

1                   **HIGHER EDUCATION GOVERNANCE REVISIONS**

2                                   2017 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Ann Millner**

5                                   House Sponsor: Brad R. Wilson

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7 **LONG TITLE**

8 **General Description:**

9                   This bill amends provisions related to higher education governance.

10 **Highlighted Provisions:**

11                   This bill:

12                   ▶ renames the Utah College of Applied Technology the Utah System of Technical  
13 Colleges;

14                   ▶ changes the name of each member college of the Utah System of Technical  
15 Colleges from an applied technology college to a technical college;

16                   ▶ amends the institutions that comprise the state system of higher education by:

- 17                   • removing the Utah College of Applied Technology;
- 18                   • adding the Utah System of Technical Colleges Board of Trustees; and
- 19                   • adding each technical college;

20                   ▶ removes the nonvoting members from the State Board of Regents;

21                   ▶ amends the powers and authority of the State Board of Regents;

22                   ▶ amends the membership of the State Board of Regents;

23                   ▶ requires coordination between state entities involved in education;

24                   ▶ amends a list of institutions of higher education that are bodies corporate to:

- 25                   • remove the Utah College of Applied Technology; and
- 26                   • add each technical college;

27                   ▶ amends the process for the State Board of Regents to appoint a president of an  
28 institution of higher education;

29                   ▶ amends requirements of the commissioner of technical education;

- 30           ▶ removes the nonvoting members from the Utah System of Technical Colleges
- 31 Board of Trustees;
- 32           ▶ prohibits an individual from serving simultaneously on the Utah System of
- 33 Technical Colleges Board of Trustees and a technical college board of directors;
- 34           ▶ provides that the Utah System of Technical Colleges is a continuation of the Utah
- 35 College of Applied Technology and that each technical college is a continuation of
- 36 an applied technology college;
- 37           ▶ describes the primary institutional roles for institutions of higher education;
- 38           ▶ modifies provisions related to the approval of new programs of instruction;
- 39           ▶ repeals the Salt Lake Community College School of Applied Technology Board of
- 40 Directors;
- 41           ▶ amends definitions related to the Utah System of Technical Colleges in Title 63G,
- 42 Chapter 6a, Utah Procurement Code; and
- 43           ▶ makes technical and conforming changes.

**44 Money Appropriated in this Bill:**

45           None

**46 Other Special Clauses:**

47           This bill provides a special effective date.

48           This bill provides coordination clauses.

49           This bill provides revisor instructions.

**50 Utah Code Sections Affected:**

51 AMENDS:

52           **35A-1-206**, as last amended by Laws of Utah 2016, Chapters 236, 271, and 296

53           **35A-5-402**, as last amended by Laws of Utah 2016, Chapter 236

54           **35A-5-403**, as enacted by Laws of Utah 2015, Chapter 273

55           **53A-1-203**, as last amended by Laws of Utah 2015, Chapter 415

56           **53A-1-402**, as last amended by Laws of Utah 2016, Chapter 236

57           **53A-1-403.5**, as last amended by Laws of Utah 2016, Chapters 144, 188, and 271

- 58            **53A-1a-501.3**, as last amended by Laws of Utah 2016, Chapter 236
- 59            **53A-1a-521**, as last amended by Laws of Utah 2016, Chapter 236
- 60            **53A-13-101.5**, as last amended by Laws of Utah 1998, Chapter 297
- 61            **53A-15-102**, as last amended by Laws of Utah 2016, Chapters 236 and 415
- 62            **53A-15-202**, as last amended by Laws of Utah 2016, Chapter 236
- 63            **53A-17a-114**, as last amended by Laws of Utah 2016, Chapter 236
- 64            **53B-1-101**, as last amended by Laws of Utah 1991, Chapter 58
- 65            **53B-1-101.5**, as last amended by Laws of Utah 2009, Chapter 346
- 66            **53B-1-102**, as last amended by Laws of Utah 2013, Chapter 10
- 67            **53B-1-103**, as last amended by Laws of Utah 2016, Chapter 236
- 68            **53B-1-104**, as last amended by Laws of Utah 2011, Third Special Session, Chapter 5
- 69            **53B-2-101**, as last amended by Laws of Utah 2013, Chapter 10
- 70            **53B-2-103**, as last amended by Laws of Utah 1991, Chapter 58
- 71            **53B-2-104**, as last amended by Laws of Utah 2016, Chapter 236
- 72            **53B-2-106**, as last amended by Laws of Utah 2016, Chapter 236
- 73            **53B-2a-101**, as last amended by Laws of Utah 2016, Chapter 236
- 74            **53B-2a-102**, as last amended by Laws of Utah 2016, Chapter 236
- 75            **53B-2a-103**, as last amended by Laws of Utah 2016, Chapter 236
- 76            **53B-2a-104**, as last amended by Laws of Utah 2016, Chapter 236
- 77            **53B-2a-105**, as last amended by Laws of Utah 2016, Chapter 236
- 78            **53B-2a-106**, as last amended by Laws of Utah 2016, Chapter 236
- 79            **53B-2a-107**, as last amended by Laws of Utah 2016, Chapter 236
- 80            **53B-2a-108**, as last amended by Laws of Utah 2016, Chapter 236
- 81            **53B-2a-109**, as last amended by Laws of Utah 2016, Chapter 236
- 82            **53B-2a-110**, as last amended by Laws of Utah 2016, Chapter 236
- 83            **53B-2a-111**, as last amended by Laws of Utah 2009, Chapter 346
- 84            **53B-2a-112**, as last amended by Laws of Utah 2016, Chapter 236
- 85            **53B-2a-113**, as last amended by Laws of Utah 2016, Chapter 236

- 86 **53B-2a-114**, as enacted by Laws of Utah 2012, Chapter 181
- 87 **53B-3-102**, as last amended by Laws of Utah 2013, Chapter 10
- 88 **53B-6-106**, as last amended by Laws of Utah 2016, Chapter 236
- 89 **53B-7-101**, as last amended by Laws of Utah 2015, Chapter 361
- 90 **53B-8-101**, as last amended by Laws of Utah 2013, Chapters 10, 23, and 465
- 91 **53B-8d-102**, as last amended by Laws of Utah 2016, Chapter 236
- 92 **53B-16-101**, as enacted by Laws of Utah 1987, Chapter 167
- 93 **53B-16-102**, as last amended by Laws of Utah 2016, Chapter 236
- 94 **53B-16-103**, as last amended by Laws of Utah 1988, Chapter 137
- 95 **53B-16-107**, as last amended by Laws of Utah 2016, Chapter 188
- 96 **53B-16-201**, as last amended by Laws of Utah 2010, Chapter 211
- 97 **53B-16-209**, as enacted by Laws of Utah 2009, Chapter 346
- 98 **53B-16-401**, as enacted by Laws of Utah 1996, Chapter 73
- 99 **53B-17-105**, as last amended by Laws of Utah 2016, Chapters 144 and 236
- 100 **53B-21-101**, as enacted by Laws of Utah 1987, Chapter 167
- 101 **53B-26-102**, as enacted by Laws of Utah 2016, Chapter 338
- 102 **53B-26-103**, as enacted by Laws of Utah 2016, Chapter 338
- 103 **58-22-302**, as last amended by Laws of Utah 2011, Chapter 367
- 104 **59-12-102**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 6
- 105 **59-12-702**, as last amended by Laws of Utah 2016, Chapter 344
- 106 **63A-2-402**, as renumbered and amended by Laws of Utah 2011, Chapter 207
- 107 **63A-9-101**, as last amended by Laws of Utah 2016, Chapters 144 and 236
- 108 **63F-2-102**, as last amended by Laws of Utah 2016, Chapter 144
- 109 **63G-2-305**, as last amended by Laws of Utah 2015, Chapters 147, 283, and 411
- 110 **63G-6a-103**, as last amended by Laws of Utah 2016, Chapters 176, 237, 355 and last  
111 amended by Coordination Clause, Laws of Utah 2016, Chapter 355
- 112 **63J-3-103**, as last amended by Laws of Utah 2016, Chapter 183
- 113 **63N-12-203**, as last amended by Laws of Utah 2016, Chapters 139 and 236

114 **63N-12-212**, as last amended by Laws of Utah 2016, Chapters 139 and 236

115 **63N-12-213**, as enacted by Laws of Utah 2016, Chapter 335

116 **67-1-12**, as last amended by Laws of Utah 2016, Chapter 236

117 ENACTS:

118 **53B-1-112**, Utah Code Annotated 1953

119 **53B-2a-100.5**, Utah Code Annotated 1953

120 **53B-2a-115**, Utah Code Annotated 1953

121 REPEALS AND REENACTS:

122 **53B-2-102**, as last amended by Laws of Utah 1991, Chapter 58

123 REPEALS:

124 **53B-6-101**, as last amended by Laws of Utah 2011, Chapter 73

125 **53B-6-103**, as enacted by Laws of Utah 1987, Chapter 167

126 **53B-16-106**, as enacted by Laws of Utah 2010, Chapter 400

127 **53B-16-210**, as last amended by Laws of Utah 2013, Chapter 310

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

129 **35A-14-102**, Utah Code Annotated 1953

130 **49-11-102**, as last amended by Laws of Utah 2016, Chapters 84 and 310

131 **49-12-203**, as last amended by Laws of Utah 2015, Chapters 315 and 364

132 **49-12-204**, as last amended by Laws of Utah 2014, Chapter 15

133 **49-13-203**, as last amended by Laws of Utah 2015, Chapters 315 and 364

134 **49-13-204**, as last amended by Laws of Utah 2014, Chapter 15

135 **49-22-203**, as last amended by Laws of Utah 2015, Chapters 315 and 364

136 **49-22-204**, as last amended by Laws of Utah 2014, Chapter 15

137 **53B-1-112**, Utah Code Annotated 1953

138 **53B-7-702**, Utah Code Annotated 1953

139 **53B-7-703**, Utah Code Annotated 1953

140 **53B-7-705**, Utah Code Annotated 1953

141 **53B-7-707**, Utah Code Annotated 1953

142 **53B-8a-201**, Utah Code Annotated 1953  
 143 **53B-8a-204**, Utah Code Annotated 1953  
 144 **63G-6a-103**, as last amended by Laws of Utah 2016, Chapters 176, 237, 355 and last  
 145 amended by Coordination Clause, Laws of Utah 2016, Chapter 355

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

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

149 **35A-1-206. State Workforce Development Board -- Appointment -- Membership**  
 150 **-- Terms of members -- Compensation.**

151 (1) There is created within the department the State Workforce Development Board in  
 152 accordance with the provisions of the Workforce Innovation and Opportunity Act, 29 U.S.C.  
 153 Sec. 3101 et seq.

154 (2) The board shall consist of the following 39 members:

155 (a) the governor or the governor's designee;

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

157 (c) one representative of the House of Representatives, appointed by the speaker of the  
 158 House of Representatives;

159 (d) the executive director or the executive director's designee;

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

162 (f) the executive director of the Utah State Office of Rehabilitation or the executive  
 163 director's designee;

164 (g) the state superintendent of [~~the State Board of Education~~] public instruction or the  
 165 superintendent's designee;

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

167 (i) [~~the commissioner of technical education of~~] the Utah [~~College of Applied~~  
 168 Technology] System of Technical Colleges commissioner of technical education or the  
 169 commissioner of technical education's designee;

170 (j) the executive director of the Governor's Office of Economic Development or the  
171 executive director's designee;

172 (k) the executive director of the Department of Veterans' and Military Affairs or the  
173 executive director's designee; and

174 (l) the following members appointed by the governor:

175 (i) 20 representatives of business in the state, selected among the following:

176 (A) owners of businesses, chief executive or operating officers of businesses, or other  
177 business executives or employers with policymaking or hiring authority;

178 (B) representatives of businesses, including small businesses, that provide employment  
179 opportunities that include high-quality, work-relevant training and development in in-demand  
180 industry sectors or occupations in the state; and

181 (C) representatives of businesses appointed from among individuals nominated by state  
182 business organizations or business trade associations;

183 (ii) six representatives of the workforce within the state, which:

184 (A) shall include at least two representatives of labor organizations who have been  
185 nominated by state labor federations;

186 (B) shall include at least one representative from a registered apprentice program;

187 (C) may include one or more representatives from a community-based organization  
188 that has demonstrated experience and expertise in addressing the employment, training, or  
189 educational needs of individuals with barriers to employment; and

190 (D) may include one or more representatives from an organization that has  
191 demonstrated experience and expertise in addressing the employment, training, or education  
192 needs of eligible youth, including organizations that serve out of school youth; and

193 (iii) two elected officials that represent a city or a county.

194 (3) (a) The governor shall appoint one of the appointed business representatives as  
195 chair of the board.

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

197 (4) (a) The governor shall ensure that members appointed to the board represent

198 diverse geographic areas of the state, including urban, suburban, and rural areas.

199 (b) A member appointed by the governor shall serve a term of four years and may be  
200 reappointed to one additional term.

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

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

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

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

211 (g) The executive director shall terminate the term of any governor-appointed member  
212 of the board if the member leaves the position that qualified the member for the appointment.

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

214 (6) (a) A member of the board who is not a legislator may not receive compensation or  
215 benefits for the member's service, but may receive per diem and travel expenses as allowed in:

216 (i) Section [63A-3-106](#);

217 (ii) Section [63A-3-107](#); and

218 (iii) rules made by the Division of Finance according to Sections [63A-3-106](#) and  
219 [63A-3-107](#).

220 (b) Compensation and expenses of a member who is a legislator are governed by  
221 Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

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

224 (8) The board has the duties, responsibilities, and powers described in 29 U.S.C. Sec.  
225 3111, including:



226 (a) identifying opportunities to align initiatives in education, training, workforce  
227 development, and economic development;

228 (b) developing and implementing the state workforce services plan described in  
229 Section 35A-1-207;

230 (c) utilizing strategic partners to ensure the needs of industry are met, including the  
231 development of expanded strategies for partnerships for in-demand occupations and  
232 understanding and adapting to economic changes;

233 (d) developing strategies for staff training;

234 (e) developing and improving employment centers; and

235 (f) performing other responsibilities within the scope of workforce services as  
236 requested by:

237 (i) the Legislature;

238 (ii) the governor; or

239 (iii) the executive director.

240 Section 2. Section 35A-5-402 is amended to read:

241 **35A-5-402. Career and Technical Education Board creation -- Membership.**

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

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

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

248 (c) the Utah [~~College of Applied Technology~~] System of Technical Colleges  
249 commissioner of technical education or the Utah [~~College of Applied Technology~~] System of  
250 Technical Colleges commissioner of technical education's designee;

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

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

254 executive director of the Governor's Office of Economic Development's designee;  
255 (f) one member of the governor's staff, appointed by the governor;  
256 (g) five private sector members, representing business or industry that employs  
257 individuals who hold certificates issued by a CTE program, appointed by the governor;  
258 (h) a member of the Senate, appointed by the president of the Senate; and  
259 (i) a member of the House of Representatives, appointed by the speaker of the House  
260 of Representatives.

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

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

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

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

267 (6) A member of the CTE Board:

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

269 (b) may receive per diem and travel expenses in accordance with:

270 (i) Section 63A-3-106;

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

272 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
273 63A-3-107.

274 Section 3. Section 35A-5-403 is amended to read:

275 **35A-5-403. Career and Technical Education Board -- Duties.**

276 (1) The CTE Board shall conduct a comprehensive study of CTE in Utah that includes:

277 (a) an inventory of all CTE programs in Utah, including, for each CTE program:

278 (i) a description of the program;

279 (ii) the number of students the program has the capacity to serve each year;

280 (iii) the number of students the program has served since October 1, 2010, by school  
281 year;

- 282 (iv) the number of certificates the program has issued since October 1, 2010, by school  
283 year;
- 284 (v) a materials and equipment inventory for the program;
- 285 (vi) the amount of funding dedicated to the program;
- 286 (vii) the program's geographic location;
- 287 (viii) employment information for students who have completed the program since  
288 October 1, 2010, if practical and feasible; and
- 289 (ix) the extent to which overlap or duplication exists between the program and other  
290 CTE or private programs;
- 291 (b) a description of CTE funding in the state, including:
- 292 (i) the total amount of state CTE funding provided to:
- 293 (A) the public education system;
- 294 (B) the ~~[higher education system]~~ Utah System of Higher Education; and
- 295 (C) the Utah ~~[College of Applied Technology]~~ System of Technical Colleges; and
- 296 (ii) for each CTE program:
- 297 (A) total CTE funding received; and
- 298 (B) the cost per student served;
- 299 (c) an assessment of Utah business and industry needs for employees with skills taught  
300 in CTE classes, including:
- 301 (i) the number of current and anticipated jobs in Utah, by geographic region, and the  
302 CTE skills required for the jobs;
- 303 (ii) the starting and average salary, by geographic region and type of CTE skills, for an  
304 individual who has skills taught in a CTE program; and
- 305 (iii) the extent to which current CTE programs can meet the employment needs of Utah  
306 business and industry; and
- 307 (d) any other information the CTE Board considers relevant to the study.
- 308 (2) In conducting the comprehensive study described in Subsection (1), the CTE Board  
309 shall coordinate with the Office of the Legislative Auditor General and, to the extent possible,

310 use data collected by the Office of the Legislative Auditor General to complete the study.

311 (3) (a) The State Board of Education, the State Board of Regents, and [Utah College of  
312 ~~Applied Technology]~~ the Utah System of Technical Colleges Board of Trustees shall:

313 (i) provide data that the department requests for the study; and

314 (ii) coordinate with the department to conduct the study.

315 (b) Notwithstanding the requirements in Subsection (3)(a), the board shall have  
316 discretion to gather and report information as part of the comprehensive study of CTE that is  
317 readily accessible through current financial and data systems.

318 (4) The CTE Board may:

319 (a) contract with a third party, in accordance with Title 63G, Chapter 6a, Utah  
320 Procurement Code, to conduct the comprehensive study described in Subsection (1); and

321 (b) as funding allows, hire staff.

322 (5) Based on the comprehensive study described in Subsection (1), the CTE Board  
323 shall make recommendations to the Legislature related to:

324 (a) CTE funding;

325 (b) CTE governance and administration;

326 (c) benchmarks or criteria for a CTE program to demonstrate that the CTE program  
327 fills:

328 (i) an educational need for a student;

329 (ii) a school's need to offer a particular CTE program; or

330 (iii) an employment need for a Utah business or industry; and

331 (d) any other CTE related recommendations.

332 (6) (a) On or before November 1, 2015, the CTE Board shall report on the progress of  
333 the comprehensive study described in Subsection (1).

334 (b) On or before November 1, 2016, the CTE Board shall report on the final results of  
335 the comprehensive study described in Subsection (1); and

336 (c) On or before November 1, 2017, the CTE Board shall report on the  
337 recommendations described in Subsection (5).

- 338 (d) The CTE Board shall make the reports described in this Subsection (6) to:
- 339 (i) the Education Interim Committee;
- 340 (ii) the Executive Appropriations Committee;
- 341 (iii) the governor;
- 342 (iv) the State Board of Education;
- 343 (v) the State Board of Regents; and
- 344 (vi) the Utah [~~College of Applied Technology~~] System of Technical Colleges Board of
- 345 Trustees.

346 Section 4. Section **53A-1-203** is amended to read:

347 **53A-1-203. State board meetings -- Quorum requirements.**

348 (1) The State Board of Education shall meet at the call of the chairman and at least 11  
349 times each year.

350 [~~(2) The State Board of Education shall, at least quarterly, meet with and receive~~  
351 ~~recommendations from:~~]

352 [~~(a) two members of the State Board of Regents, appointed by the chair of the State~~  
353 ~~Board of Regents;~~]

354 [~~(b) one member of the Utah College of Applied Technology Board of Trustees,~~  
355 ~~appointed by the chair of the board of trustees; and]~~

356 [~~(c) one member of the State Charter School Board, appointed by the chair of the State~~  
357 ~~Charter School Board.]~~

358 [~~(3)~~] (2) A majority of all members is required to validate an act of the [~~board~~] State  
359 Board of Education.

360 Section 5. Section **53A-1-402** is amended to read:

361 **53A-1-402. Board to establish minimum standards for public schools.**

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

- 365 (a) (i) the qualification and certification of educators and ancillary personnel who

366 provide direct student services;

367       (ii) required school administrative and supervisory services; and

368       (iii) the evaluation of instructional personnel;

369       (b) (i) access to programs;

370       (ii) attendance;

371       (iii) competency levels;

372       (iv) graduation requirements; and

373       (v) discipline and control;

374       (c) (i) school accreditation;

375       (ii) the academic year;

376       (iii) alternative and pilot programs;

377       (iv) curriculum and instruction requirements;

378       (v) school libraries; and

379       (vi) services to:

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

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

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

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

384       (B) other special groups;

385       (d) (i) state reimbursed bus routes;

386       (ii) bus safety and operational requirements; and

387       (iii) other transportation needs; and

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

389       (ii) federal programs;

390       (iii) school budget formats; and

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

392       (2) The ~~board~~ State Board of Education shall determine if:

393       (a) the minimum standards have been met; and

394 (b) required reports are properly submitted.

395 (3) The ~~[board]~~ State Board of Education may apply for, receive, administer, and  
396 distribute to eligible applicants funds made available through programs of the federal  
397 government.

398 (4) (a) ~~[An applied technology]~~ A technical college ~~[within the Utah College of Applied~~  
399 ~~Technology]~~ listed in Section 53B-2a-105 shall provide competency-based career and technical  
400 education courses that fulfill high school graduation requirements, as requested and authorized  
401 by the State Board of Education.

402 (b) A school district may grant a high school diploma to a student participating in  
403 ~~[courses described under]~~ a course described in Subsection (4)(a) that ~~[are]~~ is provided by ~~[an~~  
404 ~~applied technology college within the Utah College of Applied Technology]~~ a technical college  
405 listed in Section 53B-2a-105.

406 Section 6. Section **53A-1-403.5** is amended to read:

407 **53A-1-403.5. Education of persons in custody of the Utah Department of**  
408 **Corrections -- Contracting for services -- Recidivism reduction plan -- Collaboration**  
409 **among state agencies.**

410 (1) The State Board of Education and the Utah Department of Corrections, subject to  
411 legislative appropriation, are responsible for the education of persons in the custody of the Utah  
412 Department of Corrections.

413 (2) (a) To fulfill the responsibility under Subsection (1), the State Board of Education  
414 and the Utah Department of Corrections shall, where feasible, contract with appropriate private  
415 or public agencies to provide educational and related administrative services. Contracts for  
416 postsecondary education and training shall be under Subsection (2)(b).

417 (b) (i) The contract under Subsection (2)(a) to provide postsecondary education and  
418 training shall be with a community college if the correctional facility is located within the  
419 service region of a community college, except under Subsection (2)(b)(ii).

420 (ii) If the community college under Subsection (2)(b)(i) declines to provide the  
421 education and training or cannot meet reasonable contractual terms for providing the education

422 and training as specified by the Utah Department of Corrections, postsecondary education and  
423 training under Subsection (2)(a) may be procured through other appropriate private or public  
424 agencies.

425 (3) (a) As its corrections education program, the State Board of Education and the Utah  
426 Department of Corrections shall develop and implement a recidivism reduction plan, including  
427 the following components:

- 428 (i) inmate assessment;
- 429 (ii) cognitive problem-solving skills;
- 430 (iii) basic literacy skills;
- 431 (iv) career skills;
- 432 (v) job placement;
- 433 (vi) postrelease tracking and support;
- 434 (vii) research and evaluation;
- 435 (viii) family involvement and support; and
- 436 (ix) multiagency collaboration.

437 (b) The plan shall be developed and implemented through the State Board of Education  
438 and the Utah Department of Corrections in collaboration with the following entities:

- 439 (i) the State Board of Regents;
- 440 (ii) the [~~Utah College of Applied Technology~~] Utah System of Technical Colleges  
441 Board of Trustees;
- 442 (iii) local boards of education;
- 443 (iv) the Department of Workforce Services;
- 444 (v) the Department of Human Services;
- 445 (vi) the Board of Pardons and Parole;
- 446 (vii) the Utah State Office of Rehabilitation; and
- 447 (viii) the Governor's Office.

448 (4) By July 1, 2014, and every three years thereafter, the Utah Department of  
449 Corrections shall make a report to the State Board of Education and the Law Enforcement and



450 Criminal Justice Interim Committee evaluating the impact of corrections education programs  
451 on recidivism.

452 Section 7. Section **53A-1a-501.3** is amended to read:

453 **53A-1a-501.3. Definitions.**

454 As used in this part:

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

- 457 (a) cash;
- 458 (b) stock or other investments;
- 459 (c) real property;
- 460 (d) equipment and supplies;
- 461 (e) an ownership interest;
- 462 (f) a license;
- 463 (g) a cause of action; and
- 464 (h) any similar property.

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

- 466 (a) the board of trustees of:
  - 467 (i) the University of Utah;
  - 468 (ii) Utah State University;
  - 469 (iii) Weber State University;
  - 470 (iv) Southern Utah University;
  - 471 (v) Snow College;
  - 472 (vi) Dixie State University;
  - 473 (vii) Utah Valley University; or
  - 474 (viii) Salt Lake Community College; or

475 (b) the board of directors of ~~[an applied technology college within the Utah College of~~  
476 ~~Applied Technology]~~ a technical college described in Section [53B-2a-108](#).

477 (3) "Charter agreement" or "charter" means an agreement made in accordance with

478 Section 53A-1a-508[;] that authorizes the operation of a charter school.

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

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

483 Section 8. Section 53A-1a-521 is amended to read:

484 **53A-1a-521. Charter schools authorized by a board of trustees of a higher**  
485 **education institution -- Application process -- Board of trustees responsibilities.**

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

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

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

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

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

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

505 (c) The State Board of Education's action under Subsection (3)(b) is final action subject

506 to judicial review.

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

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

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

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

519 (c) Beginning with the third year that a charter school is in operation, an annual fee  
520 described in Subsection (6)(a) may not exceed the product of 1% of the revenue a charter  
521 school receives from the state in the current fiscal year.

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

523 (i) paid to the board of trustees' higher education institution; and

524 (ii) expended as directed by the board of trustees.

525 (7) A board of trustees shall:

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

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

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

532 (8) (a) In addition to complying with the requirements of this section, a technical  
533 college board of directors [~~of an applied technology college within the Utah College of Applied~~

534 ~~Technology~~] described in Section 53B-2a-108 shall obtain the approval of the Utah [~~College of~~  
535 ~~Applied Technology~~] System of Technical Colleges Board of Trustees before entering into an  
536 agreement to establish and operate a charter school.

537 (b) If a technical college board of directors [~~of an applied technology college within the~~  
538 ~~Utah College of Applied Technology~~] approves an application to establish and operate a  
539 charter school, the [~~applied technology~~] technical college board of directors shall submit the  
540 application to the [~~Utah College of Applied Technology~~] Utah System of Technical Colleges  
541 Board of Trustees.

542 (c) The Utah [~~College of Applied Technology~~] System of Technical Colleges Board of  
543 Trustees shall, by majority vote, within 60 days of receipt of [~~the~~] an application described in  
544 Subsection (8)(b), approve or deny the application [~~approved by the applied technology college~~  
545 ~~board of directors~~].

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

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

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

556 (9) (a) Subject to the requirements of this part, [~~an applied technology~~] a technical  
557 college board of directors may establish:

- 558 (i) procedures for submitting applications to establish and operate a charter school;  
559 [~~and~~] or  
560 (ii) criteria for approval of an application to establish and operate a charter school.

561 (b) The Utah [~~College of Applied Technology~~] System of Technical Colleges Board of

562 Trustees may not establish policy governing the procedures or criteria described in Subsection  
563 (9)(a).

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

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

570 Section 9. Section **53A-13-101.5** is amended to read:

571 **53A-13-101.5. Teaching of American sign language.**

572 (1) The Legislature recognizes that American sign language is a fully developed,  
573 autonomous, natural language with distinct grammar, syntax, and art forms.

574 (2) American sign language shall be accorded equal status with other linguistic systems  
575 in the state's public and higher education systems.

576 (3) The State Board of Education, in consultation with the state's school districts and  
577 members of the deaf and hard of hearing community, shall develop and implement policies and  
578 procedures for the teaching of American sign language in the state's public education system at  
579 least at the middle school or high school level.

580 (4) A student may count credit received for completion of a course in American sign  
581 language at the middle school or high school level ~~[towards]~~ toward the satisfaction of a  
582 foreign language requirement in the public education system under rules made by the State  
583 Board of Education.

584 (5) The State Board of Regents, in consultation with the state's public institutions of  
585 higher education and members of the state's deaf and hard of hearing community, shall develop  
586 and implement policies and procedures for offering instruction in American sign language in  
587 the state's system of higher education ~~[consistent with the master plan for higher education~~  
588 ~~under Section [53B-6-101](#)]~~.

589 (6) The Joint Liaison Committee, in consultation with members of the state's deaf and

590 hard of hearing community, shall review any policies and procedures developed under this  
591 section and make recommendations to either or both boards regarding the policies.

592 Section 10. Section **53A-15-102** is amended to read:

593 **53A-15-102. Early graduation incentives -- Incentive to school district -- Partial**  
594 **tuition scholarship for student -- Payments.**

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

599 (2) Each public high school shall receive an amount equal to 1/2 of the scholarship  
600 awarded to each student who graduates from the school at or prior to the conclusion of [~~the~~  
601 ~~eleventh~~] grade 11, or a proportionately lesser amount for any student who graduates after the  
602 conclusion of [~~the eleventh~~] grade 11 but prior to the conclusion of [~~the twelfth~~] grade 12.

603 (3) (a) A student who graduates from high school at or prior to the conclusion of [~~the~~  
604 ~~eleventh~~] grade 11 shall receive a centennial scholarship in the lesser amount of full tuition for  
605 one year or \$1,000 to be used for full time enrollment at a Utah public college, university,  
606 community college, [~~applied technology~~] technical college [~~within the Utah College of Applied~~  
607 ~~Technology~~] described in Section [53B-2a-105](#), or any other institution in the state of Utah,  
608 accredited by the Northwest Association of Schools and Colleges that offers postsecondary  
609 courses of the student's choice upon verification that the student has registered at the institution  
610 during the fiscal year following graduation from high school.

611 (b) In the case of a student who graduates after the conclusion of [~~the eleventh~~] grade  
612 11 but prior to the conclusion of [~~the twelfth~~] grade 12, the student shall receive a centennial  
613 scholarship of a proportionately lesser amount.

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

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

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

620 (b) The Legislature shall make an annual appropriation from the Education Fund to the  
621 State Board of Education for the costs associated with the Centennial Scholarship Program  
622 based on the projected number of students who will graduate before the conclusion of [~~the~~  
623 ~~twelfth~~] grade 12 in any given year.

624 Section 11. Section **53A-15-202** is amended to read:

625 **53A-15-202. Powers of the board.**

626 The State Board of Education:

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

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

631 (3) shall cooperate with federal and state governments to administer programs [~~which~~]  
632 that promote and maintain career and technical education;

633 (4) shall cooperate with the Utah [~~College of Applied Technology~~] System of  
634 Technical Colleges Board of Trustees, Salt Lake Community College's School of Applied  
635 Technology, Snow College, and Utah State University Eastern to ensure that students in the  
636 public education system have access to career and technical education at Utah [~~College of~~  
637 ~~Applied Technology applied technology~~] System of Technical Colleges technical colleges, Salt  
638 Lake Community College's School of Applied Technology, Snow College, and Utah State  
639 University Eastern;

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

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

646 care, patient bathing, and bathroom assistance; and

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

649 (6) shall, after consulting with school districts, charter schools, the Utah [~~College of~~  
650 ~~Applied Technology~~] System of Technical Colleges Board of Trustees, Salt Lake Community  
651 College's School of Applied Technology, Snow College, and Utah State University Eastern,  
652 prepare and submit an annual report to the governor and to the Legislature's Education Interim  
653 Committee by October 31 of each year detailing:

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

656 (b) [~~what~~] the access secondary students have to programs offered:

657 (i) at [~~applied technology~~] technical colleges; and

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

660 Section 12. Section **53A-17a-114** is amended to read:

661 **53A-17a-114. Career and technical education program alternatives.**

662 (1) A secondary student may attend [~~an applied technology college within the Utah~~  
663 ~~College of Applied Technology~~] a technical college described in Section 53B-2a-105 if the  
664 secondary student's career and technical education goals are better achieved by attending [~~an~~  
665 ~~applied technology~~] a technical college as determined by:

666 (a) the secondary student; and

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

668 (2) A secondary student served under this section by [~~an applied technology college~~  
669 ~~within the Utah College of Applied Technology~~] a technical college described in Section  
670 53B-2a-105 shall be counted in the average daily membership of the sending school district or  
671 charter school.

672 Section 13. Section **53B-1-101** is amended to read:

673 **53B-1-101. Purpose of title.**



674 It is the purpose of this title:

675 (1) to provide a high quality, efficient, and economical public system of higher  
676 education and technical education through ~~[centralized]~~ strategic direction and ~~[master]~~  
677 planning ~~[which]~~ that:

678 ~~[(a) avoids unnecessary duplication;]~~

679 (a) provides for the economic vitality of the state;

680 (b) provides for the systematic and orderly development of facilities and quality  
681 programs;

682 (c) provides for coordination and consolidation; and

683 (d) ~~[provides for]~~ establishes systematic development of the role or roles of each  
684 institution ~~[within the system of higher education consistent with the historical heritage and~~  
685 ~~tradition of each institution]~~ of higher education;

686 ~~[(2) to vest in the State Board of Regents the power to govern the state system of~~  
687 ~~higher education consistent with state law and delegate certain powers to institutional boards of~~  
688 ~~trustees and institutional presidents, and to vest certain powers in institutional boards of~~  
689 ~~trustees and institutional presidents.]~~

690 (2) to vest in the State Board of Regents and the Utah System of Technical Colleges  
691 Board of Trustees power and authority to govern and coordinate, consistent with state law; and

692 (3) to provide for the delegation of certain powers to:

693 (a) institution of higher education boards of trustees;

694 (b) technical college boards of directors; and

695 (c) presidents of higher education institutions and technical colleges.

696 Section 14. Section **53B-1-101.5** is amended to read:

697 **53B-1-101.5. Definitions.**

698 As used in this title:

699 (1) "Board" means the State Board of Regents established in Section **53B-1-103**.

700 (2) "Career and technical education" means organized educational programs offering  
701 sequences of courses or skill sets directly related to preparing individuals for paid or unpaid

702 employment in current or emerging occupations that generally do not require a baccalaureate or  
 703 advanced degree.

704 (3) "Commissioner" means the commissioner of higher education appointed in  
 705 accordance with Section [53B-1-105](#).

706 (4) "Technical college" means, except as provided in Section [53B-26-102](#), a member  
 707 college of the Utah System of Technical Colleges listed in Section [53B-2a-105](#).

708 Section 15. Section **53B-1-102** is amended to read:

709 **53B-1-102. State system of higher education.**

710 (1) The state system of higher education consists of [~~the following institutions~~]:

711 (a) the Utah System of Higher Education, which consists of the following institutions:

712 [~~(a)~~] (i) the State Board of Regents;

713 [~~(b)~~] (ii) the University of Utah;

714 [~~(c)~~] (iii) Utah State University;

715 [~~(d)~~] (iv) Weber State University;

716 [~~(e)~~] (v) Southern Utah University;

717 [~~(f)~~] (vi) Snow College;

718 [~~(g)~~] (vii) Dixie State University;

719 [~~(h)~~] (viii) Utah Valley University; and

720 [~~(i)~~] (ix) Salt Lake Community College;

721 [~~(j) the Utah College of Applied Technology; and]~~

722 (b) the Utah System of Technical Colleges, which consists of the following  
 723 institutions:

724 (i) the Utah System of Technical Colleges Board of Trustees;

725 (ii) Bridgerland Technical College;

726 (iii) Davis Technical College;

727 (iv) Dixie Technical College;

728 (v) Mountainland Technical College;

729 (vi) Ogden-Weber Technical College;

730            (vii) Southwest Technical College;  
 731            (viii) Tooele Technical College; and  
 732            (ix) Uintah Basin Technical College; and  
 733            ~~[(k)]~~ (c) other public post-high school educational institutions as the Legislature may  
 734 designate.

735            (2) A change in the name of an institution within the ~~[system of higher education]~~ Utah  
 736 System of Higher Education shall not be considered a change in the role or mission of the  
 737 institution, unless otherwise authorized by the State Board of Regents.

738            (3) It is not the intent of the Legislature to increase the number of research universities  
 739 in the state beyond the University of Utah and Utah State University.

740            (4) ~~[These institutions are]~~ An institution described in Subsection (1) is empowered to  
 741 sue and be sued and to contract and be contracted with.

742            Section 16. Section **53B-1-103** is amended to read:

743            **53B-1-103. Establishment of State Board of Regents -- Powers, duties, and**  
 744 **authority.**

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

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

750            (b) The board may only exercise powers relating to the ~~[Utah College of Applied~~  
 751 ~~Technology and applied technology colleges within the Utah College of Applied Technology]~~  
 752 Utah System of Technical Colleges Board of Trustees, the Utah System of Technical Colleges,  
 753 or a technical college that are specifically provided in this title.

754            (3) The board shall, for the Utah System of Higher Education:

755            (a) provide strategic leadership and link system capacity to the economy and workforce  
 756 needs;

757            (b) enhance the impact and efficiency of the system;

- 758 (c) establish measurable goals and metrics and delineate the expected contributions of  
759 individual institutions of higher education toward these goals;
- 760 (d) evaluate presidents based on institutional performance;
- 761 (e) delegate to presidents the authority to manage the presidents' institutions of higher  
762 education;
- 763 (f) administer statewide functions including system data collection and reporting;
- 764 (g) establish unified budget, finance, and capital funding priorities and practices; and
- 765 (h) provide system leadership on issues that have a system-wide impact, including:
- 766 (i) statewide college access and college preparedness initiatives;
- 767 (ii) learning opportunities drawn from multiple campuses or online learning options,  
768 including new modes of delivery of content at multiple locations;
- 769 (iii) degree program requirement guidelines including credit hour limits, articulation  
770 agreements, and transfer across institutions;
- 771 (iv) alignment of general education requirements across institutions of higher  
772 education;
- 773 (v) incorporation of evidence-based practices that increase college completion; and
- 774 (vi) monitoring of workforce needs, with an emphasis on credentials that build upon  
775 one another.

776 ~~[(c)]~~ (4) The board shall coordinate and support articulation agreements between the  
777 Utah ~~[College of Applied Technology or applied technology colleges within the Utah College~~  
778 ~~of Applied Technology]~~ System of Technical Colleges or a technical college and other  
779 institutions of higher education.

780 ~~[(d)]~~ (5) The board shall prepare and submit an annual report detailing ~~[its]~~ the board's  
781 progress and recommendations on career and technical education issues and addressing  
782 workforce needs to the governor and to the Legislature's Education Interim Committee by  
783 October 31 of each year, which shall include information detailing:

784 ~~[(i)]~~ (a) how the career and technical education needs of secondary students are being  
785 met by institutions of higher education ~~[other than applied technology colleges within the Utah~~

786 ~~College of Applied Technology]~~ described in Subsection 53B-1-102(1)(a), including ~~[what]~~ the  
 787 access secondary students have to programs offered by Salt Lake Community College's School  
 788 of Applied Technology, Snow College, and Utah State University Eastern;

789 ~~[(ii)]~~ (b) how the emphasis on high demand, high wage, and high skill jobs in business  
 790 and industry is being provided;

791 ~~[(iii)]~~ (c) performance outcomes, including:

792 ~~[(A)]~~ (i) entered employment;

793 ~~[(B)]~~ (ii) job retention; and

794 ~~[(C)]~~ (iii) earnings; ~~[and]~~

795 (d) an analysis of workforce needs and efforts to meet workforce needs; and

796 ~~[(iv)]~~ (e) student tuition and fees.

797 ~~[(e)]~~ (6) ~~[Except for the Utah College of Applied Technology, the]~~ The board may  
 798 modify the name of an institution ~~[under its control and management, as designated in Section~~  
 799 53B-1-102;] described in Subsection 53B-1-102(1)(a) to reflect the role and general course of  
 800 study of the institution.

801 ~~[(f)]~~ (7) The board may not conduct a feasibility study or perform another act relating  
 802 to merging ~~[any of the following institutions]~~ a technical college with another institution of  
 803 higher education~~[;]~~.

804 ~~[(i) Bridgerland Applied Technology College;]~~

805 ~~[(ii) Ogden-Weber Applied Technology College;]~~

806 ~~[(iii) Davis Applied Technology College;]~~

807 ~~[(iv) Tooele Applied Technology College;]~~

808 ~~[(v) Mountainland Applied Technology College;]~~

809 ~~[(vi) Uintah Basin Applied Technology College;]~~

810 ~~[(vii) Southwest Applied Technology College; and]~~

811 ~~[(viii) Dixie Applied Technology College;]~~

812 ~~[(3)]~~ (8) This section does not affect the power and authority vested in the State Board  
 813 of Education to apply for, accept, and manage federal appropriations for the establishment and

814 maintenance of career and technical education.

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

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

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

821 ~~[(c) responsibilities of the walk-in center or services;]~~

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

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

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

828 ~~[(g) funding requirements for a veterans walk-in center and services.]~~

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

832 Section 17. Section **53B-1-104** is amended to read:

833 **53B-1-104. Membership of the board -- Student appointee -- Terms -- Oath --**  
834 **Officers -- Committees -- Bylaws -- Meetings -- Quorum -- Vacancies -- Compensation.**

835 ~~[(1)(a) The board shall consist of 19 residents of the state.]~~

836 ~~[(b)(i) Fifteen members shall be appointed by the governor with the consent of the~~  
837 ~~Senate.]~~

838 ~~[(ii)(A) One additional member shall be appointed by the governor from nominations~~  
839 ~~of the student body presidents council.]~~

840 ~~[(B) The student body presidents council shall nominate three qualified, matriculated~~  
841 ~~students enrolled in the state institutions of higher education.]~~

842           ~~[(C) Student body presidents are not eligible for nomination.]~~  
843           ~~[(iii) All appointments to the board shall be made on a nonpartisan basis.]~~  
844           ~~[(iv) In making appointments to the board, the governor shall select:]~~  
845           ~~[(A) at least two individuals who reside within a county of the fourth, fifth, or sixth~~  
846 ~~class;]~~  
847           ~~[(B) no more than six individuals who reside within a county of the first class;]~~  
848           ~~[(C) the remaining individuals from the state at large with due consideration for~~  
849 ~~geographical representation and diversity of exposure to the various institutions in the Utah~~  
850 ~~System of Higher Education; and]~~  
851           ~~[(D) at least three individuals with personal experience in career and technical~~  
852 ~~education, which could include service on a campus board of directors.]~~  
853           ~~[(c) (i) In addition to the members designated under Subsection (1)(b), two members of~~  
854 ~~the State Board of Education, appointed by the chair of the State Board of Education, shall~~  
855 ~~serve as nonvoting members of the board.]~~  
856           ~~[(ii) A nonvoting State Board of Education member shall continue to serve as a~~  
857 ~~member without a set term until the member is replaced by the chair of the State Board of~~  
858 ~~Education.]~~  
859           ~~[(d) (i) In addition to the members designated under Subsection (1)(b), one member of~~  
860 ~~the Utah College of Applied Technology Board of Trustees, appointed by the chair of the Utah~~  
861 ~~College of Applied Technology Board of Trustees, shall serve as a nonvoting member of the~~  
862 ~~board.]~~  
863           ~~[(ii) A nonvoting Utah College of Applied Technology Board of Trustees member shall~~  
864 ~~continue to serve as a member without a set term until the member is replaced by the chair of~~  
865 ~~the Utah College of Applied Technology Board of Trustees.]~~  
866           ~~[(2) (a) Five members of the board, other than the student member, the State Board of~~  
867 ~~Education members, and the Utah College of Applied Technology Board of Trustees member,~~  
868 ~~shall be appointed during each odd-numbered year to six-year staggered terms which~~  
869 ~~commence on July 1 of the year of appointment.]~~

870 ~~[(b) (i) The student member shall be appointed for a one-year term and may be~~  
871 ~~reappointed for one additional term.]~~

872 ~~[(ii) The student member has full voting rights and may vote on selection of a board~~  
873 ~~chair or vice chair, but not serve in either office.]~~

874 ~~[(c) Board members shall hold office until their successors have been appointed and~~  
875 ~~qualified.]~~

876 (1) Except as provided in Subsection (2), the board consists of 17 residents of the state  
877 appointed by the governor with the consent of the Senate, as follows:

878 (a) eight at large members;

879 (b) eight members, each of whom is:

880 (i) selected from three nominees presented to the governor by a higher education  
881 institution board of trustees; and

882 (ii) a current or former member of the institution of higher education board of trustees  
883 that nominates the member; and

884 (c) one member, selected from three nominees presented to the governor by the student  
885 body presidents of the institutions of higher education, who:

886 (i) is a fully matriculated student enrolled in an institution of higher education; and

887 (ii) is not serving as a student body president at the time of the nomination.

888 (2) (a) (i) An individual appointed to the board on or before May 8, 2017, may serve on  
889 the board, even if the individual does not fulfill a requirement for the composition of the board  
890 described in Subsection (1).

891 (ii) The governor may reappoint a member described in Subsection (2)(a)(i) when the  
892 member's term expires.

893 (b) An individual appointed to the board on or before May 8, 2017, who is a current or  
894 former member of an institution of higher education board of trustees is the board member for  
895 the institution of higher education described in Subsection (1)(b).

896 (c) (i) Subject to Subsection (2)(c)(ii), as positions on the board become vacant, the  
897 governor shall ensure that newly appointed members move the board toward the composition



898 described in Subsection (1).

899 (ii) In appointing a new member to the board, the governor shall first appoint a member  
900 described in Subsection (1)(b) until the eight positions described in Subsection (1)(b) are filled.

901 (3) (a) All appointments to the board shall be made on a nonpartisan basis.

902 (b) In making appointments to the board, the governor shall consider:

903 (i) geographic representation of members;

904 (ii) diversity;

905 (iii) experience in higher education governance;

906 (iv) experience in economic development; and

907 (v) exposure to institutions of higher education.

908 (c) An individual may not serve simultaneously on the State Board of Regents and an  
909 institution of higher education board of trustees.

910 (4) (a) Except as provided in Subsection (4)(b), members of the board shall be  
911 appointed to six-year staggered terms, which begin on July 1 of the year of appointment.

912 (b) A student member described in Subsection (1)(c) shall be appointed to a one-year  
913 term.

914 ~~[(3)]~~ (5) (a) [Each] A member of the board shall take the official oath of office before  
915 entering upon the duties of office.

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

917 ~~[(4)]~~ (6) The board shall elect a chair and vice chair from ~~[its]~~ among the board's  
918 members who shall serve terms of two years and until their successors are chosen and  
919 qualified.

920 ~~[(5)]~~ (7) (a) The board shall appoint a secretary from the staff of ~~[its]~~ the board's chief  
921 executive to serve at ~~[its]~~ the board's discretion.

922 (b) The secretary ~~[shall be]~~ is a full-time employee who receives a salary set by the  
923 board.

924 (c) The secretary shall record and maintain a record of all board meetings and perform  
925 other duties as the board directs.

926 [~~(6)~~] The board shall appoint a treasurer who serves at the discretion of the board.]

927 [~~(7)~~] (8) (a) The board may establish advisory committees.

928 (b) The powers and authority of the board are nondelegable, except as specifically  
929 provided for in this title.

930 (c) All matters requiring board determination shall be addressed in a properly convened  
931 meeting of the board or [~~its~~] the board's executive committee.

932 [~~(8)~~] (9) The board shall enact bylaws for [~~its~~] the board's own government not  
933 inconsistent with the constitution or the laws of this state.

934 [~~(9)~~] (10) (a) The board shall meet regularly upon [~~its~~] the board's own determination.

935 (b) The board may also meet, in full or executive session, at the request of [~~its~~] the  
936 chair, [~~its~~] the executive officer, or five members of the board.

937 [~~(10)~~] (11) A quorum of the voting members of the board is required to conduct [~~its~~]  
938 the board's business and consists of nine members.

939 [~~(11)~~] (12) (a) A vacancy in the board occurring before the expiration of a voting  
940 member's full term shall be immediately filled by appointment by the governor with the  
941 consent of the Senate.

942 (b) [~~The appointee~~] An individual appointed under Subsection (12)(a) serves for the  
943 remainder of the unexpired term.

944 [~~(12)~~] (13) A board member may not receive compensation or benefits for the  
945 member's service, but may receive per diem and travel expenses in accordance with:

946 (a) Section 63A-3-106;

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

948 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
949 63A-3-107.

950 Section 18. Section 53B-1-112 is enacted to read:

951 **53B-1-112. Coordination for education.**

952 (1) At least quarterly, in order to coordinate education services, individuals who have  
953 responsibilities related to Utah's education system shall meet, including:

- 954 (a) the state superintendent of public instruction described in Section 53A-1-301;
- 955 (b) the commissioner;
- 956 (c) the commissioner of technical education described in Section 53B-2a-102;
- 957 (d) the executive director of the Department of Workforce Services described in
- 958 Section 35A-1-201;
- 959 (e) the executive director of the Governor's Office of Economic Development
- 960 described in Section 63N-1-202;
- 961 (f) the chair of the State Board of Education;
- 962 (g) the chair of the State Board of Regents;
- 963 (h) the chair of the Utah System of Technical Colleges Board of Trustees described in
- 964 Section 53B-2a-103; and
- 965 (i) the chairs of the Education Interim Committee.
- 966 (2) A meeting described in this section is not subject to Title 52, Chapter 4, Open and
- 967 Public Meetings Act.

Section 19. Section **53B-2-101** is amended to read:

**53B-2-101. Institutions of higher education -- Corporate bodies -- Powers.**

(1) The following institutions of higher education are bodies politic and corporate with perpetual succession and with all rights, immunities, and franchises necessary to function as such:

- 973 (a) the University of Utah;
- 974 (b) Utah State University;
- 975 (c) Weber State University;
- 976 (d) Southern Utah University;
- 977 (e) Snow College;
- 978 (f) Dixie State University;
- 979 (g) Utah Valley University;
- 980 (h) Salt Lake Community College; ~~[and]~~
- 981 ~~[(i) the Utah College of Applied Technology.]~~

- 982           (i) Bridgerland Technical College;  
 983           (j) Davis Technical College;  
 984           (k) Dixie Technical College;  
 985           (l) Mountainland Technical College;  
 986           (m) Ogden-Weber Technical College;  
 987           (n) Southwest Technical College;  
 988           (o) Tooele Technical College; and  
 989           (p) Uintah Basin Technical College.

990           (2) (a) ~~[Each]~~ An institution of higher education may have and use a corporate seal and  
 991 may, subject to ~~[Section 53B-20-103]~~ this title, take, hold, lease, sell, and convey real and  
 992 personal property as the interest of the institution requires.

993           (b) ~~[Each]~~ An institution of higher education is vested with all the property, franchises,  
 994 and endowments of, and is subject to, all the contracts, obligations, and liabilities of ~~[its]~~ the  
 995 institution's respective predecessor.

996           (c) (i) ~~[Each]~~ An institution of higher education may enter into business relationships  
 997 or dealings with private seed or venture capital entities or partnerships consistent with Utah  
 998 Constitution Article VI, Section 29, Subsection (2).

999           (ii) A business dealing or relationship entered into under Subsection (2)(c)(i) does not  
 1000 preclude the private entity or partnership from participating in or receiving benefits from a  
 1001 venture capital program authorized or sanctioned by the laws of this state, unless otherwise  
 1002 precluded by the specific law that authorizes or sanctions the program.

1003           ~~[(iii) Subsections (2)(c)(i) and (ii) also apply to the Utah College of Applied  
 1004 Technology created in Title 53B, Chapter 2a, Utah College of Applied Technology.]~~

1005           Section 20. Section **53B-2-102** is repealed and reenacted to read:

1006           **53B-2-102. Board to appoint president for each institution.**

1007           (1) As used in this section:

1008           (a) "Institution of higher education" means an institution that is part of the Utah System  
 1009 of Higher Education described in Subsection 53B-1-102(1)(a).

1010 (b) "Search committee" means a committee that selects finalists for a position as an  
1011 institution of higher education president.

1012 (2) The board shall appoint a president for each institution of higher education.

1013 (3) An institution of higher education president serves at the pleasure of the board.

1014 (4) (a) To appoint an institution of higher education president, the board shall establish  
1015 a search committee that includes representatives of faculty, staff, students, the institution of  
1016 higher education board of trustees, alumni, the outgoing institution of higher education  
1017 president's executive council or cabinet, and the board.

1018 (b) A search committee shall be cochaired by a member of the board and the institution  
1019 of higher education board of trustees.

1020 (c) A search committee described in Subsection (4)(a) shall forward three to five  
1021 finalists to the board to consider for a position as an institution of higher education president.

1022 (d) A search committee may not forward an individual to the board as a finalist unless  
1023 two-thirds of the search committee members, as verified by the commissioner, find the  
1024 individual to be qualified and likely to succeed as an institution of higher education president.

1025 (5) (a) The board shall select an institution of higher education president from among  
1026 the finalists presented by a search committee.

1027 (b) If the board is not satisfied with the finalists forwarded by a search committee, the  
1028 board may direct the search committee to resume the search process until the search committee  
1029 has forwarded three finalists with which the board is satisfied.

1030 (6) The board, through the commissioner, shall create a comprehensive, active  
1031 recruiting plan to ensure a strong, diverse pool of potential candidates for institution of higher  
1032 education presidents.

1033 (7) (a) Except as provided in Subsection (7)(b), a record or information gathered or  
1034 generated during the search process, including a candidate's application and the search  
1035 committee's deliberations, is confidential and is a protected record under Section [63G-2-305](#).

1036 (b) Application materials for a publicly named finalist described in Subsection (5)(a)  
1037 are not protected records under Section [63G-2-305](#).

1038 Section 21. Section **53B-2-103** is amended to read:

1039 **53B-2-103. Boards of trustees -- Powers and duties.**

1040 (1) Each college [~~and~~] or university has a board of trustees [~~which~~] that may act [in] on  
 1041 behalf of [its institution] the college or university in performing duties, responsibilities, and  
 1042 functions as may be specifically authorized to the board of trustees by the State Board of  
 1043 Regents.

1044 (2) A board of trustees has the following powers and duties:

1045 (a) [~~facilitates~~] to facilitate communication between the institution and the community;

1046 (b) [~~assists~~] to assist in planning, implementing, and executing fund raising and  
 1047 development projects aimed at supplementing institutional appropriations;

1048 (c) [~~perpetuates and strengthens~~] to perpetuate and strengthen alumni and community  
 1049 identification with the [~~institution's~~] college or university's tradition and goals; [~~and~~]

1050 (d) [~~selects~~] to select recipients of honorary degrees[-]; and

1051 (e) to approve changes to the institution of higher education's programs, in accordance  
 1052 with Section [53B-16-102](#).

1053 Section 22. Section **53B-2-104** is amended to read:

1054 **53B-2-104. Memberships of board of trustees -- Terms -- Vacancies -- Oath --**  
 1055 **Officers -- Bylaws -- Quorum -- Committees -- Compensation -- Applicability to technical**  
 1056 **colleges.**

1057 (1) (a) [~~The~~] Except as provided in Subsection (10), the board of trustees of an  
 1058 institution of higher education consists of the following:

1059 (i) except as provided in Subsection [53B-18-1201](#)(3)(b), eight [~~persons~~] individuals  
 1060 appointed by the governor [~~and approved by~~] with the consent of the Senate; and

1061 (ii) two ex officio members who are the president of the institution's alumni  
 1062 association, and the president of the associated students of the institution.

1063 (b) The appointed members of the boards of trustees for Utah Valley University and  
 1064 Salt Lake Community College shall be representative of the interests of business, industry, and  
 1065 labor.

1066 (2) (a) The governor shall appoint four members of each board of trustees during each  
1067 odd-numbered year to four-year terms commencing on July 1 of the year of appointment.

1068 (b) An appointed member holds office until a successor is appointed and qualified.

1069 (c) The ex officio members serve for the same period as they serve as presidents and  
1070 until their successors have qualified.

1071 (3) When a vacancy occurs in the membership of a board of trustees for any reason, the  
1072 replacement shall be appointed for the unexpired term.

1073 (4) (a) Each member of a board of trustees shall take the official oath of office prior to  
1074 assuming the office.

1075 (b) The oath shall be filed with the Division of Archives and Records Services.

1076 (5) [~~Each~~] A board of trustees shall elect a chair and vice chair, who serve for two  
1077 years and until their successors are elected and qualified.

1078 (6) (a) [~~Each~~] A board of trustees may enact bylaws for [~~its~~] the board of trustees' own  
1079 government, including [~~provision~~] provisions for regular meetings.

1080 (b) (i) [~~The~~] A board of trustees may provide for an executive committee in [~~its~~] the  
1081 board of trustees' bylaws.

1082 (ii) If established, [~~the~~] an executive committee shall have full authority of the board of  
1083 trustees to act upon routine matters during the interim between board of trustees meetings.

1084 (iii) [~~The~~] An executive committee may act on nonroutine matters only under  
1085 extraordinary and emergency circumstances.

1086 (iv) [~~The~~] An executive committee shall report [~~its~~] the executive committee's  
1087 activities to the board of trustees at [~~its~~] the board of trustees' next regular meeting following  
1088 the action.

1089 (c) Copies of [~~the~~] a board of trustees' bylaws shall be filed with the board.

1090 (7) A quorum is required to conduct business and consists of six members.

1091 (8) A board of trustees may establish advisory committees.

1092 (9) A member may not receive compensation or benefits for the member's service, but  
1093 may receive per diem and travel expenses in accordance with:

- 1094 (a) Section [63A-3-106](#);  
 1095 (b) Section [63A-3-107](#); and  
 1096 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and  
 1097 [63A-3-107](#).

1098 (10) This section does not apply to a technical college board of directors [~~of an applied~~  
 1099 ~~technology college within the Utah College of Applied Technology~~] described in Section  
 1100 [53B-2a-108](#).

1101 Section 23. Section **53B-2-106** is amended to read:

1102 **53B-2-106. Duties and responsibilities of the president of an institution of higher**  
 1103 **education -- Approval by board of trustees -- Applicability to a technical college**  
 1104 **president.**

1105 (1) (a) [~~The~~] Except as provided in Subsection (5), the president of each institution of  
 1106 higher education described in Section [53B-2-101](#) may exercise grants of power and authority as  
 1107 delegated by the board, as well as the necessary and proper exercise of powers and authority  
 1108 not specifically denied to the institution[~~, its~~] of higher education or the institution of higher  
 1109 education's administration, faculty, or students by the board or by law, to [~~assure~~] ensure the  
 1110 effective and efficient administration and operation of the institution of higher education  
 1111 consistent with the statewide master plan for higher education.

1112 (b) The president of each institution of higher education may, after consultation with  
 1113 the [~~institution's~~] institution of higher education's board of trustees, exercise powers relating to  
 1114 the [~~institution's~~] institution of higher education's employees, including faculty and persons  
 1115 under contract with the institution of higher education, by implementing [~~any of the following~~]:

- 1116 (i) furloughs;  
 1117 (ii) reductions in force;  
 1118 (iii) benefit adjustments;  
 1119 (iv) program reductions or discontinuance;  
 1120 (v) early retirement incentives that provide cost savings to the institution[~~; and~~] of  
 1121 higher education; or



1122 (vi) other measures that provide cost savings to the institution of higher education.  
1123 (2) Except as provided by the board, the president of each institution of higher  
1124 education, with the approval of the [~~institution's~~] institution of higher education's board of  
1125 trustees, may:

1126 (a) (i) appoint a secretary, a treasurer, administrative officers, deans, faculty members,  
1127 and other professional personnel, prescribe their duties, and determine their salaries;

1128 (ii) appoint support personnel, prescribe their duties, and determine their salaries from  
1129 the [~~institution's~~] institution of higher education's position classification plan, which may:

1130 (A) be based upon similarity of duties and responsibilities within the institution of  
1131 higher education; and

1132 (B) as funds permit, provide salary and benefits comparable with private enterprise;

1133 (iii) adopt policies for:

1134 (A) employee sick leave use and accrual; and

1135 (B) service recognition for employees with more than 15 years of employment with the  
1136 institution of higher education; and

1137 (iv) subject to the authority of, the policy established by, and the approval of the board  
1138 [~~of regents~~], and recognizing the status of the institutions within the state system of higher  
1139 education as bodies politic and corporate, appoint attorneys to provide legal advice to the  
1140 [~~institution's~~] institution of higher education's administration and to coordinate legal affairs  
1141 within the institution of higher education. The board [~~of regents~~] shall coordinate activities of  
1142 attorneys at the institutions of higher education. The institutions of higher education shall  
1143 provide an annual report to the board [~~of regents~~] on the activities of appointed attorneys.  
1144 These appointed attorneys may not conduct litigation, settle claims covered by the State Risk  
1145 Management Fund, or issue formal legal opinions, but shall, in all respects, cooperate with the  
1146 Office of the Attorney General in providing legal representation to the institution of higher  
1147 education;

1148 (b) provide for the constitution, government, and organization of the faculty and  
1149 administration, and enact implementing rules, including the establishment of a prescribed

1150 system of tenure;

1151 (c) authorize the faculty to determine the general initiation and direction of instruction  
 1152 and of the examination, admission, and classification of students. In recognition of the diverse  
 1153 nature and traditions of the various institutions governed by the board, the systems of faculty  
 1154 government need not be identical but should be designed to further faculty identification with  
 1155 and involvement in the institution's pursuit of achievement and excellence and in fulfillment of  
 1156 the institution's role as established in the statewide master plan for higher education; and

1157 (d) enact rules for administration and operation of the institution which are consistent  
 1158 with the prescribed role established by the board, rules enacted by the board, or the laws of the  
 1159 state. The rules may provide for administrative, faculty, student, and joint committees with  
 1160 jurisdiction over specified institutional matters, for student government and student affairs  
 1161 organization, for the establishment of institutional standards in furtherance of the ideals of  
 1162 higher education fostered and subscribed to by the institution~~[, its]~~ of higher education, the  
 1163 institution of higher education's administration, faculty, and students, and for the holding of  
 1164 classes on legal holidays, other than Sunday.

1165 (3) Compensation costs and related office expenses for appointed attorneys shall be  
 1166 funded within existing budgets.

1167 (4) The State Board of Regents shall establish guidelines relating to the roles and  
 1168 relationships between institutional presidents and boards of trustees, including those matters  
 1169 which must be approved by a board of trustees before implementation by the president.

1170 (5) This section does not apply to a technical college president [~~of an applied~~  
 1171 ~~technology college within the Utah College of Applied Technology~~].

1172 Section 24. Section **53B-2a-100.5** is enacted to read:

1173 **CHAPTER 2a. UTAH SYSTEM OF TECHNICAL COLLEGES**

1174 **53B-2a-100.5. Title.**

1175 This chapter is known as "Utah System of Technical Colleges."

1176 Section 25. Section **53B-2a-101** is amended to read:

1177 **53B-2a-101. Definitions.**

1178 As used in this chapter:

1179 ~~[(1) "Applied technology college" means a member college of the Utah College of~~  
1180 ~~Applied Technology.]~~

1181 ~~[(2)]~~ (1) "Board of trustees" means the Utah ~~[College of Applied Technology]~~ System  
1182 of Technical Colleges Board of Trustees.

1183 ~~[(3)]~~ (2) "Commissioner of technical education" means the Utah ~~[College of Applied~~  
1184 ~~Technology]~~ System of Technical Colleges commissioner of technical education.

1185 ~~[(4)]~~ (3) "Competency-based" means mastery of subject matter or skill level, as  
1186 demonstrated through business and industry approved standards and assessments, achieved  
1187 through participation in a hands-on learning environment, and which is tied to observable,  
1188 measurable performance objectives.

1189 ~~[(5)]~~ (4) "Member" means a member of the board of trustees.

1190 ~~[(6)]~~ (5) "Open-entry, open-exit" means:

1191 (a) a method of instructional delivery that allows for flexible scheduling in response to  
1192 individual student needs or requirements and demonstrated competency when knowledge and  
1193 skills have been mastered;

1194 (b) students have the flexibility to begin or end study at any time, progress through  
1195 course material at their own pace, and demonstrate competency when knowledge and skills  
1196 have been mastered; and

1197 (c) if competency is demonstrated in a program of study, a credential, certificate, or  
1198 diploma may be awarded.

1199 Section 26. Section **53B-2a-102** is amended to read:

1200 **53B-2a-102. Commissioner of technical education -- Appointment -- Duties.**

1201 (1) (a) The board of trustees, upon approval from the governor and with the consent of  
1202 the Senate, shall appoint a commissioner of technical education to serve as the board of  
1203 trustees' chief executive officer.

1204 (b) The commissioner of technical education shall:

1205 (i) have an appropriate and relevant educational background, including, at a minimum,

1206 a master's degree; and

1207 (ii) have extensive experience in career and technical education.

1208 (c) The commissioner of technical education shall serve at the board of trustees'

1209 discretion and may be terminated by:

1210 (i) the board of trustees; or

1211 (ii) the governor, after consultation with the board of trustees.

1212 (d) If the board of trustees intends to appoint an interim or acting commissioner of  
1213 technical education during a leave of absence of the commissioner of technical education, the  
1214 board of trustees shall appoint the interim or acting commissioner of technical education with  
1215 the consent of the Senate.

1216 (e) The name of each final candidate for commissioner of technical education shall be  
1217 publicly disclosed.

1218 (2) The board of trustees shall:

1219 (a) set the salary of the commissioner of technical education;

1220 (b) prescribe the duties and functions of the commissioner of technical education; and

1221 (c) select a commissioner of technical education on the basis of outstanding  
1222 professional qualifications.

1223 (3) The commissioner of technical education is responsible to the board of trustees to:

1224 (a) ensure that the policies and programs of the board of trustees are properly executed;

1225 (b) furnish information about the Utah [~~College of Applied Technology~~] System of  
1226 Technical Colleges and make recommendations regarding the information to the board of  
1227 trustees;

1228 (c) provide state-level leadership in an activity affecting [~~an applied technology~~] a  
1229 technical college; and

1230 (d) perform other duties as assigned by the board of trustees in carrying out the board  
1231 of trustees' duties and responsibilities.

1232 Section 27. Section **53B-2a-103** is amended to read:

1233 **53B-2a-103. Utah System of Technical Colleges Board of Trustees -- Membership**

1234 -- Terms -- Vacancies -- Oath -- Officers -- Quorum -- Committees -- Compensation.

1235 (1) There is created the Utah ~~[College of Applied Technology]~~ System of Technical  
1236 Colleges Board of Trustees.

1237 (2) Except as provided in Subsections (3) and (4), the board of trustees is composed of  
1238 the following members:

1239 ~~[(a) one member of the State Board of Education appointed by the chair of the State~~  
1240 ~~Board of Education, to serve as a nonvoting member;]~~

1241 ~~[(b) one member of the State Board of Regents appointed by the chair of the State~~  
1242 ~~Board of Regents, to serve as a nonvoting member;]~~

1243 ~~[(c)]~~ (a) one member, representing business and industry employers from each ~~[applied~~  
1244 ~~technology]~~ technical college board of directors, appointed by a majority vote of the business  
1245 and industry employer members of the ~~[applied technology]~~ technical college board of  
1246 directors;

1247 ~~[(d)]~~ (b) one member representing business and industry employers from the Snow  
1248 College Economic Development and Workforce Preparation Advisory Committee appointed by  
1249 a majority of the business and industry employer members of the advisory committee;

1250 ~~[(e)]~~ (c) one member representing business and industry employers from the Utah State  
1251 University Eastern career and technical education advisory committee appointed by a majority  
1252 of the business and industry employer members of the advisory committee;

1253 ~~[(f)]~~ (d) one member representing business and industry employers from the Salt Lake  
1254 Community College School of Applied Technology Board of Directors appointed by a majority  
1255 of the business and industry employer members of the board of directors;

1256 ~~[(g)]~~ (e) one business or industry employer representative appointed by the governor  
1257 with the consent of the Senate from nominations submitted by the speaker of the House of  
1258 Representatives and president of the Senate;

1259 ~~[(h)]~~ (f) one representative of union craft, trade, or apprenticeship programs that  
1260 prepare workers for employment in career and technical education fields, appointed by the  
1261 governor with the consent of the Senate;

1262            ~~[(i)]~~ (g) one representative of non-union craft, trade, or apprenticeship programs that  
1263 prepare workers for employment in career and technical education fields, appointed by the  
1264 governor with the consent of the Senate; and

1265            ~~[(j)]~~ (h) the executive director of the Governor's Office of Economic Development or  
1266 the executive director's designee.

1267            (3) (a) Beginning on July 1, 2019, the board of trustees is composed of 15 ~~[voting]~~  
1268 members appointed by the governor with the consent of the Senate, as follows:

1269            (i) one member ~~[representing each applied technology college,]~~ selected from at least  
1270 two nominees presented to the governor by the board of directors of each ~~[applied technology~~  
1271 ~~college]~~ technical college, for a total of eight members; and

1272            (ii) one member ~~[representing]~~ who is employed in and represents each of the  
1273 following sectors:

1274            (A) information technology;

1275            (B) manufacturing;

1276            (C) life sciences;

1277            (D) health care;

1278            (E) transportation;

1279            (F) union craft, trade, or apprenticeship; and

1280            (G) non-union craft, trade, or apprenticeship.

1281            (b) The seven members described in Subsection (3)(a)(ii) shall be selected from the  
1282 state at large, subject to the following conditions:

1283            (i) at least four members shall reside in a geographic area served by ~~[an applied~~  
1284 ~~technology college described in Section 53B-2a-105]~~ a technical college; and

1285            (ii) no more than two members may reside in a single geographic area served by ~~[an~~  
1286 ~~applied technology college described in Section 53B-2a-105]~~ a technical college.

1287            ~~[(c) (i) In addition to the 15 voting members described in Subsection (3)(a), one~~  
1288 ~~member of the Board of Regents, appointed by the chair of the Board of Regents, shall serve as~~  
1289 ~~a nonvoting member of the board of trustees.]~~

1290 ~~[(ii) The nonvoting member from the Board of Regents is not subject to the term limit~~  
 1291 ~~described in Subsection (5)(b).]~~

1292 ~~[(d)]~~ (c) The governor shall make appointments to the board of trustees on a  
 1293 nonpartisan basis.

1294 (d) An individual may not serve on the board of trustees and a technical college board  
 1295 of directors simultaneously.

1296 (4) (a) ~~[Except as provided in Subsection (4)(d), to]~~ To transition from the composition  
 1297 of the board of trustees described in Subsection (2) to the composition described in Subsection  
 1298 (3), for a member who was appointed to the board of trustees on or before May 10, 2016, the  
 1299 governor shall appoint a replacement:

1300 (i) when the member's current term expires, for a member who, on May 10, 2016, has  
 1301 served less than two consecutive full terms on the board of trustees; or

1302 (ii) on May 10, 2016, for a member who, on May 10, 2016, has served two or more  
 1303 consecutive full terms on the board of trustees.

1304 (b) In replacing a member who was appointed under Subsection (2)~~[(e)]~~(a), the  
 1305 governor shall appoint a member ~~[to represent the applied technology]~~ for the technical college  
 1306 represented by the member whose term expires by:

1307 (i) soliciting the ~~[applied technology]~~ technical college's board of directors to nominate  
 1308 at least two individuals for the position; and

1309 (ii) selecting from the nominees presented.

1310 (c) In replacing a member who was appointed under Subsections (2)~~[(d)]~~(b) through  
 1311 (2)~~[(f)]~~(h), the governor shall appoint a new member at large, ensuring representation from the  
 1312 sectors described in Subsection (3)(a)(ii).

1313 ~~[(d)(i) A member appointed under Subsection (2)(a) shall remain on the board of~~  
 1314 ~~trustees until June 30, 2019.]~~

1315 ~~[(ii) A member appointed under Subsection (2)(b) may remain on the board following~~  
 1316 ~~the transition to the board composition described in Subsection (3).]~~

1317 ~~[(e)]~~ (d) In making an appointment under this Subsection (4), the governor:

- 1318 (i) shall appoint a member on a nonpartisan basis; and  
1319 (ii) may not reappoint the member who is being replaced if the member has served on  
1320 the board of trustees for at least two consecutive full terms.
- 1321 (5) (a) (i) Except as provided under Subsection (5)(a)(ii), a member shall be appointed  
1322 commencing on July 1 of each odd-numbered year to a four-year term.
- 1323 (ii) The governor shall ensure that member terms are staggered so that approximately  
1324 one-half of the members' terms expire in any odd-numbered year.
- 1325 (b) A member may not hold office for more than two consecutive full terms.
- 1326 (6) When a vacancy occurs on the board of trustees for any reason, the governor shall  
1327 appoint a replacement for the unexpired term.
- 1328 (7) (a) Each member shall take the official oath of office prior to assuming the office.  
1329 (b) The oath shall be filed with the Division of Archives and Records Services.
- 1330 (8) (a) The board of trustees shall elect a chair and vice chair, who serve for two years  
1331 and until their successors are elected and qualified.
- 1332 (b) A member may not serve more than two consecutive terms as the chair or vice  
1333 chair.
- 1334 (9) (a) The board of trustees shall enact bylaws for the board of trustees' own  
1335 government, including provisions for regular meetings.
- 1336 (b) (i) The board of trustees shall provide for an executive committee in the board of  
1337 trustees' bylaws.
- 1338 (ii) The executive committee shall have full authority of the board of trustees to act  
1339 upon routine matters during the interim between board of trustees meetings.
- 1340 (iii) The executive committee may act on nonroutine matters only under extraordinary  
1341 and emergency circumstances.
- 1342 (iv) The executive committee shall report [its] the executive committee's activities to  
1343 the board of trustees at the board of trustees' next regular meeting following the executive  
1344 committee's [action] activities.
- 1345 (10) A quorum shall be required to conduct business which shall consist of a majority



1346 of ~~[voting]~~ board of trustee members.

1347 (11) The board of trustees may establish advisory committees.

1348 (12) A member may not receive compensation or benefits for the member's service, but  
 1349 may receive per diem and travel expenses in accordance with:

1350 (a) Section 63A-3-106;

1351 (b) Section 63A-3-107; and

1352 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
 1353 63A-3-107.

1354 Section 28. Section 53B-2a-104 is amended to read:

1355 **53B-2a-104. Utah System of Technical Colleges Board of Trustees -- Powers and**  
 1356 **duties.**

1357 (1) The ~~[Utah College of Applied Technology Board of Trustees]~~ board of trustees is  
 1358 vested with the control, management, and supervision of ~~[applied technology colleges within~~  
 1359 ~~the Utah College of Applied Technology]~~ technical colleges in a manner consistent with the  
 1360 policy and purpose of this title and the specific powers and responsibilities granted to the board  
 1361 of trustees.

1362 (2) The board of trustees shall:

1363 (a) ensure that ~~[an applied technology]~~ a technical college complies with the  
 1364 requirements in Section 53B-2a-106;

1365 (b) appoint the commissioner of technical education in accordance with Section  
 1366 53B-2a-102;

1367 (c) advise the commissioner of technical education and the State Board of Regents on  
 1368 issues related to career and technical education, including articulation with institutions of  
 1369 higher education and public education;

1370 (d) ensure that a secondary student in the public education system has access to career  
 1371 and technical education through ~~[an applied technology]~~ a technical college in the secondary  
 1372 student's service region;

1373 (e) in consultation with the State Board of Education, the State Board of Regents, and

1374 [~~applied technology~~] technical college presidents, develop strategies for providing career and  
1375 technical education in rural areas, considering distances between rural career and technical  
1376 education providers;

1377 (f) receive budget requests from each [~~applied technology~~] technical college, compile  
1378 and prioritize the requests, and submit the request to:

1379 (i) the Legislature; and

1380 (ii) the Governor's Office of Management and Budget;

1381 (g) receive funding requests pertaining to capital facilities and land purchases from  
1382 each [~~applied technology~~] technical college, ensure that the requests comply with Section  
1383 [53B-2a-112](#), prioritize the requests, and submit the prioritized requests to the State Building  
1384 Board;

1385 (h) in conjunction with the commissioner of technical education, establish benchmarks,  
1386 provide oversight, evaluate program performance, and obtain independent audits to ensure that  
1387 [~~an applied technology~~] a technical college follows the noncredit career and technical education  
1388 mission described in this part;

1389 (i) approve programs for the Utah [~~College of Applied Technology~~] System of  
1390 Technical Colleges;

1391 (j) approve the tuition rates for [~~applied technology~~] technical colleges [~~within the Utah~~  
1392 ~~College of Applied Technology~~];

1393 (k) prepare and submit an annual report detailing the board of trustees' progress and  
1394 recommendations on career and technical education issues to the governor and to the  
1395 Legislature's Education Interim Committee by October 31 of each year, which shall include  
1396 information detailing:

1397 (i) how the career and technical education needs of secondary students are being met,  
1398 including what access secondary students have to programs offered at [~~applied technology~~]  
1399 technical colleges;

1400 (ii) how the emphasis on high demand, high wage, and high skill jobs in business and  
1401 industry described in Section [53B-2a-106](#) is being provided;

1402 (iii) performance outcomes, including:

1403 (A) entered employment;

1404 (B) job retention; and

1405 (C) earnings; and

1406 (iv) student tuition and fees; and

1407 (l) collaborate with the State Board of Regents, the State Board of Education, [~~the state~~  
1408 ~~system of public education, the state system of higher education,~~] the Department of Workforce  
1409 Services, and the Governor's Office of Economic Development on the delivery of career and  
1410 technical education.

1411 (3) The board of trustees, the commissioner of technical education, or [~~an applied~~  
1412 ~~technology~~] a technical college[;] president[;] or board of directors may not conduct a  
1413 feasibility study or perform another act relating to offering a degree or awarding credit.

1414 Section 29. Section **53B-2a-105** is amended to read:

1415 **53B-2a-105. Utah System of Technical Colleges -- Composition.**

1416 The Utah [~~College of Applied Technology~~] System of Technical Colleges is composed  
1417 of the following [~~applied technology~~] technical colleges:

1418 (1) Bridgerland [~~Applied Technology~~] Technical College, which serves the geographic  
1419 area encompassing:

1420 (a) the Box Elder School District;

1421 (b) the Cache School District;

1422 (c) the Logan School District; and

1423 (d) the Rich School District;

1424 (2) Ogden-Weber [~~Applied Technology~~] Technical College, which serves the  
1425 geographic area encompassing:

1426 (a) the Ogden City School District; and

1427 (b) the Weber School District;

1428 (3) Davis [~~Applied Technology~~] Technical College, which serves the geographic area  
1429 encompassing:

- 1430 (a) the Davis School District; and
- 1431 (b) the Morgan School District;
- 1432 (4) Tooele [~~Applied Technology~~] Technical College, which serves the geographic area
- 1433 encompassing the Tooele County School District;
- 1434 (5) Mountainland [~~Applied Technology~~] Technical College, which serves the
- 1435 geographic area encompassing:
- 1436 (a) the Alpine School District;
- 1437 (b) the Nebo School District;
- 1438 (c) the Provo School District;
- 1439 (d) the South Summit School District;
- 1440 (e) the North Summit School District;
- 1441 (f) the Wasatch School District; and
- 1442 (g) the Park City School District;
- 1443 (6) Uintah Basin [~~Applied Technology~~] Technical College, which serves the
- 1444 geographic area encompassing:
- 1445 (a) the Daggett School District;
- 1446 (b) the Duchesne School District; and
- 1447 (c) the Uintah School District;
- 1448 (7) Southwest [~~Applied Technology~~] Technical College, which serves the geographic
- 1449 area encompassing:
- 1450 (a) the Beaver School District;
- 1451 (b) the Garfield School District;
- 1452 (c) the Iron School District; and
- 1453 (d) the Kane School District; and
- 1454 (8) Dixie [~~Applied Technology~~] Technical College, which serves the geographic area
- 1455 encompassing the Washington School District.

1456 Section 30. Section **53B-2a-106** is amended to read:

1457 **53B-2a-106. Technical colleges -- Duties.**

1458 (1) Each [~~applied technology~~] technical college [~~within the Utah College of Applied~~  
1459 ~~Technology~~] shall, within the geographic area served by the [~~applied technology~~] technical  
1460 college:

1461 (a) offer a noncredit [~~post-secondary~~] postsecondary and secondary career and  
1462 technical education curriculum;

1463 (b) offer that curriculum at:

1464 (i) low cost to adult students, as approved by the board of trustees; and

1465 (ii) no tuition to secondary students;

1466 (c) provide career and technical education that will result in:

1467 (i) appropriate licensing, certification, or other evidence of completion of training; and

1468 (ii) qualification for specific employment, with an emphasis on high demand, high  
1469 wage, and high skill jobs in business and industry;

1470 (d) develop cooperative agreements with school districts, charter schools, other higher  
1471 education institutions, businesses, industries, and community and private agencies to maximize  
1472 the availability of instructional facilities within the geographic area served by the [~~applied~~  
1473 ~~technology~~] technical college; and

1474 (e) after consulting with school districts and charter schools within the geographic area  
1475 served by the [~~applied technology~~] technical college:

1476 (i) ensure that secondary students in the public education system have access to career  
1477 and technical education at the [~~applied technology~~] technical college; and

1478 (ii) prepare and submit an annual report to the board of trustees detailing:

1479 (A) how the career and technical education needs of secondary students within the  
1480 region are being met;

1481 (B) what access secondary students within the region have to programs offered at the  
1482 [~~applied technology~~] technical college;

1483 (C) how the emphasis on high demand, high wage, high skill jobs in business and  
1484 industry described in Subsection (1)(c)(ii) is being provided; and

1485 (D) student tuition and fees.

- 1486 (2) [~~An applied technology~~] A technical college may offer:
- 1487 (a) a competency-based high school diploma approved by the State Board of Education
- 1488 in accordance with Section [53A-1-402](#);
- 1489 (b) noncredit, basic instruction in areas such as reading, language arts, and
- 1490 mathematics that are necessary for student success in a chosen career and technical education
- 1491 or job-related program;
- 1492 (c) noncredit courses of interest when similar offerings to the community are limited
- 1493 and courses are financially self-supporting; and
- 1494 (d) secondary school level courses through the Statewide Online Education Program in
- 1495 accordance with Section [53A-15-1205](#).
- 1496 (3) Except as provided in Subsection (2)(d), [~~an applied technology~~] a technical college
- 1497 may not:
- 1498 (a) offer courses other than noncredit career and technical education or the noncredit,
- 1499 basic instruction described in Subsections (2)(b) and (c);
- 1500 (b) offer a degree;
- 1501 (c) offer career and technical education or basic instruction outside the geographic area
- 1502 served by the [~~applied technology~~] technical college without a cooperative agreement between
- 1503 an affected institution, except as provided in Subsection (6);
- 1504 (d) provide tenure or academic rank for its instructors; or
- 1505 (e) participate in intercollegiate athletics.
- 1506 (4) The mission of [~~an applied technology~~] a technical college is limited to noncredit
- 1507 career and technical education and may not expand to include credit-based academic programs
- 1508 typically offered by community colleges or other institutions of higher education.
- 1509 (5) [~~An applied technology~~] A technical college shall be recognized as a member
- 1510 [~~applied technology college~~] of the Utah [~~College of Applied Technology~~] System of Technical
- 1511 Colleges, and regional affiliation shall be retained and recognized through local designations
- 1512 such as "Bridgerland [~~Applied Technology~~] Technical College: A member [~~applied~~
- 1513 technology] technical college of the Utah [~~College of Applied Technology~~] System of

1514 Technical Colleges."

1515 (6) (a) [~~An applied technology~~] A technical college may offer career and technical  
 1516 education or basic instruction outside the geographic area served by the [~~applied technology~~]  
 1517 technical college without a cooperative agreement, as required in Subsection (3)(c), if:

1518 (i) the career and technical education or basic instruction is specifically requested by:

1519 (A) an employer; or

1520 (B) a craft, trade, or apprenticeship program;

1521 (ii) the [~~applied technology~~] technical college notifies the affected institution about the  
 1522 request; and

1523 (iii) the affected institution is given an opportunity to make a proposal, prior to any  
 1524 contract being finalized or training being initiated by the [~~applied technology~~] technical  
 1525 college, to the employer, craft, trade, or apprenticeship program about offering the requested  
 1526 career and technical education or basic instruction, provided that the proposal shall be  
 1527 presented no later than one business week from the delivery of the notice described under  
 1528 Subsection (6)(a)(ii).

1529 (b) The requirements under Subsection (6)(a)(iii) do not apply if there is a prior  
 1530 training relationship.

1531 Section 31. Section **53B-2a-107** is amended to read:

1532 **53B-2a-107. Technical college presidents -- Appointments -- Duties.**

1533 (1) (a) The board of trustees shall, after consultation with [~~an applied technology~~] a  
 1534 technical college board of directors, appoint [~~an applied technology college~~] a president for [~~an~~]  
 1535 [~~applied technology~~] the technical college.

1536 (b) The board of trustees shall establish a policy for appointing [~~an applied technology~~]  
 1537 a technical college president that:

1538 (i) requires the board of trustees to create a search committee that:

1539 (A) [~~shall include~~] includes an equal number of board of [~~trustee~~] trustees members  
 1540 and members from the [~~applied technology~~] technical college board of directors; and

1541 (B) may include [~~applied technology~~] technical college faculty, students, or other

1542 individuals;

1543 (ii) requires the search committee to seek nominations, interview candidates, and  
1544 forward qualified candidates to the board of trustees for consideration;

1545 (iii) provides for at least two members of the [~~applied technology~~] technical college  
1546 board of directors to participate in board of trustees' interviews of finalists; and

1547 (iv) provides for the board of trustees to vote to appoint [~~an applied technology~~] a  
1548 technical college president in a meeting that complies with Title 52, Chapter 4, Open and  
1549 Public Meetings Act.

1550 (2) (a) [~~An applied technology~~] A technical college president shall serve as the chief  
1551 [~~administrative~~] executive officer of the technical college [~~campus~~].

1552 (b) [~~An applied technology~~] A technical college president does not need to have a  
1553 doctorate degree, but shall have extensive experience in career and technical education.

1554 (c) [~~An applied technology~~] A technical college president is subject to regular review  
1555 and evaluation administered by the board of trustees, in cooperation with the [~~applied~~  
1556 ~~technology~~] technical college board of directors, through a process approved by the board of  
1557 trustees.

1558 (d) [~~An applied technology~~] A technical college president serves at the discretion of the  
1559 board of trustees, in cooperation with the [~~applied technology~~] technical college board of  
1560 directors.

1561 (e) The board of trustees, in cooperation with [~~an applied technology~~] a technical  
1562 college board of directors, shall set the compensation for [~~an applied technology college~~  
1563 ~~president~~] the technical college president using market survey information.

1564 (3) [~~An applied technology~~] A technical college president shall:

1565 (a) serve as the executive officer of the [~~applied technology~~] technical college board of  
1566 directors;

1567 (b) administer the day-to-day operations of the [~~applied technology~~] technical college;

1568 (c) consult with the [~~applied technology~~] technical college board of directors; and

1569 (d) administer human resource policies and employee compensation plans in



1570 accordance with the requirements of the board of trustees.

1571 Section 32. Section **53B-2a-108** is amended to read:

1572 **53B-2a-108. Technical college boards of directors -- Membership --**

1573 **Appointments.**

1574 [~~An applied technology college shall have an applied technology college board of~~  
1575 ~~directors appointed as follows:]~~

1576 (1) The Bridgerland [~~Applied Technology~~] Technical College Board of Directors [~~shall~~  
1577 ~~be~~] is composed of the following 12 members:

1578 (a) one elected local school board member appointed by the board of education for the  
1579 Box Elder School District;

1580 (b) one elected local school board member appointed by the board of education for the  
1581 Cache School District;

1582 (c) one elected local school board member appointed by the board of education for the  
1583 Logan School District;

1584 (d) one elected local school board member appointed by the board of education for the  
1585 Rich School District;

1586 (e) one member of the Utah State University board of trustees; and

1587 (f) seven representatives of business or industry employers within the region appointed  
1588 jointly by the members appointed under Subsections (1)(a) through (e)[~~;~~].

1589 (2) The Ogden-Weber [~~Applied Technology~~] Technical College Board of Directors  
1590 [~~shall be~~] is composed of the following 10 members:

1591 (a) one elected local school board member appointed by the board of education for the  
1592 Ogden City School District;

1593 (b) one elected local school board member appointed by the board of education for the  
1594 Weber School District;

1595 (c) one member of the Weber State University board of trustees; and

1596 (d) seven representatives of business or industry employers within the region appointed  
1597 jointly by the members appointed under Subsections (2)(a) through (c)[~~;~~].

1598 (3) The Davis [~~Applied Technology~~] Technical College Board of Directors [~~shall be~~] is  
1599 composed of the following 10 members:

1600 (a) one elected local school board member appointed by the board of education for the  
1601 Davis School District;

1602 (b) one elected local school board member appointed by the board of education for the  
1603 Morgan School District;

1604 (c) one member of the Weber State University board of trustees; and

1605 (d) seven representatives of business or industry employers within the region appointed  
1606 jointly by the members appointed under Subsections (3)(a) through (c)[;].

1607 (4) The Tooele [~~Applied Technology~~] Technical College Board of Directors [~~shall be~~]  
1608 is composed of the following 12 members:

1609 (a) one elected local school board member appointed by the board of education for the  
1610 Tooele County School District;

1611 (b) one member of the Utah State University board of trustees; and

1612 (c) 10 representatives of business or industry employers within the region appointed  
1613 jointly by the members appointed under Subsections (4)(a) and (b)[;].

1614 (5) The Mountainland [~~Applied Technology~~] Technical College Board of Directors  
1615 [~~shall be~~] is composed of the following 18 members:

1616 (a) one elected local school board member appointed by the board of education for the  
1617 Alpine School District;

1618 (b) one elected local school board member appointed by the board of education for the  
1619 Nebo School District;

1620 (c) one elected local school board member appointed by the board of education for the  
1621 Provo School District;

1622 (d) one elected local school board member appointed by the board of education for the  
1623 South Summit School District;

1624 (e) one elected local school board member appointed by the board of education for the  
1625 North Summit School District;

1626 (f) one elected local school board member appointed by the board of education for the  
1627 Wasatch School District;

1628 (g) one elected local school board member appointed by the board of education for the  
1629 Park City School District;

1630 (h) one member of the Utah Valley University board of trustees; and

1631 (i) 10 representatives of business or industry employers within the region appointed  
1632 jointly by the members appointed under Subsections (5)(a) through (h)[;].

1633 (6) The Uintah Basin [~~Applied Technology~~] Technical College Board of Directors  
1634 [~~shall be~~] is composed of the following 10 members:

1635 (a) one elected local school board member appointed by the board of education for the  
1636 Daggett School District;

1637 (b) one elected local school board member appointed by the board of education for the  
1638 Duchesne School District;

1639 (c) one elected local school board member appointed by the board of education for the  
1640 Uintah School District;

1641 (d) one member of the Utah State University board of trustees; and

1642 (e) six representatives of business or industry employers within the region appointed  
1643 jointly by the members appointed under Subsections (6)(a) through (d)[;].

1644 (7) The Southwest [~~Applied Technology~~] Technical College Board of Directors [~~shall~~  
1645 ~~be~~] is composed of the following 12 members:

1646 (a) one elected local school board member appointed by the board of education for the  
1647 Beaver School District;

1648 (b) one elected local school board member appointed by the board of education for the  
1649 Garfield School District;

1650 (c) one elected local school board member appointed by the board of education for the  
1651 Iron School District;

1652 (d) one elected local school board member appointed by the board of education for the  
1653 Kane School District;

1654 (e) one member of the Southern Utah University board of trustees; and  
 1655 (f) seven representatives of business or industry employers within the region appointed  
 1656 jointly by the members appointed under Subsections (7)(a) through (e)[;].

1657 (8) The Dixie [~~Applied Technology~~] Technical College Board of Directors [~~shall be~~] is  
 1658 composed of the following 10 members:

1659 (a) one elected local school board member appointed by the board of education for the  
 1660 Washington School District;

1661 (b) one member of the Dixie State University board of trustees; and

1662 (c) eight representatives of business or industry employers within the region appointed  
 1663 jointly by the members appointed under Subsections (8)(a) and (b)[; and].

1664 (9) The representatives of business or industry employers [~~shall be~~] on a technical  
 1665 college board of directors are:

1666 (a) appointed jointly by the designated members of a technical college board of  
 1667 directors from a list of names provided by local organizations or associations whose members  
 1668 employ workers with career and technical education;

1669 (b) individuals recognized for their knowledge and expertise;

1670 (c) individuals who represent current and emerging business and industry sectors of the  
 1671 state; and

1672 (d) appointed on a nonpartisan basis.

1673 Section 33. Section **53B-2a-109** is amended to read:

1674 **53B-2a-109. Technical college boards of directors -- Terms -- Quorum -- Chair --**  
 1675 **Compensation.**

1676 (1) (a) At the first meeting of [~~an applied technology~~] a technical college board of  
 1677 directors after July 1, 2009:

1678 (i) the representatives from the local school boards shall divide up their positions so  
 1679 that approximately half of them serve for two-year terms and half serve for four-year terms;  
 1680 and

1681 (ii) the representatives from business and industry employers shall divide up their

1682 positions so that approximately half of them serve for two-year terms and half serve for  
1683 four-year terms.

1684 (b) Except as provided in Subsection (1)(a), individuals appointed to [~~an applied~~  
1685 ~~technology~~] a technical college board of directors shall serve four-year terms.

1686 (2) The original appointing authority shall fill any vacancies that occur on [~~an applied~~  
1687 ~~technology~~] a technical college board of directors.

1688 (3) A majority of [~~an applied technology~~] a technical college board of directors is a  
1689 quorum.

1690 (4) [~~An applied technology~~] A technical college board of directors shall elect a chair  
1691 from [~~its~~] the technical college board of directors' membership.

1692 (5) A member of [~~an applied technology~~] a technical college board of directors may not  
1693 receive compensation or benefits for the [~~member's~~] member of the technical college board of  
1694 director's service, but may receive per diem and travel expenses in accordance with:

1695 (a) Section 63A-3-106;

1696 (b) Section 63A-3-107; and

1697 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
1698 63A-3-107.

1699 (6) (a) [~~An applied technology~~] A technical college board of directors may enact  
1700 bylaws for the [~~applied technology college's~~] technical college board of directors' own  
1701 government, including [~~provision~~] provisions for regular meetings, that are in accordance with  
1702 the policies of the board of trustees.

1703 (b) (i) [~~An applied technology~~] A technical college board of directors may provide for  
1704 an executive committee in the [~~applied technology~~] technical college board of directors'  
1705 bylaws.

1706 (ii) If established, an executive committee shall have the full authority of the [~~applied~~  
1707 ~~technology~~] technical college board of directors to act upon routine matters during the interim  
1708 between board of directors' meetings.

1709 (iii) An executive committee may act on nonroutine matters only under extraordinary

1710 and emergency circumstances.

1711 (iv) An executive committee shall report the executive committee's activities to the  
1712 ~~[applied technology]~~ technical college board of directors at the ~~[applied technology]~~ technical  
1713 college board of directors' next regular meeting following the ~~[action]~~ activities.

1714 (7) ~~[An applied technology]~~ A technical college board of directors may establish  
1715 advisory committees.

1716 Section 34. Section **53B-2a-110** is amended to read:

1717 **53B-2a-110. Technical college board of directors' powers and duties.**

1718 (1) ~~[An applied technology]~~ A technical college board of directors shall:

1719 (a) assist the ~~[applied technology]~~ technical college president in preparing a budget  
1720 request for the ~~[applied technology]~~ technical college's annual operations to the board of  
1721 trustees;

1722 (b) after consulting with the board of trustees, other higher education institutions,  
1723 school districts, and charter schools within the ~~[applied technology]~~ technical college's region,  
1724 prepare a comprehensive strategic plan for delivering career and technical education within the  
1725 region;

1726 (c) consult with business, industry, the Department of Workforce Services, the  
1727 Governor's Office of Economic Development, and the Governor's Office of Management and  
1728 Budget on an ongoing basis to determine what workers and skills are needed for employment  
1729 in Utah businesses and industries;

1730 (d) develop programs based upon the information gathered in accordance with  
1731 Subsection (1)(c), including expedited program approval and termination procedures to meet  
1732 market needs;

1733 (e) adopt an annual budget and fund balances;

1734 (f) develop policies for the operation of career and technical education facilities under  
1735 the ~~[applied technology]~~ technical college board of directors' jurisdiction;

1736 (g) establish human resources and compensation policies for all employees in  
1737 accordance with policies of the board of trustees;

1738 (h) approve credentials for employees and assign employees to duties in accordance  
1739 with board of trustees policies and accreditation guidelines;

1740 (i) conduct annual program evaluations;

1741 (j) appoint program advisory committees and other advisory groups to provide counsel,  
1742 support, and recommendations for updating and improving the effectiveness of training  
1743 programs and services;

1744 (k) approve regulations, both regular and emergency, to be issued and executed by the  
1745 ~~[applied technology]~~ technical college president;

1746 (l) coordinate with local school boards, school districts, and charter schools to meet the  
1747 career and technical education needs of secondary students; and

1748 (m) develop policies and procedures for the admission, classification, instruction, and  
1749 examination of students in accordance with the policies and accreditation guidelines of the  
1750 board of trustees and the State Board of Education.

1751 (2) A policy described in Subsection (1)(g) does not apply to ~~[an applied technology]~~  
1752 compensation for a technical college president.

1753 (3) ~~[An applied technology]~~ A technical college board of directors may not exercise  
1754 jurisdiction over career and technical education provided by a school district or charter school  
1755 or provided by a higher education institution independently of ~~[an applied technology]~~ the  
1756 technical college.

1757 (4) If a program advisory committee or other advisory group submits a printed  
1758 recommendation to ~~[an applied technology]~~ a technical college board of directors, the ~~[applied~~  
1759 ~~technology]~~ technical college board of directors shall acknowledge the recommendation with a  
1760 printed response that explains the ~~[applied technology]~~ technical college board of directors'  
1761 action regarding the recommendation and the reasons for the action.

1762 Section 35. Section **53B-2a-111** is amended to read:

1763 **53B-2a-111. Board of Trustees -- Consultation with State Board of Regents.**

1764 The ~~[Utah College of Applied Technology Board of Trustees]~~ board of trustees shall  
1765 consult with the State Board of Regents to coordinate the delivery of career and technical

1766 education.

1767 Section 36. Section **53B-2a-112** is amended to read:

1768 **53B-2a-112. Technical colleges -- Relationships with other public and higher**  
1769 **education institutions -- Agreements -- Priorities -- New capital facilities.**

1770 (1) As used in this section, "higher education institution" means, for each [~~applied~~  
1771 ~~technology~~] technical college, the higher education institution designated in Section  
1772 **53B-2a-108** that has a representative on the [~~applied technology~~] technical college's board of  
1773 directors.

1774 (2) [~~An applied technology~~] A technical college shall avoid any unnecessary  
1775 duplication of career and technical education instructional facilities, programs, administration,  
1776 and staff between the [~~applied technology~~] technical college and other public and higher  
1777 education institutions.

1778 (3) [~~An applied technology~~] A technical college may enter into agreements:

1779 (a) with other higher education institutions to cultivate cooperative relationships;

1780 (b) with other public and higher education institutions to enhance career and technical  
1781 education within its region; or

1782 (c) to comply with Subsection (2).

1783 (4) Before [~~an applied technology~~] a technical college develops new instructional  
1784 facilities, the [~~applied technology~~] technical college shall give priority to:

1785 (a) maintaining the [~~applied technology~~] technical college's existing instructional  
1786 facilities for both secondary and adult students;

1787 (b) coordinating with the president of a higher education institution and entering into  
1788 any necessary agreements to provide career and technical education to both secondary and adult  
1789 students that:

1790 (i) maintain and support existing higher education career and technical education  
1791 programs; and

1792 (ii) maximize the use of existing higher education facilities; and

1793 (c) developing cooperative agreements with school districts, charter schools, other



1794 higher education institutions, businesses, industries, and community and private agencies to  
1795 maximize the availability of career and technical education instructional facilities for both  
1796 secondary and adult students.

1797 (5) (a) Before submitting a funding request pertaining to new capital facilities and land  
1798 purchases to the board of trustees, [~~an applied technology~~] a technical college shall:

1799 (i) ensure that all available instructional facilities are maximized in accordance with  
1800 Subsections (4)(a) through (c); and

1801 (ii) coordinate the request with the president of a higher education institution, if  
1802 applicable.

1803 (b) The State Building Board shall make a finding that the requirements of this section  
1804 are met before the State Building Board may consider a funding request from the board of  
1805 trustees pertaining to new capital facilities and land purchases.

1806 (c) [~~An applied technology~~] A technical college may not construct, approve the  
1807 construction of, plan for the design or construction of, or consent to the construction of a career  
1808 and technical education facility without approval of the Legislature.

1809 (6) Before acquiring new fiscal and administrative support structures, [~~an applied~~  
1810 ~~technology~~] a technical college shall:

1811 (a) review the use of existing public or higher education administrative and accounting  
1812 systems, financial record systems, and student and financial aid systems for the delivery of  
1813 career and technical education in the region;

1814 (b) determine whether it is feasible to use those existing systems; and

1815 (c) with the approval of the [~~applied technology~~] technical college board of directors  
1816 and the board of trustees, use those existing systems.

1817 Section 37. Section **53B-2a-113** is amended to read:

1818 **53B-2a-113. Technical colleges -- Leasing authority -- Lease-purchase agreements**  
1819 **-- Report.**

1820 (1) In accordance with Subsection **53B-2a-112(2)**, [~~an applied technology~~] a technical  
1821 college may enter into a lease with other higher education institutions, school districts, charter

1822 schools, state agencies, or business and industry for a term of:

1823 (a) one year or less with the approval of the [~~applied technology~~] technical college  
1824 board of directors; [~~and~~] or

1825 (b) more than one year with the approval of the board of trustees and:

1826 (i) the approval of funding for the lease by the Legislature prior to [~~an applied~~  
1827 ~~technology~~] a technical college entering into the lease; or

1828 (ii) the lease agreement includes language that allows termination of the lease without  
1829 penalty.

1830 (2) (a) In accordance with Subsection 53B-2a-112(2), [~~an applied technology~~] a  
1831 technical college may enter into a lease-purchase agreement if:

1832 (i) there is a long-term benefit to the state;

1833 (ii) the project is included in both the [~~applied technology~~] technical college and Utah  
1834 [~~College of Applied Technology~~] System of Technical Colleges master plans;

1835 (iii) the lease-purchase agreement includes language that allows termination of the  
1836 lease;

1837 (iv) the lease-purchase agreement is approved by the [~~applied technology~~] technical  
1838 college board of directors and the board of trustees; and

1839 (v) the lease-purchase agreement is:

1840 (A) reviewed by the Division of Facilities Construction and Management;

1841 (B) reviewed by the State Building Board; and

1842 (C) approved by the Legislature.

1843 (b) An approval under Subsection (2)(a) shall include a recognition of:

1844 (i) all parties, dates, and elements of the agreement;

1845 (ii) the equity or collateral component that creates the benefit; and

1846 (iii) the options dealing with the sale and division of equity.

1847 (3) (a) Each [~~applied technology~~] technical college shall provide an annual lease report  
1848 to the board of trustees that details each of the [~~applied technology~~] technical college's leases,  
1849 annual costs, location, square footage, and recommendations for lease continuation.

1850 (b) The board of trustees shall compile and distribute an annual combined lease report  
1851 for all [~~applied technology~~] technical colleges to the Division of Facilities Construction and  
1852 Management and to others upon request.

1853 (4) The board of trustees shall use the annual combined lease report in determining  
1854 planning, utilization, and budget requests.

1855 Section 38. Section **53B-2a-114** is amended to read:

1856 **53B-2a-114. Educational program on the use of information technology.**

1857 (1) The Utah [~~College of Applied Technology~~] System of Technical Colleges shall  
1858 offer an educational program on the use of information technology as provided in this section.

1859 (2) An educational program on the use of information technology shall:

1860 (a) provide instruction on skills and competencies essential for the workplace and  
1861 requested by employers;

1862 (b) include the following components:

1863 (i) a curriculum;

1864 (ii) online access to the curriculum;

1865 (iii) instructional software for classroom and student use;

1866 (iv) certification of skills and competencies most frequently requested by employers;

1867 (v) professional development for faculty; and

1868 (vi) deployment and program support, including integration with existing curriculum  
1869 standards; and

1870 (c) be made available to students, faculty, and staff of [~~the Utah College of Applied~~  
1871 Technology] technical colleges.

1872 Section 39. Section **53B-2a-115** is enacted to read:

1873 **53B-2a-115. Utah System of Technical Colleges -- Institutional name changes.**

1874 (1) Beginning July 1, 2017:

1875 (a) the Utah College of Applied Technology shall be known as the Utah System of  
1876 Technical Colleges;

1877 (b) Bridgerland Applied Technology College shall be known as Bridgerland Technical

1878 College;

1879 (c) Ogden-Weber Applied Technology College shall be known as Ogden-Weber

1880 Technical College;

1881 (d) Davis Applied Technology College shall be known as Davis Technical College;

1882 (e) Tooele Applied Technology College shall be known as Tooele Technical College;

1883 (f) Mountainland Applied Technology College shall be known as Mountainland

1884 Technical College;

1885 (g) Uintah Basin Applied Technology College shall be known as Uintah Basin

1886 Technical College;

1887 (h) Southwest Applied Technology College shall be known as Southwest Technical

1888 College; and

1889 (i) Dixie Applied Technology College shall be known as Dixie Technical College.

1890 (2) (a) As described in Subsection (1), the Utah System of Technical Colleges is a

1891 continuation of the Utah College of Applied Technology and each technical college is a

1892 continuation of the applied technology college that preceded the technical college.

1893 (b) An institution described in Subsection (1):

1894 (i) possess all rights, title, privileges, powers, immunities, franchises, endowments,

1895 property, and claims of the institution that preceded the institution; and

1896 (ii) shall fulfill and perform all obligations of the institution that preceded the

1897 institution, including obligations relating to outstanding bonds and notes.

1898 Section 40. Section **53B-3-102** is amended to read:

1899 **53B-3-102. State institution of higher education defined.**

1900 (1) As used in this chapter, "state institution of higher education" means [~~the~~

1901 ~~University of Utah, Utah State University, Southern Utah University, Weber State University,~~

1902 ~~Snow College, Dixie State University, Utah Valley University, Salt Lake Community College,~~

1903 ~~and] an institution described in Section 53B-2-101 or any other university or college [~~which~~~~

1904 ~~may be] that is established and maintained by the state.~~

1905 [~~(2) It includes any]~~

1906 (2) A state institution of higher education includes:

1907 (a) a branch or affiliated institution [~~and any~~]; or

1908 (b) a campus or facilities owned, operated, or controlled by the governing board of the

1909 [~~university or college~~] state institution of higher education.

1910 Section 41. Section **53B-6-106** is amended to read:

1911 **53B-6-106. Jobs Now and Economic Development Initiatives.**

1912 (1) (a) The Utah [~~College of Applied Technology~~] System of Technical Colleges Board  
 1913 of Trustees shall develop, establish, and maintain a Jobs Now Initiative, to promote workforce  
 1914 preparation programs that meet critical needs and shortages throughout the state.

1915 (b) The State Board of Regents shall develop, establish, and maintain economic  
 1916 development initiatives within the system of higher education.

1917 (2) The initiatives specified in Subsection (1) shall provide support for technical  
 1918 training expansion that trains skilled potential employees within a period not to exceed 12  
 1919 months for technical jobs in critical needs occupations and other innovative economic  
 1920 development policy initiatives.

1921 (3) (a) Subject to future budget constraints, the Legislature shall provide an annual  
 1922 appropriation to the Utah [~~College of Applied Technology~~] System of Technical Colleges to  
 1923 fund the Jobs Now Initiative established in Subsection (1)(a).

1924 (b) (i) The Utah [~~College of Applied Technology~~] System of Technical Colleges Board  
 1925 of Trustees shall allocate the appropriation for the Jobs Now Initiative to [~~applied technology~~  
 1926 ~~colleges within the Utah College of Applied Technology~~] technical colleges.

1927 (ii) [~~An applied technology~~] A technical college shall use money received under  
 1928 Subsection (3)(b)(i) for technical training expansion referred to in Subsection (2).

1929 (c) Subject to future budget constraints, the Legislature shall provide an annual  
 1930 appropriation to the State Board of Regents to fund economic development initiatives  
 1931 established pursuant Subsection (1)(b).

1932 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1933 (i) the Utah [~~College of Applied Technology~~] System of Technical Colleges Board of

1934 Trustees shall make rules to implement the Jobs Now Initiative; and

1935 (ii) the board shall make rules to implement economic development initiatives.

1936 Section 42. Section **53B-7-101** is amended to read:

1937 **53B-7-101. Combined requests for appropriations -- Board review of operating**

1938 **budgets -- Submission of budgets -- Recommendations -- Hearing request --**

1939 **Appropriation formulas -- Allocations -- Dedicated credits -- Financial affairs.**

1940 (1) As used in this section:

1941 (a) (i) "Higher education institution" or "institution" means an institution of higher

1942 education listed in Section [53B-1-102](#).

1943 (ii) "Higher education institution" or "institution" does not include:

1944 (A) the Utah [~~College of Applied Technology.~~] System of Technical Colleges Board of

1945 Trustees; or

1946 (B) a technical college.

1947 (b) "Research university" means the University of Utah or Utah State University.

1948 (2) (a) The board shall recommend a combined appropriation for the operating budgets

1949 of higher education institutions for inclusion in a state appropriations act.

1950 (b) The board's combined budget recommendation shall include:

1951 (i) employee compensation;

1952 (ii) mandatory costs, including building operations and maintenance, fuel, and power;

1953 [~~(iii) mission-based funding described in Subsection (3);~~]

1954 [~~(iv)~~] (iii) performance funding described in Subsection [~~(4)~~] (3);

1955 [~~(v)~~] (iv) statewide and institutional priorities, including scholarships, financial aid,

1956 and technology infrastructure; and

1957 [~~(vi)~~] (v) unfunded historic growth.

1958 (c) The board's recommendations shall be available for presentation to the governor

1959 and to the Legislature at least 30 days [~~prior to~~] before the convening of the Legislature, and

1960 shall include schedules showing the recommended amounts for each institution, including

1961 separately funded programs or divisions.

1962 (d) The recommended appropriations shall be determined by the board only after it has  
 1963 reviewed the proposed institutional operating budgets, and has consulted with the various  
 1964 institutions and board staff in order to make appropriate adjustments.

1965 [~~(3)~~(a) ~~The board shall establish mission based funding.~~]

1966 [~~(b)~~ ~~Mission based funding shall include:~~]

1967 [~~(i)~~ ~~enrollment growth; and~~]

1968 [~~(ii)~~ ~~up to three strategic priorities.~~]

1969 [~~(c)~~ ~~The strategic priorities described in Subsection (3)(b)(ii) shall be:~~]

1970 [~~(i)~~ ~~approved by the board; and~~]

1971 [~~(ii)~~ ~~designed to improve the availability, effectiveness, or quality of higher education~~  
 1972 ~~in the state.~~]

1973 [~~(d)~~ ~~Concurrent with recommending mission based funding, the board shall also~~  
 1974 ~~recommend to the Legislature ways to address funding any inequities for institutions as~~  
 1975 ~~compared to institutions with similar missions.~~]

1976 [~~(4)~~] (3) (a) The board shall establish performance funding.

1977 (b) Performance funding shall include metrics approved by the board, including:

1978 (i) degrees and certificates granted;

1979 (ii) services provided to traditionally underserved populations;

1980 (iii) responsiveness to workforce needs;

1981 (iv) institutional efficiency; and

1982 (v) for a research university, graduate research metrics.

1983 (c) The board shall:

1984 (i) award performance funding appropriated by the Legislature to institutions based on  
 1985 the institution's success in meeting the metrics described in Subsection [~~(4)~~] (3)(b); and

1986 (ii) reallocate funding that is not awarded to an institution under Subsection [~~(4)~~]

1987 (3)(c)(i) for distribution to other institutions that meet the metrics described in Subsection [~~(4)~~]

1988 (3)(b).

1989 [~~(5)~~] (4) (a) Institutional operating budgets shall be submitted to the board at least 90

1990 days ~~[prior to]~~ before the convening of the Legislature in accordance with procedures  
1991 established by the board.

1992 (b) Funding requests pertaining to capital facilities and land purchases shall be  
1993 submitted in accordance with procedures prescribed by the State Building Board.

1994 ~~[(6)]~~ (5) (a) The budget recommendations of the board shall be accompanied by full  
1995 explanations and supporting data.

1996 (b) The appropriations recommended by the board shall be made with the dual  
1997 objective of:

1998 (i) justifying for higher educational institutions appropriations consistent with their  
1999 needs, and consistent with the financial ability of the state; and

2000 (ii) determining an equitable distribution of funds among the respective institutions in  
2001 accordance with the aims and objectives of the statewide master plan for higher education.

2002 ~~[(7)]~~ (6) (a) The board shall request a hearing with the governor on the recommended  
2003 appropriations.

2004 (b) After the governor delivers his budget message to the Legislature, the board shall  
2005 request hearings on the recommended appropriations with the appropriate committees of the  
2006 Legislature.

2007 (c) If either the total amount of the state appropriations or its allocation among the  
2008 institutions as proposed by the Legislature or ~~[its]~~ the Legislature's committees is substantially  
2009 different from the recommendations of the board, the board may request further hearings with  
2010 the Legislature or ~~[its]~~ the Legislature's appropriate committees to reconsider both the total  
2011 amount and the allocation.

2012 ~~[(8)]~~ (7) The board may devise, establish, periodically review, and revise formulas for  
2013 ~~[its]~~ the board's use and for the use of the governor and the committees of the Legislature in  
2014 making appropriation recommendations.

2015 ~~[(9)]~~ (8) (a) The board shall recommend to each session of the Legislature the  
2016 minimum tuitions, resident and nonresident, for each institution which it considers necessary to  
2017 implement the budget recommendations.



2018 (b) The board may fix the tuition, fees, and charges for each institution at levels [it] the  
2019 board finds necessary to meet budget requirements.

2020 [~~(10)~~] (9) (a) Money allocated to each institution by legislative appropriation may be  
2021 budgeted in accordance with institutional work programs approved by the board, provided that  
2022 the expenditures funded by appropriations for each institution are kept within the  
2023 appropriations for the applicable period.

2024 (b) [~~A~~] Each year, a president of an institution of higher education shall~~[-(i)]~~ establish  
2025 initiatives for the president's institution [~~each year~~] of higher education that are~~[-(A) aligned~~  
2026 ~~with the strategic priorities described in Subsection (3); and (B)]~~ consistent with the  
2027 [~~institution's~~] institution of higher education's mission and role~~[-; and]~~.

2028 [~~(ii) allocate the institution's mission based funding to the initiatives;~~]

2029 [~~(11)~~] (10) The dedicated credits, including revenues derived from tuitions, fees,  
2030 federal grants, and proceeds from sales received by the institutions of higher education are  
2031 appropriated to the respective institutions of higher education and used in accordance with  
2032 institutional work programs.

2033 [~~(12)~~] (11) [~~Each~~] An institution of higher education may do [~~its~~] the institution's own  
2034 purchasing, issue [~~its~~] the institution's own payrolls, and handle [~~its~~] the institution's own  
2035 financial affairs under the general supervision of the board.

2036 [~~(13)~~] (12) (a) If the Legislature appropriates money in accordance with this section,  
2037 [it] the money shall be distributed to the board and higher education institutions to fund the  
2038 items described in Subsection (2)(b).

2039 (b) During each general session of the Legislature following a fiscal year in which the  
2040 Legislature provides an appropriation for [~~mission based funding or~~] performance funding, the  
2041 board and institutions of higher education shall report to the Legislature's Higher Education  
2042 Appropriations Subcommittee on the use of the previous year's [~~mission based funding and~~]  
2043 performance funding~~[-; including performance outcomes relating to the strategic initiatives~~  
2044 ~~approved by the board]~~.

2045 Section 43. Section **53B-8-101** is amended to read:

2046           **53B-8-101. Waiver of tuition.**

2047           (1) (a) The president of [~~each institution~~] an institution of higher education described  
2048 in Section 53B-2-101 may waive all or part of the tuition in behalf of meritorious or  
2049 impecunious resident students to an amount not exceeding 10% of the total amount of tuition  
2050 which, in the absence of the waivers, would have been collected from all Utah resident students  
2051 at the institution of higher education.

2052           (b) Two and a half percent of the waivers designated in Subsection (1)(a) shall be set  
2053 aside for members of the Utah National Guard. Waivers shall be preserved by the student at  
2054 least 60 days before the beginning of an academic term.

2055           (2) (a) A president of an institution of higher education listed in Subsections  
2056 53B-2-101(1)(a) through (h) may waive all or part of the nonresident portion of tuition for a  
2057 meritorious nonresident undergraduate student.

2058           (b) In determining which students are meritorious for purposes of granting a tuition  
2059 waiver under Subsection (2)(a), a president shall consider students who are performing above  
2060 the average at the institution of higher education, including having an admissions index higher  
2061 than the average for the institution, if an admissions index is used.

2062           (c) A president may continue to waive the nonresident portion of tuition for a student  
2063 described in Subsection (2)(a) for as long as the student is enrolled at the institution of higher  
2064 education.

2065           (d) In addition to waiving the nonresident portion of tuition for a meritorious  
2066 nonresident student under Subsection (2)(a), a president may waive the resident portion of  
2067 tuition after the meritorious nonresident student completes a year of full-time study at the  
2068 institution of higher education.

2069           (3) [~~Upon recommendation of the board, a president shall grant additional full or~~  
2070 ~~partial tuition waivers to~~] To encourage students to enroll for instruction in occupations critical  
2071 to the state for which trained personnel are in short supply[.], a president of an institution of  
2072 higher education shall grant additional full or partial tuition waivers upon recommendation of:

2073           (a) the board, for an institution of higher education described in Subsection (1)(a); or

2074 (b) the Utah System of Technical Colleges Board of Trustees, for a technical college.

2075 (4) A president may waive all or part of the difference between resident and  
2076 nonresident tuition in the case of:

2077 (a) meritorious graduate students; or

2078 (b) nonresident summer school students.

2079 (5) (a) The board shall submit an annual budget appropriation [~~requests~~] request for  
2080 each institution[~~, which~~] of higher education described in Subsections 53B-2-101(1)(a) through  
2081 (h).

2082 (b) The Utah System of Technical Colleges Board of Trustees shall submit an annual  
2083 budget appropriation request for each technical college.

2084 (c) A request described in Subsection (5)(a) or (b) shall include requests for funds  
2085 sufficient in amount to equal the estimated loss of dedicated credits that would be realized if all  
2086 of the tuition waivers authorized by Subsection (2) were granted.

2087 Section 44. Section **53B-8d-102** is amended to read:

2088 **53B-8d-102. Definitions.**

2089 As used in this chapter:

2090 (1) "Division" means the Division of Child and Family Services.

2091 (2) "Long-term foster care" means an individual who remains in the custody of the  
2092 division, whether or not the individual resides:

2093 (a) with licensed foster parents; or

2094 (b) in independent living arrangements under the supervision of the division.

2095 (3) "State institution of higher education" means:

2096 (a) an institution designated in Section **53B-1-102**; [~~and~~] or

2097 (b) a public institution that offers postsecondary education in consideration of the  
2098 payment of tuition or fees for the attainment of educational or vocational objectives leading to  
2099 a degree or certificate, including:

2100 (i) a business school;

2101 (ii) a technical school;

2102 [~~(iii) an applied technology college within the Utah College of Applied Technology;~~]

2103 [~~(iv)~~] (iii) a trade school; or

2104 [~~(v)~~] (iv) an institution offering related apprenticeship programs.

2105 (4) "Tuition" means tuition at the rate for residents of the state.

2106 (5) "Ward of the state" means an individual:

2107 (a) who is:

2108 (i) at least 17 years of age; and

2109 (ii) not older than 26 years of age;

2110 (b) who had a permanency goal in the individual's child and family plan, as described

2111 in Sections [62A-4a-205](#) and [78A-6-314](#), of long-term foster care while in the custody of the

2112 division; and

2113 (c) for whom the custody of the division was not terminated as a result of adoption.

2114 Section 45. Section **53B-16-101** is amended to read:

2115 **53B-16-101. Establishment of institutional roles and general courses of study.**

2116 (1) Except as institutional roles are specifically assigned by the Legislature, the board:

2117 (a) may establish and define the roles of the various institutions of higher education

2118 under ~~[its]~~ the board's control and management; and

2119 (b) shall, within each institution of higher education's primary role, prescribe the

2120 general course of study to be offered at ~~[each]~~ the institution~~[-]~~ of higher education, including

2121 for:

2122 (i) research universities, which provide undergraduate, graduate, and research programs

2123 and include:

2124 (A) the University of Utah; and

2125 (B) Utah State University;

2126 (ii) regional universities, which provide career and technical education, undergraduate

2127 associate and baccalaureate programs, and select master's degree programs to fill regional

2128 demands and include:

2129 (A) Weber State University;

2130 (B) Southern Utah University;  
 2131 (C) Dixie State University; and  
 2132 (D) Utah Valley University; and  
 2133 (iii) comprehensive community colleges, which provide associate programs and  
 2134 include:

2135 (A) Salt Lake Community College; and  
 2136 (B) Snow College.

2137 (2) Except for the University of Utah, each institution of higher education described in  
 2138 Subsection (1)(b) has career and technical education included in the institution of higher  
 2139 education's primary role.

2140 ~~[(2) In establishing and defining institutional roles, the board shall consider the~~  
 2141 ~~traditional roles of the separate institutions.]~~

2142 (3) The board may further clarify each institution of higher education's primary role.

2143 Section 46. Section **53B-16-102** is amended to read:

2144 **53B-16-102. Changes in curriculum -- Substantial alterations in institutional**  
 2145 **operations -- Periodic review of programs -- Career and technical education curriculum**  
 2146 **changes.**

2147 (1) As used in this section:

2148 (a) "Institution of higher education" means an institution described in Subsection  
 2149 53B-1-102(1)(a).

2150 (b) "Program of instruction" means a program of curriculum that leads to the  
 2151 completion of a degree, diploma, certificate, or other credential.

2152 ~~[(+)]~~ (2) Under procedures and policies approved by the board and developed in  
 2153 consultation with each institution of higher education, each institution of higher education may  
 2154 make such changes in [its] the institution of higher education's curriculum as necessary to  
 2155 better effectuate the [institutional role previously approved by the board] institution of higher  
 2156 education's primary role.

2157 ~~[(2)]~~ (3) [Notice of a change in the curriculum shall in all cases be promptly submitted

2158 ~~to the board]~~ An institution of higher education shall notify the board of a proposed new  
2159 program of instruction.

2160 (4) (a) Without the approval of the board, an institution of higher education may not:

2161 (i) establish a branch, extension center, college, or professional school; or

2162 (ii) establish a new program of instruction that is outside of the institution of higher  
2163 education's primary role described in Section 53B-16-101.

2164 (b) An institution of higher education may, with the approval of the institution of  
2165 higher education's board of trustees, establish a new program of instruction that is within the  
2166 institution of higher education's primary role described in Section 53B-16-101.

2167 ~~[(3)]~~ (5) (a) The board shall establish procedures and [policies for considering  
2168 institutional proposals for substantial alterations in the scope of existing institutional  
2169 operations] guidelines for institutional boards of trustees to consider an institutional proposal  
2170 for a new program of instruction described in Subsection (4)(b).

2171 (b) The guidelines described in Subsection (5)(a) shall provide that:

2172 (i) prior to seeking approval from the institution of higher education's board of trustees,  
2173 an institution of higher education that proposes a new program of instruction submit the  
2174 proposal to the commissioner to conduct a peer review by other institutions of higher  
2175 education;

2176 (ii) the commissioner issue a report with the results of a peer review described in  
2177 Subsection (5)(b)(i) to the board and the board of trustees of the institution of higher education  
2178 proposing the new program of instruction; and

2179 (iii) an institution of higher education that proposes a new program of instruction  
2180 include:

2181 (A) a fiscal analysis of the new program of instruction's initial and ongoing costs; and

2182 (B) the institution of higher education's source of funding for the new program of  
2183 instruction.

2184 ~~[(4) Alterations shall not be made without prior approval of the state board.]~~

2185 ~~[(5) For purposes of this section, "substantial alteration" means the establishment of a~~

2186 ~~branch, extension center, college, professional school, division, institute, department, or a new~~  
2187 ~~program in instruction, research, or public services or a new degree, diploma, or certificate.]~~

2188 (6) (a) The board shall conduct ~~[periodic reviews]~~ a periodic review of all new  
2189 programs of instruction~~[, research, and public service at each institution]~~, including those  
2190 funded by gifts, grants, and contracts, ~~[and may require the modification or termination of any~~  
2191 ~~program]~~ no later than two years after the first cohort to begin the program of instruction  
2192 completes the program of instruction.

2193 (b) The board may conduct a periodic review of any program of instruction at an  
2194 institution of higher education, including a program of instruction funded by a gift, grant, or  
2195 contract.

2196 (c) Following a review described in this Subsection (6), the board may recommend that  
2197 the institution of higher education modify or terminate the program of instruction.

2198 (7) Prior to requiring modification or termination of a program, the board shall give the  
2199 institution of higher education adequate opportunity for a hearing before the board.

2200 (8) In making decisions related to career and technical education curriculum changes,  
2201 the board shall ~~[request]~~ coordinate on behalf of the boards of trustees of higher education  
2202 institutions a review of the proposed changes by the State Board of Education and the Utah  
2203 ~~[College of Applied Technology]~~ System of Technical Colleges Board of Trustees to ensure an  
2204 orderly and systematic career and technical education curriculum that eliminates overlap and  
2205 duplication of course work with ~~[the]~~ high schools ~~[and applied technology colleges within the~~  
2206 ~~Utah College of Applied Technology]~~ and technical colleges.

2207 Section 47. Section **53B-16-103** is amended to read:

2208 **53B-16-103. Granting of degrees, diplomas, or certifications -- Board approval --**  
2209 **Termination of previous approval.**

2210 (1) (a) An institution of higher education may not issue a degree, diploma, or certificate  
2211 outside of the institution of higher education's primary role, as described in Section  
2212 53B-16-101, unless ~~[it first]~~ the institution of higher education receives approval from the  
2213 board of the adequacy of the study for which the degree, diploma, or certificate is offered.

2214 (b) A student shall demonstrate a reasonable understanding of the history, principles,  
2215 form of government, and economic system of the United States [~~prior to~~] before receiving a  
2216 bachelor's degree or teaching credential.

2217 (2) Degrees, diplomas, and certificates issued prior to the effective date of this chapter  
2218 do not require board approval.

2219 (3) The board may terminate the granting of previously approved degrees, diplomas,  
2220 and certificates if they are inconsistent with the primary role prescribed by the board for the  
2221 affected institution of higher education.

2222 Section 48. Section **53B-16-107** is amended to read:

2223 **53B-16-107. Credit for military service and training -- Notification --**  
2224 **Transferability -- Reporting.**

2225 (1) As used in this section, "credit" includes proof of equivalent noncredit course  
2226 completion awarded by [~~the Utah College of Applied Technology~~] a technical college.

2227 (2) An institution of higher education listed in Section **53B-2-101** shall provide written  
2228 notification to each student applying for admission that the student is required to meet with a  
2229 college counselor in order to receive credit for military service and training as recommended by  
2230 a postsecondary accreditation agency or association designated by the [~~State Board of Regents~~]  
2231 board or the Utah [~~College of Applied Technology~~] System of Technical Colleges Board of  
2232 Trustees if:

2233 (a) credit for military service and training is requested by the student; and

2234 (b) the student has met with an advisor at an institution of higher education listed in  
2235 Section **53B-2-101** at which the student intends to enroll to discuss applicability of credit to  
2236 program requirements, possible financial aid implications, and other factors that may impact  
2237 attainment of the student's educational goals.

2238 (3) Upon transfer within the state system of higher education, a student may present a  
2239 transcript to the receiving institution of higher education for evaluation and to determine the  
2240 applicability of credit to the student's program of study, and the receiving institution of higher  
2241 education shall evaluate the credit to be transferred pursuant to Subsection (2).



2242 (4) The ~~[State Board of Regents]~~ board and the Utah ~~[College of Applied Technology]~~  
2243 System of Technical Colleges Board of Trustees shall annually report the number of credits  
2244 awarded under this section by each institution of higher education to the Utah Department of  
2245 Veterans' Affairs.

2246 Section 49. Section **53B-16-201** is amended to read:

2247 **53B-16-201. Degrees and certificates that may be conferred.**

2248 (1) Utah State University, Snow College, and Salt Lake Community College may  
2249 confer certificates of completion and degrees ~~[as determined by the State Board of Regents]~~  
2250 within each institution's primary role, as described in Section [53B-16-101](#).

2251 (2) The board shall develop evaluative criteria as a means of carefully monitoring the  
2252 impact of degree programs on the vocational mission of the ~~[colleges]~~ institutions of higher  
2253 education described in Subsection (1).

2254 Section 50. Section **53B-16-209** is amended to read:

2255 **53B-16-209. Salt Lake Community College -- School of Applied Technology --**  
2256 **Career and technical education -- Supervision and administration -- Institutional mission.**

2257 (1) (a) There is hereby established a School of Applied Technology at Salt Lake  
2258 Community College.

2259 (b) Beginning on July 1, 2009, the Salt Lake Skills Center and the Salt Lake County  
2260 portion of the Salt Lake/Tooele Applied Technology College shall be established as Salt Lake  
2261 Community College's School of Applied Technology.

2262 (2) Salt Lake Community College's School of Applied Technology is a continuation of  
2263 the Salt Lake Skills Center and the Salt Lake County portion of the Salt Lake/Tooele Applied  
2264 Technology College and shall:

2265 (a) possess all rights, title, privileges, powers, immunities, franchises, endowments,  
2266 property, and claims of the Salt Lake Skills Center and the Salt Lake County portion of the Salt  
2267 Lake/Tooele Applied Technology College; and

2268 (b) fulfill and perform all obligations of the Salt Lake Skills Center and the Salt Lake  
2269 County portion of the Salt Lake/Tooele Applied Technology College.

2270 (3) Salt Lake Community College shall administer the School of Applied Technology  
2271 [~~with the School of Applied Technology's Board of Directors as provided in Section~~  
2272 ~~53B-16-210~~].

2273 (4) Salt Lake Community College's School of Applied Technology shall:

2274 (a) provide non-credit career and technical education for both secondary and adult  
2275 students, with an emphasis primarily on open-entry, open-exit programs;

2276 (b) ensure that economically disadvantaged, educationally disadvantaged, or other  
2277 at-risk students have access to non-credit career and technical education;

2278 (c) maintain a strong curriculum in non-credit career and technical education courses  
2279 which can be articulated with credit career and technical education courses within the  
2280 institution and within the state system of higher education;

2281 (d) offer [~~non-credit~~] noncredit, basic instruction in areas such as reading, language  
2282 arts, and mathematics that are necessary for student success in a chosen career and technical  
2283 education or job-related program;

2284 (e) offer the curriculum at:

2285 (i) low cost to adult students, consistent with legislative appropriations to the School of  
2286 Applied Technology; and

2287 (ii) no tuition cost to secondary students;

2288 (f) provide [~~non-credit~~] noncredit career and technical education that will result in:

2289 (i) appropriate licensing, certification, or other evidence of completion of training; and

2290 (ii) qualification for specific employment, with an emphasis on high demand, high  
2291 wage, and high skill jobs in business and industry;

2292 (g) develop cooperative agreements within the geographic area served by the School of  
2293 Applied Technology with school districts, charter schools, and other higher education  
2294 institutions, businesses, industries, and community and private agencies to maximize the  
2295 availability of instructional facilities; and

2296 (h) after consulting with school districts and charter schools within the geographic area  
2297 served:

2298 (i) ensure that secondary students in the public education system have access to  
2299 non-credit career and technical education at each School of Applied Technology location; and

2300 (ii) prepare and submit an annual report to the State Board of Regents detailing:

2301 (A) how the non-credit career and technical education needs of secondary students  
2302 within the region are being met;

2303 (B) what access secondary students within the region have to programs offered at  
2304 School of Applied Technology locations;

2305 (C) how the emphasis on high demand, high wage, and high skill jobs in business and  
2306 industry is being provided; and

2307 (D) student tuition and fees.

2308 (5) Salt Lake Community College or [its] Salt Lake Community College's School of  
2309 Applied Technology may not exercise any jurisdiction over career and technical education  
2310 provided by a school district or charter school independently of Salt Lake Community College  
2311 or [its] Salt Lake Community College's School of Applied Technology.

2312 (6) Legislative appropriations to Salt Lake Community College's School of Applied  
2313 Technology shall be made as a line item that separates it from other appropriations for Salt  
2314 Lake Community College.

2315 Section 51. Section **53B-16-401** is amended to read:

2316 **53B-16-401. Definitions.**

2317 As used in this part:

2318 (1) "Cooperating employer" means a public or private entity which, as part of a work  
2319 experience and career exploration program offered through an institution of higher education,  
2320 provides interns with training and work experience in activities related to the entity's ongoing  
2321 business activities.

2322 (2) "Institution of higher education" means any component of the state system of higher  
2323 education as defined under Section **53B-1-102** ~~[which]~~ that is authorized by the ~~[State Board of~~  
2324 ~~Regents]~~ board or the Utah System of Technical Colleges Board of Trustees to offer internship  
2325 programs, and any private institution of higher education which offers internship programs

2326 under this part.

2327 (3) "Intern" means a student enrolled in a work experience and career exploration  
2328 program under Section 53B-16-402 [which] that is sponsored by an institution of higher  
2329 education, involving both classroom instruction and work experience with a cooperating  
2330 employer, for which the student receives no compensation.

2331 (4) "Internship" means the work experience segment of an intern's work experience and  
2332 career exploration program sponsored by an institution of higher education, performed under  
2333 the direct supervision of a cooperating employer.

2334 Section 52. Section 53B-17-105 is amended to read:

2335 **53B-17-105. Utah Education and Telehealth Network.**

2336 (1) There is created the Utah Education and Telehealth Network, or UETN.

2337 (2) UETN shall:

2338 (a) coordinate and support the telecommunications needs of public and higher  
2339 education, public libraries, and entities affiliated with the state systems of public and higher  
2340 education as approved by the Utah Education and Telehealth Network Board, including the  
2341 statewide development and implementation of a network for education, which utilizes satellite,  
2342 microwave, fiber-optic, broadcast, and other transmission media;

2343 (b) coordinate the various telecommunications technology initiatives of public and  
2344 higher education;

2345 (c) provide high-quality, cost-effective Internet access and appropriate interface  
2346 equipment for schools and school systems;

2347 (d) procure, install, and maintain telecommunication services and equipment on behalf  
2348 of public and higher education;

2349 (e) develop or implement other programs or services for the delivery of distance  
2350 learning and telehealth services as directed by law;

2351 (f) apply for state and federal funding on behalf of:

2352 (i) public and higher education; and

2353 (ii) telehealth services;

2354 (g) in consultation with health care providers from a variety of health care systems,  
2355 explore and encourage the development of telehealth services as a means of reducing health  
2356 care costs and increasing health care quality and access, with emphasis on assisting rural health  
2357 care providers and special populations; and

2358 (h) in consultation with the Utah Department of Health, advise the governor and the  
2359 Legislature on:

2360 (i) the role of telehealth in the state;

2361 (ii) the policy issues related to telehealth;

2362 (iii) the changing telehealth needs and resources in the state; and

2363 (iv) state budgetary matters related to telehealth.

2364 (3) In performing the duties under Subsection (2), UETN shall:

2365 (a) provide services to schools, school districts, and the public and higher education  
2366 systems through an open and competitive bidding process;

2367 (b) work with the private sector to deliver high-quality, cost-effective services;

2368 (c) avoid duplicating facilities, equipment, or services of private providers or public  
2369 telecommunications service, as defined under Section 54-8b-2;

2370 (d) utilize statewide economic development criteria in the design and implementation  
2371 of the educational telecommunications infrastructure; and

2372 (e) assure that public service entities, such as educators, public service providers, and  
2373 public broadcasters, are provided access to the telecommunications infrastructure developed in  
2374 the state.

2375 (4) The University of Utah shall provide administrative support for UETN.

2376 (5) (a) The Utah Education and Telehealth Network Board, which is the governing  
2377 board for UETN, is created.

2378 (b) The Utah Education and Telehealth Network Board shall have 13 members as  
2379 follows:

2380 (i) four members representing the state system of higher education appointed by the  
2381 commissioner of higher education;

- 2382 (ii) four members representing the state system of public education appointed by the  
2383 State Board of Education;
- 2384 (iii) one member representing ~~[applied technology]~~ technical colleges appointed by the  
2385 Utah ~~[College of Applied Technology]~~ System of Technical Colleges commissioner of  
2386 technical education;
- 2387 (iv) one member representing the state library appointed by the state librarian;
- 2388 (v) two members representing hospitals as follows:
- 2389 (A) the members may not be employed by the same hospital system;
- 2390 (B) one member shall represent a rural hospital;
- 2391 (C) one member shall represent an urban hospital; and
- 2392 (D) the chief administrator or the administrator's designee for each hospital licensed in  
2393 this state shall select the two hospital representatives; and
- 2394 (vi) one member representing the office of the governor, appointed by the governor.
- 2395 (c) When a vacancy occurs in the membership for any reason, the replacement shall be  
2396 appointed for the unexpired term.
- 2397 (d) (i) The board shall elect a chair.
- 2398 (ii) The chair shall set the agenda for the board meetings.
- 2399 (6) A member of the board may not receive compensation or benefits for the member's  
2400 service, but may receive per diem and travel expenses in accordance with:
- 2401 (a) Section [63A-3-106](#);
- 2402 (b) Section [63A-3-107](#); and
- 2403 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and  
2404 [63A-3-107](#).
- 2405 (7) The board:
- 2406 (a) shall hire an executive director for UETN who may hire staff for UETN as  
2407 permitted by the budget;
- 2408 (b) may terminate the executive director's employment or assignment;
- 2409 (c) shall determine the executive director's salary;

- 2410 (d) shall annually conduct a performance evaluation of the executive director;
- 2411 (e) shall establish policies the board determines are necessary for the operation of
- 2412 UETN and the administration of UETN's duties; and
- 2413 (f) shall advise UETN in:
  - 2414 (i) the development and operation of a coordinated, statewide, multi-option
  - 2415 telecommunications system to assist in the delivery of educational services and telehealth
  - 2416 services throughout the state; and
  - 2417 (ii) acquiring, producing, and distributing instructional content.
- 2418 (8) The executive director of UETN shall be an at-will employee.
- 2419 (9) UETN shall locate and maintain educational and telehealth telecommunication
- 2420 infrastructure throughout the state.
- 2421 (10) Educational institutions shall manage site operations under policy established by
- 2422 UETN.
- 2423 (11) Subject to future budget constraints, the Legislature shall provide an annual
- 2424 appropriation to operate UETN.
- 2425 (12) If the network operated by the Department of Technology Services is not
- 2426 available, UETN may provide network connections to the central administration of counties
- 2427 and municipalities for the sole purpose of transferring data to a secure facility for backup and
- 2428 disaster recovery.

2429 Section 53. Section **53B-21-101** is amended to read:

2430 **53B-21-101. Financing of projects or buildings -- Issuance of bonds -- Sale price**  
2431 **determined by board -- Payment of bonds -- Bonds exempt from income taxation.**

- 2432 (1) In order to pay all or part of the cost of the acquisition, purchase, construction,
- 2433 improvement, remodeling, addition to, extension, equipment, and furnishing of any project or
- 2434 building, including the acquisition of all necessary land, the board, on behalf of the institution
- 2435 for which this is to be done, may do the following: (a) borrow money on the credit of the
- 2436 income and revenues to be derived from the operation of the building, the imposition of student
- 2437 building fees, land grant interest, and net profits from proprietary activities, or from sources

2438 other than by appropriations by the Legislature to issuing institutions and, in anticipation of the  
2439 collection of this income and revenues, issue negotiable bonds of the institution in an amount  
2440 as the board determines is necessary for these purposes; and (b) provide for the payment of  
2441 these bonds and the rights of their holders as provided in this chapter.

2442 (2) Bonds may: (a) be issued in one or more series; (b) bear any date or dates; (c)  
2443 mature at any time or times not exceeding 40 years from their date; (d) be in any  
2444 denominations; (e) be in any form, either coupon or registered; (f) carry registration and  
2445 conversion privileges; (g) be executed in any manner; (h) be payable in any medium of  
2446 payment at any place; (i) be subject to any terms of redemption with or without premium; and  
2447 (j) bear interest at any rate or rates as provided by resolution adopted by the board at or [prior  
2448 to] before the sale of the bonds.

2449 (3) The bonds may be sold in a manner, at the lowest obtainable rate or rates of  
2450 interest, and at a price or prices as determined by the board. These determinations are  
2451 conclusive.

2452 (4) The board may authorize one issue of bonds for the acquisition, purchase,  
2453 construction, improvement, remodeling, adding to, extending, furnishing, or equipping of more  
2454 than one building, including the acquisition of all necessary land, and may make the bonds  
2455 payable from the combined revenues of all the buildings as well as from student building fees,  
2456 land grant interest, net profits from proprietary activities, and from sources other than those  
2457 derived from appropriations from the Legislature.

2458 (5) The bonds issued under this chapter have all of the qualities and incidents of  
2459 negotiable paper and are not subject to state or local income taxation.

2460 (6) This section does not apply to a technical college.

2461 Section 54. Section **53B-26-102** is amended to read:

2462 **53B-26-102. Definitions.**

2463 As used in this chapter:

2464 [~~(1) "College of applied technology" means:~~]

2465 [~~(a) a college described in Section **53B-2a-105**;~~]



2466            [~~(b) the School of Applied Technology at Salt Lake Community College established~~  
2467 ~~under Section 53B-16-209;~~]

2468            [~~(c) Utah State University Eastern established under Section 53B-18-1201; or]~~

2469            [~~(d) the Snow College Richfield campus established under Section 53B-16-205;~~]

2470            [(2)] (1) "CTE" means career and technical education.

2471            [(3)] (2) "CTE region" means an economic service area created in Section 35A-2-101.

2472            [(4)] (3) "Eligible partnership" means a partnership:

2473            (a) between at least two of the following:

2474            (i) a [~~college of applied technology~~] technical college;

2475            (ii) a school district or charter school; or

2476            (iii) an institution of higher education; and

2477            (b) that provides educational services within the same CTE region.

2478            [(5)] (4) "Employer" means a private employer, public employer, industry association,  
2479 the military, or a union.

2480            [(6)] (5) "Industry advisory group" means:

2481            (a) a group of at least five employers that represent the strategic industry cluster that a  
2482 proposal submitted under Section 53B-26-103 is responsive to; and

2483            (b) a representative of the Governor's Office of Economic Development, appointed by  
2484 the executive director of the Governor's Office of Economic Development.

2485            [(7)] (6) "Institution of higher education" means the University of Utah, Utah State  
2486 University, Southern Utah University, Weber State University, Snow College, Dixie State  
2487 University, Utah Valley University, [~~and~~] or Salt Lake Community College.

2488            [(8)] (7) "Stackable sequence of credentials" means a sequence of credentials that:

2489            (a) an individual can build upon to access an advanced job or higher wage;

2490            (b) is part of a career pathway system;

2491            (c) provides a pathway culminating in the equivalent of an associate's or bachelor's  
2492 degree;

2493            (d) facilitates multiple exit and entry points; and

- 2494 (e) recognizes sub-goals or momentum points.
- 2495 (8) "Technical college" means:
- 2496 (a) a college described in Section [53B-2a-105](#);
- 2497 (b) the School of Applied Technology at Salt Lake Community College established
- 2498 under Section [53B-16-209](#);
- 2499 (c) Utah State University Eastern established under Section [53B-18-1201](#); or
- 2500 (d) the Snow College Richfield campus established under Section [53B-16-205](#).
- 2501 Section 55. Section **53B-26-103** is amended to read:
- 2502 **53B-26-103. GOED reporting requirement -- Proposals -- Funding.**
- 2503 (1) The Governor's Office of Economic Development shall publish, on a biannual
- 2504 basis, a report detailing the high demand technical jobs projected to support economic growth
- 2505 in high need strategic industry clusters, including:
- 2506 (a) aerospace and defense;
- 2507 (b) energy and natural resources;
- 2508 (c) financial services;
- 2509 (d) life sciences;
- 2510 (e) outdoor products;
- 2511 (f) software development and information technology; or
- 2512 (g) any other strategic industry cluster designated by the Governor's Office of
- 2513 Economic Development.
- 2514 (2) To receive funding under this section, an eligible partnership shall submit a
- 2515 proposal containing the elements described in Subsection (3) to the Legislature:
- 2516 (a) on or before July 1, 2016, for fiscal year 2017; or
- 2517 (b) on or before January 5 for fiscal year 2018 and any succeeding fiscal year.
- 2518 (3) The proposal shall include:
- 2519 (a) a program of study that:
- 2520 (i) is responsive to the workforce needs of the CTE region in a high need strategic
- 2521 industry cluster as identified by the Governor's Office of Economic Development under

- 2522 Subsection (1);
- 2523       (ii) leads to the attainment of a stackable sequence of credentials; and
- 2524       (iii) includes a non-duplicative progression of courses that include both academic and
- 2525 CTE content;
- 2526       (b) expected student enrollment, attainment rates, and job placement rates;
- 2527       (c) evidence of input and support for the proposal from an industry advisory group;
- 2528       (d) evidence of an official action in support of the proposal from:
- 2529       (i) the Utah [~~College of Applied Technology~~] System of Technical Colleges Board of
- 2530 Trustees, if the eligible partnership includes a technical college [~~described in Section~~
- 2531 53B-2a-105]; or
- 2532       (ii) the Board of Regents, if the eligible partnership includes:
- 2533       (A) an institution of higher education; or
- 2534       (B) a college described in Subsection 53B-26-102[(+)](8)(b), (c), or (d); and
- 2535       (e) a funding request, including justification for the request.
- 2536       (4) The Legislature shall:
- 2537       (a) review a proposal submitted under this section using the following criteria:
- 2538       (i) the proposal contains the elements described in Subsection (3);
- 2539       (ii) support for the proposal is widespread within the CTE region; and
- 2540       (iii) the proposal expands the capacity to meet regional workforce needs;
- 2541       (b) determine the extent to which to fund the proposal; and
- 2542       (c) fund the proposal through the appropriations process.
- 2543 Section 56. Section **58-22-302** is amended to read:
- 2544 **58-22-302. Qualifications for licensure.**
- 2545 (1) Each applicant for licensure as a professional engineer shall:
- 2546       (a) submit an application in a form prescribed by the division;
- 2547       (b) pay a fee determined by the department under Section 63J-1-504;
- 2548       (c) provide satisfactory evidence of good moral character;
- 2549       (d) (i) have graduated and received a bachelors or masters degree from an engineering

2550 program meeting criteria established by rule by the division in collaboration with the board; or

2551 (ii) have completed the Transportation Engineering Technology and Fundamental  
2552 Engineering College Program [~~prior to~~] before July 1, 1998, under the direction of the Utah  
2553 Department of Transportation and as certified by the Utah Department of Transportation;

2554 (e) have successfully completed a program of qualifying experience established by rule  
2555 by the division in collaboration with the board;

2556 (f) have successfully passed examinations established by rule by the division in  
2557 collaboration with the board; and

2558 (g) meet with the board or representative of the division upon request for the purpose  
2559 of evaluating the applicant's qualification for licensure.

2560 (2) Each applicant for licensure as a professional structural engineer shall:

2561 (a) submit an application in a form prescribed by the division;

2562 (b) pay a fee determined by the department under Section [63J-1-504](#);

2563 (c) provide satisfactory evidence of good moral character;

2564 (d) have graduated and received an earned bachelors or masters degree from an  
2565 engineering program meeting criteria established by rule by the division in collaboration with  
2566 the board;

2567 (e) have successfully completed three years of licensed professional engineering  
2568 experience established by rule by the division in collaboration with the board, except that prior  
2569 to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form  
2570 prescribed by the division stating that the applicant is currently engaged in the practice of  
2571 structural engineering;

2572 (f) have successfully passed examinations established by rule by the division in  
2573 collaboration with the board, except that prior to January 1, 2009, an applicant for licensure  
2574 may submit a signed affidavit in a form prescribed by the division stating that the applicant is  
2575 currently engaged in the practice of structural engineering; and

2576 (g) meet with the board or representative of the division upon request for the purpose  
2577 of evaluating the applicant's qualification for licensure.

- 2578 (3) Each applicant for licensure as a professional land surveyor shall:
- 2579 (a) submit an application in a form prescribed by the division;
- 2580 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 2581 (c) provide satisfactory evidence of good moral character;
- 2582 (d) (i) have graduated and received an associates, bachelors, or masters degree from a
- 2583 land surveying program, or an equivalent land surveying program, such as a program offered by
- 2584 ~~[the Utah College of Applied Technology]~~ a technical college described in Section
- 2585 [53B-2a-105](#), as approved by the State Board of Regents, established by rule by the division in
- 2586 collaboration with the board, and have successfully completed a program of qualifying
- 2587 experience in land surveying established by rule by the division in collaboration with the board;
- 2588 or
- 2589 (ii) have successfully completed a program of qualifying experience in land surveying
- 2590 prior to January 1, 2007, in accordance with rules established by the division in collaboration
- 2591 with the board;
- 2592 (e) have successfully passed examinations established by rule by the division in
- 2593 collaboration with the board; and
- 2594 (f) meet with the board or representative of the division upon request for the purpose of
- 2595 evaluating the applicant's qualification for licensure.
- 2596 (4) Each applicant for licensure by endorsement shall:
- 2597 (a) submit an application in a form prescribed by the division;
- 2598 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 2599 (c) provide satisfactory evidence of good moral character;
- 2600 (d) submit satisfactory evidence of:
- 2601 (i) current licensure in good standing in a jurisdiction recognized by rule by the
- 2602 division in collaboration with the board;
- 2603 (ii) having successfully passed an examination established by rule by the division in
- 2604 collaboration with the board; and
- 2605 (iii) full-time employment as a principal for at least five of the last seven years

2606 immediately preceding the date of the application as a:

2607 (A) licensed professional engineer for licensure as a professional engineer;

2608 (B) licensed professional structural engineer for licensure as a structural engineer; or

2609 (C) licensed professional land surveyor for licensure as a professional land surveyor;

2610 and

2611 (e) meet with the board or representative of the division upon request for the purpose  
2612 of evaluating the applicant's qualifications for license.

2613 (5) The rules made to implement this section shall be in accordance with Title 63G,  
2614 Chapter 3, Utah Administrative Rulemaking Act.

2615 Section 57. Section **59-12-102** is amended to read:

2616 **59-12-102. Definitions.**

2617 As used in this chapter:

2618 (1) "800 service" means a telecommunications service that:

2619 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

2620 (b) is typically marketed:

2621 (i) under the name 800 toll-free calling;

2622 (ii) under the name 855 toll-free calling;

2623 (iii) under the name 866 toll-free calling;

2624 (iv) under the name 877 toll-free calling;

2625 (v) under the name 888 toll-free calling; or

2626 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the  
2627 Federal Communications Commission.

2628 (2) (a) "900 service" means an inbound toll telecommunications service that:

2629 (i) a subscriber purchases;

2630 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to  
2631 the subscriber's:

2632 (A) prerecorded announcement; or

2633 (B) live service; and

- 2634 (iii) is typically marketed:
- 2635 (A) under the name 900 service; or
- 2636 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 2637 Communications Commission.
- 2638 (b) "900 service" does not include a charge for:
- 2639 (i) a collection service a seller of a telecommunications service provides to a
- 2640 subscriber; or
- 2641 (ii) the following a subscriber sells to the subscriber's customer:
- 2642 (A) a product; or
- 2643 (B) a service.
- 2644 (3) (a) "Admission or user fees" includes season passes.
- 2645 (b) "Admission or user fees" does not include annual membership dues to private
- 2646 organizations.
- 2647 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 2648 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 2649 Agreement after November 12, 2002.
- 2650 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 2651 (a) listed under Subsection (6); and
- 2652 (b) that are imposed within a local taxing jurisdiction.
- 2653 (6) "Agreement sales and use tax" means a tax imposed under:
- 2654 (a) Subsection 59-12-103(2)(a)(i)(A);
- 2655 (b) Subsection 59-12-103(2)(b)(i);
- 2656 (c) Subsection 59-12-103(2)(c)(i);
- 2657 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 2658 (e) Section 59-12-204;
- 2659 (f) Section 59-12-401;
- 2660 (g) Section 59-12-402;
- 2661 (h) Section 59-12-402.1;

- 2662 (i) Section 59-12-703;
- 2663 (j) Section 59-12-802;
- 2664 (k) Section 59-12-804;
- 2665 (l) Section 59-12-1102;
- 2666 (m) Section 59-12-1302;
- 2667 (n) Section 59-12-1402;
- 2668 (o) Section 59-12-1802;
- 2669 (p) Section 59-12-2003;
- 2670 (q) Section 59-12-2103;
- 2671 (r) Section 59-12-2213;
- 2672 (s) Section 59-12-2214;
- 2673 (t) Section 59-12-2215;
- 2674 (u) Section 59-12-2216;
- 2675 (v) Section 59-12-2217; or
- 2676 (w) Section 59-12-2218.
- 2677 (7) "Aircraft" is as defined in Section 72-10-102.
- 2678 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 2679 (a) except for:
- 2680 (i) an airline as defined in Section 59-2-102; or
- 2681 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 2682 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 2683 state, of an airline; and
- 2684 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 2685 whether the business entity performs the following in this state:
- 2686 (i) check, diagnose, overhaul, and repair:
- 2687 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 2688 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 2689 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft



- 2690 engine;
- 2691 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 2692 aircraft:
- 2693 (A) an inspection;
- 2694 (B) a repair, including a structural repair or modification;
- 2695 (C) changing landing gear; and
- 2696 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 2697 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 2698 completely apply new paint to the fixed wing turbine powered aircraft; and
- 2699 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 2700 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 2701 authority that certifies the fixed wing turbine powered aircraft.
- 2702 (9) "Alcoholic beverage" means a beverage that:
- 2703 (a) is suitable for human consumption; and
- 2704 (b) contains .5% or more alcohol by volume.
- 2705 (10) "Alternative energy" means:
- 2706 (a) biomass energy;
- 2707 (b) geothermal energy;
- 2708 (c) hydroelectric energy;
- 2709 (d) solar energy;
- 2710 (e) wind energy; or
- 2711 (f) energy that is derived from:
- 2712 (i) coal-to-liquids;
- 2713 (ii) nuclear fuel;
- 2714 (iii) oil-impregnated diatomaceous earth;
- 2715 (iv) oil sands;
- 2716 (v) oil shale;
- 2717 (vi) petroleum coke; or

2718 (vii) waste heat from:  
2719 (A) an industrial facility; or  
2720 (B) a power station in which an electric generator is driven through a process in which  
2721 water is heated, turns into steam, and spins a steam turbine.

2722 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production  
2723 facility" means a facility that:

2724 (i) uses alternative energy to produce electricity; and  
2725 (ii) has a production capacity of two megawatts or greater.

2726 (b) A facility is an alternative energy electricity production facility regardless of  
2727 whether the facility is:

2728 (i) connected to an electric grid; or  
2729 (ii) located on the premises of an electricity consumer.

2730 (12) (a) "Ancillary service" means a service associated with, or incidental to, the  
2731 provision of telecommunications service.

2732 (b) "Ancillary service" includes:

2733 (i) a conference bridging service;  
2734 (ii) a detailed communications billing service;  
2735 (iii) directory assistance;  
2736 (iv) a vertical service; or  
2737 (v) a voice mail service.

2738 (13) "Area agency on aging" is as defined in Section [62A-3-101](#).

2739 (14) "Assisted amusement device" means an amusement device, skill device, or ride  
2740 device that is started and stopped by an individual:

2741 (a) who is not the purchaser or renter of the right to use or operate the amusement  
2742 device, skill device, or ride device; and

2743 (b) at the direction of the seller of the right to use the amusement device, skill device,  
2744 or ride device.

2745 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or

2746 washing of tangible personal property if the cleaning or washing labor is primarily performed  
2747 by an individual:

2748 (a) who is not the purchaser of the cleaning or washing of the tangible personal  
2749 property; and

2750 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
2751 property.

2752 (16) "Authorized carrier" means:

2753 (a) in the case of vehicles operated over public highways, the holder of credentials  
2754 indicating that the vehicle is or will be operated pursuant to both the International Registration  
2755 Plan and the International Fuel Tax Agreement;

2756 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating  
2757 certificate or air carrier's operating certificate; or

2758 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling  
2759 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling  
2760 stock in more than one state.

2761 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the  
2762 following that is used as the primary source of energy to produce fuel or electricity:

2763 (i) material from a plant or tree; or

2764 (ii) other organic matter that is available on a renewable basis, including:

2765 (A) slash and brush from forests and woodlands;

2766 (B) animal waste;

2767 (C) waste vegetable oil;

2768 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of  
2769 wastewater residuals, or through the conversion of a waste material through a nonincineration,  
2770 thermal conversion process;

2771 (E) aquatic plants; and

2772 (F) agricultural products.

2773 (b) "Biomass energy" does not include:

- 2774 (i) black liquor; or  
2775 (ii) treated woods.
- 2776 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal  
2777 property, products, or services if the tangible personal property, products, or services are:
- 2778 (i) distinct and identifiable; and  
2779 (ii) sold for one nonitemized price.
- 2780 (b) "Bundled transaction" does not include:
- 2781 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on  
2782 the basis of the selection by the purchaser of the items of tangible personal property included in  
2783 the transaction;
- 2784 (ii) the sale of real property;
- 2785 (iii) the sale of services to real property;
- 2786 (iv) the retail sale of tangible personal property and a service if:
- 2787 (A) the tangible personal property:
- 2788 (I) is essential to the use of the service; and  
2789 (II) is provided exclusively in connection with the service; and  
2790 (B) the service is the true object of the transaction;
- 2791 (v) the retail sale of two services if:
- 2792 (A) one service is provided that is essential to the use or receipt of a second service;  
2793 (B) the first service is provided exclusively in connection with the second service; and  
2794 (C) the second service is the true object of the transaction;
- 2795 (vi) a transaction that includes tangible personal property or a product subject to  
2796 taxation under this chapter and tangible personal property or a product that is not subject to  
2797 taxation under this chapter if the:
- 2798 (A) seller's purchase price of the tangible personal property or product subject to  
2799 taxation under this chapter is de minimis; or  
2800 (B) seller's sales price of the tangible personal property or product subject to taxation  
2801 under this chapter is de minimis; and

2802 (vii) the retail sale of tangible personal property that is not subject to taxation under  
2803 this chapter and tangible personal property that is subject to taxation under this chapter if:  
2804 (A) that retail sale includes:  
2805 (I) food and food ingredients;  
2806 (II) a drug;  
2807 (III) durable medical equipment;  
2808 (IV) mobility enhancing equipment;  
2809 (V) an over-the-counter drug;  
2810 (VI) a prosthetic device; or  
2811 (VII) a medical supply; and  
2812 (B) subject to Subsection (18)(f):  
2813 (I) the seller's purchase price of the tangible personal property subject to taxation under  
2814 this chapter is 50% or less of the seller's total purchase price of that retail sale; or  
2815 (II) the seller's sales price of the tangible personal property subject to taxation under  
2816 this chapter is 50% or less of the seller's total sales price of that retail sale.  
2817 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a  
2818 service that is distinct and identifiable does not include:  
2819 (A) packaging that:  
2820 (I) accompanies the sale of the tangible personal property, product, or service; and  
2821 (II) is incidental or immaterial to the sale of the tangible personal property, product, or  
2822 service;  
2823 (B) tangible personal property, a product, or a service provided free of charge with the  
2824 purchase of another item of tangible personal property, a product, or a service; or  
2825 (C) an item of tangible personal property, a product, or a service included in the  
2826 definition of "purchase price."  
2827 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a  
2828 product, or a service is provided free of charge with the purchase of another item of tangible  
2829 personal property, a product, or a service if the sales price of the purchased item of tangible

2830 personal property, product, or service does not vary depending on the inclusion of the tangible  
2831 personal property, product, or service provided free of charge.

2832 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price  
2833 does not include a price that is separately identified by tangible personal property, product, or  
2834 service on the following, regardless of whether the following is in paper format or electronic  
2835 format:

2836 (A) a binding sales document; or

2837 (B) another supporting sales-related document that is available to a purchaser.

2838 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another  
2839 supporting sales-related document that is available to a purchaser includes:

2840 (A) a bill of sale;

2841 (B) a contract;

2842 (C) an invoice;

2843 (D) a lease agreement;

2844 (E) a periodic notice of rates and services;

2845 (F) a price list;

2846 (G) a rate card;

2847 (H) a receipt; or

2848 (I) a service agreement.

2849 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal  
2850 property or a product subject to taxation under this chapter is de minimis if:

2851 (A) the seller's purchase price of the tangible personal property or product is 10% or  
2852 less of the seller's total purchase price of the bundled transaction; or

2853 (B) the seller's sales price of the tangible personal property or product is 10% or less of  
2854 the seller's total sales price of the bundled transaction.

2855 (ii) For purposes of Subsection (18)(b)(vi), a seller:

2856 (A) shall use the seller's purchase price or the seller's sales price to determine if the  
2857 purchase price or sales price of the tangible personal property or product subject to taxation

2858 under this chapter is de minimis; and

2859 (B) may not use a combination of the seller's purchase price and the seller's sales price  
2860 to determine if the purchase price or sales price of the tangible personal property or product  
2861 subject to taxation under this chapter is de minimis.

2862 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service  
2863 contract to determine if the sales price of tangible personal property or a product is de minimis.

2864 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of  
2865 the seller's purchase price and the seller's sales price to determine if tangible personal property  
2866 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales  
2867 price of that retail sale.

2868 (19) "Certified automated system" means software certified by the governing board of  
2869 the agreement that:

2870 (a) calculates the agreement sales and use tax imposed within a local taxing  
2871 jurisdiction:

2872 (i) on a transaction; and

2873 (ii) in the states that are members of the agreement;

2874 (b) determines the amount of agreement sales and use tax to remit to a state that is a  
2875 member of the agreement; and

2876 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

2877 (20) "Certified service provider" means an agent certified:

2878 (a) by the governing board of the agreement; and

2879 (b) to perform all of a seller's sales and use tax functions for an agreement sales and  
2880 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's  
2881 own purchases.

2882 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel  
2883 suitable for general use.

2884 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2885 commission shall make rules:

- 2886 (i) listing the items that constitute "clothing"; and  
2887 (ii) that are consistent with the list of items that constitute "clothing" under the  
2888 agreement.
- 2889 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- 2890 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
2891 fuels that does not constitute industrial use under Subsection (56) or residential use under  
2892 Subsection (106).
- 2893 (24) (a) "Common carrier" means a person engaged in or transacting the business of  
2894 transporting passengers, freight, merchandise, or other property for hire within this state.
- 2895 (b) (i) "Common carrier" does not include a person who, at the time the person is  
2896 traveling to or from that person's place of employment, transports a passenger to or from the  
2897 passenger's place of employment.
- 2898 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,  
2899 Utah Administrative Rulemaking Act, the commission may make rules defining what  
2900 constitutes a person's place of employment.
- 2901 (c) "Common carrier" does not include a person that provides transportation network  
2902 services, as defined in Section [13-51-102](#).
- 2903 (25) "Component part" includes:
- 2904 (a) poultry, dairy, and other livestock feed, and their components;  
2905 (b) baling ties and twine used in the baling of hay and straw;  
2906 (c) fuel used for providing temperature control of orchards and commercial  
2907 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
2908 off-highway type farm machinery; and
- 2909 (d) feed, seeds, and seedlings.
- 2910 (26) "Computer" means an electronic device that accepts information:
- 2911 (a) (i) in digital form; or  
2912 (ii) in a form similar to digital form; and  
2913 (b) manipulates that information for a result based on a sequence of instructions.



- 2914 (27) "Computer software" means a set of coded instructions designed to cause:  
2915 (a) a computer to perform a task; or  
2916 (b) automatic data processing equipment to perform a task.
- 2917 (28) "Computer software maintenance contract" means a contract that obligates a seller  
2918 of computer software to provide a customer with:  
2919 (a) future updates or upgrades to computer software;  
2920 (b) support services with respect to computer software; or  
2921 (c) a combination of Subsections (28)(a) and (b).
- 2922 (29) (a) "Conference bridging service" means an ancillary service that links two or  
2923 more participants of an audio conference call or video conference call.  
2924 (b) "Conference bridging service" may include providing a telephone number as part of  
2925 the ancillary service described in Subsection (29)(a).  
2926 (c) "Conference bridging service" does not include a telecommunications service used  
2927 to reach the ancillary service described in Subsection (29)(a).
- 2928 (30) "Construction materials" means any tangible personal property that will be  
2929 converted into real property.
- 2930 (31) "Delivered electronically" means delivered to a purchaser by means other than  
2931 tangible storage media.
- 2932 (32) (a) "Delivery charge" means a charge:  
2933 (i) by a seller of:  
2934 (A) tangible personal property;  
2935 (B) a product transferred electronically; or  
2936 (C) services; and  
2937 (ii) for preparation and delivery of the tangible personal property, product transferred  
2938 electronically, or services described in Subsection (32)(a)(i) to a location designated by the  
2939 purchaser.
- 2940 (b) "Delivery charge" includes a charge for the following:  
2941 (i) transportation;

2942 (ii) shipping;

2943 (iii) postage;

2944 (iv) handling;

2945 (v) crating; or

2946 (vi) packing.

2947 (33) "Detailed telecommunications billing service" means an ancillary service of  
2948 separately stating information pertaining to individual calls on a customer's billing statement.

2949 (34) "Dietary supplement" means a product, other than tobacco, that:

2950 (a) is intended to supplement the diet;

2951 (b) contains one or more of the following dietary ingredients:

2952 (i) a vitamin;

2953 (ii) a mineral;

2954 (iii) an herb or other botanical;

2955 (iv) an amino acid;

2956 (v) a dietary substance for use by humans to supplement the diet by increasing the total  
2957 dietary intake; or

2958 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient  
2959 described in Subsections (34)(b)(i) through (v);

2960 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

2961 (A) tablet form;

2962 (B) capsule form;

2963 (C) powder form;

2964 (D) softgel form;

2965 (E) gelcap form; or

2966 (F) liquid form; or

2967 (ii) if the product is not intended for ingestion in a form described in Subsections  
2968 (34)(c)(i)(A) through (F), is not represented:

2969 (A) as conventional food; and

- 2970 (B) for use as a sole item of:
- 2971 (I) a meal; or
- 2972 (II) the diet; and
- 2973 (d) is required to be labeled as a dietary supplement:
- 2974 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 2975 (ii) as required by 21 C.F.R. Sec. 101.36.
- 2976 (35) "Digital audio-visual work" means a series of related images which, when shown
- 2977 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 2978 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 2979 musical, spoken, or other sounds.
- 2980 (b) "Digital audio work" includes a ringtone.
- 2981 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
- 2982 sense as a book.
- 2983 (38) (a) "Direct mail" means printed material delivered or distributed by United States
- 2984 mail or other delivery service:
- 2985 (i) to:
- 2986 (A) a mass audience; or
- 2987 (B) addressees on a mailing list provided:
- 2988 (I) by a purchaser of the mailing list; or
- 2989 (II) at the discretion of the purchaser of the mailing list; and
- 2990 (ii) if the cost of the printed material is not billed directly to the recipients.
- 2991 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 2992 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 2993 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 2994 single address.
- 2995 (39) "Directory assistance" means an ancillary service of providing:
- 2996 (a) address information; or
- 2997 (b) telephone number information.

2998 (40) (a) "Disposable home medical equipment or supplies" means medical equipment  
2999 or supplies that:

- 3000 (i) cannot withstand repeated use; and
- 3001 (ii) are purchased by, for, or on behalf of a person other than:
  - 3002 (A) a health care facility as defined in Section 26-21-2;
  - 3003 (B) a health care provider as defined in Section 78B-3-403;
  - 3004 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
  - 3005 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

3006 (b) "Disposable home medical equipment or supplies" does not include:

- 3007 (i) a drug;
- 3008 (ii) durable medical equipment;
- 3009 (iii) a hearing aid;
- 3010 (iv) a hearing aid accessory;
- 3011 (v) mobility enhancing equipment; or
- 3012 (vi) tangible personal property used to correct impaired vision, including:
  - 3013 (A) eyeglasses; or
  - 3014 (B) contact lenses.

3015 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3016 commission may by rule define what constitutes medical equipment or supplies.

3017 (41) "Drilling equipment manufacturer" means a facility:

- 3018 (a) located in the state;
- 3019 (b) with respect to which 51% or more of the manufacturing activities of the facility  
3020 consist of manufacturing component parts of drilling equipment;

3021 (c) that uses pressure of 800,000 or more pounds per square inch as part of the  
3022 manufacturing process; and

3023 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the  
3024 manufacturing process.

3025 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a

- 3026 compound, substance, or preparation that is:
- 3027 (i) recognized in:
- 3028 (A) the official United States Pharmacopoeia;
- 3029 (B) the official Homeopathic Pharmacopoeia of the United States;
- 3030 (C) the official National Formulary; or
- 3031 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- 3032 (ii) intended for use in the:
- 3033 (A) diagnosis of disease;
- 3034 (B) cure of disease;
- 3035 (C) mitigation of disease;
- 3036 (D) treatment of disease; or
- 3037 (E) prevention of disease; or
- 3038 (iii) intended to affect:
- 3039 (A) the structure of the body; or
- 3040 (B) any function of the body.
- 3041 (b) "Drug" does not include:
- 3042 (i) food and food ingredients;
- 3043 (ii) a dietary supplement;
- 3044 (iii) an alcoholic beverage; or
- 3045 (iv) a prosthetic device.
- 3046 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
- 3047 equipment that:
- 3048 (i) can withstand repeated use;
- 3049 (ii) is primarily and customarily used to serve a medical purpose;
- 3050 (iii) generally is not useful to a person in the absence of illness or injury; and
- 3051 (iv) is not worn in or on the body.
- 3052 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 3053 equipment described in Subsection (43)(a).

- 3054 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 3055 (44) "Electronic" means:
- 3056 (a) relating to technology; and
- 3057 (b) having:
- 3058 (i) electrical capabilities;
- 3059 (ii) digital capabilities;
- 3060 (iii) magnetic capabilities;
- 3061 (iv) wireless capabilities;
- 3062 (v) optical capabilities;
- 3063 (vi) electromagnetic capabilities; or
- 3064 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- 3065 (45) "Electronic financial payment service" means an establishment:
- 3066 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 3067 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 3068 federal Executive Office of the President, Office of Management and Budget; and
- 3069 (b) that performs electronic financial payment services.
- 3070 (46) "Employee" is as defined in Section [59-10-401](#).
- 3071 (47) "Fixed guideway" means a public transit facility that uses and occupies:
- 3072 (a) rail for the use of public transit; or
- 3073 (b) a separate right-of-way for the use of public transit.
- 3074 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
- 3075 (a) is powered by turbine engines;
- 3076 (b) operates on jet fuel; and
- 3077 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 3078 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 3079 communication between fixed points.
- 3080 (50) (a) "Food and food ingredients" means substances:
- 3081 (i) regardless of whether the substances are in:

- 3082 (A) liquid form;
- 3083 (B) concentrated form;
- 3084 (C) solid form;
- 3085 (D) frozen form;
- 3086 (E) dried form; or
- 3087 (F) dehydrated form; and
- 3088 (ii) that are:
- 3089 (A) sold for:
- 3090 (I) ingestion by humans; or
- 3091 (II) chewing by humans; and
- 3092 (B) consumed for the substance's:
- 3093 (I) taste; or
- 3094 (II) nutritional value.
- 3095 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
- 3096 (c) "Food and food ingredients" does not include:
- 3097 (i) an alcoholic beverage;
- 3098 (ii) tobacco; or
- 3099 (iii) prepared food.
- 3100 (51) (a) "Fundraising sales" means sales:
- 3101 (i) (A) made by a school; or
- 3102 (B) made by a school student;
- 3103 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 3104 materials, or provide transportation; and
- 3105 (iii) that are part of an officially sanctioned school activity.
- 3106 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"
- 3107 means a school activity:
- 3108 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 3109 district governing the authorization and supervision of fundraising activities;

3110 (ii) that does not directly or indirectly compensate an individual teacher or other  
3111 educational personnel by direct payment, commissions, or payment in kind; and

3112 (iii) the net or gross revenues from which are deposited in a dedicated account  
3113 controlled by the school or school district.

3114 (52) "Geothermal energy" means energy contained in heat that continuously flows  
3115 outward from the earth that is used as the sole source of energy to produce electricity.

3116 (53) "Governing board of the agreement" means the governing board of the agreement  
3117 that is:

3118 (a) authorized to administer the agreement; and

3119 (b) established in accordance with the agreement.

3120 (54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

3121 (i) the executive branch of the state, including all departments, institutions, boards,  
3122 divisions, bureaus, offices, commissions, and committees;

3123 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
3124 Office of the Court Administrator, and similar administrative units in the judicial branch;

3125 (iii) the legislative branch of the state, including the House of Representatives, the  
3126 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
3127 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
3128 Analyst;

3129 (iv) the National Guard;

3130 (v) an independent entity as defined in Section 63E-1-102; or

3131 (vi) a political subdivision as defined in Section 17B-1-102.

3132 (b) "Governmental entity" does not include the state systems of public and higher  
3133 education, including:

3134 [~~(i) an applied technology college within the Utah College of Applied Technology;~~]

3135 [~~(ii)~~] (i) a school;

3136 [~~(iii)~~] (ii) the State Board of Education;

3137 [~~(iv)~~] (iii) the State Board of Regents; or



- 3138            [~~(v)~~] (iv) an institution of higher education described in Section [53B-1-102](#).
- 3139            (55) "Hydroelectric energy" means water used as the sole source of energy to produce  
3140 electricity.
- 3141            (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or  
3142 other fuels:
- 3143            (a) in mining or extraction of minerals;
- 3144            (b) in agricultural operations to produce an agricultural product up to the time of  
3145 harvest or placing the agricultural product into a storage facility, including:
- 3146            (i) commercial greenhouses;
- 3147            (ii) irrigation pumps;
- 3148            (iii) farm machinery;
- 3149            (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered  
3150 under Title 41, Chapter 1a, Part 2, Registration; and
- 3151            (v) other farming activities;
- 3152            (c) in manufacturing tangible personal property at an establishment described in SIC  
3153 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal  
3154 Executive Office of the President, Office of Management and Budget;
- 3155            (d) by a scrap recycler if:
- 3156            (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
3157 one or more of the following items into prepared grades of processed materials for use in new  
3158 products:
- 3159            (A) iron;
- 3160            (B) steel;
- 3161            (C) nonferrous metal;
- 3162            (D) paper;
- 3163            (E) glass;
- 3164            (F) plastic;
- 3165            (G) textile; or

- 3166 (H) rubber; and
- 3167 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with
- 3168 nonrecycled materials; or
- 3169 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 3170 cogeneration facility as defined in Section 54-2-1.
- 3171 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge
- 3172 for installing:
- 3173 (i) tangible personal property; or
- 3174 (ii) a product transferred electronically.
- 3175 (b) "Installation charge" does not include a charge for:
- 3176 (i) repairs or renovations of:
- 3177 (A) tangible personal property; or
- 3178 (B) a product transferred electronically; or
- 3179 (ii) attaching tangible personal property or a product transferred electronically:
- 3180 (A) to other tangible personal property; and
- 3181 (B) as part of a manufacturing or fabrication process.
- 3182 (58) "Institution of higher education" means an institution of higher education listed in
- 3183 Section 53B-2-101.
- 3184 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 3185 personal property or a product transferred electronically for:
- 3186 (i) (A) a fixed term; or
- 3187 (B) an indeterminate term; and
- 3188 (ii) consideration.
- 3189 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 3190 amount of consideration may be increased or decreased by reference to the amount realized
- 3191 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 3192 Code.
- 3193 (c) "Lease" or "rental" does not include:

3194 (i) a transfer of possession or control of property under a security agreement or  
3195 deferred payment plan that requires the transfer of title upon completion of the required  
3196 payments;

3197 (ii) a transfer of possession or control of property under an agreement that requires the  
3198 transfer of title:

3199 (A) upon completion of required payments; and

3200 (B) if the payment of an option price does not exceed the greater of:

3201 (I) \$100; or

3202 (II) 1% of the total required payments; or

3203 (iii) providing tangible personal property along with an operator for a fixed period of  
3204 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
3205 designed.

3206 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to  
3207 perform as designed if the operator's duties exceed the:

3208 (i) set-up of tangible personal property;

3209 (ii) maintenance of tangible personal property; or

3210 (iii) inspection of tangible personal property.

3211 (60) "Life science establishment" means an establishment in this state that is classified  
3212 under the following NAICS codes of the 2007 North American Industry Classification System  
3213 of the federal Executive Office of the President, Office of Management and Budget:

3214 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

3215 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus  
3216 Manufacturing; or

3217 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

3218 (61) "Life science research and development facility" means a facility owned, leased,  
3219 or rented by a life science establishment if research and development is performed in 51% or  
3220 more of the total area of the facility.

3221 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media

3222 if the tangible storage media is not physically transferred to the purchaser.

3223 (63) "Local taxing jurisdiction" means a:

3224 (a) county that is authorized to impose an agreement sales and use tax;

3225 (b) city that is authorized to impose an agreement sales and use tax; or

3226 (c) town that is authorized to impose an agreement sales and use tax.

3227 (64) "Manufactured home" is as defined in Section [15A-1-302](#).

3228 (65) "Manufacturing facility" means:

3229 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard

3230 Industrial Classification Manual of the federal Executive Office of the President, Office of

3231 Management and Budget;

3232 (b) a scrap recycler if:

3233 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

3234 one or more of the following items into prepared grades of processed materials for use in new

3235 products:

3236 (A) iron;

3237 (B) steel;

3238 (C) nonferrous metal;

3239 (D) paper;

3240 (E) glass;

3241 (F) plastic;

3242 (G) textile; or

3243 (H) rubber; and

3244 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with

3245 nonrecycled materials; or

3246 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is

3247 placed in service on or after May 1, 2006.

3248 (66) "Member of the immediate family of the producer" means a person who is related

3249 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:

- 3250 (a) child or stepchild, regardless of whether the child or stepchild is:
- 3251 (i) an adopted child or adopted stepchild; or
- 3252 (ii) a foster child or foster stepchild;
- 3253 (b) grandchild or stepgrandchild;
- 3254 (c) grandparent or stepgrandparent;
- 3255 (d) nephew or stepnephew;
- 3256 (e) niece or stepniece;
- 3257 (f) parent or stepparent;
- 3258 (g) sibling or stepsibling;
- 3259 (h) spouse;
- 3260 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);

3261 or

3262 (j) person similar to a person described in Subsections (66)(a) through (i) as  
3263 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
3264 Administrative Rulemaking Act.

3265 (67) "Mobile home" is as defined in Section [15A-1-302](#).

3266 (68) "Mobile telecommunications service" is as defined in the Mobile  
3267 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

3268 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of  
3269 the technology used, if:

- 3270 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 3271 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 3272 (iii) the origination point described in Subsection (69)(a)(i) and the termination point  
3273 described in Subsection (69)(a)(ii) are not fixed.

3274 (b) "Mobile wireless service" includes a telecommunications service that is provided  
3275 by a commercial mobile radio service provider.

3276 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3277 commission may by rule define "commercial mobile radio service provider."

3278 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"

3279 means equipment that is:

3280 (i) primarily and customarily used to provide or increase the ability to move from one  
3281 place to another;

3282 (ii) appropriate for use in a:

3283 (A) home; or

3284 (B) motor vehicle; and

3285 (iii) not generally used by persons with normal mobility.

3286 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
3287 the equipment described in Subsection (70)(a).

3288 (c) "Mobility enhancing equipment" does not include:

3289 (i) a motor vehicle;

3290 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
3291 vehicle manufacturer;

3292 (iii) durable medical equipment; or

3293 (iv) a prosthetic device.

3294 (71) "Model 1 seller" means a seller registered under the agreement that has selected a  
3295 certified service provider as the seller's agent to perform all of the seller's sales and use tax  
3296 functions for agreement sales and use taxes other than the seller's obligation under Section  
3297 [59-12-124](#) to remit a tax on the seller's own purchases.

3298 (72) "Model 2 seller" means a seller registered under the agreement that:

3299 (a) except as provided in Subsection (72)(b), has selected a certified automated system  
3300 to perform the seller's sales tax functions for agreement sales and use taxes; and

3301 (b) retains responsibility for remitting all of the sales tax:

3302 (i) collected by the seller; and

3303 (ii) to the appropriate local taxing jurisdiction.

3304 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under  
3305 the agreement that has:

- 3306 (i) sales in at least five states that are members of the agreement;
- 3307 (ii) total annual sales revenues of at least \$500,000,000;
- 3308 (iii) a proprietary system that calculates the amount of tax:
- 3309 (A) for an agreement sales and use tax; and
- 3310 (B) due to each local taxing jurisdiction; and
- 3311 (iv) entered into a performance agreement with the governing board of the agreement.
- 3312 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of
- 3313 sellers using the same proprietary system.
- 3314 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a
- 3315 model 1 seller, model 2 seller, or model 3 seller.
- 3316 (75) "Modular home" means a modular unit as defined in Section [15A-1-302](#).
- 3317 (76) "Motor vehicle" is as defined in Section [41-1a-102](#).
- 3318 (77) "Oil sands" means impregnated bituminous sands that:
- 3319 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 3320 other hydrocarbons, or otherwise treated;
- 3321 (b) yield mixtures of liquid hydrocarbon; and
- 3322 (c) require further processing other than mechanical blending before becoming finished
- 3323 petroleum products.
- 3324 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 3325 material that yields petroleum upon heating and distillation.
- 3326 (79) "Optional computer software maintenance contract" means a computer software
- 3327 maintenance contract that a customer is not obligated to purchase as a condition to the retail
- 3328 sale of computer software.
- 3329 (80) (a) "Other fuels" means products that burn independently to produce heat or
- 3330 energy.
- 3331 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 3332 personal property.
- 3333 (81) (a) "Paging service" means a telecommunications service that provides

3334 transmission of a coded radio signal for the purpose of activating a specific pager.

3335 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal  
3336 includes a transmission by message or sound.

3337 (82) "Pawnbroker" is as defined in Section 13-32a-102.

3338 (83) "Pawn transaction" is as defined in Section 13-32a-102.

3339 (84) (a) "Permanently attached to real property" means that for tangible personal  
3340 property attached to real property:

3341 (i) the attachment of the tangible personal property to the real property:

3342 (A) is essential to the use of the tangible personal property; and

3343 (B) suggests that the tangible personal property will remain attached to the real  
3344 property in the same place over the useful life of the tangible personal property; or

3345 (ii) if the tangible personal property is detached from the real property, the detachment  
3346 would:

3347 (A) cause substantial damage to the tangible personal property; or

3348 (B) require substantial alteration or repair of the real property to which the tangible  
3349 personal property is attached.

3350 (b) "Permanently attached to real property" includes:

3351 (i) the attachment of an accessory to the tangible personal property if the accessory is:

3352 (A) essential to the operation of the tangible personal property; and

3353 (B) attached only to facilitate the operation of the tangible personal property;

3354 (ii) a temporary detachment of tangible personal property from real property for a  
3355 repair or renovation if the repair or renovation is performed where the tangible personal  
3356 property and real property are located; or

3357 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
3358 Subsection (84)(c)(iii) or (iv).

3359 (c) "Permanently attached to real property" does not include:

3360 (i) the attachment of portable or movable tangible personal property to real property if  
3361 that portable or movable tangible personal property is attached to real property only for:



3362 (A) convenience;

3363 (B) stability; or

3364 (C) for an obvious temporary purpose;

3365 (ii) the detachment of tangible personal property from real property except for the

3366 detachment described in Subsection (84)(b)(ii);

3367 (iii) an attachment of the following tangible personal property to real property if the

3368 attachment to real property is only through a line that supplies water, electricity, gas,

3369 telecommunications, cable, or supplies a similar item as determined by the commission by rule

3370 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

3371 (A) a computer;

3372 (B) a telephone;

3373 (C) a television; or

3374 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as

3375 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

3376 Administrative Rulemaking Act; or

3377 (iv) an item listed in Subsection (125)(c).

3378 (85) "Person" includes any individual, firm, partnership, joint venture, association,

3379 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,

3380 municipality, district, or other local governmental entity of the state, or any group or

3381 combination acting as a unit.

3382 (86) "Place of primary use":

3383 (a) for telecommunications service other than mobile telecommunications service,

3384 means the street address representative of where the customer's use of the telecommunications

3385 service primarily occurs, which shall be:

3386 (i) the residential street address of the customer; or

3387 (ii) the primary business street address of the customer; or

3388 (b) for mobile telecommunications service, is as defined in the Mobile

3389 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

3390 (87) (a) "Postpaid calling service" means a telecommunications service a person  
3391 obtains by making a payment on a call-by-call basis:

3392 (i) through the use of a:

3393 (A) bank card;

3394 (B) credit card;

3395 (C) debit card; or

3396 (D) travel card; or

3397 (ii) by a charge made to a telephone number that is not associated with the origination  
3398 or termination of the telecommunications service.

3399 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
3400 service, that would be a prepaid wireless calling service if the service were exclusively a  
3401 telecommunications service.

3402 (88) "Postproduction" means an activity related to the finishing or duplication of a  
3403 medium described in Subsection [59-12-104\(54\)\(a\)](#).

3404 (89) "Prepaid calling service" means a telecommunications service:

3405 (a) that allows a purchaser access to telecommunications service that is exclusively  
3406 telecommunications service;

3407 (b) that:

3408 (i) is paid for in advance; and

3409 (ii) enables the origination of a call using an:

3410 (A) access number; or

3411 (B) authorization code;

3412 (c) that is dialed:

3413 (i) manually; or

3414 (ii) electronically; and

3415 (d) sold in predetermined units or dollars that decline:

3416 (i) by a known amount; and

3417 (ii) with use.

- 3418 (90) "Prepaid wireless calling service" means a telecommunications service:
- 3419 (a) that provides the right to utilize:
- 3420 (i) mobile wireless service; and
- 3421 (ii) other service that is not a telecommunications service, including:
- 3422 (A) the download of a product transferred electronically;
- 3423 (B) a content service; or
- 3424 (C) an ancillary service;
- 3425 (b) that:
- 3426 (i) is paid for in advance; and
- 3427 (ii) enables the origination of a call using an:
- 3428 (A) access number; or
- 3429 (B) authorization code;
- 3430 (c) that is dialed:
- 3431 (i) manually; or
- 3432 (ii) electronically; and
- 3433 (d) sold in predetermined units or dollars that decline:
- 3434 (i) by a known amount; and
- 3435 (ii) with use.
- 3436 (91) (a) "Prepared food" means:
- 3437 (i) food:
- 3438 (A) sold in a heated state; or
- 3439 (B) heated by a seller;
- 3440 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 3441 item; or
- 3442 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
- 3443 by the seller, including a:
- 3444 (A) plate;
- 3445 (B) knife;

- 3446 (C) fork;
- 3447 (D) spoon;
- 3448 (E) glass;
- 3449 (F) cup;
- 3450 (G) napkin; or
- 3451 (H) straw.
- 3452 (b) "Prepared food" does not include:
- 3453 (i) food that a seller only:
- 3454 (A) cuts;
- 3455 (B) repackages; or
- 3456 (C) pasteurizes; or
- 3457 (ii) (A) the following:
- 3458 (I) raw egg;
- 3459 (II) raw fish;
- 3460 (III) raw meat;
- 3461 (IV) raw poultry; or
- 3462 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
- 3463 and
- 3464 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 3465 Food and Drug Administration's Food Code that a consumer cook the items described in
- 3466 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
- 3467 (iii) the following if sold without eating utensils provided by the seller:
- 3468 (A) food and food ingredients sold by a seller if the seller's proper primary
- 3469 classification under the 2002 North American Industry Classification System of the federal
- 3470 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 3471 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 3472 Manufacturing;
- 3473 (B) food and food ingredients sold in an unheated state:

- 3474 (I) by weight or volume; and
- 3475 (II) as a single item; or
- 3476 (C) a bakery item, including:
  - 3477 (I) a bagel;
  - 3478 (II) a bar;
  - 3479 (III) a biscuit;
  - 3480 (IV) bread;
  - 3481 (V) a bun;
  - 3482 (VI) a cake;
  - 3483 (VII) a cookie;
  - 3484 (VIII) a croissant;
  - 3485 (IX) a danish;
  - 3486 (X) a donut;
  - 3487 (XI) a muffin;
  - 3488 (XII) a pastry;
  - 3489 (XIII) a pie;
  - 3490 (XIV) a roll;
  - 3491 (XV) a tart;
  - 3492 (XVI) a torte; or
  - 3493 (XVII) a tortilla.
- 3494 (c) An eating utensil provided by the seller does not include the following used to
- 3495 transport the food:
  - 3496 (i) a container; or
  - 3497 (ii) packaging.
- 3498 (92) "Prescription" means an order, formula, or recipe that is issued:
  - 3499 (a) (i) orally;
  - 3500 (ii) in writing;
  - 3501 (iii) electronically; or

3502 (iv) by any other manner of transmission; and  
3503 (b) by a licensed practitioner authorized by the laws of a state.  
3504 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer  
3505 software" means computer software that is not designed and developed:  
3506 (i) by the author or other creator of the computer software; and  
3507 (ii) to the specifications of a specific purchaser.  
3508 (b) "Prewritten computer software" includes:  
3509 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer  
3510 software is not designed and developed:  
3511 (A) by the author or other creator of the computer software; and  
3512 (B) to the specifications of a specific purchaser;  
3513 (ii) computer software designed and developed by the author or other creator of the  
3514 computer software to the specifications of a specific purchaser if the computer software is sold  
3515 to a person other than the purchaser; or  
3516 (iii) except as provided in Subsection (93)(c), prewritten computer software or a  
3517 prewritten portion of prewritten computer software:  
3518 (A) that is modified or enhanced to any degree; and  
3519 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is  
3520 designed and developed to the specifications of a specific purchaser.  
3521 (c) "Prewritten computer software" does not include a modification or enhancement  
3522 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:  
3523 (i) reasonable; and  
3524 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the  
3525 invoice or other statement of price provided to the purchaser at the time of sale or later, as  
3526 demonstrated by:  
3527 (A) the books and records the seller keeps at the time of the transaction in the regular  
3528 course of business, including books and records the seller keeps at the time of the transaction in  
3529 the regular course of business for nontax purposes;

3530 (B) a preponderance of the facts and circumstances at the time of the transaction; and  
3531 (C) the understanding of all of the parties to the transaction.

3532 (94) (a) "Private communications service" means a telecommunications service:

3533 (i) that entitles a customer to exclusive or priority use of one or more communications  
3534 channels between or among termination points; and

3535 (ii) regardless of the manner in which the one or more communications channels are  
3536 connected.

3537 (b) "Private communications service" includes the following provided in connection  
3538 with the use of one or more communications channels:

3539 (i) an extension line;

3540 (ii) a station;

3541 (iii) switching capacity; or

3542 (iv) another associated service that is provided in connection with the use of one or  
3543 more communications channels as defined in Section [59-12-215](#).

3544 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"  
3545 means a product transferred electronically that would be subject to a tax under this chapter if  
3546 that product was transferred in a manner other than electronically.

3547 (b) "Product transferred electronically" does not include:

3548 (i) an ancillary service;

3549 (ii) computer software; or

3550 (iii) a telecommunications service.

3551 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:

3552 (i) artificially replace a missing portion of the body;

3553 (ii) prevent or correct a physical deformity or physical malfunction; or

3554 (iii) support a weak or deformed portion of the body.

3555 (b) "Prosthetic device" includes:

3556 (i) parts used in the repairs or renovation of a prosthetic device;

3557 (ii) replacement parts for a prosthetic device;

- 3558 (iii) a dental prosthesis; or  
3559 (iv) a hearing aid.  
3560 (c) "Prosthetic device" does not include:  
3561 (i) corrective eyeglasses; or  
3562 (ii) contact lenses.  
3563 (97) (a) "Protective equipment" means an item:  
3564 (i) for human wear; and  
3565 (ii) that is:  
3566 (A) designed as protection:  
3567 (I) to the wearer against injury or disease; or  
3568 (II) against damage or injury of other persons or property; and  
3569 (B) not suitable for general use.  
3570 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3571 commission shall make rules:  
3572 (i) listing the items that constitute "protective equipment"; and  
3573 (ii) that are consistent with the list of items that constitute "protective equipment"  
3574 under the agreement.  
3575 (98) (a) For purposes of Subsection [59-12-104\(41\)](#), "publication" means any written or  
3576 printed matter, other than a photocopy:  
3577 (i) regardless of:  
3578 (A) characteristics;  
3579 (B) copyright;  
3580 (C) form;  
3581 (D) format;  
3582 (E) method of reproduction; or  
3583 (F) source; and  
3584 (ii) made available in printed or electronic format.  
3585 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the



3586 commission may by rule define the term "photocopy."  
3587 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:  
3588 (i) valued in money; and  
3589 (ii) for which tangible personal property, a product transferred electronically, or  
3590 services are:  
3591 (A) sold;  
3592 (B) leased; or  
3593 (C) rented.  
3594 (b) "Purchase price" and "sales price" include:  
3595 (i) the seller's cost of the tangible personal property, a product transferred  
3596 electronically, or services sold;  
3597 (ii) expenses of the seller, including:  
3598 (A) the cost of materials used;  
3599 (B) a labor cost;  
3600 (C) a service cost;  
3601 (D) interest;  
3602 (E) a loss;  
3603 (F) the cost of transportation to the seller; or  
3604 (G) a tax imposed on the seller;  
3605 (iii) a charge by the seller for any service necessary to complete the sale; or  
3606 (iv) consideration a seller receives from a person other than the purchaser if:  
3607 (A) (I) the seller actually receives consideration from a person other than the purchaser;  
3608 and  
3609 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a  
3610 price reduction or discount on the sale;  
3611 (B) the seller has an obligation to pass the price reduction or discount through to the  
3612 purchaser;  
3613 (C) the amount of the consideration attributable to the sale is fixed and determinable by

3614 the seller at the time of the sale to the purchaser; and

3615 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the  
3616 seller to claim a price reduction or discount; and

3617 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,  
3618 coupon, or other documentation with the understanding that the person other than the seller  
3619 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

3620 (II) the purchaser identifies that purchaser to the seller as a member of a group or  
3621 organization allowed a price reduction or discount, except that a preferred customer card that is  
3622 available to any patron of a seller does not constitute membership in a group or organization  
3623 allowed a price reduction or discount; or

3624 (III) the price reduction or discount is identified as a third party price reduction or  
3625 discount on the:

3626 (Aa) invoice the purchaser receives; or

3627 (Bb) certificate, coupon, or other documentation the purchaser presents.

3628 (c) "Purchase price" and "sales price" do not include:

3629 (i) a discount:

3630 (A) in a form including:

3631 (I) cash;

3632 (II) term; or

3633 (III) coupon;

3634 (B) that is allowed by a seller;

3635 (C) taken by a purchaser on a sale; and

3636 (D) that is not reimbursed by a third party; or

3637 (ii) subject to Subsections [59-12-103\(2\)\(e\)\(ii\)](#) and [\(2\)\(f\)\(i\)](#), the following if separately  
3638 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of  
3639 sale or later, as demonstrated by the books and records the seller keeps at the time of the  
3640 transaction in the regular course of business, including books and records the seller keeps at the  
3641 time of the transaction in the regular course of business for nontax purposes, by a

- 3642 preponderance of the facts and circumstances at the time of the transaction, and by the  
3643 understanding of all of the parties to the transaction:
- 3644 (A) the following from credit extended on the sale of tangible personal property or  
3645 services:
- 3646 (I) a carrying charge;  
3647 (II) a financing charge; or  
3648 (III) an interest charge;
- 3649 (B) a delivery charge;  
3650 (C) an installation charge;  
3651 (D) a manufacturer rebate on a motor vehicle; or  
3652 (E) a tax or fee legally imposed directly on the consumer.
- 3653 (100) "Purchaser" means a person to whom:
- 3654 (a) a sale of tangible personal property is made;  
3655 (b) a product is transferred electronically; or  
3656 (c) a service is furnished.
- 3657 (101) "Qualifying enterprise data center" means an establishment that will:
- 3658 (a) own and operate a data center facility that will house a group of networked server  
3659 computers in one physical location in order to centralize the dissemination, management, and  
3660 storage of data and information;
- 3661 (b) be located in the state;  
3662 (c) be a new operation constructed on or after July 1, 2016;  
3663 (d) consist of one or more buildings that total 150,000 or more square feet;  
3664 (e) be owned or leased by:
- 3665 (i) the establishment; or  
3666 (ii) a person under common ownership, as defined in Section 59-7-101, of the  
3667 establishment; and
- 3668 (f) be located on one or more parcels of land that are owned or leased by:
- 3669 (i) the establishment; or

3670 (ii) a person under common ownership, as defined in Section 59-7-101, of the  
3671 establishment.

3672 (102) "Regularly rented" means:

3673 (a) rented to a guest for value three or more times during a calendar year; or

3674 (b) advertised or held out to the public as a place that is regularly rented to guests for  
3675 value.

3676 (103) "Rental" is as defined in Subsection (59).

3677 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible  
3678 personal property" means:

3679 (i) a repair or renovation of tangible personal property that is not permanently attached  
3680 to real property; or

3681 (ii) attaching tangible personal property or a product transferred electronically to other  
3682 tangible personal property or detaching tangible personal property or a product transferred  
3683 electronically from other tangible personal property if:

3684 (A) the other tangible personal property to which the tangible personal property or  
3685 product transferred electronically is attached or from which the tangible personal property or  
3686 product transferred electronically is detached is not permanently attached to real property; and

3687 (B) the attachment of tangible personal property or a product transferred electronically  
3688 to other tangible personal property or detachment of tangible personal property or a product  
3689 transferred electronically from other tangible personal property is made in conjunction with a  
3690 repair or replacement of tangible personal property or a product transferred electronically.

3691 (b) "Repairs or renovations of tangible personal property" does not include:

3692 (i) attaching prewritten computer software to other tangible personal property if the  
3693 other tangible personal property to which the prewritten computer software is attached is not  
3694 permanently attached to real property; or

3695 (ii) detaching prewritten computer software from other tangible personal property if the  
3696 other tangible personal property from which the prewritten computer software is detached is  
3697 not permanently attached to real property.

3698           (105) "Research and development" means the process of inquiry or experimentation  
3699 aimed at the discovery of facts, devices, technologies, or applications and the process of  
3700 preparing those devices, technologies, or applications for marketing.

3701           (106) (a) "Residential telecommunications services" means a telecommunications  
3702 service or an ancillary service that is provided to an individual for personal use:

3703               (i) at a residential address; or

3704               (ii) at an institution, including a nursing home or a school, if the telecommunications  
3705 service or ancillary service is provided to and paid for by the individual residing at the  
3706 institution rather than the institution.

3707           (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

3708               (i) apartment; or

3709               (ii) other individual dwelling unit.

3710           (107) "Residential use" means the use in or around a home, apartment building,  
3711 sleeping quarters, and similar facilities or accommodations.

3712           (108) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
3713 than:

3714               (a) resale;

3715               (b) sublease; or

3716               (c) subrent.

3717           (109) (a) "Retailer" means any person engaged in a regularly organized business in  
3718 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and  
3719 who is selling to the user or consumer and not for resale.

3720           (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
3721 engaged in the business of selling to users or consumers within the state.

3722           (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
3723 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
3724 Subsection 59-12-103(1), for consideration.

3725           (b) "Sale" includes:

- 3726 (i) installment and credit sales;
- 3727 (ii) any closed transaction constituting a sale;
- 3728 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 3729 chapter;
- 3730 (iv) any transaction if the possession of property is transferred but the seller retains the
- 3731 title as security for the payment of the price; and
- 3732 (v) any transaction under which right to possession, operation, or use of any article of
- 3733 tangible personal property is granted under a lease or contract and the transfer of possession
- 3734 would be taxable if an outright sale were made.
- 3735 (111) "Sale at retail" is as defined in Subsection (108).
- 3736 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
- 3737 personal property or a product transferred electronically that is subject to a tax under this
- 3738 chapter is transferred:
- 3739 (a) by a purchaser-lessee;
- 3740 (b) to a lessor;
- 3741 (c) for consideration; and
- 3742 (d) if:
- 3743 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 3744 of the tangible personal property or product transferred electronically;
- 3745 (ii) the sale of the tangible personal property or product transferred electronically to the
- 3746 lessor is intended as a form of financing:
- 3747 (A) for the tangible personal property or product transferred electronically; and
- 3748 (B) to the purchaser-lessee; and
- 3749 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 3750 is required to:
- 3751 (A) capitalize the tangible personal property or product transferred electronically for
- 3752 financial reporting purposes; and
- 3753 (B) account for the lease payments as payments made under a financing arrangement.

- 3754 (113) "Sales price" is as defined in Subsection (99).
- 3755 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or  
3756 amounts charged by a school:
- 3757 (i) sales that are directly related to the school's educational functions or activities  
3758 including:
- 3759 (A) the sale of:
- 3760 (I) textbooks;
- 3761 (II) textbook fees;
- 3762 (III) laboratory fees;
- 3763 (IV) laboratory supplies; or
- 3764 (V) safety equipment;
- 3765 (B) the sale of a uniform, protective equipment, or sports or recreational equipment  
3766 that:
- 3767 (I) a student is specifically required to wear as a condition of participation in a  
3768 school-related event or school-related activity; and
- 3769 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
3770 place of ordinary clothing;
- 3771 (C) sales of the following if the net or gross revenues generated by the sales are  
3772 deposited into a school district fund or school fund dedicated to school meals:
- 3773 (I) food and food ingredients; or
- 3774 (II) prepared food; or
- 3775 (D) transportation charges for official school activities; or
- 3776 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
3777 event or school-related activity.
- 3778 (b) "Sales relating to schools" does not include:
- 3779 (i) bookstore sales of items that are not educational materials or supplies;
- 3780 (ii) except as provided in Subsection (114)(a)(i)(B):
- 3781 (A) clothing;

- 3782 (B) clothing accessories or equipment;
- 3783 (C) protective equipment; or
- 3784 (D) sports or recreational equipment; or
- 3785 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 3786 event or school-related activity if the amounts paid or charged are passed through to a person:
- 3787 (A) other than a:
- 3788 (I) school;
- 3789 (II) nonprofit organization authorized by a school board or a governing body of a
- 3790 private school to organize and direct a competitive secondary school activity; or
- 3791 (III) nonprofit association authorized by a school board or a governing body of a
- 3792 private school to organize and direct a competitive secondary school activity; and
- 3793 (B) that is required to collect sales and use taxes under this chapter.
- 3794 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3795 commission may make rules defining the term "passed through."
- 3796 (115) For purposes of this section and Section [59-12-104](#), "school":
- 3797 (a) means:
- 3798 (i) an elementary school or a secondary school that:
- 3799 (A) is a:
- 3800 (I) public school; or
- 3801 (II) private school; and
- 3802 (B) provides instruction for one or more grades kindergarten through 12; or
- 3803 (ii) a public school district; and
- 3804 (b) includes the Electronic High School as defined in Section [53A-15-1002](#).
- 3805 (116) "Seller" means a person that makes a sale, lease, or rental of:
- 3806 (a) tangible personal property;
- 3807 (b) a product transferred electronically; or
- 3808 (c) a service.
- 3809 (117) (a) "Semiconductor fabricating, processing, research, or development materials"



3810 means tangible personal property or a product transferred electronically if the tangible personal  
3811 property or product transferred electronically is:

3812 (i) used primarily in the process of:

3813 (A) (I) manufacturing a semiconductor;

3814 (II) fabricating a semiconductor; or

3815 (III) research or development of a:

3816 (Aa) semiconductor; or

3817 (Bb) semiconductor manufacturing process; or

3818 (B) maintaining an environment suitable for a semiconductor; or

3819 (ii) consumed primarily in the process of:

3820 (A) (I) manufacturing a semiconductor;

3821 (II) fabricating a semiconductor; or

3822 (III) research or development of a:

3823 (Aa) semiconductor; or

3824 (Bb) semiconductor manufacturing process; or

3825 (B) maintaining an environment suitable for a semiconductor.

3826 (b) "Semiconductor fabricating, processing, research, or development materials"

3827 includes:

3828 (i) parts used in the repairs or renovations of tangible personal property or a product  
3829 transferred electronically described in Subsection (117)(a); or

3830 (ii) a chemical, catalyst, or other material used to:

3831 (A) produce or induce in a semiconductor a:

3832 (I) chemical change; or

3833 (II) physical change;

3834 (B) remove impurities from a semiconductor; or

3835 (C) improve the marketable condition of a semiconductor.

3836 (118) "Senior citizen center" means a facility having the primary purpose of providing  
3837 services to the aged as defined in Section [62A-3-101](#).

3838 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"  
3839 means tangible personal property that:

3840 (i) a business that provides accommodations and services described in Subsection  
3841 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services  
3842 to a purchaser;

3843 (ii) is intended to be consumed by the purchaser; and  
3844 (iii) is:

3845 (A) included in the purchase price of the accommodations and services; and  
3846 (B) not separately stated on an invoice, bill of sale, or other similar document provided  
3847 to the purchaser.

3848 (b) "Short-term lodging consumable" includes:

3849 (i) a beverage;  
3850 (ii) a brush or comb;  
3851 (iii) a cosmetic;  
3852 (iv) a hair care product;  
3853 (v) lotion;  
3854 (vi) a magazine;  
3855 (vii) makeup;  
3856 (viii) a meal;  
3857 (ix) mouthwash;  
3858 (x) nail polish remover;  
3859 (xi) a newspaper;  
3860 (xii) a notepad;  
3861 (xiii) a pen;  
3862 (xiv) a pencil;  
3863 (xv) a razor;  
3864 (xvi) saline solution;  
3865 (xvii) a sewing kit;

- 3866 (xviii) shaving cream;
- 3867 (xix) a shoe shine kit;
- 3868 (xx) a shower cap;
- 3869 (xxi) a snack item;
- 3870 (xxii) soap;
- 3871 (xxiii) toilet paper;
- 3872 (xxiv) a toothbrush;
- 3873 (xxv) toothpaste; or
- 3874 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
- 3875 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 3876 Rulemaking Act.
- 3877 (c) "Short-term lodging consumable" does not include:
- 3878 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 3879 property to be reused; or
- 3880 (ii) a product transferred electronically.
- 3881 (120) "Simplified electronic return" means the electronic return:
- 3882 (a) described in Section 318(C) of the agreement; and
- 3883 (b) approved by the governing board of the agreement.
- 3884 (121) "Solar energy" means the sun used as the sole source of energy for producing
- 3885 electricity.
- 3886 (122) (a) "Sports or recreational equipment" means an item:
- 3887 (i) designed for human use; and
- 3888 (ii) that is:
- 3889 (A) worn in conjunction with:
- 3890 (I) an athletic activity; or
- 3891 (II) a recreational activity; and
- 3892 (B) not suitable for general use.
- 3893 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3894 commission shall make rules:

3895 (i) listing the items that constitute "sports or recreational equipment"; and

3896 (ii) that are consistent with the list of items that constitute "sports or recreational  
3897 equipment" under the agreement.

3898 (123) "State" means the state of Utah, its departments, and agencies.

3899 (124) "Storage" means any keeping or retention of tangible personal property or any  
3900 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except  
3901 sale in the regular course of business.

3902 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"  
3903 means personal property that:

3904 (i) may be:

3905 (A) seen;

3906 (B) weighed;

3907 (C) measured;

3908 (D) felt; or

3909 (E) touched; or

3910 (ii) is in any manner perceptible to the senses.

3911 (b) "Tangible personal property" includes:

3912 (i) electricity;

3913 (ii) water;

3914 (iii) gas;

3915 (iv) steam; or

3916 (v) prewritten computer software, regardless of the manner in which the prewritten  
3917 computer software is transferred.

3918 (c) "Tangible personal property" includes the following regardless of whether the item  
3919 is attached to real property:

3920 (i) a dishwasher;

3921 (ii) a dryer;

- 3922 (iii) a freezer;
- 3923 (iv) a microwave;
- 3924 (v) a refrigerator;
- 3925 (vi) a stove;
- 3926 (vii) a washer; or
- 3927 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the
- 3928 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 3929 Rulemaking Act.
- 3930 (d) "Tangible personal property" does not include a product that is transferred
- 3931 electronically.
- 3932 (e) "Tangible personal property" does not include the following if attached to real
- 3933 property, regardless of whether the attachment to real property is only through a line that
- 3934 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 3935 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 3936 Rulemaking Act:
- 3937 (i) a hot water heater;
- 3938 (ii) a water filtration system; or
- 3939 (iii) a water softener system.
- 3940 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or
- 3941 software" means an item listed in Subsection (126)(b) if that item is purchased or leased
- 3942 primarily to enable or facilitate one or more of the following to function:
- 3943 (i) telecommunications switching or routing equipment, machinery, or software; or
- 3944 (ii) telecommunications transmission equipment, machinery, or software.
- 3945 (b) The following apply to Subsection (126)(a):
- 3946 (i) a pole;
- 3947 (ii) software;
- 3948 (iii) a supplementary power supply;
- 3949 (iv) temperature or environmental equipment or machinery;

3950 (v) test equipment;  
3951 (vi) a tower; or  
3952 (vii) equipment, machinery, or software that functions similarly to an item listed in  
3953 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in  
3954 accordance with Subsection (126)(c).

3955 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3956 commission may by rule define what constitutes equipment, machinery, or software that  
3957 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

3958 (127) "Telecommunications equipment, machinery, or software required for 911  
3959 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
3960 Sec. 20.18.

3961 (128) "Telecommunications maintenance or repair equipment, machinery, or software"  
3962 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
3963 one or more of the following, regardless of whether the equipment, machinery, or software is  
3964 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
3965 following:

- 3966 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 3967 (b) telecommunications switching or routing equipment, machinery, or software; or
- 3968 (c) telecommunications transmission equipment, machinery, or software.

3969 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or  
3970 transmission of audio, data, video, voice, or any other information or signal to a point, or  
3971 among or between points.

3972 (b) "Telecommunications service" includes:

3973 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
3974 processing application is used to act:

- 3975 (A) on the code, form, or protocol of the content;
- 3976 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 3977 (C) regardless of whether the service:

- 3978 (I) is referred to as voice over Internet protocol service; or
- 3979 (II) is classified by the Federal Communications Commission as enhanced or value
- 3980 added;
- 3981 (ii) an 800 service;
- 3982 (iii) a 900 service;
- 3983 (iv) a fixed wireless service;
- 3984 (v) a mobile wireless service;
- 3985 (vi) a postpaid calling service;
- 3986 (vii) a prepaid calling service;
- 3987 (viii) a prepaid wireless calling service; or
- 3988 (ix) a private communications service.
- 3989 (c) "Telecommunications service" does not include:
- 3990 (i) advertising, including directory advertising;
- 3991 (ii) an ancillary service;
- 3992 (iii) a billing and collection service provided to a third party;
- 3993 (iv) a data processing and information service if:
- 3994 (A) the data processing and information service allows data to be:
- 3995 (I) (Aa) acquired;
- 3996 (Bb) generated;
- 3997 (Cc) processed;
- 3998 (Dd) retrieved; or
- 3999 (Ee) stored; and
- 4000 (II) delivered by an electronic transmission to a purchaser; and
- 4001 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 4002 or information;
- 4003 (v) installation or maintenance of the following on a customer's premises:
- 4004 (A) equipment; or
- 4005 (B) wiring;

- 4006 (vi) Internet access service;
- 4007 (vii) a paging service;
- 4008 (viii) a product transferred electronically, including:
  - 4009 (A) music;
  - 4010 (B) reading material;
  - 4011 (C) a ring tone;
  - 4012 (D) software; or
  - 4013 (E) video;
- 4014 (ix) a radio and television audio and video programming service:
  - 4015 (A) regardless of the medium; and
  - 4016 (B) including:
    - 4017 (I) furnishing conveyance, routing, or transmission of a television audio and video
    - 4018 programming service by a programming service provider;
    - 4019 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
    - 4020 (III) audio and video programming services delivered by a commercial mobile radio
    - 4021 service provider as defined in 47 C.F.R. Sec. 20.3;
    - 4022 (x) a value-added nonvoice data service; or
    - 4023 (xi) tangible personal property.
- 4024 (130) (a) "Telecommunications service provider" means a person that:
  - 4025 (i) owns, controls, operates, or manages a telecommunications service; and
  - 4026 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
  - 4027 resale to any person of the telecommunications service.
- 4028 (b) A person described in Subsection (130)(a) is a telecommunications service provider
- 4029 whether or not the Public Service Commission of Utah regulates:
  - 4030 (i) that person; or
  - 4031 (ii) the telecommunications service that the person owns, controls, operates, or
  - 4032 manages.
- 4033 (131) (a) "Telecommunications switching or routing equipment, machinery, or



4034 software" means an item listed in Subsection (131)(b) if that item is purchased or leased  
4035 primarily for switching or routing:

- 4036 (i) an ancillary service;
- 4037 (ii) data communications;
- 4038 (iii) voice communications; or
- 4039 (iv) telecommunications service.

4040 (b) The following apply to Subsection (131)(a):

- 4041 (i) a bridge;
- 4042 (ii) a computer;
- 4043 (iii) a cross connect;
- 4044 (iv) a modem;
- 4045 (v) a multiplexer;
- 4046 (vi) plug in circuitry;
- 4047 (vii) a router;
- 4048 (viii) software;
- 4049 (ix) a switch; or
- 4050 (x) equipment, machinery, or software that functions similarly to an item listed in  
4051 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in  
4052 accordance with Subsection (131)(c).

4053 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4054 commission may by rule define what constitutes equipment, machinery, or software that  
4055 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

4056 (132) (a) "Telecommunications transmission equipment, machinery, or software"  
4057 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for  
4058 sending, receiving, or transporting:

- 4059 (i) an ancillary service;
- 4060 (ii) data communications;
- 4061 (iii) voice communications; or

- 4062 (iv) telecommunications service.
- 4063 (b) The following apply to Subsection (132)(a):
- 4064 (i) an amplifier;
- 4065 (ii) a cable;
- 4066 (iii) a closure;
- 4067 (iv) a conduit;
- 4068 (v) a controller;
- 4069 (vi) a duplexer;
- 4070 (vii) a filter;
- 4071 (viii) an input device;
- 4072 (ix) an input/output device;
- 4073 (x) an insulator;
- 4074 (xi) microwave machinery or equipment;
- 4075 (xii) an oscillator;
- 4076 (xiii) an output device;
- 4077 (xiv) a pedestal;
- 4078 (xv) a power converter;
- 4079 (xvi) a power supply;
- 4080 (xvii) a radio channel;
- 4081 (xviii) a radio receiver;
- 4082 (xix) a radio transmitter;
- 4083 (xx) a repeater;
- 4084 (xxi) software;
- 4085 (xxii) a terminal;
- 4086 (xxiii) a timing unit;
- 4087 (xxiv) a transformer;
- 4088 (xxv) a wire; or
- 4089 (xxvi) equipment, machinery, or software that functions similarly to an item listed in

4090 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in  
4091 accordance with Subsection (132)(c).

4092 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4093 commission may by rule define what constitutes equipment, machinery, or software that  
4094 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

4095 (133) (a) "Textbook for a higher education course" means a textbook or other printed  
4096 material that is required for a course:

4097 (i) offered by an institution of higher education; and

4098 (ii) that the purchaser of the textbook or other printed material attends or will attend.

4099 (b) "Textbook for a higher education course" includes a textbook in electronic format.

4100 (134) "Tobacco" means:

4101 (a) a cigarette;

4102 (b) a cigar;

4103 (c) chewing tobacco;

4104 (d) pipe tobacco; or

4105 (e) any other item that contains tobacco.

4106 (135) "Unassisted amusement device" means an amusement device, skill device, or  
4107 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
4108 the amusement device, skill device, or ride device.

4109 (136) (a) "Use" means the exercise of any right or power over tangible personal  
4110 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),  
4111 incident to the ownership or the leasing of that tangible personal property, product transferred  
4112 electronically, or service.

4113 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
4114 property, a product transferred electronically, or a service in the regular course of business and  
4115 held for resale.

4116 (137) "Value-added nonvoice data service" means a service:

4117 (a) that otherwise meets the definition of a telecommunications service except that a

4118 computer processing application is used to act primarily for a purpose other than conveyance,  
4119 routing, or transmission; and

4120 (b) with respect to which a computer processing application is used to act on data or  
4121 information:

- 4122 (i) code;
- 4123 (ii) content;
- 4124 (iii) form; or
- 4125 (iv) protocol.

4126 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are  
4127 required to be titled, registered, or titled and registered:

- 4128 (i) an aircraft as defined in Section 72-10-102;
- 4129 (ii) a vehicle as defined in Section 41-1a-102;
- 4130 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 4131 (iv) a vessel as defined in Section 41-1a-102.

4132 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 4133 (i) a vehicle described in Subsection (138)(a); or
- 4134 (ii) (A) a locomotive;
- 4135 (B) a freight car;
- 4136 (C) railroad work equipment; or
- 4137 (D) other railroad rolling stock.

4138 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
4139 exchanging a vehicle as defined in Subsection (138).

4140 (140) (a) "Vertical service" means an ancillary service that:

- 4141 (i) is offered in connection with one or more telecommunications services; and
- 4142 (ii) offers an advanced calling feature that allows a customer to:
  - 4143 (A) identify a caller; and
  - 4144 (B) manage multiple calls and call connections.

4145 (b) "Vertical service" includes an ancillary service that allows a customer to manage a

4146 conference bridging service.

4147 (141) (a) "Voice mail service" means an ancillary service that enables a customer to  
4148 receive, send, or store a recorded message.

4149 (b) "Voice mail service" does not include a vertical service that a customer is required  
4150 to have in order to utilize a voice mail service.

4151 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a  
4152 facility that generates electricity:

4153 (i) using as the primary source of energy waste materials that would be placed in a  
4154 landfill or refuse pit if it were not used to generate electricity, including:

4155 (A) tires;

4156 (B) waste coal;

4157 (C) oil shale; or

4158 (D) municipal solid waste; and

4159 (ii) in amounts greater than actually required for the operation of the facility.

4160 (b) "Waste energy facility" does not include a facility that incinerates:

4161 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

4162 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

4163 (143) "Watercraft" means a vessel as defined in Section [73-18-2](#).

4164 (144) "Wind energy" means wind used as the sole source of energy to produce  
4165 electricity.

4166 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
4167 location by the United States Postal Service.

4168 Section 58. Section **59-12-702** is amended to read:

4169 **59-12-702. Definitions.**

4170 As used in this part:

4171 (1) "Administrative unit" means a division of a private nonprofit organization or  
4172 institution that:

4173 (a) would, if it were a separate entity, be a botanical organization or cultural

4174 organization; and

4175 (b) consistently maintains books and records separate from those of its parent  
4176 organization.

4177 (2) "Aquarium" means a park or building where a collection of water animals and  
4178 plants is kept for study, conservation, and public exhibition.

4179 (3) "Aviary" means a park or building where a collection of birds is kept for study,  
4180 conservation, and public exhibition.

4181 (4) "Botanical organization" means:

4182 (a) a private nonprofit organization or institution having as its primary purpose the  
4183 advancement and preservation of plant science through horticultural display, botanical  
4184 research, and community education; or

4185 (b) an administrative unit.

4186 (5) "Cultural facility" means the same as that term is defined in Section [59-12-602](#).

4187 (6) (a) "Cultural organization":

4188 (i) means:

4189 (A) a private nonprofit organization or institution having as its primary purpose the  
4190 advancement and preservation of:

4191 (I) natural history;

4192 (II) art;

4193 (III) music;

4194 (IV) theater;

4195 (V) dance; or

4196 (VI) cultural arts, including literature, a motion picture, or storytelling;

4197 (B) an administrative unit; and

4198 (ii) includes, for purposes of Subsections [59-12-704\(1\)\(d\)](#) and (6) only:

4199 (A) a private nonprofit organization or institution having as its primary purpose the  
4200 advancement and preservation of history; or

4201 (B) a municipal or county cultural council having as its primary purpose the

4202 advancement and preservation of:

4203 (I) history;

4204 (II) natural history;

4205 (III) art;

4206 (IV) music;

4207 (V) theater; or

4208 (VI) dance.

4209 (b) "Cultural organization" does not include:

4210 (i) an agency of the state;

4211 (ii) except as provided in Subsection (6)(a)(ii)(B), a political subdivision of the state;

4212 (iii) an educational institution whose annual revenues are directly derived more than

4213 50% from state funds; or

4214 (iv) in a county of the first or second class, a radio or television broadcasting network

4215 or station, cable communications system, newspaper, or magazine.

4216 (7) "Institution" means an institution of higher education listed in [~~Subsections~~]

4217 Subsection 53B-1-102(1)[~~(b) through (k)~~](a).

4218 (8) "Recreational facility" means a publicly owned or operated park, campground,

4219 marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, trail system,

4220 or other facility used for recreational purposes.

4221 (9) "Rural radio station" means a nonprofit radio station based in a county of the third,

4222 fourth, fifth, or sixth class.

4223 (10) In a county of the first class, "zoological facility" means a public, public-private

4224 partnership, or private nonprofit building, exhibit, utility and infrastructure, walkway, pathway,

4225 roadway, office, administration facility, public service facility, educational facility, enclosure,

4226 public viewing area, animal barrier, animal housing, animal care facility, and veterinary and

4227 hospital facility related to the advancement, exhibition, or preservation of a mammal, bird,

4228 reptile, fish, or an amphibian.

4229 (11) (a) (i) Except as provided in Subsection (11)(a)(ii), "zoological organization"

4230 means a public, public-private partnership, or private nonprofit organization having as its  
4231 primary purpose the advancement and preservation of zoology.

4232 (ii) In a county of the first class, "zoological organization" means a nonprofit  
4233 organization having as its primary purpose the advancement and exhibition of a mammal, bird,  
4234 reptile, fish, or an amphibian to an audience of 75,000 or more persons annually.

4235 (b) "Zoological organization" does not include an agency of the state, educational  
4236 institution, radio or television broadcasting network or station, cable communications system,  
4237 newspaper, or magazine.

4238 (12) "Zoological park" means a park or garden where a collection of wild animals is  
4239 kept for study, conservation, and public exhibition.

4240 Section 59. Section **63A-2-402** is amended to read:

4241 **63A-2-402. State surplus property program -- Participation by institutions of**  
4242 **higher education.**

4243 [~~The~~] (1) Except as provided in Subsection (2), the State Board of Regents shall:

4244 [~~(1)~~] (a) implement a policy requiring each institution of higher education to submit to  
4245 the division a listing of surplus property available for sale outside the institution, at least 15  
4246 days prior to the intended sale date;

4247 [~~(2)~~] (b) supervise and assist compliance by the institutions of higher education with  
4248 the requirement of this part; and

4249 [~~(3)~~] (c) encourage institutions of higher education to acquire federal surplus property  
4250 from the division to reduce expenditures.

4251 (2) The Utah System of Technical Colleges Board of Trustees shall conduct the  
4252 activities described in Subsection (1) for a technical college described in Section [53B-2a-105](#).

4253 Section 60. Section **63A-9-101** is amended to read:

4254 **63A-9-101. Definitions.**

4255 (1) (a) "Agency" means each department, commission, board, council, agency,  
4256 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,  
4257 unit, bureau, panel, or other administrative unit of the state.



4258 (b) "Agency" includes the State Board of Education[, ~~an applied technology college~~  
4259 ~~within the Utah College of Applied Technology, the board of regents, the institutional councils~~  
4260 ~~of each higher education institution,]~~ and each higher education institution described in Section  
4261 [53B-1-102](#).

4262 (c) "Agency" includes the legislative and judicial branches.

4263 (2) "Committee" means the Motor Vehicle Review Committee created by this chapter.

4264 (3) "Director" means the director of the division.

4265 (4) "Division" means the Division of Fleet Operations created by this chapter.

4266 (5) "Executive director" means the executive director of the Department of  
4267 Administrative Services.

4268 (6) "Local agency" means:

4269 (a) a county;

4270 (b) a municipality;

4271 (c) a school district;

4272 (d) a local district;

4273 (e) a special service district;

4274 (f) an interlocal entity as defined under Section [11-13-103](#); or

4275 (g) any other political subdivision of the state, including a local commission, board, or  
4276 other governmental entity that is vested with the authority to make decisions regarding the  
4277 public's business.

4278 (7) (a) "Motor vehicle" means a self-propelled vehicle capable of carrying passengers.

4279 (b) "Motor vehicle" includes vehicles used for construction and other nontransportation  
4280 purposes.

4281 (8) "State vehicle" means each motor vehicle owned, operated, or in the possession of  
4282 an agency.

4283 Section 61. Section **63F-2-102** is amended to read:

4284 **63F-2-102. Data Security Management Council -- Membership -- Duties.**

4285 (1) There is created the Data Security Management Council composed of nine

4286 members as follows:

4287 (a) the chief information officer appointed under Section 63F-1-201, or the chief  
4288 information officer's designee;

4289 (b) one individual appointed by the governor;

4290 (c) one individual appointed by the speaker of the House of Representatives and the  
4291 president of the Senate from the Legislative Information Technology Steering Committee; and

4292 (d) the highest ranking information technology official, or the highest ranking  
4293 information technology official's designee, from each of:

4294 (i) the Judicial Council;

4295 (ii) the State Board of Regents;

4296 (iii) the State Board of Education;

4297 (iv) the Utah [~~College of Applied Technology~~] System of Technical Colleges Board of  
4298 Trustees;

4299 (v) the State Tax Commission; and

4300 (vi) the Office of the Attorney General.

4301 (2) The council shall elect a chair of the council by majority vote.

4302 (3) (a) A majority of the members of the council constitutes a quorum.

4303 (b) Action by a majority of a quorum of the council constitutes an action of the council.

4304 (4) The Department of Technology Services shall provide staff to the council.

4305 (5) The council shall meet monthly, or as often as necessary, to:

4306 (a) review existing state government data security policies;

4307 (b) assess ongoing risks to state government information technology;

4308 (c) create a method to notify state and local government entities of new risks;

4309 (d) coordinate data breach simulation exercises with state and local government  
4310 entities; and

4311 (e) develop data security best practice recommendations for state government that  
4312 include recommendations regarding:

4313 (i) hiring and training a chief information security officer for each government entity;

- 4314 (ii) continuous risk monitoring;
- 4315 (iii) password management;
- 4316 (iv) using the latest technology to identify and respond to vulnerabilities;
- 4317 (v) protecting data in new and old systems; and
- 4318 (vi) best procurement practices.

4319 (6) A member who is not a member of the Legislature may not receive compensation  
4320 or benefits for the member's service but may receive per diem and travel expenses as provided  
4321 in:

- 4322 (a) Section [63A-3-106](#);
- 4323 (b) Section [63A-3-107](#); and
- 4324 (c) rules made by the Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#).

4325 Section 62. Section **63G-2-305** is amended to read:

4326 **63G-2-305. Protected records.**

4327 The following records are protected if properly classified by a governmental entity:

4328 (1) trade secrets as defined in Section [13-24-2](#) if the person submitting the trade secret  
4329 has provided the governmental entity with the information specified in Section [63G-2-309](#);

4330 (2) commercial information or nonindividual financial information obtained from a  
4331 person if:

4332 (a) disclosure of the information could reasonably be expected to result in unfair  
4333 competitive injury to the person submitting the information or would impair the ability of the  
4334 governmental entity to obtain necessary information in the future;

4335 (b) the person submitting the information has a greater interest in prohibiting access  
4336 than the public in obtaining access; and

4337 (c) the person submitting the information has provided the governmental entity with  
4338 the information specified in Section [63G-2-309](#);

4339 (3) commercial or financial information acquired or prepared by a governmental entity  
4340 to the extent that disclosure would lead to financial speculations in currencies, securities, or  
4341 commodities that will interfere with a planned transaction by the governmental entity or cause

4342 substantial financial injury to the governmental entity or state economy;

4343 (4) records, the disclosure of which could cause commercial injury to, or confer a  
4344 competitive advantage upon a potential or actual competitor of, a commercial project entity as  
4345 defined in Subsection 11-13-103(4);

4346 (5) test questions and answers to be used in future license, certification, registration,  
4347 employment, or academic examinations;

4348 (6) records, the disclosure of which would impair governmental procurement  
4349 proceedings or give an unfair advantage to any person proposing to enter into a contract or  
4350 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this  
4351 Subsection (6) does not restrict the right of a person to have access to, after the contract or  
4352 grant has been awarded and signed by all parties, a bid, proposal, application, or other  
4353 information submitted to or by a governmental entity in response to:

4354 (a) an invitation for bids;

4355 (b) a request for proposals;

4356 (c) a request for quotes;

4357 (d) a grant; or

4358 (e) other similar document;

4359 (7) information submitted to or by a governmental entity in response to a request for  
4360 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict  
4361 the right of a person to have access to the information, after:

4362 (a) a contract directly relating to the subject of the request for information has been  
4363 awarded and signed by all parties; or

4364 (b) (i) a final determination is made not to enter into a contract that relates to the  
4365 subject of the request for information; and

4366 (ii) at least two years have passed after the day on which the request for information is  
4367 issued;

4368 (8) records that would identify real property or the appraisal or estimated value of real  
4369 or personal property, including intellectual property, under consideration for public acquisition

4370 before any rights to the property are acquired unless:

4371 (a) public interest in obtaining access to the information is greater than or equal to the  
4372 governmental entity's need to acquire the property on the best terms possible;

4373 (b) the information has already been disclosed to persons not employed by or under a  
4374 duty of confidentiality to the entity;

4375 (c) in the case of records that would identify property, potential sellers of the described  
4376 property have already learned of the governmental entity's plans to acquire the property;

4377 (d) in the case of records that would identify the appraisal or estimated value of  
4378 property, the potential sellers have already learned of the governmental entity's estimated value  
4379 of the property; or

4380 (e) the property under consideration for public acquisition is a single family residence  
4381 and the governmental entity seeking to acquire the property has initiated negotiations to acquire  
4382 the property as required under Section [78B-6-505](#);

4383 (9) records prepared in contemplation of sale, exchange, lease, rental, or other  
4384 compensated transaction of real or personal property including intellectual property, which, if  
4385 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value  
4386 of the subject property, unless:

4387 (a) the public interest in access is greater than or equal to the interests in restricting  
4388 access, including the governmental entity's interest in maximizing the financial benefit of the  
4389 transaction; or

4390 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of  
4391 the value of the subject property have already been disclosed to persons not employed by or  
4392 under a duty of confidentiality to the entity;

4393 (10) records created or maintained for civil, criminal, or administrative enforcement  
4394 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if  
4395 release of the records:

4396 (a) reasonably could be expected to interfere with investigations undertaken for  
4397 enforcement, discipline, licensing, certification, or registration purposes;

4398 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement  
4399 proceedings;

4400 (c) would create a danger of depriving a person of a right to a fair trial or impartial  
4401 hearing;

4402 (d) reasonably could be expected to disclose the identity of a source who is not  
4403 generally known outside of government and, in the case of a record compiled in the course of  
4404 an investigation, disclose information furnished by a source not generally known outside of  
4405 government if disclosure would compromise the source; or

4406 (e) reasonably could be expected to disclose investigative or audit techniques,  
4407 procedures, policies, or orders not generally known outside of government if disclosure would  
4408 interfere with enforcement or audit efforts;

4409 (11) records the disclosure of which would jeopardize the life or safety of an  
4410 individual;

4411 (12) records the disclosure of which would jeopardize the security of governmental  
4412 property, governmental programs, or governmental recordkeeping systems from damage, theft,  
4413 or other appropriation or use contrary to law or public policy;

4414 (13) records that, if disclosed, would jeopardize the security or safety of a correctional  
4415 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere  
4416 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

4417 (14) records that, if disclosed, would reveal recommendations made to the Board of  
4418 Pardons and Parole by an employee of or contractor for the Department of Corrections, the  
4419 Board of Pardons and Parole, or the Department of Human Services that are based on the  
4420 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's  
4421 jurisdiction;

4422 (15) records and audit workpapers that identify audit, collection, and operational  
4423 procedures and methods used by the State Tax Commission, if disclosure would interfere with  
4424 audits or collections;

4425 (16) records of a governmental audit agency relating to an ongoing or planned audit

4426 until the final audit is released;

4427       (17) records that are subject to the attorney client privilege;

4428       (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,

4429 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,

4430 quasi-judicial, or administrative proceeding;

4431       (19) (a) (i) personal files of a state legislator, including personal correspondence to or

4432 from a member of the Legislature; and

4433       (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of

4434 legislative action or policy may not be classified as protected under this section; and

4435       (b) (i) an internal communication that is part of the deliberative process in connection

4436 with the preparation of legislation between:

4437       (A) members of a legislative body;

4438       (B) a member of a legislative body and a member of the legislative body's staff; or

4439       (C) members of a legislative body's staff; and

4440       (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of

4441 legislative action or policy may not be classified as protected under this section;

4442       (20) (a) records in the custody or control of the Office of Legislative Research and

4443 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated

4444 legislation or contemplated course of action before the legislator has elected to support the

4445 legislation or course of action, or made the legislation or course of action public; and

4446       (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the

4447 Office of Legislative Research and General Counsel is a public document unless a legislator

4448 asks that the records requesting the legislation be maintained as protected records until such

4449 time as the legislator elects to make the legislation or course of action public;

4450       (21) research requests from legislators to the Office of Legislative Research and

4451 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared

4452 in response to these requests;

4453       (22) drafts, unless otherwise classified as public;

- 4454 (23) records concerning a governmental entity's strategy about:  
4455 (a) collective bargaining; or  
4456 (b) imminent or pending litigation;
- 4457 (24) records of investigations of loss occurrences and analyses of loss occurrences that  
4458 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the  
4459 Uninsured Employers' Fund, or similar divisions in other governmental entities;
- 4460 (25) records, other than personnel evaluations, that contain a personal recommendation  
4461 concerning an individual if disclosure would constitute a clearly unwarranted invasion of  
4462 personal privacy, or disclosure is not in the public interest;
- 4463 (26) records that reveal the location of historic, prehistoric, paleontological, or  
4464 biological resources that if known would jeopardize the security of those resources or of  
4465 valuable historic, scientific, educational, or cultural information;
- 4466 (27) records of independent state agencies if the disclosure of the records would  
4467 conflict with the fiduciary obligations of the agency;
- 4468 (28) records of an institution within the state system of higher education defined in  
4469 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,  
4470 retention decisions, and promotions, which could be properly discussed in a meeting closed in  
4471 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of  
4472 the final decisions about tenure, appointments, retention, promotions, or those students  
4473 admitted, may not be classified as protected under this section;
- 4474 (29) records of the governor's office, including budget recommendations, legislative  
4475 proposals, and policy statements, that if disclosed would reveal the governor's contemplated  
4476 policies or contemplated courses of action before the governor has implemented or rejected  
4477 those policies or courses of action or made them public;
- 4478 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,  
4479 revenue estimates, and fiscal notes of proposed legislation before issuance of the final  
4480 recommendations in these areas;
- 4481 (31) records provided by the United States or by a government entity outside the state



4482 that are given to the governmental entity with a requirement that they be managed as protected  
4483 records if the providing entity certifies that the record would not be subject to public disclosure  
4484 if retained by it;

4485 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body  
4486 except as provided in Section 52-4-206;

4487 (33) records that would reveal the contents of settlement negotiations but not including  
4488 final settlements or empirical data to the extent that they are not otherwise exempt from  
4489 disclosure;

4490 (34) memoranda prepared by staff and used in the decision-making process by an  
4491 administrative law judge, a member of the Board of Pardons and Parole, or a member of any  
4492 other body charged by law with performing a quasi-judicial function;

4493 (35) records that would reveal negotiations regarding assistance or incentives offered  
4494 by or requested from a governmental entity for the purpose of encouraging a person to expand  
4495 or locate a business in Utah, but only if disclosure would result in actual economic harm to the  
4496 person or place the governmental entity at a competitive disadvantage, but this section may not  
4497 be used to restrict access to a record evidencing a final contract;

4498 (36) materials to which access must be limited for purposes of securing or maintaining  
4499 the governmental entity's proprietary protection of intellectual property rights including patents,  
4500 copyrights, and trade secrets;

4501 (37) the name of a donor or a prospective donor to a governmental entity, including an  
4502 institution within the state system of higher education defined in Section 53B-1-102, and other  
4503 information concerning the donation that could reasonably be expected to reveal the identity of  
4504 the donor, provided that:

4505 (a) the donor requests anonymity in writing;

4506 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be  
4507 classified protected by the governmental entity under this Subsection (37); and

4508 (c) except for an institution within the state system of higher education defined in  
4509 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged

4510 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority  
4511 over the donor, a member of the donor's immediate family, or any entity owned or controlled  
4512 by the donor or the donor's immediate family;

4513 (38) accident reports, except as provided in Sections [41-6a-404](#), [41-12a-202](#), and  
4514 [73-18-13](#);

4515 (39) a notification of workers' compensation insurance coverage described in Section  
4516 [34A-2-205](#);

4517 (40) (a) the following records of an institution within the state system of higher  
4518 education defined in Section [53B-1-102](#), which have been developed, discovered, disclosed to,  
4519 or received by or on behalf of faculty, staff, employees, or students of the institution:

4520 (i) unpublished lecture notes;

4521 (ii) unpublished notes, data, and information:

4522 (A) relating to research; and

4523 (B) of:

4524 (I) the institution within the state system of higher education defined in Section  
4525 [53B-1-102](#); or

4526 (II) a sponsor of sponsored research;

4527 (iii) unpublished manuscripts;

4528 (iv) creative works in process;

4529 (v) scholarly correspondence; and

4530 (vi) confidential information contained in research proposals;

4531 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public  
4532 information required pursuant to Subsection [53B-16-302](#)(2)(a) or (b); and

4533 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

4534 (41) (a) records in the custody or control of the Office of Legislative Auditor General  
4535 that would reveal the name of a particular legislator who requests a legislative audit prior to the  
4536 date that audit is completed and made public; and

4537 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the

4538 Office of the Legislative Auditor General is a public document unless the legislator asks that  
4539 the records in the custody or control of the Office of Legislative Auditor General that would  
4540 reveal the name of a particular legislator who requests a legislative audit be maintained as  
4541 protected records until the audit is completed and made public;

4542 (42) records that provide detail as to the location of an explosive, including a map or  
4543 other document that indicates the location of:

4544 (a) a production facility; or

4545 (b) a magazine;

4546 (43) information:

4547 (a) contained in the statewide database of the Division of Aging and Adult Services  
4548 created by Section [62A-3-311.1](#); or

4549 (b) received or maintained in relation to the Identity Theft Reporting Information  
4550 System (IRIS) established under Section [67-5-22](#);

4551 (44) information contained in the Management Information System and Licensing  
4552 Information System described in Title 62A, Chapter 4a, Child and Family Services;

4553 (45) information regarding National Guard operations or activities in support of the  
4554 National Guard's federal mission;

4555 (46) records provided by any pawn or secondhand business to a law enforcement  
4556 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and  
4557 Secondhand Merchandise Transaction Information Act;

4558 (47) information regarding food security, risk, and vulnerability assessments performed  
4559 by the Department of Agriculture and Food;

4560 (48) except to the extent that the record is exempt from this chapter pursuant to Section  
4561 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or  
4562 prepared or maintained by the Division of Emergency Management, and the disclosure of  
4563 which would jeopardize:

4564 (a) the safety of the general public; or

4565 (b) the security of:

- 4566 (i) governmental property;
- 4567 (ii) governmental programs; or
- 4568 (iii) the property of a private person who provides the Division of Emergency  
4569 Management information;
- 4570 (49) records of the Department of Agriculture and Food that provides for the  
4571 identification, tracing, or control of livestock diseases, including any program established under  
4572 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control  
4573 of Animal Disease;
- 4574 (50) as provided in Section [26-39-501](#):
- 4575 (a) information or records held by the Department of Health related to a complaint  
4576 regarding a child care program or residential child care which the department is unable to  
4577 substantiate; and
- 4578 (b) information or records related to a complaint received by the Department of Health  
4579 from an anonymous complainant regarding a child care program or residential child care;
- 4580 (51) unless otherwise classified as public under Section [63G-2-301](#) and except as  
4581 provided under Section [41-1a-116](#), an individual's home address, home telephone number, or  
4582 personal mobile phone number, if:
  - 4583 (a) the individual is required to provide the information in order to comply with a law,  
4584 ordinance, rule, or order of a government entity; and
  - 4585 (b) the subject of the record has a reasonable expectation that this information will be  
4586 kept confidential due to:
    - 4587 (i) the nature of the law, ordinance, rule, or order; and
    - 4588 (ii) the individual complying with the law, ordinance, rule, or order;
- 4589 (52) the name, home address, work addresses, and telephone numbers of an individual  
4590 that is engaged in, or that provides goods or services for, medical or scientific research that is:
  - 4591 (a) conducted within the state system of higher education, as defined in Section  
4592 [53B-1-102](#); and
  - 4593 (b) conducted using animals;

4594 (53) an initial proposal under Title 63N, Chapter 13, Part 2, Government Procurement  
4595 Private Proposal Program, to the extent not made public by rules made under that chapter;

4596 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance  
4597 Evaluation Commission concerning an individual commissioner's vote on whether or not to  
4598 recommend that the voters retain a judge;

4599 (55) information collected and a report prepared by the Judicial Performance  
4600 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter  
4601 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,  
4602 the information or report;

4603 (56) records contained in the Management Information System created in Section  
4604 62A-4a-1003;

4605 (57) records provided or received by the Public Lands Policy Coordinating Office in  
4606 furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

4607 (58) information requested by and provided to the 911 Division under Section  
4608 63H-7a-302;

4609 (59) in accordance with Section 73-10-33:

4610 (a) a management plan for a water conveyance facility in the possession of the Division  
4611 of Water Resources or the Board of Water Resources; or

4612 (b) an outline of an emergency response plan in possession of the state or a county or  
4613 municipality;

4614 (60) the following records in the custody or control of the Office of Inspector General  
4615 of Medicaid Services, created in Section 63A-13-201:

4616 (a) records that would disclose information relating to allegations of personal  
4617 misconduct, gross mismanagement, or illegal activity of a person if the information or  
4618 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services  
4619 through other documents or evidence, and the records relating to the allegation are not relied  
4620 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation  
4621 report or final audit report;

4622 (b) records and audit workpapers to the extent they would disclose the identity of a  
4623 person who, during the course of an investigation or audit, communicated the existence of any  
4624 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or  
4625 regulation adopted under the laws of this state, a political subdivision of the state, or any  
4626 recognized entity of the United States, if the information was disclosed on the condition that  
4627 the identity of the person be protected;

4628 (c) before the time that an investigation or audit is completed and the final  
4629 investigation or final audit report is released, records or drafts circulated to a person who is not  
4630 an employee or head of a governmental entity for the person's response or information;

4631 (d) records that would disclose an outline or part of any investigation, audit survey  
4632 plan, or audit program; or

4633 (e) requests for an investigation or audit, if disclosure would risk circumvention of an  
4634 investigation or audit;

4635 (61) records that reveal methods used by the Office of Inspector General of Medicaid  
4636 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or  
4637 abuse;

4638 (62) information provided to the Department of Health or the Division of Occupational  
4639 and Professional Licensing under Subsection 58-68-304(3) or (4);

4640 (63) a record described in Section 63G-12-210;

4641 (64) captured plate data that is obtained through an automatic license plate reader  
4642 system used by a governmental entity as authorized in Section 41-6a-2003; ~~and~~

4643 (65) any record in the custody of the Utah Office for Victims of Crime relating to a  
4644 victim, including:

4645 (a) a victim's application or request for benefits;

4646 (b) a victim's receipt or denial of benefits; and

4647 (c) any administrative notes or records made or created for the purpose of, or used to,  
4648 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim  
4649 Reparations Fund[-]; and

4650            (66) a record pertaining to the search process for a president of an institution of higher  
4651 education described in Section 53B-2-102, except for application materials for a publicly  
4652 announced finalist.

4653            Section 63. Section **63G-6a-103** is amended to read:

4654            **63G-6a-103. Definitions.**

4655            As used in this chapter:

4656            (1) "Administrative law judge" means the same as that term is defined in Section  
4657 **67-19e-102.**

4658            (2) "Administrative law judge service" means service provided by an administrative  
4659 law judge.

4660            (3) "Applicable rulemaking authority" means:

4661            (a) for a legislative procurement unit, the Legislative Management Committee;

4662            (b) for a judicial procurement unit, the Judicial Council;

4663            (c) (i) only to the extent of the procurement authority expressly granted to the  
4664 procurement unit by statute:

4665            (A) for the building board or the Division of Facilities Construction and Management,  
4666 created in Section **63A-5-201**, the building board;

4667            (B) for the Office of the Attorney General, the attorney general; and

4668            (C) for the Department of Transportation created in Section **72-1-201**, the executive  
4669 director of the Department of Transportation; and

4670            (ii) for each other executive branch procurement unit, the board;

4671            (d) for a local government procurement unit:

4672            (i) the legislative body of the local government procurement unit; or

4673            (ii) an individual or body designated by the legislative body of the local government  
4674 procurement unit;

4675            (e) for a school district or a public school, the board, except to the extent of a school  
4676 district's own nonadministrative rules that do not conflict with the provisions of this chapter;

4677            (f) for a state institution of higher education described in:

- 4678           (i) Subsections 53B-1-102(1)(a) and (c), the State Board of Regents; or
- 4679           (ii) Subsection 53B-1-102(1)(b), the Utah System of Technical Colleges Board of
- 4680 Trustees;
- 4681           (g) for a public transit district, the chief executive of the public transit district;
- 4682           (h) for a local district other than a public transit district or for a special service district:
- 4683           (i) before January 1, 2015, the board of trustees of the local district or the governing
- 4684 body of the special service district; or
- 4685           (ii) on or after January 1, 2015, the board, except to the extent that the board of trustees
- 4686 of the local district or the governing body of the special service district makes its own rules:
- 4687           (A) with respect to a subject addressed by board rules; or
- 4688           (B) that are in addition to board rules; or
- 4689           (i) for any other procurement unit, the board.
- 4690           (4) "Approved vendor" means a vendor who has been approved through the approved
- 4691 vendor list process.
- 4692           (5) "Approved vendor list" means a list of approved vendors established under Section
- 4693 [63G-6a-507](#).
- 4694           (6) "Approved vendor list process" means the procurement process described in
- 4695 Section [63G-6a-507](#).
- 4696           (7) "Bidder" means a person who submits a bid or price quote in response to an
- 4697 invitation for bids.
- 4698           (8) "Bidding process" means the procurement process described in Part 6, Bidding.
- 4699           (9) "Board" means the Utah State Procurement Policy Board, created in Section
- 4700 [63G-6a-202](#).
- 4701           (10) "Building board" means the State Building Board, created in Section [63A-5-101](#).
- 4702           (11) "Change directive" means a written order signed by the procurement officer that
- 4703 directs the contractor to suspend work or make changes, as authorized by contract, without the
- 4704 consent of the contractor.
- 4705           (12) "Change order" means a written alteration in specifications, delivery point, rate of



4706 delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual  
4707 agreement of the parties to the contract.

4708 (13) "Chief procurement officer" means the chief procurement officer appointed under  
4709 Subsection [63G-6a-302\(1\)](#).

4710 (14) "Conducting procurement unit" means a procurement unit that conducts all  
4711 aspects of a procurement:

4712 (a) except:

4713 (i) reviewing a solicitation to verify that it is in proper form; and

4714 (ii) causing the publication of a notice of a solicitation; and

4715 (b) including:

4716 (i) preparing any solicitation document;

4717 (ii) appointing an evaluation committee;

4718 (iii) conducting the evaluation process, except as provided in Subsection

4719 [63G-6a-707\(6\)\(b\)](#) relating to scores calculated for costs of proposals;

4720 (iv) selecting and recommending the person to be awarded a contract;

4721 (v) negotiating the terms and conditions of a contract, subject to the issuing  
4722 procurement unit's approval; and

4723 (vi) contract administration.

4724 (15) "Conservation district" means the same as that term is defined in Section  
4725 [17D-3-102](#).

4726 (16) "Construction":

4727 (a) means services, including work, and supplies for a project for the construction,  
4728 renovation, alteration, improvement, or repair of a public facility on real property; and

4729 (b) does not include services and supplies for the routine, day-to-day operation, repair,  
4730 or maintenance of an existing public facility.

4731 (17) "Construction manager/general contractor":

4732 (a) means a contractor who enters into a contract:

4733 (i) for the management of a construction project; and

4734 (ii) that allows the contractor to subcontract for additional labor and materials that are  
4735 not included in the contractor's cost proposal submitted at the time of the procurement of the  
4736 contractor's services; and

4737 (b) does not include a contractor whose only subcontract work not included in the  
4738 contractor's cost proposal submitted as part of the procurement of the contractor's services is to  
4739 meet subcontracted portions of change orders approved within the scope of the project.

4740 (18) "Contract" means an agreement for a procurement.

4741 (19) "Contract administration" means all functions, duties, and responsibilities  
4742 associated with managing, overseeing, and carrying out a contract between a procurement unit  
4743 and a contractor, including:

4744 (a) implementing the contract;

4745 (b) ensuring compliance with the contract terms and conditions by the conducting  
4746 procurement unit and the contractor;

4747 (c) executing change orders;

4748 (d) processing contract amendments;

4749 (e) resolving, to the extent practicable, contract disputes;

4750 (f) curing contract errors and deficiencies;

4751 (g) terminating a contract;

4752 (h) measuring or evaluating completed work and contractor performance;

4753 (i) computing payments under the contract; and

4754 (j) closing out a contract.

4755 (20) "Contractor" means a person who is awarded a contract with a procurement unit.

4756 (21) "Cooperative procurement" means procurement conducted by, or on behalf of:

4757 (a) more than one procurement unit; or

4758 (b) a procurement unit and a cooperative purchasing organization.

4759 (22) "Cooperative purchasing organization" means an organization, association, or  
4760 alliance of purchasers established to combine purchasing power in order to obtain the best  
4761 value for the purchasers by engaging in procurements in accordance with Section [63G-6a-2105](#).

4762 (23) "Cost-plus-a-percentage-of-cost contract" means a contract under which the  
4763 contractor is paid a percentage of the total actual expenses or costs in addition to the  
4764 contractor's actual expenses or costs.

4765 (24) "Cost-reimbursement contract" means a contract under which a contractor is  
4766 reimbursed for costs which are allowed and allocated in accordance with the contract terms and  
4767 the provisions of this chapter, and a fee, if any.

4768 (25) "Days" means calendar days, unless expressly provided otherwise.

4769 (26) "Definite quantity contract" means a fixed price contract that provides for a  
4770 specified amount of supplies over a specified period, with deliveries scheduled according to a  
4771 specified schedule.

4772 (27) "Design-build" means the procurement of design professional services and  
4773 construction by the use of a single contract.

4774 (28) "Design professional" means:

4775 (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects  
4776 Licensing Act; or

4777 (b) an individual licensed as a professional engineer or professional land surveyor  
4778 under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing  
4779 Act.

4780 (29) "Design professional procurement process" means the procurement process  
4781 described in Part 15, Design Professional Services.

4782 (30) "Design professional services" means:

4783 (a) professional services within the scope of the practice of architecture as defined in  
4784 Section [58-3a-102](#);

4785 (b) professional engineering as defined in Section [58-22-102](#); or

4786 (c) master planning and programming services.

4787 (31) "Director" means the director of the division.

4788 (32) "Division" means the Division of Purchasing and General Services, created in  
4789 Section [63A-2-101](#).

- 4790 (33) "Educational procurement unit" means:
- 4791 (a) a school district;
- 4792 (b) a public school, including a local school board ~~and~~ or a charter school;
- 4793 (c) the Utah Schools for the Deaf and Blind;
- 4794 (d) the Utah Education and Telehealth Network; or
- 4795 (e) an institution of higher education of the state described in Section [53B-1-102](#).
- 4796 (34) "Established catalogue price" means the price included in a catalogue, price list,
- 4797 schedule, or other form that:
- 4798 (a) is regularly maintained by a manufacturer or contractor;
- 4799 (b) is published or otherwise available for inspection by customers; and
- 4800 (c) states prices at which sales are currently or were last made to a significant number
- 4801 of any category of buyers or buyers constituting the general buying public for the supplies or
- 4802 services involved.
- 4803 (35) "Executive branch procurement unit" means a department, division, office,
- 4804 bureau, agency, or other organization within the state executive branch.
- 4805 (36) "Fixed price contract" means a contract that provides a price, for each
- 4806 procurement item obtained under the contract, that is not subject to adjustment except to the
- 4807 extent that:
- 4808 (a) the contract provides, under circumstances specified in the contract, for an
- 4809 adjustment in price that is not based on cost to the contractor; or
- 4810 (b) an adjustment is required by law.
- 4811 (37) "Fixed price contract with price adjustment" means a fixed price contract that
- 4812 provides for an upward or downward revision of price, precisely described in the contract, that:
- 4813 (a) is based on the consumer price index or another commercially acceptable index,
- 4814 source, or formula; and
- 4815 (b) is not based on a percentage of the cost to the contractor.
- 4816 (38) "Grant" means an expenditure of public funds or other assistance, or an agreement
- 4817 to expend public funds or other assistance, for a public purpose authorized by law, without

- 4818 acquiring a procurement item in exchange.
- 4819 (39) "Head of a procurement unit" means:
- 4820 (a) for a legislative procurement unit, any person designated by rule made by the
- 4821 applicable rulemaking authority;
- 4822 (b) for an executive branch procurement unit:
- 4823 (i) the director of the division; or
- 4824 (ii) any other person designated by the board, by rule;
- 4825 (c) for a judicial procurement unit:
- 4826 (i) the Judicial Council; or
- 4827 (ii) any other person designated by the Judicial Council, by rule;
- 4828 (d) for a local government procurement unit:
- 4829 (i) the legislative body of the local government procurement unit; or
- 4830 (ii) any other person designated by the local government procurement unit;
- 4831 (e) for a local district other than a public transit district, the board of trustees of the
- 4832 local district or a designee of the board of trustees;
- 4833 (f) for a special service district, the governing body of the special service district or a
- 4834 designee of the governing body;
- 4835 (g) for a local building authority, the board of directors of the local building authority or
- 4836 a designee of the board of directors;
- 4837 (h) for a conservation district, the board of supervisors of the conservation district or a
- 4838 designee of the board of supervisors;
- 4839 (i) for a public corporation, the board of directors of the public corporation or a
- 4840 designee of the board of directors;
- 4841 (j) for a school district or any school or entity within a school district, the board of the
- 4842 school district, or the board's designee;
- 4843 (k) for a charter school, the individual or body with executive authority over the charter
- 4844 school, or the individual's or body's designee;
- 4845 (l) for an institution of higher education [~~of the state~~] described in Section [53B-2-101](#),

4846 the president of the institution of higher education, or the president's designee; or

4847 (m) for a public transit district, the board of trustees or a designee of the board of  
4848 trustees.

4849 (40) "Immaterial error":

4850 (a) means an irregularity or abnormality that is:

4851 (i) a matter of form that does not affect substance; or

4852 (ii) an inconsequential variation from a requirement of a solicitation that has no, little,  
4853 or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

4854 (b) includes:

4855 (i) a missing signature, missing acknowledgment of an addendum, or missing copy of a  
4856 professional license, bond, or insurance certificate;

4857 (ii) a typographical error;

4858 (iii) an error resulting from an inaccuracy or omission in the solicitation; and

4859 (iv) any other error that the chief procurement officer or the head of a procurement unit  
4860 with independent procurement authority reasonably considers to be immaterial.

4861 (41) "Indefinite quantity contract" means a fixed price contract that:

4862 (a) is for an indefinite amount of procurement items to be supplied as ordered by a  
4863 procurement unit; and

4864 (b) (i) does not require a minimum purchase amount; or

4865 (ii) provides a maximum purchase limit.

4866 (42) "Independent procurement authority" means authority granted to a procurement  
4867 unit under Subsection [63G-6a-106\(4\)\(a\)](#).

4868 (43) "Invitation for bids":

4869 (a) means a document used to solicit:

4870 (i) bids to provide a procurement item to a procurement unit; or

4871 (ii) quotes for a price of a procurement item to be provided to a procurement unit; and

4872 (b) includes all documents attached to or incorporated by reference in a document  
4873 described in Subsection (43)(a).

- 4874 (44) "Issuing procurement unit" means a procurement unit that:
- 4875 (a) reviews a solicitation to verify that it is in proper form;
- 4876 (b) causes the notice of a solicitation to be published; and
- 4877 (c) negotiates and approves the terms and conditions of a contract.
- 4878 (45) "Judicial procurement unit" means:
- 4879 (a) the Utah Supreme Court;
- 4880 (b) the Utah Court of Appeals;
- 4881 (c) the Judicial Council;
- 4882 (d) a state judicial district; or
- 4883 (e) an office, committee, subcommittee, or other organization within the state judicial
- 4884 branch.
- 4885 (46) "Labor hour contract" is a contract under which:
- 4886 (a) the supplies and materials are not provided by, or through, the contractor; and
- 4887 (b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and
- 4888 profit for a specified number of labor hours or days.
- 4889 (47) "Legislative procurement unit" means:
- 4890 (a) the Legislature;
- 4891 (b) the Senate;
- 4892 (c) the House of Representatives;
- 4893 (d) a staff office of the Legislature, the Senate, or the House of Representatives; or
- 4894 (e) an office, committee, subcommittee, commission, or other organization within the
- 4895 state legislative branch.
- 4896 (48) "Local building authority" means the same as that term is defined in Section
- 4897 [17D-2-102](#).
- 4898 (49) "Local district" means the same as that term is defined in Section [17B-1-102](#).
- 4899 (50) "Local government procurement unit" means:
- 4900 (a) a county or municipality, and each office or agency of the county or municipality,
- 4901 unless the county or municipality adopts its own procurement code by ordinance;

4902 (b) a county or municipality that has adopted this entire chapter by ordinance, and each  
4903 office or agency of that county or municipality; or

4904 (c) a county or municipality that has adopted a portion of this chapter by ordinance, to  
4905 the extent that a term in the ordinance is used in the adopted portion of this chapter, and each  
4906 office or agency of that county or municipality.

4907 (51) "Multiple award contracts" means the award of a contract for an indefinite  
4908 quantity of a procurement item to more than one bidder or offeror.

4909 (52) "Multiyear contract" means a contract that extends beyond a one-year period,  
4910 including a contract that permits renewal of the contract, without competition, beyond the first  
4911 year of the contract.

4912 (53) "Municipality" means a city, town, or metro township.

4913 (54) "Nonadopting local government procurement unit" means:

4914 (a) a county or municipality that has not adopted Part 16, Protests, Part 17,  
4915 Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19,  
4916 General Provisions Related to Protest or Appeal; and

4917 (b) each office or agency of a county or municipality described in Subsection (54)(a).

4918 (55) "Offeror" means a person who submits a proposal in response to a request for  
4919 proposals.

4920 (56) "Person" means the same as that term is defined in Section [68-3-12.5](#), excluding a  
4921 political subdivision and a government office, department, division, bureau, or other body of  
4922 government.

4923 (57) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference  
4924 under the requirements of this chapter.

4925 (58) "Procure" means to acquire a procurement item through a procurement.

4926 (59) "Procurement":

4927 (a) means a procurement unit's acquisition of a procurement item through an  
4928 expenditure of public funds, or an agreement to expend public funds;

4929 (b) includes all functions that pertain to the acquisition of a procurement item,



- 4930 including:
- 4931 (i) preparing and issuing a solicitation; and
- 4932 (ii) (A) conducting a standard procurement process; or
- 4933 (B) conducting a procurement process that is an exception to a standard procurement
- 4934 process under Part 8, Exceptions to Procurement Requirements; and
- 4935 (c) does not include a grant.
- 4936 (60) "Procurement item" means a supply, a service, or construction.
- 4937 (61) "Procurement officer" means:
- 4938 (a) for a procurement unit with independent procurement authority:
- 4939 (i) the head of the procurement unit;
- 4940 (ii) a designee of the head of the procurement unit; or
- 4941 (iii) a person designated by rule made by the applicable rulemaking authority; or
- 4942 (b) for the division or a procurement unit without independent procurement authority,
- 4943 the chief procurement officer.
- 4944 (62) "Procurement unit":
- 4945 (a) means:
- 4946 (i) a legislative procurement unit;
- 4947 (ii) an executive branch procurement unit;
- 4948 (iii) a judicial procurement unit;
- 4949 (iv) an educational procurement unit;
- 4950 (v) a local government procurement unit;
- 4951 (vi) a local district;
- 4952 (vii) a special service district;
- 4953 (viii) a local building authority;
- 4954 (ix) a conservation district;
- 4955 (x) a public corporation; or
- 4956 (xi) a public transit district; and
- 4957 (b) does not include a political subdivision created under Title 11, Chapter 13,

4958 Interlocal Cooperation Act.

4959 (63) "Professional service" means labor, effort, or work that requires an elevated  
4960 degree of specialized knowledge and discretion, including labor, effort, or work in the field of:

- 4961 (a) accounting;
- 4962 (b) architecture;
- 4963 (c) construction design and management;
- 4964 (d) engineering;
- 4965 (e) financial services;
- 4966 (f) information technology;
- 4967 (g) the law;
- 4968 (h) medicine;
- 4969 (i) psychiatry; or
- 4970 (j) underwriting.

4971 (64) "Protest officer" means:

4972 (a) for the division or a procurement unit with independent procurement authority:

- 4973 (i) the head of the procurement unit;
- 4974 (ii) a designee of the head of the procurement unit; or
- 4975 (iii) a person designated by rule made by the applicable rulemaking authority; or

4976 (b) for a procurement unit without independent procurement authority, the chief  
4977 procurement officer or the chief procurement officer's designee.

4978 (65) "Public corporation" means the same as that term is defined in Section [63E-1-102](#).

4979 (66) "Public entity" means any government entity of the state or political subdivision of  
4980 the state, including:

- 4981 (a) a procurement unit;
- 4982 (b) a municipality or county, regardless of whether the municipality or county has  
4983 adopted this chapter or any part of this chapter; and
- 4984 (c) any other government entity located in the state that expends public funds.

4985 (67) "Public facility" means a building, structure, infrastructure, improvement, or other

4986 facility of a public entity.

4987 (68) "Public funds" means money, regardless of its source, including from the federal  
4988 government, that is owned or held by a procurement unit.

4989 (69) "Public transit district" means a public transit district organized under Title 17B,  
4990 Chapter 2a, Part 8, Public Transit District Act.

4991 (70) "Qualified vendor" means a vendor who:

4992 (a) is responsible; and

4993 (b) submits a responsive statement of qualifications under Section 63G-6a-410 that  
4994 meets the minimum mandatory requirements, evaluation criteria, and any applicable score  
4995 thresholds set forth in the request for statement of qualifications.

4996 (71) "Real property" means land and any building, fixture, improvement, appurtenance,  
4997 structure, or other development that is permanently affixed to land.

4998 (72) "Request for information" means a nonbinding process through which a  
4999 procurement unit requests information relating to a procurement item.

5000 (73) "Request for proposals" means a document used to solicit proposals to provide a  
5001 procurement item to a procurement unit, including all other documents that are attached to that  
5002 document or incorporated in that document by reference.

5003 (74) "Request for proposals process" means the procurement process described in Part  
5004 7, Request for Proposals.

5005 (75) "Request for statement of qualifications" means a document used to solicit  
5006 information about the qualifications of a person interested in responding to a potential  
5007 procurement, including all other documents attached to that document or incorporated in that  
5008 document by reference.

5009 (76) "Requirements contract" means a contract:

5010 (a) under which a contractor agrees to provide a procurement unit's entire requirements  
5011 for certain procurement items at prices specified in the contract during the contract period; and

5012 (b) that:

5013 (i) does not require a minimum purchase amount; or

- 5014 (ii) provides a maximum purchase limit.
- 5015 (77) "Responsible" means being capable, in all respects, of:
- 5016 (a) meeting all the requirements of a solicitation; and
- 5017 (b) fully performing all the requirements of the contract resulting from the solicitation,
- 5018 including being financially solvent with sufficient financial resources to perform the contract.
- 5019 (78) "Responsive" means conforming in all material respects to the requirements of a
- 5020 solicitation.
- 5021 (79) "Sealed" means manually or electronically secured to prevent disclosure.
- 5022 (80) "Service":
- 5023 (a) means labor, effort, or work to produce a result that is beneficial to a procurement
- 5024 unit;
- 5025 (b) includes a professional service; and
- 5026 (c) does not include labor, effort, or work provided under an employment agreement or
- 5027 a collective bargaining agreement.
- 5028 (81) "Small purchase process" means the procurement process described in Section
- 5029 [63G-6a-506](#).
- 5030 (82) "Sole source contract" means a contract resulting from a sole source procurement.
- 5031 (83) "Sole source procurement" means a procurement without competition pursuant to
- 5032 a determination under Subsection [63G-6a-802\(1\)\(a\)](#) that there is only one source for the
- 5033 procurement item.
- 5034 (84) "Solicitation" means an invitation for bids, request for proposals, request for
- 5035 statement of qualifications, or request for information.
- 5036 (85) "Solicitation response" means:
- 5037 (a) a bid submitted in response to an invitation for bids;
- 5038 (b) a proposal submitted in response to a request for proposals; or
- 5039 (c) a statement of qualifications submitted in response to a request for statement of
- 5040 qualifications.
- 5041 (86) "Special service district" means the same as that term is defined in Section

5042 17D-1-102.

5043 (87) "Specification" means any description of the physical or functional characteristics  
5044 or of the nature of a procurement item included in an invitation for bids or a request for  
5045 proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

5046 (a) a requirement for inspecting or testing a procurement item; or

5047 (b) preparing a procurement item for delivery.

5048 (88) "Standard procurement process" means:

5049 (a) the bidding process;

5050 (b) the request for proposals process;

5051 (c) the approved vendor list process;

5052 (d) the small purchase process; or

5053 (e) the design professional procurement process.

5054 (89) "State cooperative contract" means a contract awarded by the division for and in  
5055 behalf of all public entities.

5056 (90) "Statement of qualifications" means a written statement submitted to a  
5057 procurement unit in response to a request for statement of qualifications.

5058 (91) "Subcontractor":

5059 (a) means a person under contract with a contractor or another subcontractor to provide  
5060 services or labor for design or construction;

5061 (b) includes a trade contractor or specialty contractor; and

5062 (c) does not include a supplier who provides only materials, equipment, or supplies to a  
5063 contractor or subcontractor.

5064 (92) "Supply" means a good, material, technology, piece of equipment, or any other  
5065 item of personal property.

5066 (93) "Tie bid" means that the lowest responsive bids of responsible bidders are  
5067 identical in price.

5068 (94) "Time and materials contract" means a contract under which the contractor is paid:

5069 (a) the actual cost of direct labor at specified hourly rates;

- 5070 (b) the actual cost of materials and equipment usage; and  
5071 (c) an additional amount, expressly described in the contract, to cover overhead and  
5072 profit, that is not based on a percentage of the cost to the contractor.
- 5073 (95) "Transitional costs":  
5074 (a) means the costs of changing:  
5075 (i) from an existing provider of a procurement item to another provider of that  
5076 procurement item; or  
5077 (ii) from an existing type of procurement item to another type;
- 5078 (b) includes:  
5079 (i) training costs;  
5080 (ii) conversion costs;  
5081 (iii) compatibility costs;  
5082 (iv) costs associated with system downtime;  
5083 (v) disruption of service costs;  
5084 (vi) staff time necessary to implement the change;  
5085 (vii) installation costs; and  
5086 (viii) ancillary software, hardware, equipment, or construction costs; and
- 5087 (c) does not include:  
5088 (i) the costs of preparing for or engaging in a procurement process; or  
5089 (ii) contract negotiation or drafting costs.
- 5090 (96) "Trial use contract" means a contract for a procurement item that the procurement  
5091 unit acquires for a trial use or testing to determine whether the procurement item will benefit  
5092 the procurement unit.
- 5093 (97) "Vendor":  
5094 (a) means a person who is seeking to enter into a contract with a procurement unit to  
5095 provide a procurement item; and  
5096 (b) includes:  
5097 (i) a bidder;

- 5098 (ii) an offeror;
  - 5099 (iii) an approved vendor; and
  - 5100 (iv) a design professional.
- 5101 Section 64. Section **63J-3-103** is amended to read:
- 5102 **63J-3-103. Definitions.**
- 5103 As used in this chapter:
- 5104 (1) (a) "Appropriations" means actual unrestricted capital and operating appropriations
  - 5105 from unrestricted General Fund and Education Fund sources.
  - 5106 (b) "Appropriations" includes appropriations that are contingent upon available
  - 5107 surpluses in the General Fund and Education Fund.
  - 5108 (c) "Appropriations" does not mean:
  - 5109 (i) public education expenditures;
  - 5110 (ii) Utah Education and Telehealth Network expenditures in support of public
  - 5111 education;
  - 5112 (iii) Utah [~~College of Applied Technology~~] System of Technical Colleges expenditures
  - 5113 in support of public education;
  - 5114 (iv) State Tax Commission expenditures related to collection of income taxes in
  - 5115 support of public education;
  - 5116 (v) debt service expenditures;
  - 5117 (vi) emergency expenditures;
  - 5118 (vii) expenditures from all other fund or subfund sources;
  - 5119 (viii) transfers or appropriations from the Education Fund to the Uniform School Fund;
  - 5120 (ix) transfers into, or appropriations made to, the General Fund Budget Reserve
  - 5121 Account established in Section **63J-1-312**;
  - 5122 (x) transfers into, or appropriations made to, the Education Budget Reserve Account
  - 5123 established in Section **63J-1-313**;
  - 5124 (xi) transfers in accordance with Section **63J-1-314** into, or appropriations made to the
  - 5125 Wildland Fire Suppression Fund created in Section **65A-8-204** or the State Disaster Recovery

- 5126 Restricted Account created in Section 53-2a-603;
- 5127 (xii) money appropriated to fund the total one-time project costs for the construction of  
5128 capital developments as defined in Section 63A-5-104;
- 5129 (xiii) transfers or deposits into or appropriations made to the Centennial Highway Fund  
5130 created by Section 72-2-118;
- 5131 (xiv) transfers or deposits into or appropriations made to the Transportation Investment  
5132 Fund of 2005 created by Section 72-2-124;
- 5133 (xv) transfers or deposits into or appropriations made to:
- 5134 (A) the Department of Transportation from any source; or
- 5135 (B) any transportation-related account or fund from any source; or
- 5136 (xvi) supplemental appropriations from the General Fund to the Division of Forestry,  
5137 Fire, and State Lands to provide money for wildland fire control expenses incurred during the  
5138 current or previous fire years.
- 5139 (2) "Base year real per capita appropriations" means the result obtained for the state by  
5140 dividing the fiscal year 1985 actual appropriations of the state less debt money by:
- 5141 (a) the state's July 1, 1983 population; and
- 5142 (b) the fiscal year 1983 inflation index divided by 100.
- 5143 (3) "Calendar year" means the time period beginning on January 1 of any given year  
5144 and ending on December 31 of the same year.
- 5145 (4) "Fiscal emergency" means an extraordinary occurrence requiring immediate  
5146 expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session,  
5147 Chapter 4.
- 5148 (5) "Fiscal year" means the time period beginning on July 1 of any given year and  
5149 ending on June 30 of the subsequent year.
- 5150 (6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual  
5151 capital and operations appropriations from General Fund and non-Uniform School Fund  
5152 income tax revenue sources, less debt money.
- 5153 (7) "Inflation index" means the change in the general price level of goods and services



5154 as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic  
5155 Analysis, U.S. Department of Commerce calculated as provided in Section 63J-3-202.

5156 (8) (a) "Maximum allowable appropriations limit" means the appropriations that could  
5157 be, or could have been, spent in any given year under the limitations of this chapter.

5158 (b) "Maximum allowable appropriations limit" does not mean actual appropriations  
5159 spent or actual expenditures.

5160 (9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two  
5161 fiscal years previous to the fiscal year for which the maximum allowable inflation and  
5162 population appropriations limit is being computed under this chapter.

5163 (10) "Most recent fiscal year's population" means the fiscal year population two fiscal  
5164 years previous to the fiscal year for which the maximum allowable inflation and population  
5165 appropriations limit is being computed under this chapter.

5166 (11) "Population" means the number of residents of the state as of July 1 of each year  
5167 as calculated by the Governor's Office of Management and Budget according to the procedures  
5168 and requirements of Section 63J-3-202.

5169 (12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and  
5170 other monetary exaction and interest connected with it that are recorded as unrestricted revenue  
5171 of the General Fund and from non-Uniform School Fund income tax revenues, except as  
5172 specifically exempted by this chapter.

5173 (13) "Security" means any bond, note, warrant, or other evidence of indebtedness,  
5174 whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an  
5175 "indebtedness" within the meaning of any provision of the constitution or laws of this state.

5176 Section 65. Section 63N-12-203 is amended to read:

5177 **63N-12-203. STEM Action Center Board creation -- Membership.**

5178 (1) There is created the STEM Action Center Board within the office, composed of the  
5179 following members:

5180 (a) six private sector members who represent business, appointed by the governor;

5181 (b) the state superintendent of public instruction or the state superintendent of public

5182 instruction's designee;

5183 (c) the commissioner of higher education or the commissioner of higher education's  
5184 designee;

5185 (d) one member appointed by the governor;

5186 (e) a member of the State Board of Education, chosen by the chair of the State Board of  
5187 Education;

5188 (f) the executive director of the office or the executive director's designee;

5189 (g) the Utah [~~College of Applied Technology~~] System of Technical Colleges  
5190 commissioner of technical education or the Utah [~~College of Applied Technology~~] System of  
5191 Technical Colleges commissioner of technical education's designee;

5192 (h) the executive director of the Department of Workforce Services or the executive  
5193 director of the Department of Workforce Services' designee; and

5194 (i) one member who has a degree in engineering and experience working in a  
5195 government military installation, appointed by the governor.

5196 (2) (a) The private sector members appointed by the governor in Subsection (1)(a) shall  
5197 represent a business or trade association whose primary focus is science, technology, or  
5198 engineering.

5199 (b) Except as required by Subsection (2)(c), members appointed by the governor shall  
5200 be appointed to four-year terms.

5201 (c) The length of terms of the members shall be staggered so that approximately half of  
5202 the committee is appointed every two years.

5203 (d) The members may not serve more than two full consecutive terms except where the  
5204 governor determines that an additional term is in the best interest of the state.

5205 (e) When a vacancy occurs in the membership for any reason, the replacement shall be  
5206 appointed for the unexpired term.

5207 (3) Attendance of a simple majority of the members constitutes a quorum for the  
5208 transaction of official committee business.

5209 (4) Formal action by the committee requires a majority vote of a quorum.

5210 (5) A member may not receive compensation or benefits for the member's service, but  
5211 may receive per diem and travel expenses in accordance with:

- 5212 (a) Section [63A-3-106](#);
- 5213 (b) Section [63A-3-107](#); and
- 5214 (c) rules made by the Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#).

5215 (6) The governor shall select the chair of the board to serve a two-year term.

5216 (7) The executive director of the office or the executive director's designee shall serve  
5217 as the vice chair of the board.

5218 Section 66. Section **63N-12-212** is amended to read:

5219 **63N-12-212. High school STEM education initiative.**

5220 (1) Subject to legislative appropriations, after consulting with State Board of Education  
5221 staff, the STEM Action Center shall award grants to school districts and charter schools to fund  
5222 STEM related certification for high school students.

5223 (2) (a) A school district or charter school may apply for a grant from the STEM Action  
5224 Center, through a competitive process, to fund the school district's or charter school's STEM  
5225 related certification training program.

5226 (b) A school district's or charter school's STEM related certification training program  
5227 shall:

5228 (i) prepare high school students to be job ready for available STEM related positions of  
5229 employment; and

5230 (ii) when a student completes the program, result in the student gaining an  
5231 industry-recognized employer STEM related certification.

5232 (3) A school district or charter school may partner with one or more of the following to  
5233 provide a STEM related certification program:

5234 [~~(a) an applied technology college within the Utah College of Applied Technology;~~]

5235 (a) a technical college described in Section [53B-2a-105](#);

5236 (b) Salt Lake Community College;

5237 (c) Snow College;

5238 (d) Utah State University Eastern; or

5239 (e) a private sector employer.

5240 Section 67. Section **63N-12-213** is amended to read:

5241 **63N-12-213. Computer science initiative for public schools.**

5242 (1) As used in this section:

5243 (a) "Computational thinking" means the set of problem-solving skills and techniques  
5244 that software engineers use to write programs that underlie computer applications, including  
5245 decomposition, pattern recognition, pattern generalization, and algorithm design.

5246 (b) "Computer coding" means the process of writing script for a computer program or  
5247 mobile device.

5248 (c) "Educator" means the same as that term is defined in Section [53A-6-103](#).

5249 (d) "Endorsement" means a stipulation, authorized by the State Board of Education and  
5250 appended to a license, that specifies the areas of practice to which the license applies.

5251 (e) (i) "Institution of higher education" means the same as that term is defined in  
5252 Section [53B-3-102](#).

5253 (ii) "Institution of higher education" includes [~~the Utah College of Applied~~  
5254 ~~Technology~~] a technical college described in Section [53B-2a-105](#).

5255 (f) "Employer" means a private employer, public employer, industry association, union,  
5256 or the military.

5257 (g) "License" means the same as that term is defined in Section [53A-6-103](#).

5258 (2) Subject to legislative appropriations, on behalf of the board, the staff of the board  
5259 and the staff of the State Board of Education shall collaborate to develop and implement a  
5260 computer science initiative for public schools by:

5261 (a) creating an online repository that:

5262 (i) is available for school districts and charter schools to use as a resource; and

5263 (ii) includes high quality computer science instructional resources that are designed to  
5264 teach students in all grade levels:

5265 (A) computational thinking skills; and

5266 (B) computer coding skills;

5267 (b) providing for professional development on teaching computer science by:

5268 (i) including resources for educators related to teaching computational thinking and

5269 computer coding in the STEM education high quality professional development application

5270 described in Section [63N-12-210](#); and

5271 (ii) providing statewide or regional professional development institutes; and

5272 (c) awarding grants to a school district or charter school, on a competitive basis, that

5273 may be used to provide incentives for an educator to earn a computer science endorsement.

5274 (3) A school district or charter school may enter into an agreement with one or more of

5275 the following entities to jointly apply for a grant under Subsection (2)(c):

5276 (a) a school district;

5277 (b) a charter school;

5278 (c) an employer;

5279 (d) an institution of higher education; or

5280 (e) a non-profit organization.

5281 (4) To apply for a grant described in Subsection (2)(c), a school district or charter

5282 school shall submit a plan to the State Board of Education for the use of the grant, including a

5283 statement of purpose that describes the methods the school district or charter school proposes

5284 to use to incentivize an educator to earn a computer science endorsement.

5285 (5) The board and the State Board of Education shall encourage schools to

5286 independently pursue computer science and coding initiatives, subject to local school board or

5287 charter school governing board approval, based on the unique needs of the school's students.

5288 (6) The board shall include information on the status of the computer science initiative

5289 in the annual report described in Section [63N-12-208](#).

5290 Section 68. Section **67-1-12** is amended to read:

5291 **67-1-12. Displaced defense workers.**

5292 (1) The governor, through the Department of Workforce Services, may use funds

5293 specifically appropriated by the Legislature to benefit, in a manner prescribed by Subsection

5294 (2):

5295 (a) Department of Defense employees within the state who lose their employment  
5296 because of reductions in defense spending by the federal government;

5297 (b) persons dismissed by a defense-related industry employer because of reductions in  
5298 federal government defense contracts received by the employer; and

5299 (c) defense-related businesses in the state that have been severely and adversely  
5300 impacted because of reductions in defense spending.

5301 (2) Funds appropriated under this section before fiscal year 1999-2000 but not  
5302 expended shall remain with the agency that possesses the funds and shall be used in a manner  
5303 consistent with this section. Any amount appropriated under this section in fiscal year  
5304 1999-2000 or thereafter may be used to:

5305 (a) provide matching or enhancement funds for grants, loans, or other assistance  
5306 received by the state from the United States Department of Labor, Department of Defense, or  
5307 other federal agency to assist in retraining, community assistance, or technology transfer  
5308 activities;

5309 (b) fund or match available private or public funds from the state or local level to be  
5310 used for retraining, community assistance, technology transfer, or educational projects  
5311 coordinated by state or federal agencies;

5312 (c) provide for retraining, upgraded services, and programs at [~~applied technology~~]  
5313 technical colleges, public schools, higher education institutions, or any other appropriate public  
5314 or private entity that are designed to teach specific job skills requested by a private employer in  
5315 the state or required for occupations that are in demand in the state;

5316 (d) aid public or private entities that provide assistance in locating new employment;

5317 (e) inform the public of assistance programs available for persons who have lost their  
5318 employment;

5319 (f) increase funding for assistance and retraining programs;

5320 (g) provide assistance for small start-up companies owned or operated by persons who  
5321 have lost their employment;

5322 (h) enhance the implementation of dual-use technologies programs, community  
5323 adjustment assistance programs, or other relevant programs under Pub. L. No. 102-484; and  
5324 (i) coordinate local and national resources to protect and enhance current Utah defense  
5325 installations and related operations and to facilitate conversion or enhancement efforts by:  
5326 (i) creating and operating state information clearinghouse operations that monitor  
5327 relevant activities on the federal, state, and local level;  
5328 (ii) identifying, seeking, and matching funds from federal and other public agencies  
5329 and private donors;  
5330 (iii) identifying and coordinating needs in different geographic areas;  
5331 (iv) coordinating training and retraining centers;  
5332 (v) coordinating technology transfer efforts between public entities, private entities,  
5333 and institutions of higher education;  
5334 (vi) facilitating the development of local and national awareness and support for Utah  
5335 defense installations;  
5336 (vii) studying the creation of strategic alliances, tax incentives, and relocation and  
5337 consolidation assistance; and  
5338 (viii) exploring feasible alternative uses for the physical and human resources at  
5339 defense installations and in related industries should reductions in mission occur.  
5340 (3) The governor, through the Department of Workforce Services, may coordinate and  
5341 administer the expenditure of money under this section and collaborate with applied technology  
5342 centers, public institutions of higher learning, or other appropriate public or private entities to  
5343 provide retraining and other services described in Subsection (2).

5344 **Section 69. Effective date.**

5345 This bill takes effect on July 1, 2017, except that:

5346 (1) the amendments to Section 53B-1-104 take effect on May 9, 2017; and

5347 (2) the amendments to Section 53B-16-102 take effect on September 1, 2017.

5348 **Section 70. Repealer.**

5349 This bill repeals:

5350 Section **53B-6-101**, Additional responsibilities of the board -- Studies and  
5351 evaluations -- Master plan for higher education -- Productivity -- Institutional student  
5352 assessment -- Biennial accountability report to the Legislature.

5353 Section **53B-6-103**, Cooperation with nonmember institutions within the state.

5354 Section **53B-16-106**, Board to establish electronics engineering program at Weber  
5355 State University.

5356 Section **53B-16-210**, Salt Lake Community College -- School of Applied  
5357 Technology Board of Directors -- Membership -- Duties.

5358 Section 71. **Coordinating S.B. 238 with H.B. 24 -- Changing terminology.**

5359 If this S.B. 238 and H.B. 24, Student Prosperity Savings Program - Tax Amendments,  
5360 both pass and become law, it is the intent of the Legislature that the Office of Legislative  
5361 Research and General Counsel, in preparing the Utah Code database for publication, change  
5362 the terminology in Subsections **53B-8a-201**(8)(c) and **53B-8a-204**(5)(b)(i)(C) from "a college  
5363 within the Utah College of Applied Technology" to "a technical college".

5364 Section 72. **Coordinating S.B. 238 with H.B. 100 -- Substantive and technical**  
5365 **amendments.**

5366 If this S.B. 238 and H.B. 100, Institutions of Higher Education Disclosure  
5367 Requirements, both pass and become law, it is the intent of the Legislature that the Office of  
5368 Legislative Research and General Counsel, in preparing the Utah Code database for  
5369 publication, modify Subsection **53B-1-112**(1)(b)(iii) to read:

5370 "(iii) "Institution" does not include a technical college."

5371 Section 73. **Coordinating S.B. 238 with H.B. 165 -- Substantive and technical**  
5372 **amendments -- Changing terminology.**

5373 If this S.B. 238 and H.B. 165, Higher Education Retirement Amendments, both pass  
5374 and become law, it is the intent of the Legislature that the Office of Legislative Research and  
5375 General Counsel, in preparing the Utah Code database for publication:

5376 (1) modify Subsection **49-11-102**(9) to read:

5377 "(9) "Technical college" means the same as that term is defined in Section



5378 53B-1-101.5."; and

5379 (2) change the terminology from "applied technology" to "technical" in the following  
5380 sections:

5381 (a) Section 49-12-203;

5382 (b) Section 49-12-204;

5383 (c) Section 49-13-203;

5384 (d) Section 49-13-204;

5385 (e) Section 49-22-203; and

5386 (f) Section 49-22-204.

5387 Section 74. **Coordinating S.B. 238 with H.B. 398 -- Substantive and technical**  
5388 **amendments.**

5389 If this S.B. 238 and H.B. 398, Procurement Code Amendments, both pass and become  
5390 law, it is the intent of the Legislature that when the Office of Legislative Research and General  
5391 Counsel prepares the Utah Code database for publication, the amendments to the following  
5392 definitions in Section 63G-6a-103 from S.B. 238 supersede the amendments to the definitions  
5393 in Section 63G-6a-103 from H.B. 398:

5394 (1) "Applicable rulemaking authority";

5395 (2) "Educational procurement unit"; and

5396 (3) "Head of procurement unit".

5397 Section 75. **Coordinating S.B. 238 with S.B. 117 -- Substantive and technical**  
5398 **amendments -- Changing terminology.**

5399 If this S.B. 238 and S.B. 117, Higher Education Performance Funding, both pass and  
5400 become law, it is the intent of the Legislature that the Office of Legislative Research and  
5401 General Counsel, in preparing the Utah Code database for publication:

5402 (1) modify Section 53B-7-702 by deleting Subsection 53B-7-702(2);

5403 (2) change the terminology from "applied technology" to "technical" in the following  
5404 sections:

5405 (a) Section 53B-7-702;

5406 (b) Section 53B-7-703;  
5407 (c) Section 53B-7-705; and  
5408 (d) Section 53B-7-707; and  
5409 (3) change the terminology from "Utah College of Applied Technology" to "Utah  
5410 System of Technical Colleges" in the following sections:

5411 (a) Section 53B-7-702;  
5412 (b) Section 53B-7-703;  
5413 (c) Section 53B-7-705; and  
5414 (d) Section 53B-7-707.

5415 **Section 76. Coordinating S.B. 238 with S.B. 194 -- Changing terminology.**

5416 If this S.B. 238 and S.B. 194, Utah Data Research Center Act, both pass and become  
5417 law, it is the intent of the Legislature that the Office of Legislative Research and General  
5418 Counsel, in preparing the Utah Code database for publication, change the language in  
5419 Subsection 35A-14-102(7)(c) from "the Utah College of Applied Technology" to "the Utah  
5420 System of Technical Colleges Board of Trustees".

5421 **Section 77. Revisor instructions.**

5422 The Legislature intends that on July 1, 2017, the Office of Legislative Research and  
5423 General Counsel shall, in preparing the Utah Code database for publication:

5424 (1) coordinate this S.B. 238 with other bills as described in Sections 71 through 76;  
5425 and

5426 (2) in addition to the Office of Legislative Research and General Counsel's authority  
5427 under Subsection 36-12-12(3), make additions, deletions, and other modifications necessary to  
5428 ensure that sections and subsections are complete sentences and grammatically correct to  
5429 accurately reflect the office's perception of the Legislature's intent.