103) (a) Except as provided in Subsection (103)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not

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permanently attached to real property.

(104) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(105)(a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (105)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(106) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(107) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(108) (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(109) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

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(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(110) "Sale at retail" is as defined in Subsection (107).

(111) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(112) "Sales price" is as defined in Subsection (99).

(113) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

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- (II) textbook fees;
- (III) laboratory fees;
- (IV) laboratory supplies; or
- (V) safety equipment;
- (B) the sale of a uniform, protective equipment, or sports or recreational equipment that:
 - (I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and
 - (II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;
 - (C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:
 - (I) food and food ingredients; or
 - (II) prepared food; or
 - (D) transportation charges for official school activities; or
 - (ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.
 - (b) "Sales relating to schools" does not include:
 - (i) bookstore sales of items that are not educational materials or supplies;
 - (ii) except as provided in Subsection (113)(a)(i)(B):
 - (A) clothing;
 - (B) clothing accessories or equipment;
 - (C) protective equipment; or
 - (D) sports or recreational equipment; or
 - (iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:
 - (A) other than a:
 - (I) school;
 - (II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or
 - (III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

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(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(114) For purposes of this section and Section 59-12-104, "school":

(a) means:

(i) an elementary school or a secondary school that:

(A) is a:

(I) public school; or

(II) private school; and

(B) provides instruction for one or more grades kindergarten through 12; or

(ii) a public school district; and

(b) includes the Electronic High School as defined in Section 53A-15-1002.

(115) "Seller" means a person that makes a sale, lease, or rental of:

(a) tangible personal property;

(b) a product transferred electronically; or

(c) a service.

(116) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

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(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (116)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(117) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(118)(a) Subject to Subsections (118)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

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- (viii) a meal;
- (ix) mouthwash;
- (x) nail polish remover;
- (xi) a newspaper;
- (xii) a notepad;
- (xiii) a pen;
- (xiv) a pencil;
- (xv) a razor;
- (xvi) saline solution;
- (xvii) a sewing kit;
- (xviii) shaving cream;
- (xix) a shoe shine kit;
- (xx) a shower cap;
- (xxi) a snack item;
- (xxii) soap;
- (xxiii) toilet paper;
- (xxiv) a toothbrush;
- (xxv) toothpaste; or

(xxvi) an item similar to Subsections (118)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

- (i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or
- (ii) a product transferred electronically.

(119) "Simplified electronic return" means the electronic return:

- (a) described in Section 318(C) of the agreement; and
- (b) approved by the governing board of the agreement.

(120) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(121) (a) "Sports or recreational equipment" means an item:

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(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(122) "State" means the state of Utah, its departments, and agencies.

(123) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(124) (a) Except as provided in Subsection (124)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

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(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

- (i) a dishwasher;
- (ii) a dryer;
- (iii) a freezer;
- (iv) a microwave;
- (v) a refrigerator;
- (vi) a stove;
- (vii) a washer; or

(viii) an item similar to Subsections (124)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (i) a hot water heater;
- (ii) a water filtration system; or
- (iii) a water softener system.

(125)(a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (125)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

- (i) telecommunications switching or routing equipment, machinery, or software; or
- (ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (125)(a):

- (i) a pole;
- (ii) software;
- (iii) a supplementary power supply;
- (iv) temperature or environmental equipment or machinery;

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(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (125)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (125)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (125)(b)(i) through (vi).

(126) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(127) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(128) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

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- (iv) a fixed wireless service;
- (v) a mobile wireless service;
- (vi) a postpaid calling service;
- (vii) a prepaid calling service;
- (viii) a prepaid wireless calling service; or
- (ix) a private communications service.
- (c) "Telecommunications service" does not include:
 - (i) advertising, including directory advertising;
 - (ii) an ancillary service;
 - (iii) a billing and collection service provided to a third party;
 - (iv) a data processing and information service if:
 - (A) the data processing and information service allows data to be:
 - (I) (Aa) acquired;
 - (Bb) generated;
 - (Cc) processed;
 - (Dd) retrieved; or
 - (Ee) stored; and
 - (II) delivered by an electronic transmission to a purchaser; and
 - (B) the purchaser's primary purpose for the underlying transaction is the processed data or information;
- (v) installation or maintenance of the following on a customer's premises:
 - (A) equipment; or
 - (B) wiring;
- (vi) Internet access service;
- (vii) a paging service;
- (viii) a product transferred electronically, including:
 - (A) music;
 - (B) reading material;
 - (C) a ring tone;
 - (D) software; or
 - (E) video;

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(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(129) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (129)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (129)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(130) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (130)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (130)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

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(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (130)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (ix).

(131) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (131)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (131)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

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- (xiv) a pedestal;
- (xv) a power converter;
- (xvi) a power supply;
- (xvii) a radio channel;
- (xviii) a radio receiver;
- (xix) a radio transmitter;
- (xx) a repeater;
- (xxi) software;
- (xxii) a terminal;
- (xxiii) a timing unit;
- (xxiv) a transformer;
- (xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (xxv).

(132) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

- (i) offered by an institution of higher education; and
 - (ii) that the purchaser of the textbook or other printed material attends or will attend.
- (b) "Textbook for a higher education course" includes a textbook in electronic format.

(133) "Tobacco" means:

- (a) a cigarette;
- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

(134) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the

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amusement device, skill device, or ride device.

(135) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(136) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

- (i) code;
- (ii) content;
- (iii) form; or
- (iv) protocol.

(137) (a) Subject to Subsection (137)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

- (i) an aircraft as defined in Section 72-10-102;
- (ii) a vehicle as defined in Section 41-1a-102;
- (iii) an off-highway vehicle as defined in Section 41-22-2; or
- (iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- (i) a vehicle described in Subsection (137)(a); or
- (ii) (A) a locomotive;
- (B) a freight car;
- (C) railroad work equipment; or
- (D) other railroad rolling stock.

(138) "Vehicle dealer" means a person engaged in the business of buying, selling, or

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exchanging a vehicle as defined in Subsection (137).

(139) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(140) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(141) (a) Except as provided in Subsection (141)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(142) "Watercraft" means a vessel as defined in Section 73-18-2.

(143) "Wind energy" means wind used as the sole source of energy to produce electricity.

(144) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 29. Section 63A-9-101 is amended to read:

63A-9-101. Definitions.

(1)(a) "Agency" means each department, commission, board, council, agency, institution,

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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, the Office of Education, ~~each Applied Technology Center~~ an applied technology college within the Utah College of Applied Technology, the board of regents, the institutional councils of each higher education institution, and each higher education institution.

(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.

(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 purposes.

(8) "State vehicle" means each motor vehicle owned, operated, or in the possession of an agency.

Section ~~9~~30. Section **63I-2-253** is amended to read:

63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.

(1) Section 53A-1-403.5 is repealed July 1, 2017.

~~[(2) Subsection 53A-1-410(5) is repealed July 1, 2015.]~~

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~~[(3)]~~ (2) Section 53A-1-411 is repealed July 1, 2017.

~~[(4)]~~ (3) Section 53A-1a-513.5 is repealed July 1, 2017.

~~[(5)]~~ (4) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2019.

~~[(6)]~~ (5) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.

(6) (a) Subsections 53B-2a-103(2) and (4) are repealed July 1, 2019.

(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

Section 31. Section 63M-2-202 is amended to read:

63M-2-202. Technology outreach innovation program.

(1) As funding becomes available from the Legislature or other sources, the USTAR governing authority shall establish a technology outreach innovation program, also known as the TOIP, at up to five locations distributed strategically throughout Utah.

(2) The USTAR governing authority shall ensure that the technology innovation outreach program acts as a resource to:

(a) broker ideas, new technologies, and services to entrepreneurs and businesses throughout a defined service area;

(b) engage local entrepreneurs and professors at applied technology ~~[centers]~~ colleges within the Utah College of Applied Technology, colleges, and universities by connecting them to Utah's research universities;

(c) screen business ideas and new technologies to ensure that the ones with the highest growth potential receive the most targeted services and attention;

(d) connect market ideas and technologies in new or existing businesses or industries or in regional colleges and universities with the expertise of Utah's research universities;

(e) assist businesses, ~~[applied technology centers]~~ applied technology colleges within the Utah College of Applied Technology, colleges, and universities in developing commercial applications for their research; and

(f) disseminate and share discoveries and technologies emanating from Utah's research universities to local entrepreneurs, businesses, ~~[applied technology centers]~~ applied technology colleges within the Utah College of Applied Technology, colleges, and universities.

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(3) In designing and operating the TOIP, for each TOIP location the USTAR governing authority:

- (a) may hire a TOIP director;
- (b) shall establish written performance standards and expectations; and
- (c) shall require reporting related to those performance standards and expectations on at least an annual basis.

(4) A TOIP director hired under Subsection (3) shall:

- (a) be categorized as a schedule AC employee in accordance with Section 67-19-15;
- (b) report to, and be supervised by, the executive director;
- (c) ensure the TOIP serves to further the vision and mission of the USTAR initiative; and
- (d) as directed by the executive director, implement the policies and procedures adopted by the USTAR governing authority.

Section ~~{10}~~32. Section **63N-12-203** is amended to read:

63N-12-203. STEM Action Center Board creation -- Membership.

(1) There is created the STEM Action Center Board within the office, composed of the following members:

- (a) six private sector members who represent business, appointed by the governor;
- (b) the state superintendent of public instruction or the state superintendent of public instruction's designee;
- (c) the commissioner of higher education or the commissioner of higher education's designee;
- (d) one member appointed by the governor;
- (e) a member of the State Board of Education, chosen by the chair of the State Board of Education;
- (f) the executive director of the office or the executive director's designee;
- (g) the [~~president~~ ~~{}~~ ~~director~~] ~~of the~~ Utah College of Applied Technology commissioner of technical education or [~~the~~ ~~{}~~ ~~president~~ ~~{}~~ ~~director~~] ~~of~~ the Utah College of Applied Technology's Technology commissioner of technical education's designee; and
- (h) one member who has a degree in engineering and experience working in a government military installation, appointed by the governor.

(2) (a) The private sector members appointed by the governor in Subsection (1)(a) shall

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represent a business or trade association whose primary focus is science, technology, or engineering.

(b) Except as required by Subsection (2)(c), members appointed by the governor shall be appointed to four-year terms.

(c) The length of terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(d) The members may not serve more than two full consecutive terms except where the governor determines that an additional term is in the best interest of the state.

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

(3) Attendance of a simple majority of the members constitutes a quorum for the transaction of official committee business.

(4) Formal action by the committee requires a majority vote of a quorum.

(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 under Sections 63A-3-106 and 63A-3-107.

(6) The governor shall select the chair of the board to serve a one-year term.

(7) The executive director of the office or the executive director's designee shall serve as the vice chair of the board.

Section 33. Section 63N-12-212 is amended to read:

63N-12-212. High school STEM education initiative.

(1) Subject to legislative appropriations, after consulting with State Board of Education staff, the STEM Action Center shall award grants to school districts and charter schools to fund STEM related certification for high school students.

(2) (a) A school district or charter school may apply for a grant from the STEM Action Center, through a competitive process, to fund the school district's or charter school's STEM related certification training program.

(b) A school district's or charter school's STEM related certification training program shall:

(i) prepare high school students to be job ready for available STEM related positions of

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employment; and

(ii) when a student completes the program, result in the student gaining a nationally industry-recognized employer STEM related certification.

(3) A school district or charter school may partner with one or more of the following to provide a STEM related certification program:

(a) [a] an applied technology college within the Utah College of Applied Technology [college campus];

(b) Salt Lake Community College;

(c) Snow College; or

(d) a private sector employer.

Section 34. Section 67-1-12 is amended to read:

67-1-12. Displaced defense workers.

(1) The governor, through the Department of Workforce Services, may use funds specifically appropriated by the Legislature to benefit, in a manner prescribed by Subsection (2):

(a) Department of Defense employees within the state who lose their employment because of reductions in defense spending by the federal government;

(b) persons dismissed by a defense-related industry employer because of reductions in federal government defense contracts received by the employer; and

(c) defense-related businesses in the state that have been severely and adversely impacted because of reductions in defense spending.

(2) Funds appropriated under this section before fiscal year 1999-2000 but not expended shall remain with the agency that possesses the funds and shall be used in a manner consistent with this section. Any amount appropriated under this section in fiscal year 1999-2000 or thereafter may be used to:

(a) provide matching or enhancement funds for grants, loans, or other assistance received by the state from the United States Department of Labor, Department of Defense, or other federal agency to assist in retraining, community assistance, or technology transfer activities;

(b) fund or match available private or public funds from the state or local level to be used for retraining, community assistance, technology transfer, or educational projects coordinated by state or federal agencies;

(c) provide for retraining, upgraded services, and programs at applied technology [centers]

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colleges, public schools, higher education institutions, or any other appropriate public or private entity that are designed to teach specific job skills requested by a private employer in the state or required for occupations that are in demand in the state;

(d) aid public or private entities that provide assistance in locating new employment;

(e) inform the public of assistance programs available for persons who have lost their employment;

(f) increase funding for assistance and retraining programs;

(g) provide assistance for small start-up companies owned or operated by persons who have lost their employment;

(h) enhance the implementation of dual-use technologies programs, community adjustment assistance programs, or other relevant programs under Pub. L. No. 102-484; and

(i) coordinate local and national resources to protect and enhance current Utah defense installations and related operations and to facilitate conversion or enhancement efforts by:

(i) creating and operating state information clearinghouse operations that monitor relevant activities on the federal, state, and local level;

(ii) identifying, seeking, and matching funds from federal and other public agencies and private donors;

(iii) identifying and coordinating needs in different geographic areas;

(iv) coordinating training and retraining centers;

(v) coordinating technology transfer efforts between public entities, private entities, and institutions of higher education;

(vi) facilitating the development of local and national awareness and support for Utah defense installations;

(vii) studying the creation of strategic alliances, tax incentives, and relocation and consolidation assistance; and

(viii) exploring feasible alternative uses for the physical and human resources at defense installations and in related industries should reductions in mission occur.

(3) The governor, through the Department of Workforce Services, may coordinate and administer the expenditure of money under this section and collaborate with applied technology centers, public institutions of higher learning, or other appropriate public or private entities to provide retraining and other services described in Subsection (2).

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