

## SB0238S01 compared with SB0238

~~text~~ shows text that was in SB0238 but was deleted in SB0238S01.

Inserted text shows text that was not in SB0238 but was inserted into SB0238S01.

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Senator Ann Millner proposes the following substitute bill:

### HIGHER EDUCATION GOVERNANCE REVISIONS

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ann Millner**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill amends provisions related to higher education governance.

##### Highlighted Provisions:

This bill:

- ▶ renames the Utah College of Applied Technology the Utah System of Technical Colleges;
- ▶ changes the name of each member college of the Utah System of Technical Colleges from an applied technology college to a technical college;
- ▶ amends the institutions that comprise the state system of higher education by:
  - removing the Utah College of Applied Technology;
  - adding the Utah System of Technical Colleges Board of Trustees; and
  - adding each technical college;

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- ▶ removes the nonvoting members from the State Board of Regents;
- ▶ amends the powers and authority of the State Board of Regents;
- ▶ amends the membership of the State Board of Regents;
- ▶ requires coordination between state entities involved in education;
- ▶ amends a list of institutions of higher education that are bodies corporate to:
  - remove the Utah College of Applied Technology; and
  - add each technical college;
- ▶ amends the process for the State Board of Regents to appoint a president of an institution of higher education;
- ▶ amends requirements of the commissioner of technical education;
- ▶ removes the nonvoting members from the Utah System of Technical Colleges Board of Trustees;
- ▶ prohibits an individual from serving simultaneously on the Utah System of Technical Colleges Board of Trustees and a technical college board of directors;
- ▶ provides that the Utah System of Technical Colleges is a continuation of the Utah College of Applied Technology and that each technical college is a continuation of an applied technology college;
- ▶ describes the primary institutional roles for institutions of higher education;
- ▶ modifies provisions related to the approval of new programs of instruction;
- ▶ repeals the Salt Lake Community College School of Applied Technology Board of Directors;
- ▶ amends definitions related to the Utah System of Technical Colleges in Title 63G, Chapter 6a, Utah Procurement Code; and
- ▶ makes technical and conforming changes.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

This bill provides a special effective date.

This bill provides coordination clauses.

This bill provides revisor instructions.

### **Utah Code Sections Affected:**

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### AMENDS:

- 35A-1-206**, as last amended by Laws of Utah 2016, Chapters 236, 271, and 296
- 35A-5-402**, as last amended by Laws of Utah 2016, Chapter 236
- 35A-5-403**, as enacted by Laws of Utah 2015, Chapter 273
- 53A-1-203**, as last amended by Laws of Utah 2015, Chapter 415
- 53A-1-402**, as last amended by Laws of Utah 2016, Chapter 236
- 53A-1-403.5**, as last amended by Laws of Utah 2016, Chapters 144, 188, and 271
- 53A-1a-501.3**, as last amended by Laws of Utah 2016, Chapter 236
- 53A-1a-521**, as last amended by Laws of Utah 2016, Chapter 236
- 53A-13-101.5**, as last amended by Laws of Utah 1998, Chapter 297
- 53A-15-102**, as last amended by Laws of Utah 2016, Chapters 236 and 415
- 53A-15-202**, as last amended by Laws of Utah 2016, Chapter 236
- 53A-17a-114**, as last amended by Laws of Utah 2016, Chapter 236
- 53B-1-101**, as last amended by Laws of Utah 1991, Chapter 58
- 53B-1-101.5**, as last amended by Laws of Utah 2009, Chapter 346
- 53B-1-102**, as last amended by Laws of Utah 2013, Chapter 10
- 53B-1-103**, as last amended by Laws of Utah 2016, Chapter 236
- 53B-1-104**, as last amended by Laws of Utah 2011, Third Special Session, Chapter 5
- 53B-2-101**, as last amended by Laws of Utah 2013, Chapter 10
- 53B-2-103**, as last amended by Laws of Utah 1991, Chapter 58
- 53B-2-104**, as last amended by Laws of Utah 2016, Chapter 236
- 53B-2-106**, as last amended by Laws of Utah 2016, Chapter 236
- 53B-2a-101**, as last amended by Laws of Utah 2016, Chapter 236
- 53B-2a-102**, as last amended by Laws of Utah 2016, Chapter 236
- 53B-2a-103**, as last amended by Laws of Utah 2016, Chapter 236
- 53B-2a-104**, as last amended by Laws of Utah 2016, Chapter 236
- 53B-2a-105**, as last amended by Laws of Utah 2016, Chapter 236
- 53B-2a-106**, as last amended by Laws of Utah 2016, Chapter 236
- 53B-2a-107**, as last amended by Laws of Utah 2016, Chapter 236
- 53B-2a-108**, as last amended by Laws of Utah 2016, Chapter 236
- 53B-2a-109**, as last amended by Laws of Utah 2016, Chapter 236

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**53B-2a-110**, as last amended by Laws of Utah 2016, Chapter 236  
**53B-2a-111**, as last amended by Laws of Utah 2009, Chapter 346  
**53B-2a-112**, as last amended by Laws of Utah 2016, Chapter 236  
**53B-2a-113**, as last amended by Laws of Utah 2016, Chapter 236  
**53B-2a-114**, as enacted by Laws of Utah 2012, Chapter 181  
**53B-3-102**, as last amended by Laws of Utah 2013, Chapter 10  
**53B-6-106**, as last amended by Laws of Utah 2016, Chapter 236  
**53B-7-101**, as last amended by Laws of Utah 2015, Chapter 361  
**53B-8-101**, as last amended by Laws of Utah 2013, Chapters 10, 23, and 465  
**53B-8d-102**, as last amended by Laws of Utah 2016, Chapter 236  
**53B-16-101**, as enacted by Laws of Utah 1987, Chapter 167  
**53B-16-102**, as last amended by Laws of Utah 2016, Chapter 236  
**53B-16-103**, as last amended by Laws of Utah 1988, Chapter 137  
**53B-16-107**, as last amended by Laws of Utah 2016, Chapter 188  
**53B-16-201**, as last amended by Laws of Utah 2010, Chapter 211  
~~**53B-16-210**~~**53B-16-209**, as ~~{last amended}~~**enacted** by Laws of Utah ~~{2013}~~**2009**,  
Chapter ~~{310}~~**346**  
**53B-16-401**, as enacted by Laws of Utah 1996, Chapter 73  
**53B-17-105**, as last amended by Laws of Utah 2016, Chapters 144 and 236  
**53B-21-101**, as enacted by Laws of Utah 1987, Chapter 167  
**53B-26-102**, as enacted by Laws of Utah 2016, Chapter 338  
**53B-26-103**, as enacted by Laws of Utah 2016, Chapter 338  
**58-22-302**, as last amended by Laws of Utah 2011, Chapter 367  
**59-12-102**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 6  
**59-12-702**, as last amended by Laws of Utah 2016, Chapter 344  
**63A-2-402**, as renumbered and amended by Laws of Utah 2011, Chapter 207  
**63A-9-101**, as last amended by Laws of Utah 2016, Chapters 144 and 236  
**63F-2-102**, as last amended by Laws of Utah 2016, Chapter 144  
**63G-2-305**, as last amended by Laws of Utah 2015, Chapters 147, 283, and 411  
**63G-6a-103**, as last amended by Laws of Utah 2016, Chapters 176, 237, 355 and last  
amended **by Coordination Clause, Laws of Utah 2016, Chapter 355**

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63J-3-103, as last amended by Laws of Utah 2016, Chapter 183

63N-12-203, as last amended by Laws of Utah 2016, Chapters 139 and 236

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

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

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

### ENACTS:

53B-1-112, Utah Code Annotated 1953

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

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

### REPEALS AND REENACTS:

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

### REPEALS:

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

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

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

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

Utah Code Sections Affected by Coordination Clause, ~~Laws of Utah 2016, Chapter 355~~

~~—— 63J-3-103, as last amended by Laws of Utah 2016, Chapter 183~~

~~—— 63N-12-203, as last amended by Laws of Utah 2016, Chapters 139 and 236~~

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

~~—— 63N-12-213, as enacted by Laws of Utah 2016, Chapter 335~~

~~—— 67-1-12, as last amended by Laws of Utah 2016, Chapter 236~~

### ENACTS:

~~—— 53B-1-112};~~

35A-14-102, Utah Code Annotated 1953

~~{53B-2a-100.5, Utah Code Annotated 1953~~

~~—— 53B-2a-115, Utah Code Annotated 1953~~

### REPEALS AND REENACTS:

~~—— 53B-2-102}~~49-11-102, as last amended by Laws of Utah ~~{1991}~~2016, ~~{Chapter 58~~

~~REPEALS:}~~Chapters 84 and 310

~~{53B-6-101}~~49-12-203, as last amended by Laws of Utah ~~{2011}~~2015, ~~{Chapter 73~~

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~~53B-6-102~~, as enacted by Laws of Utah 1987, Chapter 167

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

~~53B-16-106~~, as enacted by Chapters 315 and 364

49-12-204, as last amended by Laws of Utah ~~{2010}~~ 2014, Chapter ~~{400}~~ 15

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

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

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

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

53B-1-112, Utah Code Annotated 1953

53B-7-702, Utah Code Annotated 1953

53B-7-703, Utah Code Annotated 1953

53B-7-705, Utah Code Annotated 1953

53B-7-707, Utah Code Annotated 1953

53B-8a-201, Utah Code Annotated 1953

53B-8a-204, Utah Code Annotated 1953

63G-6a-103, as last amended by Laws of Utah 2016, Chapters 176, 237, 355 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 355

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) the following members appointed by the governor:

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

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

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

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

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

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

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

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

(D) may include one or more representatives from an organization that has

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demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including organizations that serve out of school youth; and

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

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

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

(4) (a) The governor shall ensure that members appointed to the board represent diverse geographic areas of the state, including urban, suburban, and rural areas.

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

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

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

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

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

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

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

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

(i) Section 63A-3-106;

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

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

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

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

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

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

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

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

(d) developing strategies for staff training;

(e) developing and improving employment centers; and

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

(i) the Legislature;

(ii) the governor; or

(iii) the executive director.

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

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

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

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

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

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

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

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

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

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

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

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

(6) A member of the CTE Board:

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

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

(i) Section 63A-3-106;

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

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

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

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

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

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

(i) a description of the program;

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

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

(iv) the number of certificates the program has issued since October 1, 2010, by school year;

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- (v) a materials and equipment inventory for the program;
- (vi) the amount of funding dedicated to the program;
- (vii) the program's geographic location;
- (viii) employment information for students who have completed the program since October 1, 2010, if practical and feasible; and
- (ix) the extent to which overlap or duplication exists between the program and other CTE or private programs;
- (b) a description of CTE funding in the state, including:
  - (i) the total amount of state CTE funding provided to:
    - (A) the public education system;
    - (B) the ~~[higher education system]~~ Utah System of Higher Education; and
    - (C) the Utah ~~[College of Applied Technology]~~ System of Technical Colleges; and
  - (ii) for each CTE program:
    - (A) total CTE funding received; and
    - (B) the cost per student served;
  - (c) an assessment of Utah business and industry needs for employees with skills taught in CTE classes, including:
    - (i) the number of current and anticipated jobs in Utah, by geographic region, and the CTE skills required for the jobs;
    - (ii) the starting and average salary, by geographic region and type of CTE skills, for an individual who has skills taught in a CTE program; and
    - (iii) the extent to which current CTE programs can meet the employment needs of Utah business and industry; and
  - (d) any other information the CTE Board considers relevant to the study.
- (2) In conducting the comprehensive study described in Subsection (1), the CTE Board shall coordinate with the Office of the Legislative Auditor General and, to the extent possible, use data collected by the Office of the Legislative Auditor General to complete the study.
- (3) (a) The State Board of Education, the State Board of Regents, and ~~[Utah College of Applied Technology]~~ the Utah System of Technical Colleges Board of Trustees shall:
  - (i) provide data that the department requests for the study; and
  - (ii) coordinate with the department to conduct the study.

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

(4) The CTE Board may:

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

(b) as funding allows, hire staff.

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

(a) CTE funding;

(b) CTE governance and administration;

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

(i) an educational need for a student;

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

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

(d) any other CTE related recommendations.

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

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

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

(d) The CTE Board shall make the reports described in this Subsection (6) to:

(i) the Education Interim Committee;

(ii) the Executive Appropriations Committee;

(iii) the governor;

(iv) the State Board of Education;

(v) the State Board of Regents; and

(vi) the Utah [~~College of Applied Technology~~] System of Technical Colleges Board of Trustees.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) required school administrative and supervisory services; and

(iii) the evaluation of instructional personnel;

(b) (i) access to programs;

(ii) attendance;

(iii) competency levels;

(iv) graduation requirements; and

(v) discipline and control;

(c) (i) school accreditation;

(ii) the academic year;

(iii) alternative and pilot programs;

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- (iv) curriculum and instruction requirements;
  - (v) school libraries; and
  - (vi) services to:
    - (A) persons with a disability as defined by and covered under:
      - (I) the Americans with Disabilities Act of 1990, 42 U.S.C. 12102;
      - (II) the Rehabilitation Act of 1973, 29 U.S.C. 705(20)(A); and
      - (III) the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3); and
    - (B) other special groups;
  - (d) (i) state reimbursed bus routes;
  - (ii) bus safety and operational requirements; and
  - (iii) other transportation needs; and
  - (e) (i) school productivity and cost effectiveness measures;
  - (ii) federal programs;
  - (iii) school budget formats; and
  - (iv) financial, statistical, and student accounting requirements.
- (2) The ~~[board]~~ State Board of Education shall determine if:
- (a) the minimum standards have been met; and
  - (b) required reports are properly submitted.

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

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

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

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

**53A-1-403.5. Education of persons in custody of the Utah Department of**

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### **Corrections -- Contracting for services -- Recidivism reduction plan -- Collaboration among state agencies.**

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

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

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

(ii) If the community college under Subsection (2)(b)(i) declines to provide the education and training or cannot meet reasonable contractual terms for providing the education and training as specified by the Utah Department of Corrections, postsecondary education and training under Subsection (2)(a) may be procured through other appropriate private or public agencies.

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

- (i) inmate assessment;
- (ii) cognitive problem-solving skills;
- (iii) basic literacy skills;
- (iv) career skills;
- (v) job placement;
- (vi) postrelease tracking and support;
- (vii) research and evaluation;
- (viii) family involvement and support; and
- (ix) multiagency collaboration.

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

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- (i) the State Board of Regents;
- (ii) the [~~Utah College of Applied Technology~~] Utah System of Technical Colleges

Board of Trustees;

- (iii) local boards of education;
- (iv) the Department of Workforce Services;
- (v) the Department of Human Services;
- (vi) the Board of Pardons and Parole;
- (vii) the Utah State Office of Rehabilitation; and
- (viii) the Governor's Office.

(4) By July 1, 2014, and every three years thereafter, the Utah Department of Corrections shall make a report to the State Board of Education and the Law Enforcement and Criminal Justice Interim Committee evaluating the impact of corrections education programs on recidivism.

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

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

As used in this part:

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

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

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

- (a) the board of trustees of:
  - (i) the University of Utah;
  - (ii) Utah State University;
  - (iii) Weber State University;

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- (iv) Southern Utah University;
- (v) Snow College;
- (vi) Dixie State University;
- (vii) Utah Valley University; or
- (viii) Salt Lake Community College; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) A board of trustees shall:

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

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

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

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(8) (a) In addition to complying with the requirements of this section, a technical college board of directors [~~of an applied technology college within the Utah College of Applied Technology~~] described in Section 53B-2a-108 shall obtain the approval of the Utah [~~College of Applied Technology~~] System of Technical Colleges Board of Trustees before entering into an agreement to establish and operate a charter school.

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

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

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

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

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

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

(i) procedures for submitting applications to establish and operate a charter school; [~~and~~] or

- (ii) criteria for approval of an application to establish and operate a charter school.

(b) The Utah [~~College of Applied Technology~~] System of Technical Colleges Board of Trustees may not establish policy governing the procedures or criteria described in Subsection

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(9)(a).

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

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

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

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

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

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

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

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

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

(6) The Joint Liaison Committee, in consultation with members of the state's deaf and hard of hearing community, shall review any policies and procedures developed under this section and make recommendations to either or both boards regarding the policies.

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

### **53A-15-102. Early graduation incentives -- Incentive to school district -- Partial**

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### tuition scholarship for student -- Payments.

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

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

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

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

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

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

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

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

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

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

The State Board of Education:

- (1) shall establish minimum standards for career and technical education programs in the public education system;
- (2) may apply for, receive, administer, and distribute funds made available through programs of federal and state governments to promote and aid career and technical education;
- (3) shall cooperate with federal and state governments to administer programs [~~which~~] that promote and maintain career and technical education;
- (4) shall cooperate with the Utah [~~College of Applied Technology~~] System of Technical Colleges Board of Trustees, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern to ensure that students in the public education system have access to career and technical education at Utah [~~College of Applied Technology applied technology~~] System of Technical Colleges technical colleges, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern;
- (5) shall require that before a minor student may participate in clinical experiences as part of a health care occupation program at a high school or other institution to which the student has been referred, the student's parent or legal guardian has:
  - (a) been first given written notice through appropriate disclosure when registering and prior to participation that the program contains a clinical experience segment in which the student will observe and perform specific health care procedures that may include personal care, patient bathing, and bathroom assistance; and
  - (b) provided specific written consent for the student's participation in the program and clinical experience; and
- (6) shall, after consulting with school districts, charter schools, the Utah [~~College of Applied Technology~~] System of Technical Colleges Board of Trustees, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern, prepare and submit an annual report to the governor and to the Legislature's Education Interim Committee by October 31 of each year detailing:
  - (a) how the career and technical education needs of secondary students are being met; and

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

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

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

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

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

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

(a) the secondary student; and

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

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

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

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

It is the purpose of this title:

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

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

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

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

(c) provides for coordination and consolidation; and

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

~~[(2) to vest in the State Board of Regents the power to govern the state system of~~

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~~higher education consistent with state law and delegate certain powers to institutional boards of trustees and institutional presidents, and to vest certain powers in institutional boards of trustees and institutional presidents.]~~

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

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

(a) institution of higher education boards of trustees;

(b) technical college boards of directors; and

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

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

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

As used in this title:

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

(2) "Career and technical education" means organized educational programs offering sequences of courses or skill sets directly related to preparing individuals for paid or unpaid employment in current or emerging occupations that generally do not require a baccalaureate or advanced degree.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(b)~~ the Utah System of Technical Colleges, which consists of the following

institutions:

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

(ii) Bridgerland Technical College;

(iii) Davis Technical College;

(iv) Dixie Technical College;

(v) Mountainland Technical College;

(vi) Ogden-Weber Technical College;

(vii) Southwest Technical College;

(viii) Tooele Technical College; and

(ix) Uintah Basin Technical College; and

~~[(k)]~~ (c) other public post-high school educational institutions as the Legislature may designate.

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

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

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

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

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

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

(2) (a) Except as provided in Subsection (2)(b), the board ~~[is vested with the]~~ shall control, ~~[management]~~ manage, and ~~[supervision of]~~ supervise the institutions of higher education designated in Section 53B-1-102 in a manner consistent with the policy and purpose

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of this title and the specific powers and responsibilities granted to [it] the board.

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

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

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

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

(c) establish measurable goals and metrics and delineate the expected contributions of individual institutions of higher education toward these goals;

(d) evaluate presidents based on institutional performance;

(e) delegate to presidents the authority to manage the presidents' institutions of higher education;

(f) administer statewide functions including system data collection and reporting;

(g) establish unified budget, finance, and capital funding priorities and practices; and

(h) provide system leadership on issues that have a system-wide impact, including:

(i) statewide college access and college preparedness initiatives;

(ii) learning opportunities drawn from multiple campuses or online learning options, including new modes of delivery of content at multiple locations;

(iii) degree program requirement guidelines including credit hour limits, articulation agreements, and transfer across institutions;

(iv) alignment of general education requirements across institutions of higher education;

(v) incorporation of evidence-based practices that increase college completion; and

(vi) monitoring of workforce needs, with an emphasis on credentials that build upon one another.

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

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

~~[(+)]~~ (a) how the career and technical education needs of secondary students are being met by institutions of higher education ~~[other than applied technology colleges within the Utah College of Applied Technology]~~ described in Subsection 53B-1-102(1)(a), including ~~[what]~~ the access secondary students have to programs offered by Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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~~[(viii) Dixie Applied Technology College.]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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~~[(C) Student body presidents are not eligible for nomination.]~~

~~[(iii) All appointments to the board shall be made on a nonpartisan basis.]~~

~~[(iv) In making appointments to the board, the governor shall select:]~~

~~[(A) at least two individuals who reside within a county of the fourth, fifth, or sixth class;]~~

~~[(B) no more than six individuals who reside within a county of the first class;]~~

~~[(C) the remaining individuals from the state at large with due consideration for geographical representation and diversity of exposure to the various institutions in the Utah System of Higher Education; and]~~

~~[(D) at least three individuals with personal experience in career and technical education, which could include service on a campus board of directors.]~~

~~[(e) (i) In addition to the members designated under Subsection (1)(b), two members of the State Board of Education, appointed by the chair of the State Board of Education, shall serve as nonvoting members of the board.]~~

~~[(ii) A nonvoting State Board of Education member shall continue to serve as a member without a set term until the member is replaced by the chair of the State Board of Education.]~~

~~[(d) (i) In addition to the members designated under Subsection (1)(b), one member of the Utah College of Applied Technology Board of Trustees, appointed by the chair of the Utah College of Applied Technology Board of Trustees, shall serve as a nonvoting member of the board.]~~

~~[(ii) A nonvoting Utah College of Applied Technology Board of Trustees member shall continue to serve as a member without a set term until the member is replaced by the chair of the Utah College of Applied Technology Board of Trustees.]~~

~~[(2) (a) Five members of the board, other than the student member, the State Board of Education members, and the Utah College of Applied Technology Board of Trustees member, shall be appointed during each odd-numbered year to six-year staggered terms which commence on July 1 of the year of appointment.]~~

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

~~[(ii) The student member has full voting rights and may vote on selection of a board~~

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~~chair or vice chair, but not serve in either office.]~~

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

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

~~(a) eight at large members;~~

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

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

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

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

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

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

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

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

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

~~(c) (i) Subject to Subsection (2)(c)(ii), as positions on the board become vacant, the governor shall ensure that newly appointed members move the board toward the composition described in Subsection (1).~~

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

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

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

~~(i) geographic representation of members;~~

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(ii) diversity;

(iii) experience in higher education governance;

(iv) experience in economic development; and

(v) exposure to institutions of higher education.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) the state superintendent of public instruction described in Section 53A-1-301;
- (b) the commissioner;
- (c) the commissioner of technical education described in Section 53B-2a-102;
- (d) the executive director of the Department of Workforce Services described in Section 35A-1-201;
- (e) the executive director of the Governor's Office of Economic Development described in Section 63N-1-202;
- (f) the chair of the State Board of Education;
- (g) the chair of the State Board of Regents;
- (h) the chair of the Utah System of Technical Colleges Board of Trustees described in Section 53B-2a-103; and
- (i) the chairs of the Education Interim Committee.

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(2) A meeting described in this section is not subject to Title 52, Chapter 4, Open and 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:

- (a) the University of Utah;
- (b) Utah State University;
- (c) Weber State University;
- (d) Southern Utah University;
- (e) Snow College;
- (f) Dixie State University;
- (g) Utah Valley University;
- (h) Salt Lake Community College; ~~and~~
- ~~(i) the Utah College of Applied Technology;~~
- (i) Bridgerland Technical College;
- (j) Davis Technical College;
- (k) Dixie Technical College;
- (l) Mountainland Technical College;
- (m) Ogden-Weber Technical College;
- (n) Southwest Technical College;
- (o) Tooele Technical College; and
- (p) Uintah Basin Technical College.

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

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

(c) (i) ~~[Each]~~ An institution of higher education may enter into business relationships

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or dealings with private seed or venture capital entities or partnerships consistent with Utah Constitution Article VI, Section 29, Subsection (2).

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

(b) If the board is not satisfied with the finalists forwarded by a search committee, the

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board may direct the search committee to resume the search process until the search committee has forwarded three finalists with which the board is satisfied.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Section 63A-3-106;

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

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

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

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

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

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

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

(i) furloughs;

(ii) reductions in force;

(iii) benefit adjustments;

(iv) program reductions or discontinuance;

(v) early retirement incentives that provide cost savings to the institution[~~,-and~~] of

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higher education; or

(vi) other measures that provide cost savings to the institution of higher education.

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

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

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

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

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

(iii) adopt policies for:

(A) employee sick leave use and accrual; and

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

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

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

(c) authorize the faculty to determine the general initiation and direction of instruction

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and of the examination, admission, and classification of students. In recognition of the diverse nature and traditions of the various institutions governed by the board, the systems of faculty government need not be identical but should be designed to further faculty identification with and involvement in the institution's pursuit of achievement and excellence and in fulfillment of the institution's role as established in the statewide master plan for higher education; and

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

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

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

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

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

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

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

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

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

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

As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

(b) The commissioner of technical education shall:

(i) have an appropriate and relevant educational background, including, at a minimum, a master's degree; and

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

(c) The commissioner of technical education shall serve at the board of trustees' discretion and may be terminated by:

(i) the board of trustees; or

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

(d) If the board of trustees intends to appoint an interim or acting commissioner of technical education during a leave of absence of the commissioner of technical education, the

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board of trustees shall appoint the interim or acting commissioner of technical education with the consent of the Senate.

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

(2) The board of trustees shall:

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

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

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

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

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

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

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

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

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

**53B-2a-103. Utah System of Technical Colleges Board of Trustees -- Membership -- Terms -- Vacancies -- Oath -- Officers -- Quorum -- Committees -- Compensation.**

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

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

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

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

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

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and industry employer members of the [~~applied technology~~] technical college board of directors;

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

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

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

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

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

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

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

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

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

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

(A) information technology;

(B) manufacturing;

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- (C) life sciences;
- (D) health care;
- (E) transportation;
- (F) union craft, trade, or apprenticeship; and
- (G) non-union craft, trade, or apprenticeship.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) selecting from the nominees presented.

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

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

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

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

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

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

(5) (a) (i) Except as provided under Subsection (5)(a)(ii), a member shall be appointed commencing on July 1 of each odd-numbered year to a four-year term.

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

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

(6) When a vacancy occurs on the board of trustees for any reason, the governor shall appoint a replacement for the unexpired term.

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

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

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

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

(9) (a) The board of trustees shall enact bylaws for the board of trustees' own government, including provisions for regular meetings.

(b) (i) The board of trustees shall provide for an executive committee in the board of trustees' bylaws.

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

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

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

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

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

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

(a) Section 63A-3-106;

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

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

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

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

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

(2) The board of trustees shall:

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

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

(c) advise the commissioner of technical education and the State Board of Regents on issues related to career and technical education, including articulation with institutions of

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higher education and public education;

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

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

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

(i) the Legislature; and

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

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

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

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

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

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

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

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

(iii) performance outcomes, including:

(A) entered employment;

(B) job retention; and

(C) earnings; and

(iv) student tuition and fees; and

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

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

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

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

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

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

(a) the Box Elder School District;

(b) the Cache School District;

(c) the Logan School District; and

(d) the Rich School District;

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

(a) the Ogden City School District; and

(b) the Weber School District;

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

(a) the Davis School District; and

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(b) the Morgan School District;

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

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

(a) the Alpine School District;

(b) the Nebo School District;

(c) the Provo School District;

(d) the South Summit School District;

(e) the North Summit School District;

(f) the Wasatch School District; and

(g) the Park City School District;

(6) Uintah Basin [~~Applied Technology~~] Technical College, which serves the geographic area encompassing:

(a) the Daggett School District;

(b) the Duchesne School District; and

(c) the Uintah School District;

(7) Southwest [~~Applied Technology~~] Technical College, which serves the geographic area encompassing:

(a) the Beaver School District;

(b) the Garfield School District;

(c) the Iron School District; and

(d) the Kane School District; and

(8) Dixie [~~Applied Technology~~] Technical College, which serves the geographic area encompassing the Washington School District.

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

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

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

(a) offer a noncredit [~~post-secondary~~] postsecondary and secondary career and

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technical education curriculum;

(b) offer that curriculum at:

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

(ii) no tuition to secondary students;

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

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

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

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

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

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

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

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

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

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

(D) student tuition and fees.

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

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

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

(c) noncredit courses of interest when similar offerings to the community are limited

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and courses are financially self-supporting; and

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

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

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

(b) offer a degree;

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

(d) provide tenure or academic rank for its instructors; or

(e) participate in intercollegiate athletics.

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

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

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

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

(A) an employer; or

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

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

(iii) the affected institution is given an opportunity to make a proposal, prior to any

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) ~~[An applied technology]~~ A technical college president is subject to regular review

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and evaluation administered by the board of trustees, in cooperation with the ~~[applied technology]~~ technical college board of directors, through a process approved by the board of trustees.

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

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

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

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

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

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

(d) administer human resource policies and employee compensation plans in accordance with the requirements of the board of trustees.

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

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

#### **Appointments.**

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

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

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

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

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

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

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(e) one member of the Utah State University board of trustees; and  
(f) seven representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (1)(a) through (e)[;].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Alpine School District;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) individuals recognized for their knowledge and expertise;

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

(d) appointed on a nonpartisan basis.

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

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

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

(i) the representatives from the local school boards shall divide up their positions so

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that approximately half of them serve for two-year terms and half serve for four-year terms;  
and

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

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

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

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

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

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

(a) Section 63A-3-106;

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

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

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

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

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

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

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and emergency circumstances.

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

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

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

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

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

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

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

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

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

(e) adopt an annual budget and fund balances;

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

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

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

(i) conduct annual program evaluations;

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

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

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

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

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

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

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

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

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

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

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

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

(1) As used in this section, "higher education institution" means, for each ~~[applied technology]~~ technical college, the higher education institution designated in Section

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53B-2a-108 that has a representative on the [~~applied technology~~] technical college's board of directors.

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

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

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

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

(c) to comply with Subsection (2).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) the project is included in both the [~~applied technology~~] technical college and Utah

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[~~College of Applied Technology~~] System of Technical Colleges master plans;

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

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

(v) the lease-purchase agreement is:

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

(B) reviewed by the State Building Board; and

(C) approved by the Legislature.

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

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

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

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

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

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

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

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

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

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

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

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

(b) include the following components:

(i) a curriculum;

(ii) online access to the curriculum;

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- (iii) instructional software for classroom and student use;
- (iv) certification of skills and competencies most frequently requested by employers;
- (v) professional development for faculty; and
- (vi) deployment and program support, including integration with existing curriculum standards; and

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

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

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

(1) Beginning July 1, 2017:

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

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

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

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

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

(f) Mountainland Applied Technology College shall be known as Mountainland Technical College;

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

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

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

(2) (a) As described in Subsection (1), the Utah System of Technical Colleges is a continuation of the Utah College of Applied Technology and each technical college is a continuation of the applied technology college that preceded the technical college.

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

(i) possess all rights, title, privileges, powers, immunities, franchises, endowments, property, and claims of the institution that preceded the institution; and

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(ii) shall fulfill and perform all obligations of the institution that preceded the institution, including obligations relating to outstanding bonds and notes.

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

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

(1) As used in this chapter, "state institution of higher education" means [~~the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Dixie State University, Utah Valley University, Salt Lake Community College, and~~] an institution described in Section 53B-2-101 or any other university or college [~~which may be~~] that is established and maintained by the state.

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

(2) A state institution of higher education includes:

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

(b) a campus or facilities owned, operated, or controlled by the governing board of the [~~university or college~~] state institution of higher education.

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

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

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

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

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

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

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

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

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

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

(i) the Utah [~~College of Applied Technology~~] System of Technical Colleges Board of Trustees shall make rules to implement the Jobs Now Initiative; and

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

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

**53B-7-101. Combined requests for appropriations -- Board review of operating budgets -- Submission of budgets -- Recommendations -- Hearing request -- Appropriation formulas -- Allocations -- Dedicated credits -- Financial affairs.**

(1) As used in this section:

(a) (i) "Higher education institution" or "institution" means an institution of higher education listed in Section 53B-1-102.

(ii) "Higher education institution" or "institution" does not include:

(A) the Utah [~~College of Applied Technology~~] System of Technical Colleges Board of Trustees; or

(B) a technical college.

(b) "Research university" means the University of Utah or Utah State University.

(2) (a) The board shall recommend a combined appropriation for the operating budgets of higher education institutions for inclusion in a state appropriations act.

(b) The board's combined budget recommendation shall include:

(i) employee compensation;

(ii) mandatory costs, including building operations and maintenance, fuel, and power;

~~[(iii) mission-based funding described in Subsection (3);]~~

~~[(iv)]~~ (iii) performance funding described in Subsection ~~[(4)]~~ (3);

~~[(v)]~~ (iv) statewide and institutional priorities, including scholarships, financial aid, and technology infrastructure; and

~~[(vi)]~~ (v) unfunded historic growth.

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(c) The board's recommendations shall be available for presentation to the governor and to the Legislature at least 30 days ~~[prior to]~~ before the convening of the Legislature, and shall include schedules showing the recommended amounts for each institution, including separately funded programs or divisions.

(d) The recommended appropriations shall be determined by the board only after it has reviewed the proposed institutional operating budgets, and has consulted with the various institutions and board staff in order to make appropriate adjustments.

~~[(3)(a) The board shall establish mission based funding.]~~

~~[(b) Mission based funding shall include:]~~

~~[(i) enrollment growth; and]~~

~~[(ii) up to three strategic priorities.]~~

~~[(c) The strategic priorities described in Subsection (3)(b)(ii) shall be:]~~

~~[(i) approved by the board; and]~~

~~[(ii) designed to improve the availability, effectiveness, or quality of higher education in the state.]~~

~~[(d) Concurrent with recommending mission based funding, the board shall also recommend to the Legislature ways to address funding any inequities for institutions as compared to institutions with similar missions.]~~

~~[(4)]~~ (3) (a) The board shall establish performance funding.

(b) Performance funding shall include metrics approved by the board, including:

(i) degrees and certificates granted;

(ii) services provided to traditionally underserved populations;

(iii) responsiveness to workforce needs;

(iv) institutional efficiency; and

(v) for a research university, graduate research metrics.

(c) The board shall:

(i) award performance funding appropriated by the Legislature to institutions based on the institution's success in meeting the metrics described in Subsection ~~[(4)]~~ (3)(b); and

(ii) reallocate funding that is not awarded to an institution under Subsection ~~[(4)]~~ (3)(c)(i) for distribution to other institutions that meet the metrics described in Subsection ~~[(4)]~~ (3)(b).

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~~[(5)]~~ (4) (a) Institutional operating budgets shall be submitted to the board at least 90 days ~~[prior to]~~ before the convening of the Legislature in accordance with procedures established by the board.

(b) Funding requests pertaining to capital facilities and land purchases shall be submitted in accordance with procedures prescribed by the State Building Board.

~~[(6)]~~ (5) (a) The budget recommendations of the board shall be accompanied by full explanations and supporting data.

(b) The appropriations recommended by the board shall be made with the dual objective of:

(i) justifying for higher educational institutions appropriations consistent with their needs, and consistent with the financial ability of the state; and

(ii) determining an equitable distribution of funds among the respective institutions in accordance with the aims and objectives of the statewide master plan for higher education.

~~[(7)]~~ (6) (a) The board shall request a hearing with the governor on the recommended appropriations.

(b) After the governor delivers his budget message to the Legislature, the board shall request hearings on the recommended appropriations with the appropriate committees of the Legislature.

(c) If either the total amount of the state appropriations or its allocation among the institutions as proposed by the Legislature or ~~[its]~~ the Legislature's committees is substantially different from the recommendations of the board, the board may request further hearings with the Legislature or ~~[its]~~ the Legislature's appropriate committees to reconsider both the total amount and the allocation.

~~[(8)]~~ (7) The board may devise, establish, periodically review, and revise formulas for ~~[its]~~ the board's use and for the use of the governor and the committees of the Legislature in making appropriation recommendations.

~~[(9)]~~ (8) (a) The board shall recommend to each session of the Legislature the minimum tuitions, resident and nonresident, for each institution which it considers necessary to implement the budget recommendations.

(b) The board may fix the tuition, fees, and charges for each institution at levels ~~[it]~~ the board finds necessary to meet budget requirements.

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~~[(10)]~~ (9) (a) Money allocated to each institution by legislative appropriation may be budgeted in accordance with institutional work programs approved by the board, provided that the expenditures funded by appropriations for each institution are kept within the appropriations for the applicable period.

(b) ~~[A]~~ Each year, a president of an institution of higher education shall~~[-(i)]~~ establish initiatives for the president's institution ~~[each year]~~ of higher education that are~~[-(A) aligned with the strategic priorities described in Subsection (3); and (B)]~~ consistent with the ~~[institution's]~~ institution of higher education's mission and role~~[-and]~~.

~~[(ii) allocate the institution's mission-based funding to the initiatives.]~~

~~[(11)]~~ (10) The dedicated credits, including revenues derived from tuitions, fees, federal grants, and proceeds from sales received by the institutions of higher education are appropriated to the respective institutions of higher education and used in accordance with institutional work programs.

~~[(12)]~~ (11) ~~[Each]~~ An institution of higher education may do ~~[its]~~ the institution's own purchasing, issue ~~[its]~~ the institution's own payrolls, and handle ~~[its]~~ the institution's own financial affairs under the general supervision of the board.

~~[(13)]~~ (12) (a) If the Legislature appropriates money in accordance with this section, ~~[it]~~ the money shall be distributed to the board and higher education institutions to fund the items described in Subsection (2)(b).

(b) During each general session of the Legislature following a fiscal year in which the Legislature provides an appropriation for ~~[mission based funding or]~~ performance funding, the board and institutions of higher education shall report to the Legislature's Higher Education Appropriations Subcommittee on the use of the previous year's ~~[mission based funding and]~~ performance funding~~[-including performance outcomes relating to the strategic initiatives approved by the board]~~.

Section 43. Section **53B-8-101** is amended to read:

### **53B-8-101. Waiver of tuition.**

(1) (a) The president of ~~[each institution]~~ an institution of higher education described in Section 53B-2-101 may waive all or part of the tuition in behalf of meritorious or impecunious resident students to an amount not exceeding 10% of the total amount of tuition which, in the absence of the waivers, would have been collected from all Utah resident students

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at the institution of higher education.

(b) Two and a half percent of the waivers designated in Subsection (1)(a) shall be set aside for members of the Utah National Guard. Waivers shall be preserved by the student at least 60 days before the beginning of an academic term.

(2) (a) A president of an institution of higher education listed in Subsections 53B-2-101(1)(a) through (h) may waive all or part of the nonresident portion of tuition for a meritorious nonresident undergraduate student.

(b) In determining which students are meritorious for purposes of granting a tuition waiver under Subsection (2)(a), a president shall consider students who are performing above the average at the institution of higher education, including having an admissions index higher than the average for the institution, if an admissions index is used.

(c) A president may continue to waive the nonresident portion of tuition for a student described in Subsection (2)(a) for as long as the student is enrolled at the institution of higher education.

(d) In addition to waiving the nonresident portion of tuition for a meritorious nonresident student under Subsection (2)(a), a president may waive the resident portion of tuition after the meritorious nonresident student completes a year of full-time study at the institution of higher education.

(3) [~~Upon recommendation of the board, a president shall grant additional full or partial tuition waivers to~~] To encourage students to enroll for instruction in occupations critical to the state for which trained personnel are in short supply[-], a president of an institution of higher education shall grant additional full or partial tuition waivers upon recommendation of:

(a) the board, for an institution of higher education described in Subsection (1)(a); or

(b) the Utah System of Technical Colleges Board of Trustees, for a technical college.

(4) A president may waive all or part of the difference between resident and nonresident tuition in the case of:

(a) meritorious graduate students; or

(b) nonresident summer school students.

(5) (a) The board shall submit an annual budget appropriation [~~requests~~] request for each institution~~[-, which]~~ of higher education described in Subsections 53B-2-101(1)(a) through (h).

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(b) The Utah System of Technical Colleges Board of Trustees shall submit an annual budget appropriation request for each technical college.

(c) A request described in Subsection (5)(a) or (b) shall include requests for funds sufficient in amount to equal the estimated loss of dedicated credits that would be realized if all of the tuition waivers authorized by Subsection (2) were granted.

Section 44. Section **53B-8d-102** is amended to read:

### **53B-8d-102. Definitions.**

As used in this chapter:

- (1) "Division" means the Division of Child and Family Services.
- (2) "Long-term foster care" means an individual who remains in the custody of the division, whether or not the individual resides:
  - (a) with licensed foster parents; or
  - (b) in independent living arrangements under the supervision of the division.
- (3) "State institution of higher education" means:
  - (a) an institution designated in Section 53B-1-102; ~~[and]~~ or
  - (b) a public institution that offers postsecondary education in consideration of the payment of tuition or fees for the attainment of educational or vocational objectives leading to a degree or certificate, including:
    - (i) a business school;
    - (ii) a technical school;
    - ~~[(iii) an applied technology college within the Utah College of Applied Technology;]~~
    - ~~[(iv)]~~ (iii) a trade school; or
    - ~~[(v)]~~ (iv) an institution offering related apprenticeship programs.
- (4) "Tuition" means tuition at the rate for residents of the state.
- (5) "Ward of the state" means an individual:
  - (a) who is:
    - (i) at least 17 years of age; and
    - (ii) not older than 26 years of age;
  - (b) who had a permanency goal in the individual's child and family plan, as described in Sections 62A-4a-205 and 78A-6-314, of long-term foster care while in the custody of the division; and

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

Section 45. Section **53B-16-101** is amended to read:

### **53B-16-101. Establishment of institutional roles and general courses of study.**

(1) Except as institutional roles are specifically assigned by the Legislature, the board:

(a) may establish and define the roles of the various institutions of higher education under [its] the board's control and management; and

(b) shall, within each institution of higher education's primary role, prescribe the general course of study to be offered at [each] the institution[-] of higher education, including for:

(i) research universities, which provide undergraduate, graduate, and research programs and include:

(A) the University of Utah; and

(B) Utah State University;

(ii) regional universities, which provide career and technical education, undergraduate associate and baccalaureate programs and select master's degree programs to fill regional demands and include:

(A) Weber State University;

(B) Southern Utah University;

(C) Dixie State University; and

(D) Utah Valley University; and

(iii) comprehensive community colleges, which provide associate programs and include:

(A) Salt Lake Community College; and

(B) Snow College.

(2) Except for the University of Utah, each institution of higher education described in Subsection (1)(b) has career and technical education included in the institution of higher education's primary role.

~~[(2) In establishing and defining institutional roles, the board shall consider the traditional roles of the separate institutions.]~~

(3) The board may further clarify each institution of higher education's primary role.

Section 46. Section **53B-16-102** is amended to read:

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

(1) As used in this section ~~f,t~~:

(a) "~~{institution}~~ Institution of higher education" means the same as that term is defined in Section 53B-7-101.

(b) "Program of instruction" means a program of curriculum that leads to the completion of a degree, diploma, certificate, or other credential.

~~[(+)]~~ (2) Under procedures and policies approved by the board and developed in consultation with each institution of higher education, each institution of higher education may make such changes in ~~[its] the institution of higher~~ ~~{education}~~ education's curriculum as necessary to better effectuate the ~~[institutional role previously approved by the board]~~ institution of higher education's primary role.

~~[(2)]~~ (3) ~~[Notice of a change in the curriculum shall in all cases be promptly submitted to the board]~~ An institution of higher education shall notify the board of a proposed new program of instruction.

(4) (a) Without the approval of the board, an institution of higher education may not:

(i) establish a branch, extension center, college, or professional school; or

(ii) establish a new program of instruction that is outside of the institution of higher education's primary role described in Section 53B-16-101 ~~{, establish a new program of instruction or research, a new public service, or a new degree, diploma, or certificate}.~~

(b) An institution of higher education may, with the approval of the institution of higher education's board of trustees, establish a new program of instruction ~~{ or research, a new public service, or a new degree, diploma, or certificate}~~ that is within the institution of higher education's primary role described in Section 53B-16-101.

~~[(3)]~~ (5) (a) The board shall establish procedures and ~~[policies for considering institutional proposals for substantial alterations in the scope of existing institutional operations]~~ guidelines for institutional boards of trustees to consider an institutional proposal for a ~~{change}~~ new program of instruction described in Subsection (4)(b).

(b) The guidelines described in Subsection (5)(a) shall provide that:

(i) prior to seeking approval from the institution of higher education's board of trustees,

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an institution of higher education that proposes a new program of instruction submit the proposal to the commissioner to conduct a peer review by other institutions of higher education;

(ii) the commissioner issue a report with the results of a peer review described in Subsection (5)(b)(i) to the board and the board of trustees of the institution of higher education proposing the new program of instruction; and

(iii) an institution of higher education that proposes a new program of instruction include:

(A) a fiscal analysis of the new program of instruction's initial and ongoing costs; and

(B) the institution of higher education's source of funding for the new program of instruction.

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

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

(6) (a) The board ~~{}~~ shall ~~{}~~ may conduct [periodic reviews] a periodic {reviews} review of all new programs of instruction~~], research, and public service at each institution { of higher education} ],~~ including those funded by gifts, grants, and contracts, [and may {} ~~require {}~~ recommend the modification or termination of ~~{[any] a program.~~

~~—— (7) {}~~ any program] no later than two years after the first cohort to begin the program of instruction completes the program of instruction.

(b) The board may conduct a periodic review of any program of instruction at an institution of higher education, including a program of instruction funded by a gift, grant, or contract.

(c) Following a review described in this Subsection (6), the board may recommend that the institution of higher education modify or terminate the program of instruction.

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

(8) In making decisions related to career and technical education curriculum changes, the board shall ~~[request]~~ coordinate on behalf of the boards of trustees of higher education

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institutions a review of the proposed changes by the State Board of Education and the Utah [~~College of Applied Technology~~] System of Technical Colleges Board of Trustees to ensure an orderly and systematic career and technical education curriculum that eliminates overlap and duplication of course work with [~~the~~] high schools [~~and applied technology colleges within the Utah College of Applied Technology~~] for and technical colleges.

Section 47. Section **53B-16-103** is amended to read:

### **53B-16-103. Granting of degrees, diplomas, or certification -- Board approval -- Termination of previous approval.**

(1) (a) An institution of higher education may not issue a degree, diploma, or certificate outside of the institution of higher education's primary role, as described in Section 53B-16-101, unless [~~it first~~] the institution of higher education receives approval from the board of the adequacy of the study for which the degree, diploma, or certificate is offered.

(b) A student shall demonstrate a reasonable understanding of the history, principles, form of government, and economic system of the United States [~~prior to~~] before receiving a bachelor's degree or teaching credential.

(2) Degrees, diplomas, and certificates issued prior to the effective date of this chapter do not require board approval.

(3) The board may terminate the granting of previously approved degrees, diplomas, and certificates if they are inconsistent with the primary role prescribed by the board for the affected institution of higher education.

Section 48. Section **53B-16-107** is amended to read:

### **53B-16-107. Credit for military service and training -- Notification -- Transferability -- Reporting.**

(1) As used in this section, "credit" includes proof of equivalent noncredit course completion awarded by [~~the Utah College of Applied Technology~~] a technical college.

(2) An institution of higher education listed in Section 53B-2-101 shall provide written notification to each student applying for admission that the student is required to meet with a college counselor in order to receive credit for military service and training as recommended by a postsecondary accreditation agency or association designated by the [~~State Board of Regents~~] board or the Utah [~~College of Applied Technology~~] System of Technical Colleges Board of Trustees if:

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(a) credit for military service and training is requested by the student; and

(b) the student has met with an advisor at an institution of higher education listed in Section 53B-2-101 at which the student intends to enroll to discuss applicability of credit to program requirements, possible financial aid implications, and other factors that may impact attainment of the student's educational goals.

(3) Upon transfer within the state system of higher education, a student may present a transcript to the receiving institution of higher education for evaluation and to determine the applicability of credit to the student's program of study, and the receiving institution of higher education shall evaluate the credit to be transferred pursuant to Subsection (2).

(4) The [~~State Board of Regents~~] board and the Utah [~~College of Applied Technology~~] System of Technical Colleges Board of Trustees shall annually report the number of credits awarded under this section by each institution of higher education to the Utah Department of Veterans' Affairs.

Section 49. Section **53B-16-201** is amended to read:

### **53B-16-201. Degrees and certificates that may be conferred.**

(1) Utah State University, Snow College, and Salt Lake Community College may confer certificates of completion and degrees [~~as determined by the State Board of Regents~~] within each institution's primary role, as described in Section 53B-16-101.

(2) The board shall develop evaluative criteria as a means of carefully monitoring the impact of degree programs on the vocational mission of the [~~colleges~~] institutions of higher education described in Subsection (1).

Section 50. Section **53B-16-209** is amended to read:

### **53B-16-209. Salt Lake Community College -- School of Applied Technology -- Career and technical education -- Supervision and administration -- Institutional mission.**

(1) (a) There is hereby established a School of Applied Technology at Salt Lake Community College.

(b) Beginning on July 1, 2009, the Salt Lake Skills Center and the Salt Lake County portion of the Salt Lake/Tooele Applied Technology College shall be established as Salt Lake Community College's School of Applied Technology.

(2) Salt Lake Community College's School of Applied Technology is a continuation of the Salt Lake Skills Center and the Salt Lake County portion of the Salt Lake/Tooele Applied

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Technology College and shall:

(a) possess all rights, title, privileges, powers, immunities, franchises, endowments, property, and claims of the Salt Lake Skills Center and the Salt Lake County portion of the Salt Lake/Tooele Applied Technology College; and

(b) fulfill and perform all obligations of the Salt Lake Skills Center and the Salt Lake County portion of the Salt Lake/Tooele Applied Technology College.

(3) Salt Lake Community College shall administer the School of Applied Technology ~~[with the School of Applied Technology's Board of Directors as provided in Section 53B-16-210]~~.

(4) Salt Lake Community College's School of Applied Technology shall:

(a) provide non-credit career and technical education for both secondary and adult students, with an emphasis primarily on open-entry, open-exit programs;

(b) ensure that economically disadvantaged, educationally disadvantaged, or other at-risk students have access to non-credit career and technical education;

(c) maintain a strong curriculum in non-credit career and technical education courses which can be articulated with credit career and technical education courses within the institution and within the state system of higher education;

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

(e) offer the curriculum at:

(i) low cost to adult students, consistent with legislative appropriations to the School of Applied Technology; and

(ii) no tuition cost to secondary students;

(f) provide ~~[non-credit]~~ noncredit career and technical education that will result in:

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

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

(g) develop cooperative agreements within the geographic area served by the School of Applied Technology with school districts, charter schools, and other higher education institutions, businesses, industries, and community and private agencies to maximize the

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availability of instructional facilities; and

(h) after consulting with school districts and charter schools within the geographic area served:

(i) ensure that secondary students in the public education system have access to non-credit career and technical education at each School of Applied Technology location; and

(ii) prepare and submit an annual report to the State Board of Regents detailing:

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

(B) what access secondary students within the region have to programs offered at School of Applied Technology locations;

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

(D) student tuition and fees.

(5) Salt Lake Community College or ~~its~~ Salt Lake Community College's School of Applied Technology may not exercise any jurisdiction over career and technical education provided by a school district or charter school independently of Salt Lake Community College or ~~its~~ Salt Lake Community College's School of Applied Technology.

(6) Legislative appropriations to Salt Lake Community College's School of Applied Technology shall be made as a line item that separates it from other appropriations for Salt Lake Community College.

~~{ Section 50. Section 53B-16-210 is amended to read:~~

~~53B-16-210. Salt Lake Community College -- School of Applied Technology~~

~~Board of Directors -- Membership -- Duties.~~

~~(1) Salt Lake Community College's School of Applied Technology shall have a board of directors composed of the following 14 members:~~

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

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

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

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- ~~—— (d) one elected local school board member appointed by the board of education for the Jordan School District;~~
- ~~—— (e) one elected local school board member appointed by the board of education for the Murray School District;~~
- ~~—— (f) one member of the Salt Lake Community College board of trustees, appointed by the chair of the board of trustees;~~
- ~~—— (g) one representative of groups who advocate for or provide services to populations of disadvantaged students, appointed by the president of Salt Lake Community College, in consultation with the School of Applied Technology's Board of Directors; and~~
- ~~—— (h) seven representatives of business or industry employers within the region, appointed by the president of Salt Lake Community College, in consultation with the School of Applied Technology's Board of Directors, from names provided by business and industry associations representing sectors that employ workers with career and technical education.~~
- ~~—— (2) The School of Applied Technology's Board of Directors shall:~~
  - ~~—— (a) consult on an ongoing basis with:~~
    - ~~—— (i) Salt Lake Community College;~~
    - ~~—— (ii) school districts and charter schools within its region;~~
    - ~~—— (iii) business and industry;~~
    - ~~—— (iv) craft, trade, and apprenticeship programs;~~
    - ~~—— (v) the Department of Workforce Services;~~
    - ~~—— (vi) the Governor's Office of Economic Development; and~~
    - ~~—— (vii) the Governor's Office of Management and Budget;~~
  - ~~—— (b) prepare a comprehensive strategic plan for delivering career and technical education within Salt Lake County;~~
  - ~~—— (c) make recommendations regarding what skills are needed for employment in businesses and industries;~~
  - ~~—— (d) recommend the development of programs based upon the information gathered in accordance with Subsection (2)(a), including expedited program approval and termination procedures to meet market needs;~~
  - ~~—— (e) conduct annual program evaluations;~~
  - ~~—— (f) jointly appoint School of Applied Technology program advisory committees and~~

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~~other School of Applied Technology program advisory groups with the dean of the School of Applied Technology to provide counsel, support, and recommendations for updating and improving the effectiveness of noncredit career and technical education programs and services;~~

~~—— (g) coordinate with local school boards, school districts, and charter schools to protect and enhance the noncredit career and technical education needs of secondary students;~~

~~—— (h) adopt an annual budget and fund balances for the School of Applied Technology;~~

~~—— (i) develop policies and procedures for the operation of the School of Applied Technology facilities under its jurisdiction;~~

~~—— (j) recommend credentials for employees and the assignment of employees to duties in accordance with:~~

~~—— (i) State Board of Regents and Salt Lake Community College policies;~~

~~—— (ii) the Council on Occupational Education accreditation guidelines; and~~

~~—— (iii) the Northwest Commission on Colleges and Universities accreditation guidelines;~~

~~—— (k) develop policies and procedures for the admission, classification, instruction, and examination of students in accordance with the policies and accreditation guidelines of the Council on Occupational Education, the Northwest Commission on Colleges and Universities, the State Board of Regents, Salt Lake Community College Board of Trustees, and the State Board of Education; and~~

~~—— (l) communicate regularly with the president of Salt Lake Community College regarding career and technical education issues.~~

~~—— (3) If a program advisory committee or other advisory group submits a written recommendation to the School of Applied Technology's Board of Directors, the board of directors shall acknowledge the recommendation with a printed response that explains the board of directors' action regarding the recommendation and the reasons for the action.~~

~~—— (4) (a) If the School of Applied Technology Board of Directors has specific recommendations to the Salt Lake Community College president, the recommendations shall be in a written form:~~

~~—— (b) Recommendations described under Subsection (4)(a) may include:~~

~~—— (i) additions, deletions, or expansions of noncredit career and technical education programs at Salt Lake Community College;~~

~~—— (ii) updates and improvements in the effectiveness of School of Applied Technology~~

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~~noncredit career and technical education programs and services, including expedited program approval and termination of procedures, consistent with State Board of Regents policy;~~

~~—— (iii) responsibilities described under Subsection (2); and~~

~~—— (iv) other recommendations relating to the noncredit career and technical education mission of Salt Lake Community College.~~

~~—— (c) If the president of Salt Lake Community College rejects a specific recommendation of the board of directors, the president shall:~~

~~—— (i) notify the board of directors in writing within 10 working days of the rejection and the reasons for the rejection; and~~

~~—— (ii) provide the board of directors an opportunity to modify [its] the board of directors' specific recommendation and resubmit [it] the recommendation to the president.~~

~~—— (5) The president of Salt Lake Community College and the chair of the School of Applied Technology's Board of Directors shall annually meet with the Utah [College of Applied Technology] System of Technical Colleges Board of Trustees to provide:~~

~~—— (a) the information described in Subsection 53B-16-209(4)(g); and~~

~~—— (b) a report on the implementation of specific recommendations described in Subsection (4).~~

~~—— (6) The Salt Lake Community College School of Applied Technology shall provide staff support for the School of Applied Technology's Board of Directors.~~

‡ Section 51. Section **53B-16-401** is amended to read:

### **53B-16-401. Definitions.**

As used in this part:

(1) "Cooperating employer" means a public or private entity which, as part of a work experience and career exploration program offered through an institution of higher education, provides interns with training and work experience in activities related to the entity's ongoing business activities.

(2) "Institution of higher education" means any component of the state system of higher education as defined under Section 53B-1-102 [~~which~~] that is authorized by the [~~State Board of Regents~~] board or the Utah System of Technical Colleges Board of Trustees to offer internship programs, and any private institution of higher education which offers internship programs under this part.

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(3) "Intern" means a student enrolled in a work experience and career exploration program under Section 53B-16-402 [~~which~~] that is sponsored by an institution of higher education, involving both classroom instruction and work experience with a cooperating employer, for which the student receives no compensation.

(4) "Internship" means the work experience segment of an intern's work experience and career exploration program sponsored by an institution of higher education, performed under the direct supervision of a cooperating employer.

Section 52. Section **53B-17-105** is amended to read:

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

(1) There is created the Utah Education and Telehealth Network, or UETN.

(2) UETN shall:

(a) coordinate and support the telecommunications needs of public and higher education, public libraries, and entities affiliated with the state systems of public and higher education as approved by the Utah Education and Telehealth Network Board, including the statewide development and implementation of a network for education, which utilizes satellite, microwave, fiber-optic, broadcast, and other transmission media;

(b) coordinate the various telecommunications technology initiatives of public and higher education;

(c) provide high-quality, cost-effective Internet access and appropriate interface equipment for schools and school systems;

(d) procure, install, and maintain telecommunication services and equipment on behalf of public and higher education;

(e) develop or implement other programs or services for the delivery of distance learning and telehealth services as directed by law;

(f) apply for state and federal funding on behalf of:

(i) public and higher education; and

(ii) telehealth services;

(g) in consultation with health care providers from a variety of health care systems, explore and encourage the development of telehealth services as a means of reducing health care costs and increasing health care quality and access, with emphasis on assisting rural health care providers and special populations; and

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(h) in consultation with the Utah Department of Health, advise the governor and the Legislature on:

- (i) the role of telehealth in the state;
- (ii) the policy issues related to telehealth;
- (iii) the changing telehealth needs and resources in the state; and
- (iv) state budgetary matters related to telehealth.

(3) In performing the duties under Subsection (2), UETN shall:

(a) provide services to schools, school districts, and the public and higher education systems through an open and competitive bidding process;

(b) work with the private sector to deliver high-quality, cost-effective services;

(c) avoid duplicating facilities, equipment, or services of private providers or public telecommunications service, as defined under Section 54-8b-2;

(d) utilize statewide economic development criteria in the design and implementation of the educational telecommunications infrastructure; and

(e) assure that public service entities, such as educators, public service providers, and public broadcasters, are provided access to the telecommunications infrastructure developed in the state.

(4) The University of Utah shall provide administrative support for UETN.

(5) (a) The Utah Education and Telehealth Network Board, which is the governing board for UETN, is created.

(b) The Utah Education and Telehealth Network Board shall have 13 members as follows:

(i) four members representing the state system of higher education appointed by the commissioner of higher education;

(ii) four members representing the state system of public education appointed by the State Board of Education;

(iii) one member representing [~~applied technology~~] technical colleges appointed by the Utah [~~College of Applied Technology~~] System of Technical Colleges commissioner of technical education;

(iv) one member representing the state library appointed by the state librarian;

(v) two members representing hospitals as follows:

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- (A) the members may not be employed by the same hospital system;
- (B) one member shall represent a rural hospital;
- (C) one member shall represent an urban hospital; and
- (D) the chief administrator or the administrator's designee for each hospital licensed in this state shall select the two hospital representatives; and
  - (vi) one member representing the office of the governor, appointed by the governor.
- (c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
  - (d) (i) The board shall elect a chair.
  - (ii) The chair shall set the agenda for the board meetings.
- (6) A member of the board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7) The board:
  - (a) shall hire an executive director for UETN who may hire staff for UETN as permitted by the budget;
  - (b) may terminate the executive director's employment or assignment;
  - (c) shall determine the executive director's salary;
  - (d) shall annually conduct a performance evaluation of the executive director;
  - (e) shall establish policies the board determines are necessary for the operation of UETN and the administration of UETN's duties; and
  - (f) shall advise UETN in:
    - (i) the development and operation of a coordinated, statewide, multi-option telecommunications system to assist in the delivery of educational services and telehealth services throughout the state; and
    - (ii) acquiring, producing, and distributing instructional content.
- (8) The executive director of UETN shall be an at-will employee.
- (9) UETN shall locate and maintain educational and telehealth telecommunication

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infrastructure throughout the state.

(10) Educational institutions shall manage site operations under policy established by UETN.

(11) Subject to future budget constraints, the Legislature shall provide an annual appropriation to operate UETN.

(12) If the network operated by the Department of Technology Services is not available, UETN may provide network connections to the central administration of counties and municipalities for the sole purpose of transferring data to a secure facility for backup and disaster recovery.

Section 53. Section **53B-21-101** is amended to read:

**53B-21-101. Financing of projects or buildings -- Issuance of bonds -- Sale price determined by board -- Payment of bonds -- Bonds exempt from income taxation.**

(1) In order to pay all or part of the cost of the acquisition, purchase, construction, improvement, remodeling, addition to, extension, equipment, and furnishing of any project or building, including the acquisition of all necessary land, the board, on behalf of the institution for which this is to be done, may do the following: (a) borrow money on the credit of the income and revenues to be derived from the operation of the building, the imposition of student building fees, land grant interest, and net profits from proprietary activities, or from sources other than by appropriations by the Legislature to issuing institutions and, in anticipation of the collection of this income and revenues, issue negotiable bonds of the institution in an amount as the board determines is necessary for these purposes; and (b) provide for the payment of these bonds and the rights of their holders as provided in this chapter.

(2) Bonds may: (a) be issued in one or more series; (b) bear any date or dates; (c) mature at any time or times not exceeding 40 years from their date; (d) be in any denominations; (e) be in any form, either coupon or registered; (f) carry registration and conversion privileges; (g) be executed in any manner; (h) be payable in any medium of payment at any place; (i) be subject to any terms of redemption with or without premium; and (j) bear interest at any rate or rates as provided by resolution adopted by the board at or [~~prior to~~] before the sale of the bonds.

(3) The bonds may be sold in a manner, at the lowest obtainable rate or rates of interest, and at a price or prices as determined by the board. These determinations are

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conclusive.

(4) The board may authorize one issue of bonds for the acquisition, purchase, construction, improvement, remodeling, adding to, extending, furnishing, or equipping of more than one building, including the acquisition of all necessary land, and may make the bonds payable from the combined revenues of all the buildings as well as from student building fees, land grant interest, net profits from proprietary activities, and from sources other than those derived from appropriations from the Legislature.

(5) The bonds issued under this chapter have all of the qualities and incidents of negotiable paper and are not subject to state or local income taxation.

(6) This section does not apply to a technical college.

Section 54. Section **53B-26-102** is amended to read:

### **53B-26-102. Definitions.**

As used in this chapter:

~~[(1) "College of applied technology" means:]~~

~~[(a) a college described in Section 53B-2a-105;]~~

~~[(b) the School of Applied Technology at Salt Lake Community College established under Section 53B-16-209;]~~

~~[(c) Utah State University Eastern established under Section 53B-18-1201; or]~~

~~[(d) the Snow College Richfield campus established under Section 53B-16-205.]~~

~~[(2)]~~ (1) "CTE" means career and technical education.

~~[(3)]~~ (2) "CTE region" means an economic service area created in Section 35A-2-101.

~~[(4)]~~ (3) "Eligible partnership" means a partnership:

(a) between at least two of the following:

(i) a ~~[college of applied technology]~~ technical college;

(ii) a school district or charter school; or

(iii) an institution of higher education; and

(b) that provides educational services within the same CTE region.

~~[(5)]~~ (4) "Employer" means a private employer, public employer, industry association, the military, or a union.

~~[(6)]~~ (5) "Industry advisory group" means:

(a) a group of at least five employers that represent the strategic industry cluster that a

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proposal submitted under Section 53B-26-103 is responsive to; and

(b) a representative of the Governor's Office of Economic Development, appointed by the executive director of the Governor's Office of Economic Development.

~~[(7)]~~ (6) "Institution of higher education" means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Dixie State University, Utah Valley University, ~~[and]~~ or Salt Lake Community College.

~~[(8)]~~ (7) "Stackable sequence of credentials" means a sequence of credentials that:

- (a) an individual can build upon to access an advanced job or higher wage;
- (b) is part of a career pathway system;
- (c) provides a pathway culminating in the equivalent of an associate's or bachelor's degree;
- (d) facilitates multiple exit and entry points; and
- (e) recognizes sub-goals or momentum points.

(8) "Technical college" means:

(a) a college described in Section 53B-2a-105;

(b) the School of Applied Technology at Salt Lake Community College established under Section 53B-16-209;

(c) Utah State University Eastern established under Section 53B-18-1201; or

(d) the Snow College Richfield campus established under Section 53B-16-205.

Section 55. Section **53B-26-103** is amended to read:

### **53B-26-103. GOED reporting requirement -- Proposals -- Funding.**

(1) The Governor's Office of Economic Development shall publish, on a biannual basis, a report detailing the high demand technical jobs projected to support economic growth in high need strategic industry clusters, including:

- (a) aerospace and defense;
- (b) energy and natural resources;
- (c) financial services;
- (d) life sciences;
- (e) outdoor products;
- (f) software development and information technology; or
- (g) any other strategic industry cluster designated by the Governor's Office of

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Economic Development.

(2) To receive funding under this section, an eligible partnership shall submit a proposal containing the elements described in Subsection (3) to the Legislature:

- (a) on or before July 1, 2016, for fiscal year 2017; or
- (b) on or before January 5 for fiscal year 2018 and any succeeding fiscal year.

(3) The proposal shall include:

(a) a program of study that:

(i) is responsive to the workforce needs of the CTE region in a high need strategic industry cluster as identified by the Governor's Office of Economic Development under Subsection (1);

(ii) leads to the attainment of a stackable sequence of credentials; and

(iii) includes a non-duplicative progression of courses that include both academic and CTE content;

(b) expected student enrollment, attainment rates, and job placement rates;

(c) evidence of input and support for the proposal from an industry advisory group;

(d) evidence of an official action in support of the proposal from:

(i) the Utah [~~College of Applied Technology~~] System of Technical Colleges Board of Trustees, if the eligible partnership includes a technical college [~~described in Section 53B-2a-105~~]; or

(ii) the Board of Regents, if the eligible partnership includes:

(A) an institution of higher education; or

(B) a college described in Subsection 53B-26-102[~~(+)~~](8)(b), (c), or (d); and

(e) a funding request, including justification for the request.

(4) The Legislature shall:

(a) review a proposal submitted under this section using the following criteria:

(i) the proposal contains the elements described in Subsection (3);

(ii) support for the proposal is widespread within the CTE region; and

(iii) the proposal expands the capacity to meet regional workforce needs;

(b) determine the extent to which to fund the proposal; and

(c) fund the proposal through the appropriations process.

Section 56. Section **58-22-302** is amended to read:

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### 58-22-302. Qualifications for licensure.

(1) Each applicant for licensure as a professional engineer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory evidence of good moral character;

(d) (i) have graduated and received a bachelors or masters degree from an engineering program meeting criteria established by rule by the division in collaboration with the board; or

(ii) have completed the Transportation Engineering Technology and Fundamental Engineering College Program [~~prior to~~] before July 1, 1998, under the direction of the Utah Department of Transportation and as certified by the Utah Department of Transportation;

(e) have successfully completed a program of qualifying experience established by rule by the division in collaboration with the board;

(f) have successfully passed examinations established by rule by the division in collaboration with the board; and

(g) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(2) Each applicant for licensure as a professional structural engineer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory evidence of good moral character;

(d) have graduated and received an earned bachelors or masters degree from an engineering program meeting criteria established by rule by the division in collaboration with the board;

(e) have successfully completed three years of licensed professional engineering experience established by rule by the division in collaboration with the board, except that prior to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form prescribed by the division stating that the applicant is currently engaged in the practice of structural engineering;

(f) have successfully passed examinations established by rule by the division in collaboration with the board, except that prior to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form prescribed by the division stating that the applicant is

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currently engaged in the practice of structural engineering; and

(g) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(3) Each applicant for licensure as a professional land surveyor shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory evidence of good moral character;

(d) (i) have graduated and received an associates, bachelors, or masters degree from a land surveying program, or an equivalent land surveying program, such as a program offered by ~~[the Utah College of Applied Technology]~~ a technical college described in Section 53B-2a-105, as approved by the State Board of Regents, established by rule by the division in collaboration with the board, and have successfully completed a program of qualifying experience in land surveying established by rule by the division in collaboration with the board; or

(ii) have successfully completed a program of qualifying experience in land surveying prior to January 1, 2007, in accordance with rules established by the division in collaboration with the board;

(e) have successfully passed examinations established by rule by the division in collaboration with the board; and

(f) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(4) Each applicant for licensure by endorsement shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory evidence of good moral character;

(d) submit satisfactory evidence of:

(i) current licensure in good standing in a jurisdiction recognized by rule by the division in collaboration with the board;

(ii) having successfully passed an examination established by rule by the division in collaboration with the board; and

(iii) full-time employment as a principal for at least five of the last seven years

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immediately preceding the date of the application as a:

- (A) licensed professional engineer for licensure as a professional engineer;
- (B) licensed professional structural engineer for licensure as a structural engineer; or
- (C) licensed professional land surveyor for licensure as a professional land surveyor;

and

(e) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualifications for license.

(5) The rules made to implement this section shall be in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 57. Section **59-12-102** is amended to read:

### **59-12-102. Definitions.**

As used in this chapter:

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

- (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
- (b) is typically marketed:
  - (i) under the name 800 toll-free calling;
  - (ii) under the name 855 toll-free calling;
  - (iii) under the name 866 toll-free calling;
  - (iv) under the name 877 toll-free calling;
  - (v) under the name 888 toll-free calling; or
  - (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

Federal Communications Commission.

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

- (i) a subscriber purchases;
- (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to

the subscriber's:

- (A) prerecorded announcement; or
- (B) live service; and
- (iii) is typically marketed:

(A) under the name 900 service; or

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

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Communications Commission.

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

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

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

(A) a product; or

(B) a service.

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

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

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

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

(a) listed under Subsection (6); and

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

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

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

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

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

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

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-402.1;

(i) Section 59-12-703;

(j) Section 59-12-802;

(k) Section 59-12-804;

(l) Section 59-12-1102;

(m) Section 59-12-1302;

(n) Section 59-12-1402;

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- (o) Section 59-12-1802;
  - (p) Section 59-12-2003;
  - (q) Section 59-12-2103;
  - (r) Section 59-12-2213;
  - (s) Section 59-12-2214;
  - (t) Section 59-12-2215;
  - (u) Section 59-12-2216;
  - (v) Section 59-12-2217; or
  - (w) Section 59-12-2218.
- (7) "Aircraft" is as defined in Section 72-10-102.
- (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- (a) except for:
    - (i) an airline as defined in Section 59-2-102; or
    - (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and
  - (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:
    - (i) check, diagnose, overhaul, and repair:
      - (A) an onboard system of a fixed wing turbine powered aircraft; and
      - (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
    - (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;
    - (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:
      - (A) an inspection;
      - (B) a repair, including a structural repair or modification;
      - (C) changing landing gear; and
      - (D) addressing issues related to an aging fixed wing turbine powered aircraft;
    - (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

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

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

- (a) is suitable for human consumption; and
- (b) contains .5% or more alcohol by volume.

(10) "Alternative energy" means:

- (a) biomass energy;
- (b) geothermal energy;
- (c) hydroelectric energy;
- (d) solar energy;
- (e) wind energy; or
- (f) energy that is derived from:
  - (i) coal-to-liquids;
  - (ii) nuclear fuel;
  - (iii) oil-impregnated diatomaceous earth;
  - (iv) oil sands;
  - (v) oil shale;
  - (vi) petroleum coke; or
  - (vii) waste heat from:
    - (A) an industrial facility; or
    - (B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

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

- (i) uses alternative energy to produce electricity; and
- (ii) has a production capacity of two megawatts or greater.

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

- (i) connected to an electric grid; or
- (ii) located on the premises of an electricity consumer.

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

(b) "Ancillary service" includes:

- (i) a conference bridging service;
- (ii) a detailed communications billing service;
- (iii) directory assistance;
- (iv) a vertical service; or
- (v) a voice mail service.

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

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

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

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

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

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

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

(16) "Authorized carrier" means:

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

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

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

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

(i) material from a plant or tree; or

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

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

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

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

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

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

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

(ii) the sale of real property;

(iii) the sale of services to real property;

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

(A) the tangible personal property:

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

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

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

(v) the retail sale of two services if:

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- (A) one service is provided that is essential to the use or receipt of a second service;
- (B) the first service is provided exclusively in connection with the second service; and
- (C) the second service is the true object of the transaction;

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

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

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

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

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

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

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

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

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

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

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

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

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

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

(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

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

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

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

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

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

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

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the seller's total sales price of the bundled transaction.

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

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

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

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

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

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

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

(i) on a transaction; and

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

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

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

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

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

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

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

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

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commission shall make rules:

- (i) listing the items that constitute "clothing"; and
- (ii) that are consistent with the list of items that constitute "clothing" under the

agreement.

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

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

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

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

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

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

(25) "Component part" includes:

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

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

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

(d) feed, seeds, and seedlings.

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

(a) (i) in digital form; or

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

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

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

(a) a computer to perform a task; or

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

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

- (a) future updates or upgrades to computer software;
- (b) support services with respect to computer software; or
- (c) a combination of Subsections (28)(a) and (b).

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

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

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

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

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

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

(i) by a seller of:

- (A) tangible personal property;
- (B) a product transferred electronically; or
- (C) services; and

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

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

- (i) transportation;
- (ii) shipping;
- (iii) postage;
- (iv) handling;
- (v) crating; or
- (vi) packing.

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

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

(a) is intended to supplement the diet;

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

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

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

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

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

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

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

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

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

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

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

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

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

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

(a) address information; or

(b) telephone number information.

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

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

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

(i) a drug;

(ii) durable medical equipment;

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

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

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

- (a) located in the state;
- (b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;
- (c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

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

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

- (i) recognized in:
  - (A) the official United States Pharmacopoeia;
  - (B) the official Homeopathic Pharmacopoeia of the United States;
  - (C) the official National Formulary; or
  - (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- (ii) intended for use in the:
  - (A) diagnosis of disease;
  - (B) cure of disease;
  - (C) mitigation of disease;
  - (D) treatment of disease; or
  - (E) prevention of disease; or
- (iii) intended to affect:
  - (A) the structure of the body; or

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(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

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

(i) can withstand repeated use;

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

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

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

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

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

(44) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (44)(b)(i) through (vi).

(45) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(46) "Employee" is as defined in Section 59-10-401.

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(47) "Fixed guideway" means a public transit facility that uses and occupies:

- (a) rail for the use of public transit; or
- (b) a separate right-of-way for the use of public transit.

(48) "Fixed wing turbine powered aircraft" means an aircraft that:

- (a) is powered by turbine engines;
- (b) operates on jet fuel; and
- (c) has wings that are permanently attached to the fuselage of the aircraft.

(49) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(50) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

- (A) liquid form;
- (B) concentrated form;
- (C) solid form;
- (D) frozen form;
- (E) dried form; or
- (F) dehydrated form; and

(ii) that are:

- (A) sold for:
  - (I) ingestion by humans; or
  - (II) chewing by humans; and
- (B) consumed for the substance's:
  - (I) taste; or
  - (II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).

(c) "Food and food ingredients" does not include:

- (i) an alcoholic beverage;
- (ii) tobacco; or
- (iii) prepared food.

(51) (a) "Fundraising sales" means sales:

- (i) (A) made by a school; or

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(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(52) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(53) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher

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education, including:

~~[(i) an applied technology college within the Utah College of Applied Technology;]~~

~~[(ii)]~~ (i) a school;

~~[(iii)]~~ (ii) the State Board of Education;

~~[(iv)]~~ (iii) the State Board of Regents; or

~~[(v)]~~ (iv) an institution of higher education described in Section 53B-1-102.

(55) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

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(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (56)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a cogeneration facility as defined in Section 54-2-1.

(57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(58) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(59) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or

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deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) \$100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(60) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(61) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(62) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(63) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

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(c) town that is authorized to impose an agreement sales and use tax.

(64) "Manufactured home" is as defined in Section 15A-1-302.

(65) "Manufacturing facility" means:

(a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (65)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(66) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

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- (f) parent or stepparent;
- (g) sibling or stepsibling;
- (h) spouse;
- (i) person who is the spouse of a person described in Subsections (66)(a) through (g);

or

(j) person similar to a person described in Subsections (66)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(67) "Mobile home" is as defined in Section 15A-1-302.

(68) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(69) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

- (i) the origination point of the conveyance, routing, or transmission is not fixed;
- (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- (iii) the origination point described in Subsection (69)(a)(i) and the termination point described in Subsection (69)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (70)(a).

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(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(71) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(72) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (72)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(74) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(75) "Modular home" means a modular unit as defined in Section 15A-1-302.

(76) "Motor vehicle" is as defined in Section 41-1a-102.

(77) "Oil sands" means impregnated bituminous sands that:

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(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(78) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(79) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(80) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(81) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (81)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(82) "Pawnbroker" is as defined in Section 13-32a-102.

(83) "Pawn transaction" is as defined in Section 13-32a-102.

(84) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

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(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (84)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (84)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (125)(c).

(85) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or

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combination acting as a unit.

(86) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

- (i) the residential street address of the customer; or
- (ii) the primary business street address of the customer; or
- (b) for mobile telecommunications service, is as defined in the Mobile

Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(87) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

- (A) bank card;
- (B) credit card;
- (C) debit card; or
- (D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(88) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(89) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

- (i) is paid for in advance; and
- (ii) enables the origination of a call using an:
  - (A) access number; or
  - (B) authorization code;

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(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(90) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(91) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided

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by the seller, including a:

- (A) plate;
  - (B) knife;
  - (C) fork;
  - (D) spoon;
  - (E) glass;
  - (F) cup;
  - (G) napkin; or
  - (H) straw.
- (b) "Prepared food" does not include:
- (i) food that a seller only:
    - (A) cuts;
    - (B) repackages; or
    - (C) pasteurizes; or
  - (ii) (A) the following:
    - (I) raw egg;
    - (II) raw fish;
    - (III) raw meat;
    - (IV) raw poultry; or
    - (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);

and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (91)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

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- (I) by weight or volume; and
- (II) as a single item; or
- (C) a bakery item, including:
  - (I) a bagel;
  - (II) a bar;
  - (III) a biscuit;
  - (IV) bread;
  - (V) a bun;
  - (VI) a cake;
  - (VII) a cookie;
  - (VIII) a croissant;
  - (IX) a danish;
  - (X) a donut;
  - (XI) a muffin;
  - (XII) a pastry;
  - (XIII) a pie;
  - (XIV) a roll;
  - (XV) a tart;
  - (XVI) a torte; or
  - (XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

- (i) a container; or
- (ii) packaging.

(92) "Prescription" means an order, formula, or recipe that is issued:

- (a) (i) orally;
- (ii) in writing;
- (iii) electronically; or
- (iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer

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software" means computer software that is not designed and developed:

- (i) by the author or other creator of the computer software; and
- (ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

- (A) by the author or other creator of the computer software; and
- (B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (93)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(94) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are

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connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

- (i) an extension line;
- (ii) a station;
- (iii) switching capacity; or
- (iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(95) (a) Except as provided in Subsection (95)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

- (i) an ancillary service;
- (ii) computer software; or
- (iii) a telecommunications service.

(96) (a) "Prosthetic device" means a device that is worn on or in the body to:

- (i) artificially replace a missing portion of the body;
- (ii) prevent or correct a physical deformity or physical malfunction; or
- (iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

- (i) parts used in the repairs or renovation of a prosthetic device;
- (ii) replacement parts for a prosthetic device;
- (iii) a dental prosthesis; or
- (iv) a hearing aid.

(c) "Prosthetic device" does not include:

- (i) corrective eyeglasses; or
- (ii) contact lenses.

(97) (a) "Protective equipment" means an item:

- (i) for human wear; and
- (ii) that is:
  - (A) designed as protection:

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- (I) to the wearer against injury or disease; or
- (II) against damage or injury of other persons or property; and
- (B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

- (i) listing the items that constitute "protective equipment"; and
- (ii) that are consistent with the list of items that constitute "protective equipment"

under the agreement.

(98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

- (i) regardless of:
  - (A) characteristics;
  - (B) copyright;
  - (C) form;
  - (D) format;
  - (E) method of reproduction; or
  - (F) source; and
- (ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(99) (a) "Purchase price" and "sales price" mean the total amount of consideration:

- (i) valued in money; and
- (ii) for which tangible personal property, a product transferred electronically, or

services are:

- (A) sold;
- (B) leased; or
- (C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

- (ii) expenses of the seller, including:

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- (A) the cost of materials used;
- (B) a labor cost;
- (C) a service cost;
- (D) interest;
- (E) a loss;
- (F) the cost of transportation to the seller; or
- (G) a tax imposed on the seller;
- (iii) a charge by the seller for any service necessary to complete the sale; or
- (iv) consideration a seller receives from a person other than the purchaser if:
  - (A) (I) the seller actually receives consideration from a person other than the purchaser;

and

(II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

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(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(100) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(101) "Qualifying enterprise data center" means an establishment that will:

(a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and

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storage of data and information;

- (b) be located in the state;
- (c) be a new operation constructed on or after July 1, 2016;
- (d) consist of one or more buildings that total 150,000 or more square feet;
- (e) be owned or leased by:
  - (i) the establishment; or
  - (ii) a person under common ownership, as defined in Section 59-7-101, of the

establishment; and

- (f) be located on one or more parcels of land that are owned or leased by:
  - (i) the establishment; or
  - (ii) a person under common ownership, as defined in Section 59-7-101, of the

establishment.

(102) "Regularly rented" means:

- (a) rented to a guest for value three or more times during a calendar year; or
- (b) advertised or held out to the public as a place that is regularly rented to guests for

value.

(103) "Rental" is as defined in Subsection (59).

(104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

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(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(105) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(106) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (106)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(107) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(108) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(109) (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

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(110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(111) "Sale at retail" is as defined in Subsection (108).

(112) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

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(B) account for the lease payments as payments made under a financing arrangement.

(113) "Sales price" is as defined in Subsection (99).

(114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (114)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

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(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(115) For purposes of this section and Section 59-12-104, "school":

(a) means:

(i) an elementary school or a secondary school that:

(A) is a:

(I) public school; or

(II) private school; and

(B) provides instruction for one or more grades kindergarten through 12; or

(ii) a public school district; and

(b) includes the Electronic High School as defined in Section 53A-15-1002.

(116) "Seller" means a person that makes a sale, lease, or rental of:

(a) tangible personal property;

(b) a product transferred electronically; or

(c) a service.

(117) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

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(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials"

includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (117)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(118) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

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(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

- (i) a beverage;
- (ii) a brush or comb;
- (iii) a cosmetic;
- (iv) a hair care product;
- (v) lotion;
- (vi) a magazine;
- (vii) makeup;
- (viii) a meal;
- (ix) mouthwash;
- (x) nail polish remover;
- (xi) a newspaper;
- (xii) a notepad;
- (xiii) a pen;
- (xiv) a pencil;
- (xv) a razor;
- (xvi) saline solution;
- (xvii) a sewing kit;
- (xviii) shaving cream;
- (xix) a shoe shine kit;
- (xx) a shower cap;
- (xxi) a snack item;
- (xxii) soap;
- (xxiii) toilet paper;
- (xxiv) a toothbrush;
- (xxv) toothpaste; or

(xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(120) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(121) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(122) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(123) "State" means the state of Utah, its departments, and agencies.

(124) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

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(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

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(iii) a water softener system.

(126) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (126)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

- (i) telecommunications switching or routing equipment, machinery, or software; or
- (ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (126)(a):

- (i) a pole;
- (ii) software;
- (iii) a supplementary power supply;
- (iv) temperature or environmental equipment or machinery;
- (v) test equipment;
- (vi) a tower; or
- (vii) equipment, machinery, or software that functions similarly to an item listed in

Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (126)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

(127) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(128) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

- (a) telecommunications enabling or facilitating equipment, machinery, or software;
- (b) telecommunications switching or routing equipment, machinery, or software; or
- (c) telecommunications transmission equipment, machinery, or software.

(129) (a) "Telecommunications service" means the electronic conveyance, routing, or

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transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

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(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(130) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (130)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or

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manages.

(131) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (131)(b) if that item is purchased or leased primarily for switching or routing:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or
- (iv) telecommunications service.

(b) The following apply to Subsection (131)(a):

- (i) a bridge;
- (ii) a computer;
- (iii) a cross connect;
- (iv) a modem;
- (v) a multiplexer;
- (vi) plug in circuitry;
- (vii) a router;
- (viii) software;
- (ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

(132) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or
- (iv) telecommunications service.

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(b) The following apply to Subsection (132)(a):

- (i) an amplifier;
- (ii) a cable;
- (iii) a closure;
- (iv) a conduit;
- (v) a controller;
- (vi) a duplexer;
- (vii) a filter;
- (viii) an input device;
- (ix) an input/output device;
- (x) an insulator;
- (xi) microwave machinery or equipment;
- (xii) an oscillator;
- (xiii) an output device;
- (xiv) a pedestal;
- (xv) a power converter;
- (xvi) a power supply;
- (xvii) a radio channel;
- (xviii) a radio receiver;
- (xix) a radio transmitter;
- (xx) a repeater;
- (xxi) software;
- (xxii) a terminal;
- (xxiii) a timing unit;
- (xxiv) a transformer;
- (xxv) a wire; or
- (xxvi) equipment, machinery, or software that functions similarly to an item listed in

Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (132)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that

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functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

(133) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

- (i) offered by an institution of higher education; and
  - (ii) that the purchaser of the textbook or other printed material attends or will attend.
- (b) "Textbook for a higher education course" includes a textbook in electronic format.

(134) "Tobacco" means:

- (a) a cigarette;
- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

(135) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(136) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(137) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

- (i) code;
- (ii) content;
- (iii) form; or

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(iv) protocol.

(138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

- (i) an aircraft as defined in Section 72-10-102;
- (ii) a vehicle as defined in Section 41-1a-102;
- (iii) an off-highway vehicle as defined in Section 41-22-2; or
- (iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- (i) a vehicle described in Subsection (138)(a); or
- (ii) (A) a locomotive;
- (B) a freight car;
- (C) railroad work equipment; or
- (D) other railroad rolling stock.

(139) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (138).

(140) (a) "Vertical service" means an ancillary service that:

- (i) is offered in connection with one or more telecommunications services; and
- (ii) offers an advanced calling feature that allows a customer to:
  - (A) identify a caller; and
  - (B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(141) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

- (A) tires;

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- (B) waste coal;
- (C) oil shale; or
- (D) municipal solid waste; and
- (ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

- (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(143) "Watercraft" means a vessel as defined in Section 73-18-2.

(144) "Wind energy" means wind used as the sole source of energy to produce electricity.

(145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 58. Section **59-12-702** is amended to read:

### **59-12-702. Definitions.**

As used in this part:

(1) "Administrative unit" means a division of a private nonprofit organization or institution that:

(a) would, if it were a separate entity, be a botanical organization or cultural organization; and

(b) consistently maintains books and records separate from those of its parent organization.

(2) "Aquarium" means a park or building where a collection of water animals and plants is kept for study, conservation, and public exhibition.

(3) "Aviary" means a park or building where a collection of birds is kept for study, conservation, and public exhibition.

(4) "Botanical organization" means:

(a) a private nonprofit organization or institution having as its primary purpose the advancement and preservation of plant science through horticultural display, botanical research, and community education; or

(b) an administrative unit.

(5) "Cultural facility" means the same as that term is defined in Section 59-12-602.

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(6) (a) "Cultural organization":

(i) means:

(A) a private nonprofit organization or institution having as its primary purpose the advancement and preservation of:

(I) natural history;

(II) art;

(III) music;

(IV) theater;

(V) dance; or

(VI) cultural arts, including literature, a motion picture, or storytelling;

(B) an administrative unit; and

(ii) includes, for purposes of Subsections 59-12-704(1)(d) and (6) only:

(A) a private nonprofit organization or institution having as its primary purpose the advancement and preservation of history; or

(B) a municipal or county cultural council having as its primary purpose the advancement and preservation of:

(I) history;

(II) natural history;

(III) art;

(IV) music;

(V) theater; or

(VI) dance.

(b) "Cultural organization" does not include:

(i) an agency of the state;

(ii) except as provided in Subsection (6)(a)(ii)(B), a political subdivision of the state;

(iii) an educational institution whose annual revenues are directly derived more than 50% from state funds; or

(iv) in a county of the first or second class, a radio or television broadcasting network or station, cable communications system, newspaper, or magazine.

(7) "Institution" means an institution of higher education listed in [~~Subsections~~]  
Subsection 53B-1-102(1)[(b) through (k)](a).

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(8) "Recreational facility" means a publicly owned or operated park, campground, marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, trail system, or other facility used for recreational purposes.

(9) "Rural radio station" means a nonprofit radio station based in a county of the third, fourth, fifth, or sixth class.

(10) In a county of the first class, "zoological facility" means a public, public-private partnership, or private nonprofit building, exhibit, utility and infrastructure, walkway, pathway, roadway, office, administration facility, public service facility, educational facility, enclosure, public viewing area, animal barrier, animal housing, animal care facility, and veterinary and hospital facility related to the advancement, exhibition, or preservation of a mammal, bird, reptile, fish, or an amphibian.

(11) (a) (i) Except as provided in Subsection (11)(a)(ii), "zoological organization" means a public, public-private partnership, or private nonprofit organization having as its primary purpose the advancement and preservation of zoology.

(ii) In a county of the first class, "zoological organization" means a nonprofit organization having as its primary purpose the advancement and exhibition of a mammal, bird, reptile, fish, or an amphibian to an audience of 75,000 or more persons annually.

(b) "Zoological organization" does not include an agency of the state, educational institution, radio or television broadcasting network or station, cable communications system, newspaper, or magazine.

(12) "Zoological park" means a park or garden where a collection of wild animals is kept for study, conservation, and public exhibition.

Section 59. Section **63A-2-402** is amended to read:

**63A-2-402. State surplus property program -- Participation by institutions of higher education.**

~~[The]~~ (1) Except as provided in Subsection (2), the State Board of Regents shall:

~~[(+)]~~ (a) implement a policy requiring each institution of higher education to submit to the division a listing of surplus property available for sale outside the institution, at least 15 days prior to the intended sale date;

~~[(2)]~~ (b) supervise and assist compliance by the institutions of higher education with the requirement of this part; and

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~~(3)~~ (c) encourage institutions of higher education to acquire federal surplus property from the division to reduce expenditures.

(2) The Utah System of Technical Colleges Board of Trustees shall conduct the activities described in Subsection (1) for a technical college described in Section 53B-2a-105.

Section 60. Section **63A-9-101** is amended to read:

### **63A-9-101. Definitions.**

(1) (a) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "Agency" includes the State Board of Education~~[, an applied technology college within the Utah College of Applied Technology, the board of regents, the institutional councils of each higher education institution,]~~ and each higher education institution described in Section 53B-1-102.

(c) "Agency" includes the legislative and judicial branches.

(2) "Committee" means the Motor Vehicle Review Committee created by this chapter.

(3) "Director" means the director of the division.

(4) "Division" means the Division of Fleet Operations created by this chapter.

(5) "Executive director" means the executive director of the Department of Administrative Services.

(6) "Local agency" means:

(a) a county;

(b) a municipality;

(c) a school district;

(d) a local district;

(e) a special service district;

(f) an interlocal entity as defined under Section 11-13-103; or

(g) any other political subdivision of the state, including a local commission, board, or other governmental entity that is vested with the authority to make decisions regarding the public's business.

(7) (a) "Motor vehicle" means a self-propelled vehicle capable of carrying passengers.

(b) "Motor vehicle" includes vehicles used for construction and other nontransportation

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purposes.

(8) "State vehicle" means each motor vehicle owned, operated, or in the possession of an agency.

Section 61. Section **63F-2-102** is amended to read:

### **63F-2-102. Data Security Management Council -- Membership -- Duties.**

(1) There is created the Data Security Management Council composed of nine members as follows:

(a) the chief information officer appointed under Section 63F-1-201, or the chief information officer's designee;

(b) one individual appointed by the governor;

(c) one individual appointed by the speaker of the House of Representatives and the president of the Senate from the Legislative Information Technology Steering Committee; and

(d) the highest ranking information technology official, or the highest ranking information technology official's designee, from each of:

(i) the Judicial Council;

(ii) the State Board of Regents;

(iii) the State Board of Education;

(iv) the Utah [~~College of Applied Technology~~] System of Technical Colleges Board of Trustees;

(v) the State Tax Commission; and

(vi) the Office of the Attorney General.

(2) The council shall elect a chair of the council by majority vote.

(3) (a) A majority of the members of the council constitutes a quorum.

(b) Action by a majority of a quorum of the council constitutes an action of the council.

(4) The Department of Technology Services shall provide staff to the council.

(5) The council shall meet monthly, or as often as necessary, to:

(a) review existing state government data security policies;

(b) assess ongoing risks to state government information technology;

(c) create a method to notify state and local government entities of new risks;

(d) coordinate data breach simulation exercises with state and local government entities; and

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(e) develop data security best practice recommendations for state government that include recommendations regarding:

- (i) hiring and training a chief information security officer for each government entity;
- (ii) continuous risk monitoring;
- (iii) password management;
- (iv) using the latest technology to identify and respond to vulnerabilities;
- (v) protecting data in new and old systems; and
- (vi) best procurement practices.

(6) A member who is not a member of the Legislature may not receive compensation or benefits for the member's service but may receive per diem and travel expenses as provided in:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

Section 62. Section **63G-2-305** is amended to read:

### **63G-2-305. Protected records.**

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause

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substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties, a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

- (a) an invitation for bids;
- (b) a request for proposals;
- (c) a request for quotes;
- (d) a grant; or
- (e) other similar document;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

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(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of

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an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

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(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

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(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not

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be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

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(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed

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by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

- (a) the safety of the general public; or
- (b) the security of:
  - (i) governmental property;
  - (ii) governmental programs; or
  - (iii) the property of a private person who provides the Division of Emergency

Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

- (i) the nature of the law, ordinance, rule, or order; and
- (ii) the individual complying with the law, ordinance, rule, or order;

(52) the name, home address, work addresses, and telephone numbers of an individual

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that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(53) an initial proposal under Title 63N, Chapter 13, Part 2, Government Procurement Private Proposal Program, to the extent not made public by rules made under that chapter;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge;

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation

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report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003; ~~and~~

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund[-]; and

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly

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announced finalist.

Section 63. Section **63G-6a-103** is amended to read:

### **63G-6a-103. Definitions.**

As used in this chapter:

(1) "Administrative law judge" means the same as that term is defined in Section 67-19e-102.

(2) "Administrative law judge service" means service provided by an administrative law judge.

(3) "Applicable rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the building board or the Division of Facilities Construction and Management, created in Section 63A-5-201, the building board;

(B) for the Office of the Attorney General, the attorney general; and

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the legislative body of the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education described in:

(i) Subsections 53B-1-102(1)(a) and (c), the State Board of Regents; or

(ii) Subsection 53B-1-102(1)(b), the Utah System of Technical Colleges Board of

Trustees;

(g) for a public transit district, the chief executive of the public transit district;

(h) for a local district other than a public transit district or for a special service district:

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- (i) before January 1, 2015, the board of trustees of the local district or the governing body of the special service district; or
- (ii) on or after January 1, 2015, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:
  - (A) with respect to a subject addressed by board rules; or
  - (B) that are in addition to board rules; or
- (i) for any other procurement unit, the board.
- (4) "Approved vendor" means a vendor who has been approved through the approved vendor list process.
- (5) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.
- (6) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.
- (7) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.
- (8) "Bidding process" means the procurement process described in Part 6, Bidding.
- (9) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.
- (10) "Building board" means the State Building Board, created in Section 63A-5-101.
- (11) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.
- (12) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.
- (13) "Chief procurement officer" means the chief procurement officer appointed under Subsection 63G-6a-302(1).
- (14) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:
  - (a) except:
    - (i) reviewing a solicitation to verify that it is in proper form; and

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- (ii) causing the publication of a notice of a solicitation; and
- (b) including:
  - (i) preparing any solicitation document;
  - (ii) appointing an evaluation committee;
  - (iii) conducting the evaluation process, except as provided in Subsection 63G-6a-707(6)(b) relating to scores calculated for costs of proposals;
  - (iv) selecting and recommending the person to be awarded a contract;
  - (v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and
  - (vi) contract administration.
- (15) "Conservation district" means the same as that term is defined in Section 17D-3-102.
- (16) "Construction":
  - (a) means services, including work, and supplies for a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property; and
  - (b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.
- (17) "Construction manager/general contractor":
  - (a) means a contractor who enters into a contract:
    - (i) for the management of a construction project; and
    - (ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and
  - (b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.
- (18) "Contract" means an agreement for a procurement.
- (19) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:
  - (a) implementing the contract;

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(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

(20) "Contractor" means a person who is awarded a contract with a procurement unit.

(21) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(22) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(23) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(24) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(25) "Days" means calendar days, unless expressly provided otherwise.

(26) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(27) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

(28) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects

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Licensing Act; or

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(29) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

(30) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102; or

(c) master planning and programming services.

(31) "Director" means the director of the division.

(32) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

(33) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board ~~[and]~~ or a charter school;

(c) the Utah Schools for the Deaf and Blind;

(d) the Utah Education and Telehealth Network; or

(e) an institution of higher education of the state described in Section 53B-1-102.

(34) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(35) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(36) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the

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extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(37) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(38) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(39) "Head of a procurement unit" means:

(a) for a legislative procurement unit, any person designated by rule made by the applicable rulemaking authority;

(b) for an executive branch procurement unit:

(i) the director of the division; or

(ii) any other person designated by the board, by rule;

(c) for a judicial procurement unit:

(i) the Judicial Council; or

(ii) any other person designated by the Judicial Council, by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) any other person designated by the local government procurement unit;

(e) for a local district other than a public transit district, the board of trustees of the local district or a designee of the board of trustees;

(f) for a special service district, the governing body of the special service district or a designee of the governing body;

(g) for a local building authority, the board of directors of the local building authority or a designee of the board of directors;

(h) for a conservation district, the board of supervisors of the conservation district or a

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designee of the board of supervisors;

(i) for a public corporation, the board of directors of the public corporation or a designee of the board of directors;

(j) for a school district or any school or entity within a school district, the board of the school district, or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school, or the individual's or body's designee;

(l) for an institution of higher education [~~of the state~~] described in Section 53B-2-101, the president of the institution of higher education, or the president's designee; or

(m) for a public transit district, the board of trustees or a designee of the board of trustees.

(40) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the chief procurement officer or the head of a procurement unit with independent procurement authority reasonably considers to be immaterial.

(41) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(42) "Independent procurement authority" means authority granted to a procurement unit under Subsection 63G-6a-106(4)(a).

(43) "Invitation for bids":

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- (a) means a document used to solicit:
- (i) bids to provide a procurement item to a procurement unit; or
- (ii) quotes for a price of a procurement item to be provided to a procurement unit; and
- (b) includes all documents attached to or incorporated by reference in a document

described in Subsection (43)(a).

(44) "Issuing procurement unit" means a procurement unit that:

- (a) reviews a solicitation to verify that it is in proper form;
- (b) causes the notice of a solicitation to be published; and
- (c) negotiates and approves the terms and conditions of a contract.

(45) "Judicial procurement unit" means:

- (a) the Utah Supreme Court;
- (b) the Utah Court of Appeals;
- (c) the Judicial Council;
- (d) a state judicial district; or
- (e) an office, committee, subcommittee, or other organization within the state judicial

branch.

(46) "Labor hour contract" is a contract under which:

- (a) the supplies and materials are not provided by, or through, the contractor; and
- (b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and

profit for a specified number of labor hours or days.

(47) "Legislative procurement unit" means:

- (a) the Legislature;
- (b) the Senate;
- (c) the House of Representatives;
- (d) a staff office of the Legislature, the Senate, or the House of Representatives; or
- (e) an office, committee, subcommittee, commission, or other organization within the

state legislative branch.

(48) "Local building authority" means the same as that term is defined in Section 17D-2-102.

(49) "Local district" means the same as that term is defined in Section 17B-1-102.

(50) "Local government procurement unit" means:

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(a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or

(c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.

(51) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one bidder or offeror.

(52) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(53) "Municipality" means a city, town, or metro township.

(54) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (54)(a).

(55) "Offeror" means a person who submits a proposal in response to a request for proposals.

(56) "Person" means the same as that term is defined in Section 68-3-12.5, excluding a political subdivision and a government office, department, division, bureau, or other body of government.

(57) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(58) "Procure" means to acquire a procurement item through a procurement.

(59) "Procurement":

(a) means a procurement unit's acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds;

(b) includes all functions that pertain to the acquisition of a procurement item, including:

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(i) preparing and issuing a solicitation; and  
(ii) (A) conducting a standard procurement process; or  
(B) conducting a procurement process that is an exception to a standard procurement process under Part 8, Exceptions to Procurement Requirements; and

(c) does not include a grant.

(60) "Procurement item" means a supply, a service, or construction.

(61) "Procurement officer" means:

(a) for a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for the division or a procurement unit without independent procurement authority,  
the chief procurement officer.

(62) "Procurement unit":

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) a local government procurement unit;

(vi) a local district;

(vii) a special service district;

(viii) a local building authority;

(ix) a conservation district;

(x) a public corporation; or

(xi) a public transit district; and

(b) does not include a political subdivision created under Title 11, Chapter 13,  
Interlocal Cooperation Act.

(63) "Professional service" means labor, effort, or work that requires an elevated degree of specialized knowledge and discretion, including labor, effort, or work in the field of:

(a) accounting;

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- (b) architecture;
- (c) construction design and management;
- (d) engineering;
- (e) financial services;
- (f) information technology;
- (g) the law;
- (h) medicine;
- (i) psychiatry; or
- (j) underwriting.

(64) "Protest officer" means:

(a) for the division or a procurement unit with independent procurement authority:

- (i) the head of the procurement unit;
- (ii) a designee of the head of the procurement unit; or
- (iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for a procurement unit without independent procurement authority, the chief

procurement officer or the chief procurement officer's designee.

(65) "Public corporation" means the same as that term is defined in Section 63E-1-102.

(66) "Public entity" means any government entity of the state or political subdivision of the state, including:

- (a) a procurement unit;
- (b) a municipality or county, regardless of whether the municipality or county has adopted this chapter or any part of this chapter; and
- (c) any other government entity located in the state that expends public funds.

(67) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

(68) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

(69) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(70) "Qualified vendor" means a vendor who:

- (a) is responsible; and

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(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

(71) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

(72) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

(73) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

(74) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

(75) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

(76) "Requirements contract" means a contract:

(a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(77) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(78) "Responsive" means conforming in all material respects to the requirements of a solicitation.

(79) "Sealed" means manually or electronically secured to prevent disclosure.

(80) "Service":

(a) means labor, effort, or work to produce a result that is beneficial to a procurement

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unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

(81) "Small purchase process" means the procurement process described in Section 63G-6a-506.

(82) "Sole source contract" means a contract resulting from a sole source procurement.

(83) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

(84) "Solicitation" means an invitation for bids, request for proposals, request for statement of qualifications, or request for information.

(85) "Solicitation response" means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(86) "Special service district" means the same as that term is defined in Section 17D-1-102.

(87) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(88) "Standard procurement process" means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

(89) "State cooperative contract" means a contract awarded by the division for and in

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behalf of all public entities.

(90) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(91) "Subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for design or construction;

(b) includes a trade contractor or specialty contractor; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor.

(92) "Supply" means a good, material, technology, piece of equipment, or any other item of personal property.

(93) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.

(94) "Time and materials contract" means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

(95) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

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(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(96) "Trial use contract" means a contract for a procurement item that the procurement unit acquires for a trial use or testing to determine whether the procurement item will benefit the procurement unit.

(97) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor; and

(iv) a design professional.

Section 64. Section **63J-3-103** is amended to read:

### **63J-3-103. Definitions.**

As used in this chapter:

(1) (a) "Appropriations" means actual unrestricted capital and operating appropriations from unrestricted General Fund and Education Fund sources.

(b) "Appropriations" includes appropriations that are contingent upon available surpluses in the General Fund and Education Fund.

(c) "Appropriations" does not mean:

(i) public education expenditures;

(ii) Utah Education and Telehealth Network expenditures in support of public education;

(iii) Utah [~~College of Applied Technology~~] System of Technical Colleges expenditures in support of public education;

(iv) State Tax Commission expenditures related to collection of income taxes in support of public education;

(v) debt service expenditures;

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- (vi) emergency expenditures;
- (vii) expenditures from all other fund or subfund sources;
- (viii) transfers or appropriations from the Education Fund to the Uniform School Fund;
- (ix) transfers into, or appropriations made to, the General Fund Budget Reserve

Account established in Section 63J-1-312;

(x) transfers into, or appropriations made to, the Education Budget Reserve Account established in Section 63J-1-313;

(xi) transfers in accordance with Section 63J-1-314 into, or appropriations made to the Wildland Fire Suppression Fund created in Section 65A-8-204 or the State Disaster Recovery Restricted Account created in Section 53-2a-603;

(xii) money appropriated to fund the total one-time project costs for the construction of capital developments as defined in Section 63A-5-104;

(xiii) transfers or deposits into or appropriations made to the Centennial Highway Fund created by Section 72-2-118;

(xiv) transfers or deposits into or appropriations made to the Transportation Investment Fund of 2005 created by Section 72-2-124;

(xv) transfers or deposits into or appropriations made to:

(A) the Department of Transportation from any source; or

(B) any transportation-related account or fund from any source; or

(xvi) supplemental appropriations from the General Fund to the Division of Forestry, Fire, and State Lands to provide money for wildland fire control expenses incurred during the current or previous fire years.

(2) "Base year real per capita appropriations" means the result obtained for the state by dividing the fiscal year 1985 actual appropriations of the state less debt money by:

(a) the state's July 1, 1983 population; and

(b) the fiscal year 1983 inflation index divided by 100.

(3) "Calendar year" means the time period beginning on January 1 of any given year and ending on December 31 of the same year.

(4) "Fiscal emergency" means an extraordinary occurrence requiring immediate expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session, Chapter 4.

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(5) "Fiscal year" means the time period beginning on July 1 of any given year and ending on June 30 of the subsequent year.

(6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual capital and operations appropriations from General Fund and non-Uniform School Fund income tax revenue sources, less debt money.

(7) "Inflation index" means the change in the general price level of goods and services as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic Analysis, U.S. Department of Commerce calculated as provided in Section 63J-3-202.

(8) (a) "Maximum allowable appropriations limit" means the appropriations that could be, or could have been, spent in any given year under the limitations of this chapter.

(b) "Maximum allowable appropriations limit" does not mean actual appropriations spent or actual expenditures.

(9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(10) "Most recent fiscal year's population" means the fiscal year population two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(11) "Population" means the number of residents of the state as of July 1 of each year as calculated by the Governor's Office of Management and Budget according to the procedures and requirements of Section 63J-3-202.

(12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and other monetary exaction and interest connected with it that are recorded as unrestricted revenue of the General Fund and from non-Uniform School Fund income tax revenues, except as specifically exempted by this chapter.

(13) "Security" means any bond, note, warrant, or other evidence of indebtedness, whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an "indebtedness" within the meaning of any provision of the constitution or laws of this state.

Section 65. Section **63N-12-203** is amended to read:

### **63N-12-203. STEM Action Center Board creation -- Membership.**

(1) There is created the STEM Action Center Board within the office, composed of the

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following members:

- (a) six private sector members who represent business, appointed by the governor;
- (b) the state superintendent of public instruction or the state superintendent of public instruction's designee;
- (c) the commissioner of higher education or the commissioner of higher education's designee;
- (d) one member appointed by the governor;
- (e) a member of the State Board of Education, chosen by the chair of the State Board of Education;
- (f) the executive director of the office or the executive director's designee;
- (g) the Utah [~~College of Applied Technology~~] System of Technical Colleges commissioner of technical education or the Utah [~~College of Applied Technology~~] System of Technical Colleges commissioner of technical education's designee;
- (h) the executive director of the Department of Workforce Services or the executive director of the Department of Workforce Services' designee; and
- (i) one member who has a degree in engineering and experience working in a government military installation, appointed by the governor.

(2) (a) The private sector members appointed by the governor in Subsection (1)(a) shall represent a business or trade association whose primary focus is science, technology, or engineering.

(b) Except as required by Subsection (2)(c), members appointed by the governor shall be appointed to four-year terms.

(c) The length of terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(d) The members may not serve more than two full consecutive terms except where the governor determines that an additional term is in the best interest of the state.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) Attendance of a simple majority of the members constitutes a quorum for the transaction of official committee business.

(4) Formal action by the committee requires a majority vote of a quorum.

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(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The governor shall select the chair of the board to serve a two-year term.

(7) The executive director of the office or the executive director's designee shall serve as the vice chair of the board.

Section 66. Section **63N-12-212** is amended to read:

### **63N-12-212. High school STEM education initiative.**

(1) Subject to legislative appropriations, after consulting with State Board of Education staff, the STEM Action Center shall award grants to school districts and charter schools to fund STEM related certification for high school students.

(2) (a) A school district or charter school may apply for a grant from the STEM Action Center, through a competitive process, to fund the school district's or charter school's STEM related certification training program.

(b) A school district's or charter school's STEM related certification training program shall:

(i) prepare high school students to be job ready for available STEM related positions of employment; and

(ii) when a student completes the program, result in the student gaining an industry-recognized employer STEM related certification.

(3) A school district or charter school may partner with one or more of the following to provide a STEM related certification program:

~~[(a) an applied technology college within the Utah College of Applied Technology;]~~

(a) a technical college described in Section 53B-2a-105;

(b) Salt Lake Community College;

(c) Snow College;

(d) Utah State University Eastern; or

(e) a private sector employer.

Section 67. Section **63N-12-213** is amended to read:

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### 63N-12-213. Computer science initiative for public schools.

(1) As used in this section:

(a) "Computational thinking" means the set of problem-solving skills and techniques that software engineers use to write programs that underlie computer applications, including decomposition, pattern recognition, pattern generalization, and algorithm design.

(b) "Computer coding" means the process of writing script for a computer program or mobile device.

(c) "Educator" means the same as that term is defined in Section 53A-6-103.

(d) "Endorsement" means a stipulation, authorized by the State Board of Education and appended to a license, that specifies the areas of practice to which the license applies.

(e) (i) "Institution of higher education" means the same as that term is defined in Section 53B-3-102.

(ii) "Institution of higher education" includes ~~[the Utah College of Applied Technology]~~ a technical college described in Section 53B-2a-105.

(f) "Employer" means a private employer, public employer, industry association, union, or the military.

(g) "License" means the same as that term is defined in Section 53A-6-103.

(2) Subject to legislative appropriations, on behalf of the board, the staff of the board and the staff of the State Board of Education shall collaborate to develop and implement a computer science initiative for public schools by:

(a) creating an online repository that:

(i) is available for school districts and charter schools to use as a resource; and

(ii) includes high quality computer science instructional resources that are designed to teach students in all grade levels:

(A) computational thinking skills; and

(B) computer coding skills;

(b) providing for professional development on teaching computer science by:

(i) including resources for educators related to teaching computational thinking and computer coding in the STEM education high quality professional development application described in Section 63N-12-210; and

(ii) providing statewide or regional professional development institutes; and

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(c) awarding grants to a school district or charter school, on a competitive basis, that may be used to provide incentives for an educator to earn a computer science endorsement.

(3) A school district or charter school may enter into an agreement with one or more of the following entities to jointly apply for a grant under Subsection (2)(c):

- (a) a school district;
- (b) a charter school;
- (c) an employer;
- (d) an institution of higher education; or
- (e) a non-profit organization.

(4) To apply for a grant described in Subsection (2)(c), a school district or charter school shall submit a plan to the State Board of Education for the use of the grant, including a statement of purpose that describes the methods the school district or charter school proposes to use to incentivize an educator to earn a computer science endorsement.

(5) The board and the State Board of Education shall encourage schools to independently pursue computer science and coding initiatives, subject to local school board or charter school governing board approval, based on the unique needs of the school's students.

(6) The board shall include information on the status of the computer science initiative in the annual report described in Section 63N-12-208.

Section 68. Section **67-1-12** is amended to read:

### **67-1-12. Displaced defense workers.**

(1) The governor, through the Department of Workforce Services, may use funds specifically appropriated by the Legislature to benefit, in a manner prescribed by Subsection (2):

- (a) Department of Defense employees within the state who lose their employment because of reductions in defense spending by the federal government;
- (b) persons dismissed by a defense-related industry employer because of reductions in federal government defense contracts received by the employer; and
- (c) defense-related businesses in the state that have been severely and adversely impacted because of reductions in defense spending.

(2) Funds appropriated under this section before fiscal year 1999-2000 but not expended shall remain with the agency that possesses the funds and shall be used in a manner

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consistent with this section. Any amount appropriated under this section in fiscal year 1999-2000 or thereafter may be used to:

(a) provide matching or enhancement funds for grants, loans, or other assistance received by the state from the United States Department of Labor, Department of Defense, or other federal agency to assist in retraining, community assistance, or technology transfer activities;

(b) fund or match available private or public funds from the state or local level to be used for retraining, community assistance, technology transfer, or educational projects coordinated by state or federal agencies;

(c) provide for retraining, upgraded services, and programs at [~~applied technology~~] technical colleges, public schools, higher education institutions, or any other appropriate public or private entity that are designed to teach specific job skills requested by a private employer in the state or required for occupations that are in demand in the state;

(d) aid public or private entities that provide assistance in locating new employment;

(e) inform the public of assistance programs available for persons who have lost their employment;

(f) increase funding for assistance and retraining programs;

(g) provide assistance for small start-up companies owned or operated by persons who have lost their employment;

(h) enhance the implementation of dual-use technologies programs, community adjustment assistance programs, or other relevant programs under Pub. L. No. 102-484; and

(i) coordinate local and national resources to protect and enhance current Utah defense installations and related operations and to facilitate conversion or enhancement efforts by:

(i) creating and operating state information clearinghouse operations that monitor relevant activities on the federal, state, and local level;

(ii) identifying, seeking, and matching funds from federal and other public agencies and private donors;

(iii) identifying and coordinating needs in different geographic areas;

(iv) coordinating training and retraining centers;

(v) coordinating technology transfer efforts between public entities, private entities, and institutions of higher education;

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(vi) facilitating the development of local and national awareness and support for Utah defense installations;

(vii) studying the creation of strategic alliances, tax incentives, and relocation and consolidation assistance; and

(viii) exploring feasible alternative uses for the physical and human resources at defense installations and in related industries should reductions in mission occur.

(3) The governor, through the Department of Workforce Services, may coordinate and administer the expenditure of money under this section and collaborate with applied technology centers, public institutions of higher learning, or other appropriate public or private entities to provide retraining and other services described in Subsection (2).

### Section 69. **Effective date.**

This bill takes effect on July 1, 2017, except that:

(1) the amendments to Section 53B-1-104 take effect on May 9, 2017; and

(2) the amendments to Section 53B-16-102 take effect on September 1, 2017.

### Section 70. **Repealer.**

This bill repeals:

**Section 53B-6-101, Additional responsibilities of the board -- Studies and evaluations -- Master plan for higher education -- Productivity -- Institutional student assessment -- Biennial accountability report to the Legislature.**

~~† Section 53B-6-102, Standardized systems prescribed by the board.~~

† Section 53B-6-103, Cooperation with nonmember institutions within the state.

Section 53B-16-106, Board to establish electronics engineering program at Weber State University.

†

### **Legislative Review Note**

† Section 53B-16-210, Salt Lake Community College -- School of Applied

Technology Board of Directors -- Membership -- Duties.

Section 71. Coordinating S.B. 238 with H.B. 24 -- Changing terminology.

## **SB0238S01 compared with SB0238**

If this S.B. 238 and H.B. 24, Student Prosperity Savings Program - Tax Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, change the terminology in Subsections 53B-8a-201(8)(c) and 53B-8a-204(5)(b)(i)(C) from "a college within the Utah College of Applied Technology" to "a technical college".

### **Section 72. Coordinating S.B. 238 with H.B. 100 -- Substantive and technical amendments.**

If this S.B. 238 and H.B. 100, Institutions of Higher Education Disclosure Requirements, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, modify Subsection 53B-1-112(1)(b)(iii) to read:

"(iii) "Institution" does not include a technical college."

### **Section 73. Coordinating S.B. 238 with H.B. 165 -- Substantive and technical amendments -- Changing terminology.**

If this S.B. 238 and H.B. 165, Higher Education Retirement Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) modify Subsection 49-11-102(9) to read:

"(9) "Technical college" means the same as that term is defined in Section 53B-1-101.5."; and

(2) change the terminology from "applied technology" to "technical" in the following sections:

(a) Section 49-12-203;

(b) Section 49-12-204;

(c) Section 49-13-203;

(d) Section 49-13-204;

(e) Section 49-22-203; and

(f) Section 49-22-204.

### **Section 74. Coordinating S.B. 238 with H.B. 398 -- Substantive and technical amendments.**

If this S.B. 238 and H.B. 398, Procurement Code Amendments, both pass and become

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law, it is the intent of the Legislature that when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication, the amendments to the following definitions in Section 63G-6a-103 from S.B. 238 supersede the amendments to the definitions in Section 63G-6a-103 from H.B. 398:

- (1) "Applicable rulemaking authority";
- (2) "Educational procurement unit"; and
- (3) "Head of procurement unit".

### **Section 75. Coordinating S.B. 238 with S.B. 117 -- Substantive and technical amendments -- Changing terminology.**

If this S.B. 238 and S.B. 117, Higher Education Performance Funding, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

- (1) modify Section 53B-7-702 by deleting Subsection 53B-7-702(2);
- (2) change the terminology from "applied technology" to "technical" in the following

sections:

- (a) Section 53B-7-702;
- (b) Section 53B-7-703;
- (c) Section 53B-7-705; and
- (d) Section 53B-7-707; and

(3) change the terminology from "Utah College of Applied Technology" to "Utah System of Technical Colleges" in the following sections:

- (a) Section 53B-7-702;
- (b) Section 53B-7-703;
- (c) Section 53B-7-705; and
- (d) Section 53B-7-707.

### **Section 76. Coordinating S.B. 238 with S.B. 194 -- Changing terminology.**

If this S.B. 238 and S.B. 194, Utah Data Research Center Act, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, change the language in Subsection 35A-14-102(7)(c) from "the Utah College of Applied Technology" to "the Utah System of Technical Colleges Board of Trustees".

## **SB0238S01 compared with SB0238**

### **Section 77. Revisor instructions.**

The Legislature intends that on July 1, 2017, the Office of Legislative Research and General Counsel shall, in preparing the Utah Code database for publication:

(1) coordinate this S.B. 238 with other bills as described in Sections 71 through 76;

and

(2) in addition to the Office of Legislative Research and General Counsel's authority under Subsection 36-12-12(3), make additions, deletions, and other modifications necessary to ensure that sections and subsections are complete sentences and grammatically correct to accurately reflect the office's perception of the Legislature's intent.