

**ADMINISTRATIVE OFFICE OF THE COURTS**

**AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: V. Lowry Snow**

Senate Sponsor: Todd Weiler

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**LONG TITLE**

**Committee Note:**

The Judiciary Interim Committee recommended this bill.

**General Description:**

This bill modifies provisions relating to the Administrative Office of the Courts.

**Highlighted Provisions:**

This bill:

▶ removes the Office of the Court Administrator from the Legislative Oversight and Sunset Act;

▶ provides for consistent use of the terms "Administrative Office of the Courts" and "state court administrator";

▶ clarifies that the state court administrator serves at the pleasure of the Judicial Council and the Supreme Court; and

▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



- 28            **20A-1-506**, as last amended by Laws of Utah 2017, Chapter 115
- 29            **36-21-1**, as enacted by Laws of Utah 1995, Chapter 44
- 30            **41-6a-2002**, as last amended by Laws of Utah 2014, Chapter 276
- 31            **59-12-102**, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422
- 32            **63A-3-110**, as enacted by Laws of Utah 2017, Chapter 354
- 33            **63B-5-201**, as last amended by Laws of Utah 2016, Chapter 144
- 34            **63G-2-103**, as last amended by Laws of Utah 2017, Chapters 196 and 441
- 35            **63I-1-278**, as last amended by Laws of Utah 2016, Chapters 325 and 398
- 36            **63I-5-201**, as last amended by Laws of Utah 2016, Chapters 144 and 195
- 37            **67-8-5**, as last amended by Laws of Utah 2015, Chapter 289
- 38            **76-8-309**, as last amended by Laws of Utah 2004, Chapter 274
- 39            **77-10a-2**, as last amended by Laws of Utah 2010, Chapters 34 and 96
- 40            **78A-2-103**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 41            **78A-2-104**, as last amended by Laws of Utah 2009, Chapter 32
- 42            **78A-2-105**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 43            **78A-2-107**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 44            **78A-2-108**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 45            **78A-2-109**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 46            **78A-2-301**, as last amended by Laws of Utah 2015, Chapters 99 and 313
- 47            **78A-11-106**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 48            **78B-1-117**, as last amended by Laws of Utah 2014, Chapter 233

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

51            Section 1. Section **20A-1-506** is amended to read:

52            **20A-1-506. Vacancy in the office of justice court judge.**

53            (1) As used in this section:

54            (a) "Appointing authority" means:

55            (i) for a county:

56            (A) the chair of the county commission in a county having the county commission or  
 57 expanded county commission form of county government; and

58            (B) the county executive in a county having the county executive-council form of

59 government; and

60 (ii) for a city or town, the mayor of the city or town.

61 (b) "Local legislative body" means:

62 (i) for a county, the county commission or county council; and

63 (ii) for a city or town, the council of the city or town.

64 (2) (a) If a vacancy occurs in the office of a municipal justice court judge before the  
65 completion of the judge's term of office, the appointing authority:

66 (i) shall fill the vacancy by following the procedures and requirements for  
67 appointments in Section 78A-7-202; and

68 (ii) may contract with a justice court judge of the county, an adjacent county, or another  
69 municipality within those counties for judicial services until the vacancy is filled.

70 (b) The appointing authority shall notify the [~~Office of the State Court Administrator~~]  
71 Administrative Office of the Courts in writing of an appointment of a municipal justice court  
72 judge under this section within 30 days after the appointment is made.

73 (3) (a) If a vacancy occurs in the office of a county justice court judge before the  
74 completion of the judge's term of office, the appointing authority shall fill the vacancy by  
75 following the procedures and requirements for appointments in Section 78A-7-202.

76 (b) The appointing authority shall notify the [~~Office of the State Court Administrator~~]  
77 Administrative Office of the Courts in writing of an appointment of a county justice court  
78 judge under this section within 30 days after the appointment is made.

79 (4) (a) When a vacancy occurs in the office of a justice court judge, the appointing  
80 authority shall:

81 (i) advertise the vacancy and solicit applications for the vacancy;

82 (ii) appoint the best qualified candidate to office based solely upon fitness for office;

83 (iii) comply with the procedures and requirements of Title 52, Chapter 3, Prohibiting  
84 Employment of Relatives, in making appointments to fill the vacancy; and

85 (iv) submit the name of the appointee to the local legislative body.

86 (b) If the local legislative body does not confirm the appointment within 30 days of  
87 submission, the appointing authority may either appoint another of the applicants or reopen the  
88 vacancy by advertisement and solicitations of applications.

89 Section 2. Section 36-21-1 is amended to read:

90           **36-21-1. Definition -- Deadline for state governmental entities filing legislation --**  
91 **Waiver.**

92           (1) "Governmental entity" means:

93           (a) the executive branch of the state, including all departments, institutions, boards,  
94 divisions, bureaus, offices, commissions, committees, and elected officials;

95           (b) the judicial branch of the state, including the courts, the Judicial Council, the  
96 [~~Office of the Court Administrator~~] Administrative Office of the Courts, and similar  
97 administrative units in the judicial branch;

98           (c) the State Board of Education, the State Board of Regents, and any state-funded  
99 institution of higher education or public education;

100           (d) the National Guard;

101           (e) all quasi independent entities created by statute; and

102           (f) any political subdivision of the state, including any county, city, town, school  
103 district, public transit district, redevelopment agency, special improvement or taxing district.

104           (2) Legislation requested by a governmental entity may not be considered by the  
105 Legislature during the annual general session unless:

106           (a) at the time the request for legislation is made it has a legislative sponsor;

107           (b) the request for legislation is filed with the Office of Legislative Research and  
108 General Counsel by December 1st of the year immediately before the Legislature's annual  
109 general session; and

110           (c) at the time the request for legislation is filed, it includes the purpose of the measure  
111 and all necessary drafting information.

112           (3) The Legislature, by motion and with the approval of a majority vote in one house,  
113 may waive this requirement.

114           (4) It is the intent of the Legislature that these agency requests will not be given higher  
115 priority than individual legislative requests filed at a later date.

116           Section 3. Section **41-6a-2002** is amended to read:

117           **41-6a-2002. Definitions.**

118           As used in this section:

119           (1) "Automatic license plate reader system" means a system of one or more mobile or  
120 fixed automated high-speed cameras used in combination with computer algorithms to convert

121 an image of a license plate into computer-readable data.

122 (2) "Captured plate data" means the global positioning system coordinates, date and  
123 time, photograph, license plate number, and any other data captured by or derived from an  
124 automatic license plate reader system.

125 (3) (a) "Governmental entity" means:

126 (i) executive department agencies of the state;

127 (ii) the offices of the governor, the lieutenant governor, the state auditor, the attorney  
128 general, and the state treasurer;

129 (iii) the Board of Pardons and Parole;

130 (iv) the Board of Examiners;

131 (v) the National Guard;

132 (vi) the Career Service Review Office;

133 (vii) the State Board of Education;

134 (viii) the State Board of Regents;

135 (ix) the State Archives;

136 (x) the Office of the Legislative Auditor General;

137 (xi) the Office of Legislative Fiscal Analyst;

138 (xii) the Office of Legislative Research and General Counsel;

139 (xiii) the Legislature;

140 (xiv) legislative committees, except any political party, group, caucus, or rules or  
141 sifting committee of the Legislature;

142 (xv) courts, the Judicial Council, the [~~Office of the Court Administrator~~]

143 Administrative Office of the Courts, and similar administrative units in the judicial branch;

144 (xvi) any state-funded institution of higher education or public education; or

145 (xvii) any political subdivision of the state.

146 (b) "Governmental entity" includes:

147 (i) every office, agency, board, bureau, committee, department, advisory board, or  
148 commission of an entity listed in Subsections (3)(a)(i) through (xvii) that is funded or  
149 established by the government to carry out the public's business; or

150 (ii) a person acting as an agent of a governmental entity or acting on behalf of a  
151 governmental entity.

152 (4) "Secured area" means an area, enclosed by clear boundaries, to which access is  
153 limited and not open to the public and entry is only obtainable through specific access-control  
154 points.

155 Section 4. Section **59-12-102** is amended to read:

156 **59-12-102. Definitions.**

157 As used in this chapter:

158 (1) "800 service" means a telecommunications service that:

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

160 (b) is typically marketed:

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

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

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

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

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

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

167 Federal Communications Commission.

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

169 (i) a subscriber purchases;

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

172 (A) prerecorded announcement; or

173 (B) live service; and

174 (iii) is typically marketed:

175 (A) under the name 900 service; or

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

177 Communications Commission.

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

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

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

182 (A) a product; or

- 183 (B) a service.
- 184 (3) (a) "Admission or user fees" includes season passes.
- 185 (b) "Admission or user fees" does not include annual membership dues to private
- 186 organizations.
- 187 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 188 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 189 Agreement after November 12, 2002.
- 190 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 191 (a) listed under Subsection (6); and
- 192 (b) that are imposed within a local taxing jurisdiction.
- 193 (6) "Agreement sales and use tax" means a tax imposed under:
- 194 (a) Subsection 59-12-103(2)(a)(i)(A);
- 195 (b) Subsection 59-12-103(2)(b)(i);
- 196 (c) Subsection 59-12-103(2)(c)(i);
- 197 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 198 (e) Section 59-12-204;
- 199 (f) Section 59-12-401;
- 200 (g) Section 59-12-402;
- 201 (h) Section 59-12-402.1;
- 202 (i) Section 59-12-703;
- 203 (j) Section 59-12-802;
- 204 (k) Section 59-12-804;
- 205 (l) Section 59-12-1102;
- 206 (m) Section 59-12-1302;
- 207 (n) Section 59-12-1402;
- 208 (o) Section 59-12-1802;
- 209 (p) Section 59-12-2003;
- 210 (q) Section 59-12-2103;
- 211 (r) Section 59-12-2213;
- 212 (s) Section 59-12-2214;
- 213 (t) Section 59-12-2215;

- 214 (u) Section 59-12-2216;
- 215 (v) Section 59-12-2217;
- 216 (w) Section 59-12-2218; or
- 217 (x) Section 59-12-2219.
- 218 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 219 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 220 (a) except for:
- 221 (i) an airline as defined in Section 59-2-102; or
- 222 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 223 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 224 state, of an airline; and
- 225 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 226 whether the business entity performs the following in this state:
- 227 (i) check, diagnose, overhaul, and repair:
- 228 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 229 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 230 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 231 engine;
- 232 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 233 aircraft:
- 234 (A) an inspection;
- 235 (B) a repair, including a structural repair or modification;
- 236 (C) changing landing gear; and
- 237 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 238 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 239 completely apply new paint to the fixed wing turbine powered aircraft; and
- 240 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 241 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 242 authority that certifies the fixed wing turbine powered aircraft.
- 243 (9) "Alcoholic beverage" means a beverage that:
- 244 (a) is suitable for human consumption; and



- 245 (b) contains .5% or more alcohol by volume.
- 246 (10) "Alternative energy" means:
- 247 (a) biomass energy;
- 248 (b) geothermal energy;
- 249 (c) hydroelectric energy;
- 250 (d) solar energy;
- 251 (e) wind energy; or
- 252 (f) energy that is derived from:
- 253 (i) coal-to-liquids;
- 254 (ii) nuclear fuel;
- 255 (iii) oil-impregnated diatomaceous earth;
- 256 (iv) oil sands;
- 257 (v) oil shale;
- 258 (vi) petroleum coke; or
- 259 (vii) waste heat from:
- 260 (A) an industrial facility; or
- 261 (B) a power station in which an electric generator is driven through a process in which
- 262 water is heated, turns into steam, and spins a steam turbine.
- 263 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 264 facility" means a facility that:
- 265 (i) uses alternative energy to produce electricity; and
- 266 (ii) has a production capacity of two megawatts or greater.
- 267 (b) A facility is an alternative energy electricity production facility regardless of
- 268 whether the facility is:
- 269 (i) connected to an electric grid; or
- 270 (ii) located on the premises of an electricity consumer.
- 271 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 272 provision of telecommunications service.
- 273 (b) "Ancillary service" includes:
- 274 (i) a conference bridging service;
- 275 (ii) a detailed communications billing service;

276 (iii) directory assistance;

277 (iv) a vertical service; or

278 (v) a voice mail service.

279 (13) "Area agency on aging" means the same as that term is defined in Section

280 [62A-3-101](#).

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

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

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

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

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

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

294 (16) "Authorized carrier" means:

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

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

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

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

305 (i) material from a plant or tree; or

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

- 307 (A) slash and brush from forests and woodlands;
- 308 (B) animal waste;
- 309 (C) waste vegetable oil;
- 310 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
- 311 wastewater residuals, or through the conversion of a waste material through a nonincineration,
- 312 thermal conversion process;
- 313 (E) aquatic plants; and
- 314 (F) agricultural products.
- 315 (b) "Biomass energy" does not include:
- 316 (i) black liquor; or
- 317 (ii) treated woods.
- 318 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 319 property, products, or services if the tangible personal property, products, or services are:
- 320 (i) distinct and identifiable; and
- 321 (ii) sold for one nonitemized price.
- 322 (b) "Bundled transaction" does not include:
- 323 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 324 the basis of the selection by the purchaser of the items of tangible personal property included in
- 325 the transaction;
- 326 (ii) the sale of real property;
- 327 (iii) the sale of services to real property;
- 328 (iv) the retail sale of tangible personal property and a service if:
- 329 (A) the tangible personal property:
- 330 (I) is essential to the use of the service; and
- 331 (II) is provided exclusively in connection with the service; and
- 332 (B) the service is the true object of the transaction;
- 333 (v) the retail sale of two services if:
- 334 (A) one service is provided that is essential to the use or receipt of a second service;
- 335 (B) the first service is provided exclusively in connection with the second service; and
- 336 (C) the second service is the true object of the transaction;
- 337 (vi) a transaction that includes tangible personal property or a product subject to

338 taxation under this chapter and tangible personal property or a product that is not subject to  
339 taxation under this chapter if the:

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

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

344 (vii) the retail sale of tangible personal property that is not subject to taxation under  
345 this chapter and tangible personal property that is subject to taxation under this chapter if:

346 (A) that retail sale includes:

347 (I) food and food ingredients;

348 (II) a drug;

349 (III) durable medical equipment;

350 (IV) mobility enhancing equipment;

351 (V) an over-the-counter drug;

352 (VI) a prosthetic device; or

353 (VII) a medical supply; and

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

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

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

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

361 (A) packaging that:

362 (I) accompanies the sale of the tangible personal property, product, or service; and

363 (II) is incidental or immaterial to the sale of the tangible personal property, product, or  
364 service;

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

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

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

374 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price  
375 does not include a price that is separately identified by tangible personal property, product, or  
376 service on the following, regardless of whether the following is in paper format or electronic  
377 format:

378 (A) a binding sales document; or

379 (B) another supporting sales-related document that is available to a purchaser.

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

382 (A) a bill of sale;

383 (B) a contract;

384 (C) an invoice;

385 (D) a lease agreement;

386 (E) a periodic notice of rates and services;

387 (F) a price list;

388 (G) a rate card;

389 (H) a receipt; or

390 (I) a service agreement.

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

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

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

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

398 (A) shall use the seller's purchase price or the seller's sales price to determine if the  
399 purchase price or sales price of the tangible personal property or product subject to taxation

400 under this chapter is de minimis; and

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

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

406 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of  
407 the seller's purchase price and the seller's sales price to determine if tangible personal property  
408 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales  
409 price of that retail sale.

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

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

414 (i) on a transaction; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

440 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,  
441 Utah Administrative Rulemaking Act, the commission may make rules defining what  
442 constitutes a person's place of employment.

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

445 (25) "Component part" includes:

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

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

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

451 (d) feed, seeds, and seedlings.

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

453 (a) (i) in digital form; or

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

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

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

457 (a) a computer to perform a task; or

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

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

461 (a) future updates or upgrades to computer software;

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

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

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

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

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

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

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

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

475 (i) by a seller of:

476 (A) tangible personal property;

477 (B) a product transferred electronically; or

478 (C) services; and

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

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

483 (i) transportation;

484 (ii) shipping;

485 (iii) postage;

486 (iv) handling;

487 (v) crating; or

488 (vi) packing.

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

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

492 (a) is intended to supplement the diet;



- 493 (b) contains one or more of the following dietary ingredients:
- 494 (i) a vitamin;
- 495 (ii) a mineral;
- 496 (iii) an herb or other botanical;
- 497 (iv) an amino acid;
- 498 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 499 dietary intake; or
- 500 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 501 described in Subsections (34)(b)(i) through (v);
- 502 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 503 (A) tablet form;
- 504 (B) capsule form;
- 505 (C) powder form;
- 506 (D) softgel form;
- 507 (E) gelcap form; or
- 508 (F) liquid form; or
- 509 (ii) if the product is not intended for ingestion in a form described in Subsections
- 510 (34)(c)(i)(A) through (F), is not represented:
- 511 (A) as conventional food; and
- 512 (B) for use as a sole item of:
- 513 (I) a meal; or
- 514 (II) the diet; and
- 515 (d) is required to be labeled as a dietary supplement:
- 516 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 517 (ii) as required by 21 C.F.R. Sec. 101.36.
- 518 (35) "Digital audio-visual work" means a series of related images which, when shown
- 519 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 520 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 521 musical, spoken, or other sounds.
- 522 (b) "Digital audio work" includes a ringtone.
- 523 (37) "Digital book" means a work that is generally recognized in the ordinary and usual

524 sense as a book.

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

527 (i) to:

528 (A) a mass audience; or

529 (B) addressees on a mailing list provided:

530 (I) by a purchaser of the mailing list; or

531 (II) at the discretion of the purchaser of the mailing list; and

532 (ii) if the cost of the printed material is not billed directly to the recipients.

533 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a  
534 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

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

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

538 (a) address information; or

539 (b) telephone number information.

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

542 (i) cannot withstand repeated use; and

543 (ii) are purchased by, for, or on behalf of a person other than:

544 (A) a health care facility as defined in Section [26-21-2](#);

545 (B) a health care provider as defined in Section [78B-3-403](#);

546 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

547 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

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

549 (i) a drug;

550 (ii) durable medical equipment;

551 (iii) a hearing aid;

552 (iv) a hearing aid accessory;

553 (v) mobility enhancing equipment; or

554 (vi) tangible personal property used to correct impaired vision, including:

- 555 (A) eyeglasses; or  
556 (B) contact lenses.  
557 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
558 commission may by rule define what constitutes medical equipment or supplies.  
559 (41) "Drilling equipment manufacturer" means a facility:  
560 (a) located in the state;  
561 (b) with respect to which 51% or more of the manufacturing activities of the facility  
562 consist of manufacturing component parts of drilling equipment;  
563 (c) that uses pressure of 800,000 or more pounds per square inch as part of the  
564 manufacturing process; and  
565 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the  
566 manufacturing process.  
567 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a  
568 compound, substance, or preparation that is:  
569 (i) recognized in:  
570 (A) the official United States Pharmacopoeia;  
571 (B) the official Homeopathic Pharmacopoeia of the United States;  
572 (C) the official National Formulary; or  
573 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);  
574 (ii) intended for use in the:  
575 (A) diagnosis of disease;  
576 (B) cure of disease;  
577 (C) mitigation of disease;  
578 (D) treatment of disease; or  
579 (E) prevention of disease; or  
580 (iii) intended to affect:  
581 (A) the structure of the body; or  
582 (B) any function of the body.  
583 (b) "Drug" does not include:  
584 (i) food and food ingredients;  
585 (ii) a dietary supplement;

586 (iii) an alcoholic beverage; or

587 (iv) a prosthetic device.

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

590 (i) can withstand repeated use;

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

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

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

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

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

597 (44) "Electronic" means:

598 (a) relating to technology; and

599 (b) having:

600 (i) electrical capabilities;

601 (ii) digital capabilities;

602 (iii) magnetic capabilities;

603 (iv) wireless capabilities;

604 (v) optical capabilities;

605 (vi) electromagnetic capabilities; or

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

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

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

611 (b) that performs electronic financial payment services.

612 (46) "Employee" means the same as that term is defined in Section [59-10-401](#).

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

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

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

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

- 617 (a) is powered by turbine engines;
- 618 (b) operates on jet fuel; and
- 619 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 620 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 621 communication between fixed points.
- 622 (50) (a) "Food and food ingredients" means substances:
- 623 (i) regardless of whether the substances are in:
- 624 (A) liquid form;
- 625 (B) concentrated form;
- 626 (C) solid form;
- 627 (D) frozen form;
- 628 (E) dried form; or
- 629 (F) dehydrated form; and
- 630 (ii) that are:
- 631 (A) sold for:
- 632 (I) ingestion by humans; or
- 633 (II) chewing by humans; and
- 634 (B) consumed for the substance's:
- 635 (I) taste; or
- 636 (II) nutritional value.
- 637 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
- 638 (c) "Food and food ingredients" does not include:
- 639 (i) an alcoholic beverage;
- 640 (ii) tobacco; or
- 641 (iii) prepared food.
- 642 (51) (a) "Fundraising sales" means sales:
- 643 (i) (A) made by a school; or
- 644 (B) made by a school student;
- 645 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 646 materials, or provide transportation; and
- 647 (iii) that are part of an officially sanctioned school activity.

648 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"  
649 means a school activity:

650 (i) that is conducted in accordance with a formal policy adopted by the school or school  
651 district governing the authorization and supervision of fundraising activities;

652 (ii) that does not directly or indirectly compensate an individual teacher or other  
653 educational personnel by direct payment, commissions, or payment in kind; and

654 (iii) the net or gross revenues from which are deposited in a dedicated account  
655 controlled by the school or school district.

656 (52) "Geothermal energy" means energy contained in heat that continuously flows  
657 outward from the earth that is used as the sole source of energy to produce electricity.

658 (53) "Governing board of the agreement" means the governing board of the agreement  
659 that is:

660 (a) authorized to administer the agreement; and

661 (b) established in accordance with the agreement.

662 (54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

663 (i) the executive branch of the state, including all departments, institutions, boards,  
664 divisions, bureaus, offices, commissions, and committees;

665 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
666 [~~Office of the Court Administrator~~] Administrative Office of the Courts, and similar  
667 administrative units in the judicial branch;

668 (iii) the legislative branch of the state, including the House of Representatives, the  
669 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
670 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
671 Analyst;

672 (iv) the National Guard;

673 (v) an independent entity as defined in Section 63E-1-102; or

674 (vi) a political subdivision as defined in Section 17B-1-102.

675 (b) "Governmental entity" does not include the state systems of public and higher  
676 education, including:

677 (i) a school;

678 (ii) the State Board of Education;

- 679 (iii) the State Board of Regents; or
- 680 (iv) an institution of higher education described in Section [53B-1-102](#).
- 681 (55) "Hydroelectric energy" means water used as the sole source of energy to produce
- 682 electricity.
- 683 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 684 other fuels:
- 685 (a) in mining or extraction of minerals;
- 686 (b) in agricultural operations to produce an agricultural product up to the time of
- 687 harvest or placing the agricultural product into a storage facility, including:
- 688 (i) commercial greenhouses;
- 689 (ii) irrigation pumps;
- 690 (iii) farm machinery;
- 691 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
- 692 under Title 41, Chapter 1a, Part 2, Registration; and
- 693 (v) other farming activities;
- 694 (c) in manufacturing tangible personal property at an establishment described in SIC
- 695 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 696 Executive Office of the President, Office of Management and Budget;
- 697 (d) by a scrap recycler if:
- 698 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 699 one or more of the following items into prepared grades of processed materials for use in new
- 700 products:
- 701 (A) iron;
- 702 (B) steel;
- 703 (C) nonferrous metal;
- 704 (D) paper;
- 705 (E) glass;
- 706 (F) plastic;
- 707 (G) textile; or
- 708 (H) rubber; and
- 709 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with

710 nonrecycled materials; or

711 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a  
712 cogeneration facility as defined in Section 54-2-1.

713 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge  
714 for installing:

715 (i) tangible personal property; or

716 (ii) a product transferred electronically.

717 (b) "Installation charge" does not include a charge for:

718 (i) repairs or renovations of:

719 (A) tangible personal property; or

720 (B) a product transferred electronically; or

721 (ii) attaching tangible personal property or a product transferred electronically:

722 (A) to other tangible personal property; and

723 (B) as part of a manufacturing or fabrication process.

724 (58) "Institution of higher education" means an institution of higher education listed in  
725 Section 53B-2-101.

726 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
727 personal property or a product transferred electronically for:

728 (i) (A) a fixed term; or

729 (B) an indeterminate term; and

730 (ii) consideration.

731 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the  
732 amount of consideration may be increased or decreased by reference to the amount realized  
733 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue  
734 Code.

735 (c) "Lease" or "rental" does not include:

736 (i) a transfer of possession or control of property under a security agreement or  
737 deferred payment plan that requires the transfer of title upon completion of the required  
738 payments;

739 (ii) a transfer of possession or control of property under an agreement that requires the  
740 transfer of title:



- 741 (A) upon completion of required payments; and
- 742 (B) if the payment of an option price does not exceed the greater of:
- 743 (I) \$100; or
- 744 (II) 1% of the total required payments; or
- 745 (iii) providing tangible personal property along with an operator for a fixed period of
- 746 time or an indeterminate period of time if the operator is necessary for equipment to perform as
- 747 designed.
- 748 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
- 749 perform as designed if the operator's duties exceed the:
- 750 (i) set-up of tangible personal property;
- 751 (ii) maintenance of tangible personal property; or
- 752 (iii) inspection of tangible personal property.
- 753 (60) "Life science establishment" means an establishment in this state that is classified
- 754 under the following NAICS codes of the 2007 North American Industry Classification System
- 755 of the federal Executive Office of the President, Office of Management and Budget:
- 756 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 757 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
- 758 Manufacturing; or
- 759 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 760 (61) "Life science research and development facility" means a facility owned, leased,
- 761 or rented by a life science establishment if research and development is performed in 51% or
- 762 more of the total area of the facility.
- 763 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media
- 764 if the tangible storage media is not physically transferred to the purchaser.
- 765 (63) "Local taxing jurisdiction" means a:
- 766 (a) county that is authorized to impose an agreement sales and use tax;
- 767 (b) city that is authorized to impose an agreement sales and use tax; or
- 768 (c) town that is authorized to impose an agreement sales and use tax.
- 769 (64) "Manufactured home" means the same as that term is defined in Section
- 770 [15A-1-302](#).
- 771 (65) "Manufacturing facility" means:

772 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard  
773 Industrial Classification Manual of the federal Executive Office of the President, Office of  
774 Management and Budget;

775 (b) a scrap recycler if:

776 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
777 one or more of the following items into prepared grades of processed materials for use in new  
778 products:

779 (A) iron;

780 (B) steel;

781 (C) nonferrous metal;

782 (D) paper;

783 (E) glass;

784 (F) plastic;

785 (G) textile; or

786 (H) rubber; and

787 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with  
788 nonrecycled materials; or

789 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is  
790 placed in service on or after May 1, 2006.

791 (66) "Member of the immediate family of the producer" means a person who is related  
792 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:

793 (a) child or stepchild, regardless of whether the child or stepchild is:

794 (i) an adopted child or adopted stepchild; or

795 (ii) a foster child or foster stepchild;

796 (b) grandchild or stepgrandchild;

797 (c) grandparent or stepgrandparent;

798 (d) nephew or stepnephew;

799 (e) niece or stepniece;

800 (f) parent or stepparent;

801 (g) sibling or stepsibling;

802 (h) spouse;

803 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);  
804 or

805 (j) person similar to a person described in Subsections (66)(a) through (i) as  
806 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
807 Administrative Rulemaking Act.

808 (67) "Mobile home" means the same as that term is defined in Section 15A-1-302.

809 (68) "Mobile telecommunications service" is as defined in the Mobile  
810 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

811 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of  
812 the technology used, if:

813 (i) the origination point of the conveyance, routing, or transmission is not fixed;

814 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

815 (iii) the origination point described in Subsection (69)(a)(i) and the termination point  
816 described in Subsection (69)(a)(ii) are not fixed.

817 (b) "Mobile wireless service" includes a telecommunications service that is provided  
818 by a commercial mobile radio service provider.

819 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
820 commission may by rule define "commercial mobile radio service provider."

821 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"  
822 means equipment that is:

823 (i) primarily and customarily used to provide or increase the ability to move from one  
824 place to another;

825 (ii) appropriate for use in a:

826 (A) home; or

827 (B) motor vehicle; and

828 (iii) not generally used by persons with normal mobility.

829 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
830 the equipment described in Subsection (70)(a).

831 (c) "Mobility enhancing equipment" does not include:

832 (i) a motor vehicle;

833 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor

834 vehicle manufacturer;

835 (iii) durable medical equipment; or

836 (iv) a prosthetic device.

837 (71) "Model 1 seller" means a seller registered under the agreement that has selected a  
838 certified service provider as the seller's agent to perform all of the seller's sales and use tax  
839 functions for agreement sales and use taxes other than the seller's obligation under Section  
840 [59-12-124](#) to remit a tax on the seller's own purchases.

841 (72) "Model 2 seller" means a seller registered under the agreement that:

842 (a) except as provided in Subsection (72)(b), has selected a certified automated system  
843 to perform the seller's sales tax functions for agreement sales and use taxes; and

844 (b) retains responsibility for remitting all of the sales tax:

845 (i) collected by the seller; and

846 (ii) to the appropriate local taxing jurisdiction.

847 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under  
848 the agreement that has:

849 (i) sales in at least five states that are members of the agreement;

850 (ii) total annual sales revenues of at least \$500,000,000;

851 (iii) a proprietary system that calculates the amount of tax:

852 (A) for an agreement sales and use tax; and

853 (B) due to each local taxing jurisdiction; and

854 (iv) entered into a performance agreement with the governing board of the agreement.

855 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of  
856 sellers using the same proprietary system.

857 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a  
858 model 1 seller, model 2 seller, or model 3 seller.

859 (75) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

860 (76) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

861 (77) "Oil sands" means impregnated bituminous sands that:

862 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with  
863 other hydrocarbons, or otherwise treated;

864 (b) yield mixtures of liquid hydrocarbon; and

865 (c) require further processing other than mechanical blending before becoming finished  
866 petroleum products.

867 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen  
868 material that yields petroleum upon heating and distillation.

869 (79) "Optional computer software maintenance contract" means a computer software  
870 maintenance contract that a customer is not obligated to purchase as a condition to the retail  
871 sale of computer software.

872 (80) (a) "Other fuels" means products that burn independently to produce heat or  
873 energy.

874 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
875 personal property.

876 (81) (a) "Paging service" means a telecommunications service that provides  
877 transmission of a coded radio signal for the purpose of activating a specific pager.

878 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal  
879 includes a transmission by message or sound.

880 (82) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

881 (83) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

882 (84) (a) "Permanently attached to real property" means that for tangible personal  
883 property attached to real property:

884 (i) the attachment of the tangible personal property to the real property:

885 (A) is essential to the use of the tangible personal property; and

886 (B) suggests that the tangible personal property will remain attached to the real  
887 property in the same place over the useful life of the tangible personal property; or

888 (ii) if the tangible personal property is detached from the real property, the detachment  
889 would:

890 (A) cause substantial damage to the tangible personal property; or

891 (B) require substantial alteration or repair of the real property to which the tangible  
892 personal property is attached.

893 (b) "Permanently attached to real property" includes:

894 (i) the attachment of an accessory to the tangible personal property if the accessory is:

895 (A) essential to the operation of the tangible personal property; and

896 (B) attached only to facilitate the operation of the tangible personal property;  
897 (ii) a temporary detachment of tangible personal property from real property for a  
898 repair or renovation if the repair or renovation is performed where the tangible personal  
899 property and real property are located; or  
900 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
901 Subsection (84)(c)(iii) or (iv).  
902 (c) "Permanently attached to real property" does not include:  
903 (i) the attachment of portable or movable tangible personal property to real property if  
904 that portable or movable tangible personal property is attached to real property only for:  
905 (A) convenience;  
906 (B) stability; or  
907 (C) for an obvious temporary purpose;  
908 (ii) the detachment of tangible personal property from real property except for the  
909 detachment described in Subsection (84)(b)(ii);  
910 (iii) an attachment of the following tangible personal property to real property if the  
911 attachment to real property is only through a line that supplies water, electricity, gas,  
912 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
913 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:  
914 (A) a computer;  
915 (B) a telephone;  
916 (C) a television; or  
917 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as  
918 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
919 Administrative Rulemaking Act; or  
920 (iv) an item listed in Subsection (125)(c).  
921 (85) "Person" includes any individual, firm, partnership, joint venture, association,  
922 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
923 municipality, district, or other local governmental entity of the state, or any group or  
924 combination acting as a unit.  
925 (86) "Place of primary use":  
926 (a) for telecommunications service other than mobile telecommunications service,

927 means the street address representative of where the customer's use of the telecommunications  
928 service primarily occurs, which shall be:

- 929 (i) the residential street address of the customer; or  
930 (ii) the primary business street address of the customer; or  
931 (b) for mobile telecommunications service, is as defined in the Mobile  
932 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

933 (87) (a) "Postpaid calling service" means a telecommunications service a person  
934 obtains by making a payment on a call-by-call basis:

- 935 (i) through the use of a:  
936 (A) bank card;  
937 (B) credit card;  
938 (C) debit card; or  
939 (D) travel card; or  
940 (ii) by a charge made to a telephone number that is not associated with the origination  
941 or termination of the telecommunications service.

942 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
943 service, that would be a prepaid wireless calling service if the service were exclusively a  
944 telecommunications service.

945 (88) "Postproduction" means an activity related to the finishing or duplication of a  
946 medium described in Subsection [59-12-104\(54\)\(a\)](#).

947 (89) "Prepaid calling service" means a telecommunications service:

948 (a) that allows a purchaser access to telecommunications service that is exclusively  
949 telecommunications service;

950 (b) that:

- 951 (i) is paid for in advance; and  
952 (ii) enables the origination of a call using an:

- 953 (A) access number; or  
954 (B) authorization code;

955 (c) that is dialed:

- 956 (i) manually; or  
957 (ii) electronically; and

- 958 (d) sold in predetermined units or dollars that decline:
- 959 (i) by a known amount; and
- 960 (ii) with use.
- 961 (90) "Prepaid wireless calling service" means a telecommunications service:
- 962 (a) that provides the right to utilize:
- 963 (i) mobile wireless service; and
- 964 (ii) other service that is not a telecommunications service, including:
- 965 (A) the download of a product transferred electronically;
- 966 (B) a content service; or
- 967 (C) an ancillary service;
- 968 (b) that:
- 969 (i) is paid for in advance; and
- 970 (ii) enables the origination of a call using an:
- 971 (A) access number; or
- 972 (B) authorization code;
- 973 (c) that is dialed:
- 974 (i) manually; or
- 975 (ii) electronically; and
- 976 (d) sold in predetermined units or dollars that decline:
- 977 (i) by a known amount; and
- 978 (ii) with use.
- 979 (91) (a) "Prepared food" means:
- 980 (i) food:
- 981 (A) sold in a heated state; or
- 982 (B) heated by a seller;
- 983 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 984 item; or
- 985 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
- 986 by the seller, including a:
- 987 (A) plate;
- 988 (B) knife;



- 989 (C) fork;
- 990 (D) spoon;
- 991 (E) glass;
- 992 (F) cup;
- 993 (G) napkin; or
- 994 (H) straw.
- 995 (b) "Prepared food" does not include:
- 996 (i) food that a seller only:
- 997 (A) cuts;
- 998 (B) repackages; or
- 999 (C) pasteurizes; or
- 1000 (ii) (A) the following:
- 1001 (I) raw egg;
- 1002 (II) raw fish;
- 1003 (III) raw meat;
- 1004 (IV) raw poultry; or
- 1005 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
- 1006 and
- 1007 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1008 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1009 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
- 1010 (iii) the following if sold without eating utensils provided by the seller:
- 1011 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1012 classification under the 2002 North American Industry Classification System of the federal
- 1013 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1014 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1015 Manufacturing;
- 1016 (B) food and food ingredients sold in an unheated state:
- 1017 (I) by weight or volume; and
- 1018 (II) as a single item; or
- 1019 (C) a bakery item, including:

- 1020 (I) a bagel;
- 1021 (II) a bar;
- 1022 (III) a biscuit;
- 1023 (IV) bread;
- 1024 (V) a bun;
- 1025 (VI) a cake;
- 1026 (VII) a cookie;
- 1027 (VIII) a croissant;
- 1028 (IX) a danish;
- 1029 (X) a donut;
- 1030 (XI) a muffin;
- 1031 (XII) a pastry;
- 1032 (XIII) a pie;
- 1033 (XIV) a roll;
- 1034 (XV) a tart;
- 1035 (XVI) a torte; or
- 1036 (XVII) a tortilla.
- 1037 (c) An eating utensil provided by the seller does not include the following used to
- 1038 transport the food:
  - 1039 (i) a container; or
  - 1040 (ii) packaging.
- 1041 (92) "Prescription" means an order, formula, or recipe that is issued:
  - 1042 (a) (i) orally;
  - 1043 (ii) in writing;
  - 1044 (iii) electronically; or
  - 1045 (iv) by any other manner of transmission; and
  - 1046 (b) by a licensed practitioner authorized by the laws of a state.
- 1047 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 1048 software" means computer software that is not designed and developed:
  - 1049 (i) by the author or other creator of the computer software; and
  - 1050 (ii) to the specifications of a specific purchaser.

- 1051 (b) "Prewritten computer software" includes:
- 1052 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer  
1053 software is not designed and developed:
- 1054 (A) by the author or other creator of the computer software; and
- 1055 (B) to the specifications of a specific purchaser;
- 1056 (ii) computer software designed and developed by the author or other creator of the  
1057 computer software to the specifications of a specific purchaser if the computer software is sold  
1058 to a person other than the purchaser; or
- 1059 (iii) except as provided in Subsection (93)(c), prewritten computer software or a  
1060 prewritten portion of prewritten computer software:
- 1061 (A) that is modified or enhanced to any degree; and
- 1062 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is  
1063 designed and developed to the specifications of a specific purchaser.
- 1064 (c) "Prewritten computer software" does not include a modification or enhancement  
1065 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:
- 1066 (i) reasonable; and
- 1067 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the  
1068 invoice or other statement of price provided to the purchaser at the time of sale or later, as  
1069 demonstrated by:
- 1070 (A) the books and records the seller keeps at the time of the transaction in the regular  
1071 course of business, including books and records the seller keeps at the time of the transaction in  
1072 the regular course of business for nontax purposes;
- 1073 (B) a preponderance of the facts and circumstances at the time of the transaction; and
- 1074 (C) the understanding of all of the parties to the transaction.
- 1075 (94) (a) "Private communications service" means a telecommunications service:
- 1076 (i) that entitles a customer to exclusive or priority use of one or more communications  
1077 channels between or among termination points; and
- 1078 (ii) regardless of the manner in which the one or more communications channels are  
1079 connected.
- 1080 (b) "Private communications service" includes the following provided in connection  
1081 with the use of one or more communications channels:

- 1082 (i) an extension line;
- 1083 (ii) a station;
- 1084 (iii) switching capacity; or
- 1085 (iv) another associated service that is provided in connection with the use of one or
- 1086 more communications channels as defined in Section 59-12-215.
- 1087 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
- 1088 means a product transferred electronically that would be subject to a tax under this chapter if
- 1089 that product was transferred in a manner other than electronically.
- 1090 (b) "Product transferred electronically" does not include:
- 1091 (i) an ancillary service;
- 1092 (ii) computer software; or
- 1093 (iii) a telecommunications service.
- 1094 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1095 (i) artificially replace a missing portion of the body;
- 1096 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1097 (iii) support a weak or deformed portion of the body.
- 1098 (b) "Prosthetic device" includes:
- 1099 (i) parts used in the repairs or renovation of a prosthetic device;
- 1100 (ii) replacement parts for a prosthetic device;
- 1101 (iii) a dental prosthesis; or
- 1102 (iv) a hearing aid.
- 1103 (c) "Prosthetic device" does not include:
- 1104 (i) corrective eyeglasses; or
- 1105 (ii) contact lenses.
- 1106 (97) (a) "Protective equipment" means an item:
- 1107 (i) for human wear; and
- 1108 (ii) that is:
- 1109 (A) designed as protection:
- 1110 (I) to the wearer against injury or disease; or
- 1111 (II) against damage or injury of other persons or property; and
- 1112 (B) not suitable for general use.

1113 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1114 commission shall make rules:

- 1115 (i) listing the items that constitute "protective equipment"; and
- 1116 (ii) that are consistent with the list of items that constitute "protective equipment"

1117 under the agreement.

1118 (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or  
1119 printed matter, other than a photocopy:

- 1120 (i) regardless of:
  - 1121 (A) characteristics;
  - 1122 (B) copyright;
  - 1123 (C) form;
  - 1124 (D) format;
  - 1125 (E) method of reproduction; or
  - 1126 (F) source; and
- 1127 (ii) made available in printed or electronic format.

1128 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1129 commission may by rule define the term "photocopy."

1130 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:

- 1131 (i) valued in money; and
- 1132 (ii) for which tangible personal property, a product transferred electronically, or

1133 services are:

- 1134 (A) sold;
- 1135 (B) leased; or
- 1136 (C) rented.

1137 (b) "Purchase price" and "sales price" include:

- 1138 (i) the seller's cost of the tangible personal property, a product transferred  
1139 electronically, or services sold;

1140 (ii) expenses of the seller, including:

- 1141 (A) the cost of materials used;
- 1142 (B) a labor cost;
- 1143 (C) a service cost;

- 1144 (D) interest;
- 1145 (E) a loss;
- 1146 (F) the cost of transportation to the seller; or
- 1147 (G) a tax imposed on the seller;
- 1148 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1149 (iv) consideration a seller receives from a person other than the purchaser if:
- 1150 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 1151 and
- 1152 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
- 1153 price reduction or discount on the sale;
- 1154 (B) the seller has an obligation to pass the price reduction or discount through to the
- 1155 purchaser;
- 1156 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 1157 the seller at the time of the sale to the purchaser; and
- 1158 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 1159 seller to claim a price reduction or discount; and
- 1160 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 1161 coupon, or other documentation with the understanding that the person other than the seller
- 1162 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1163 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 1164 organization allowed a price reduction or discount, except that a preferred customer card that is
- 1165 available to any patron of a seller does not constitute membership in a group or organization
- 1166 allowed a price reduction or discount; or
- 1167 (III) the price reduction or discount is identified as a third party price reduction or
- 1168 discount on the:
- 1169 (Aa) invoice the purchaser receives; or
- 1170 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1171 (c) "Purchase price" and "sales price" do not include:
- 1172 (i) a discount:
- 1173 (A) in a form including:
- 1174 (I) cash;

- 1175 (II) term; or  
1176 (III) coupon;  
1177 (B) that is allowed by a seller;  
1178 (C) taken by a purchaser on a sale; and  
1179 (D) that is not reimbursed by a third party; or  
1180 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately  
1181 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of  
1182 sale or later, as demonstrated by the books and records the seller keeps at the time of the  
1183 transaction in the regular course of business, including books and records the seller keeps at the  
1184 time of the transaction in the regular course of business for nontax purposes, by a  
1185 preponderance of the facts and circumstances at the time of the transaction, and by the  
1186 understanding of all of the parties to the transaction:  
1187 (A) the following from credit extended on the sale of tangible personal property or  
1188 services:  
1189 (I) a carrying charge;  
1190 (II) a financing charge; or  
1191 (III) an interest charge;  
1192 (B) a delivery charge;  
1193 (C) an installation charge;  
1194 (D) a manufacturer rebate on a motor vehicle; or  
1195 (E) a tax or fee legally imposed directly on the consumer.  
1196 (100) "Purchaser" means a person to whom:  
1197 (a) a sale of tangible personal property is made;  
1198 (b) a product is transferred electronically; or  
1199 (c) a service is furnished.  
1200 (101) "Qualifying enterprise data center" means an establishment that will:  
1201 (a) own and operate a data center facility that will house a group of networked server  
1202 computers in one physical location in order to centralize the dissemination, management, and  
1203 storage of data and information;  
1204 (b) be located in the state;  
1205 (c) be a new operation constructed on or after July 1, 2016;

1206 (d) consist of one or more buildings that total 150,000 or more square feet;

1207 (e) be owned or leased by:

1208 (i) the establishment; or

1209 (ii) a person under common ownership, as defined in Section 59-7-101, of the

1210 establishment; and

1211 (f) be located on one or more parcels of land that are owned or leased by:

1212 (i) the establishment; or

1213 (ii) a person under common ownership, as defined in Section 59-7-101, of the

1214 establishment.

1215 (102) "Regularly rented" means:

1216 (a) rented to a guest for value three or more times during a calendar year; or

1217 (b) advertised or held out to the public as a place that is regularly rented to guests for

1218 value.

1219 (103) "Rental" means the same as that term is defined in Subsection (59).

1220 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible  
1221 personal property" means:

1222 (i) a repair or renovation of tangible personal property that is not permanently attached  
1223 to real property; or

1224 (ii) attaching tangible personal property or a product transferred electronically to other  
1225 tangible personal property or detaching tangible personal property or a product transferred  
1226 electronically from other tangible personal property if:

1227 (A) the other tangible personal property to which the tangible personal property or  
1228 product transferred electronically is attached or from which the tangible personal property or  
1229 product transferred electronically is detached is not permanently attached to real property; and

1230 (B) the attachment of tangible personal property or a product transferred electronically  
1231 to other tangible personal property or detachment of tangible personal property or a product  
1232 transferred electronically from other tangible personal property is made in conjunction with a  
1233 repair or replacement of tangible personal property or a product transferred electronically.

1234 (b) "Repairs or renovations of tangible personal property" does not include:

1235 (i) attaching prewritten computer software to other tangible personal property if the  
1236 other tangible personal property to which the prewritten computer software is attached is not



1237 permanently attached to real property; or

1238 (ii) detaching prewritten computer software from other tangible personal property if the  
1239 other tangible personal property from which the prewritten computer software is detached is  
1240 not permanently attached to real property.

1241 (105) "Research and development" means the process of inquiry or experimentation  
1242 aimed at the discovery of facts, devices, technologies, or applications and the process of  
1243 preparing those devices, technologies, or applications for marketing.

1244 (106) (a) "Residential telecommunications services" means a telecommunications  
1245 service or an ancillary service that is provided to an individual for personal use:

1246 (i) at a residential address; or

1247 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1248 service or ancillary service is provided to and paid for by the individual residing at the  
1249 institution rather than the institution.

1250 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

1251 (i) apartment; or

1252 (ii) other individual dwelling unit.

1253 (107) "Residential use" means the use in or around a home, apartment building,  
1254 sleeping quarters, and similar facilities or accommodations.

1255 (108) (a) "Retailer" means any person engaged in a regularly organized business in  
1256 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and  
1257 who is selling to the user or consumer and not for resale.

1258 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1259 engaged in the business of selling to users or consumers within the state.

1260 (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
1261 than:

1262 (a) resale;

1263 (b) sublease; or

1264 (c) subrent.

1265 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1266 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1267 Subsection 59-12-103(1), for consideration.

- 1268 (b) "Sale" includes:
- 1269 (i) installment and credit sales;
- 1270 (ii) any closed transaction constituting a sale;
- 1271 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 1272 chapter;
- 1273 (iv) any transaction if the possession of property is transferred but the seller retains the
- 1274 title as security for the payment of the price; and
- 1275 (v) any transaction under which right to possession, operation, or use of any article of
- 1276 tangible personal property is granted under a lease or contract and the transfer of possession
- 1277 would be taxable if an outright sale were made.
- 1278 (111) "Sale at retail" means the same as that term is defined in Subsection (109).
- 1279 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
- 1280 personal property or a product transferred electronically that is subject to a tax under this
- 1281 chapter is transferred:
- 1282 (a) by a purchaser-lessee;
- 1283 (b) to a lessor;
- 1284 (c) for consideration; and
- 1285 (d) if:
- 1286 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 1287 of the tangible personal property or product transferred electronically;
- 1288 (ii) the sale of the tangible personal property or product transferred electronically to the
- 1289 lessor is intended as a form of financing:
- 1290 (A) for the tangible personal property or product transferred electronically; and
- 1291 (B) to the purchaser-lessee; and
- 1292 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 1293 is required to:
- 1294 (A) capitalize the tangible personal property or product transferred electronically for
- 1295 financial reporting purposes; and
- 1296 (B) account for the lease payments as payments made under a financing arrangement.
- 1297 (113) "Sales price" means the same as that term is defined in Subsection (99).
- 1298 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

- 1299 amounts charged by a school:
- 1300 (i) sales that are directly related to the school's educational functions or activities
- 1301 including:
- 1302 (A) the sale of:
- 1303 (I) textbooks;
- 1304 (II) textbook fees;
- 1305 (III) laboratory fees;
- 1306 (IV) laboratory supplies; or
- 1307 (V) safety equipment;
- 1308 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1309 that:
- 1310 (I) a student is specifically required to wear as a condition of participation in a
- 1311 school-related event or school-related activity; and
- 1312 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1313 place of ordinary clothing;
- 1314 (C) sales of the following if the net or gross revenues generated by the sales are
- 1315 deposited into a school district fund or school fund dedicated to school meals:
- 1316 (I) food and food ingredients; or
- 1317 (II) prepared food; or
- 1318 (D) transportation charges for official school activities; or
- 1319 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1320 event or school-related activity.
- 1321 (b) "Sales relating to schools" does not include:
- 1322 (i) bookstore sales of items that are not educational materials or supplies;
- 1323 (ii) except as provided in Subsection (114)(a)(i)(B):
- 1324 (A) clothing;
- 1325 (B) clothing accessories or equipment;
- 1326 (C) protective equipment; or
- 1327 (D) sports or recreational equipment; or
- 1328 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1329 event or school-related activity if the amounts paid or charged are passed through to a person:

- 1330 (A) other than a:
- 1331 (I) school;
- 1332 (II) nonprofit organization authorized by a school board or a governing body of a
- 1333 private school to organize and direct a competitive secondary school activity; or
- 1334 (III) nonprofit association authorized by a school board or a governing body of a
- 1335 private school to organize and direct a competitive secondary school activity; and
- 1336 (B) that is required to collect sales and use taxes under this chapter.
- 1337 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1338 commission may make rules defining the term "passed through."
- 1339 (115) For purposes of this section and Section [59-12-104](#), "school":
- 1340 (a) means:
- 1341 (i) an elementary school or a secondary school that:
- 1342 (A) is a:
- 1343 (I) public school; or
- 1344 (II) private school; and
- 1345 (B) provides instruction for one or more grades kindergarten through 12; or
- 1346 (ii) a public school district; and
- 1347 (b) includes the Electronic High School as defined in Section [53A-15-1002](#).
- 1348 (116) "Seller" means a person that makes a sale, lease, or rental of:
- 1349 (a) tangible personal property;
- 1350 (b) a product transferred electronically; or
- 1351 (c) a service.
- 1352 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1353 means tangible personal property or a product transferred electronically if the tangible personal
- 1354 property or product transferred electronically is:
- 1355 (i) used primarily in the process of:
- 1356 (A) (I) manufacturing a semiconductor;
- 1357 (II) fabricating a semiconductor; or
- 1358 (III) research or development of a:
- 1359 (Aa) semiconductor; or
- 1360 (Bb) semiconductor manufacturing process; or

- 1361 (B) maintaining an environment suitable for a semiconductor; or  
1362 (ii) consumed primarily in the process of:  
1363 (A) (I) manufacturing a semiconductor;  
1364 (II) fabricating a semiconductor; or  
1365 (III) research or development of a:  
1366 (Aa) semiconductor; or  
1367 (Bb) semiconductor manufacturing process; or  
1368 (B) maintaining an environment suitable for a semiconductor.  
1369 (b) "Semiconductor fabricating, processing, research, or development materials"  
1370 includes:  
1371 (i) parts used in the repairs or renovations of tangible personal property or a product  
1372 transferred electronically described in Subsection (117)(a); or  
1373 (ii) a chemical, catalyst, or other material used to:  
1374 (A) produce or induce in a semiconductor a:  
1375 (I) chemical change; or  
1376 (II) physical change;  
1377 (B) remove impurities from a semiconductor; or  
1378 (C) improve the marketable condition of a semiconductor.  
1379 (118) "Senior citizen center" means a facility having the primary purpose of providing  
1380 services to the aged as defined in Section [62A-3-101](#).  
1381 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"  
1382 means tangible personal property that:  
1383 (i) a business that provides accommodations and services described in Subsection  
1384 [59-12-103\(1\)\(i\)](#) purchases as part of a transaction to provide the accommodations and services  
1385 to a purchaser;  
1386 (ii) is intended to be consumed by the purchaser; and  
1387 (iii) is:  
1388 (A) included in the purchase price of the accommodations and services; and  
1389 (B) not separately stated on an invoice, bill of sale, or other similar document provided  
1390 to the purchaser.  
1391 (b) "Short-term lodging consumable" includes:

- 1392 (i) a beverage;
- 1393 (ii) a brush or comb;
- 1394 (iii) a cosmetic;
- 1395 (iv) a hair care product;
- 1396 (v) lotion;
- 1397 (vi) a magazine;
- 1398 (vii) makeup;
- 1399 (viii) a meal;
- 1400 (ix) mouthwash;
- 1401 (x) nail polish remover;
- 1402 (xi) a newspaper;
- 1403 (xii) a notepad;
- 1404 (xiii) a pen;
- 1405 (xiv) a pencil;
- 1406 (xv) a razor;
- 1407 (xvi) saline solution;
- 1408 (xvii) a sewing kit;
- 1409 (xviii) shaving cream;
- 1410 (xix) a shoe shine kit;
- 1411 (xx) a shower cap;
- 1412 (xxi) a snack item;
- 1413 (xxii) soap;
- 1414 (xxiii) toilet paper;
- 1415 (xxiv) a toothbrush;
- 1416 (xxv) toothpaste; or
- 1417 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
- 1418 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1419 Rulemaking Act.
- 1420 (c) "Short-term lodging consumable" does not include:
- 1421 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1422 property to be reused; or

- 1423 (ii) a product transferred electronically.
- 1424 (120) "Simplified electronic return" means the electronic return:
- 1425 (a) described in Section 318(C) of the agreement; and
- 1426 (b) approved by the governing board of the agreement.
- 1427 (121) "Solar energy" means the sun used as the sole source of energy for producing
- 1428 electricity.
- 1429 (122) (a) "Sports or recreational equipment" means an item:
- 1430 (i) designed for human use; and
- 1431 (ii) that is:
- 1432 (A) worn in conjunction with:
- 1433 (I) an athletic activity; or
- 1434 (II) a recreational activity; and
- 1435 (B) not suitable for general use.
- 1436 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1437 commission shall make rules:
- 1438 (i) listing the items that constitute "sports or recreational equipment"; and
- 1439 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1440 equipment" under the agreement.
- 1441 (123) "State" means the state of Utah, its departments, and agencies.
- 1442 (124) "Storage" means any keeping or retention of tangible personal property or any
- 1443 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except
- 1444 sale in the regular course of business.
- 1445 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"
- 1446 means personal property that:
- 1447 (i) may be:
- 1448 (A) seen;
- 1449 (B) weighed;
- 1450 (C) measured;
- 1451 (D) felt; or
- 1452 (E) touched; or
- 1453 (ii) is in any manner perceptible to the senses.

1454 (b) "Tangible personal property" includes:

1455 (i) electricity;

1456 (ii) water;

1457 (iii) gas;

1458 (iv) steam; or

1459 (v) prewritten computer software, regardless of the manner in which the prewritten  
1460 computer software is transferred.

1461 (c) "Tangible personal property" includes the following regardless of whether the item  
1462 is attached to real property:

1463 (i) a dishwasher;

1464 (ii) a dryer;

1465 (iii) a freezer;

1466 (iv) a microwave;

1467 (v) a refrigerator;

1468 (vi) a stove;

1469 (vii) a washer; or

1470 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the  
1471 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1472 Rulemaking Act.

1473 (d) "Tangible personal property" does not include a product that is transferred  
1474 electronically.

1475 (e) "Tangible personal property" does not include the following if attached to real  
1476 property, regardless of whether the attachment to real property is only through a line that  
1477 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
1478 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1479 Rulemaking Act:

1480 (i) a hot water heater;

1481 (ii) a water filtration system; or

1482 (iii) a water softener system.

1483 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
1484 software" means an item listed in Subsection (126)(b) if that item is purchased or leased



1485 primarily to enable or facilitate one or more of the following to function:

1486 (i) telecommunications switching or routing equipment, machinery, or software; or

1487 (ii) telecommunications transmission equipment, machinery, or software.

1488 (b) The following apply to Subsection (126)(a):

1489 (i) a pole;

1490 (ii) software;

1491 (iii) a supplementary power supply;

1492 (iv) temperature or environmental equipment or machinery;

1493 (v) test equipment;

1494 (vi) a tower; or

1495 (vii) equipment, machinery, or software that functions similarly to an item listed in

1496 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in

1497 accordance with Subsection (126)(c).

1498 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1499 commission may by rule define what constitutes equipment, machinery, or software that

1500 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

1501 (127) "Telecommunications equipment, machinery, or software required for 911

1502 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

1503 Sec. 20.18.

1504 (128) "Telecommunications maintenance or repair equipment, machinery, or software"

1505 means equipment, machinery, or software purchased or leased primarily to maintain or repair

1506 one or more of the following, regardless of whether the equipment, machinery, or software is

1507 purchased or leased as a spare part or as an upgrade or modification to one or more of the

1508 following:

1509 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1510 (b) telecommunications switching or routing equipment, machinery, or software; or

1511 (c) telecommunications transmission equipment, machinery, or software.

1512 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or

1513 transmission of audio, data, video, voice, or any other information or signal to a point, or

1514 among or between points.

1515 (b) "Telecommunications service" includes:

- 1516 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
1517 processing application is used to act:
- 1518 (A) on the code, form, or protocol of the content;
  - 1519 (B) for the purpose of electronic conveyance, routing, or transmission; and
  - 1520 (C) regardless of whether the service:
    - 1521 (I) is referred to as voice over Internet protocol service; or
    - 1522 (II) is classified by the Federal Communications Commission as enhanced or value  
1523 added;
  - 1524 (ii) an 800 service;
  - 1525 (iii) a 900 service;
  - 1526 (iv) a fixed wireless service;
  - 1527 (v) a mobile wireless service;
  - 1528 (vi) a postpaid calling service;
  - 1529 (vii) a prepaid calling service;
  - 1530 (viii) a prepaid wireless calling service; or
  - 1531 (ix) a private communications service.
- 1532 (c) "Telecommunications service" does not include:
- 1533 (i) advertising, including directory advertising;
  - 1534 (ii) an ancillary service;
  - 1535 (iii) a billing and collection service provided to a third party;
  - 1536 (iv) a data processing and information service if:
    - 1537 (A) the data processing and information service allows data to be:
      - 1538 (I) (Aa) acquired;
      - 1539 (Bb) generated;
      - 1540 (Cc) processed;
      - 1541 (Dd) retrieved; or
      - 1542 (Ee) stored; and
    - 1543 (II) delivered by an electronic transmission to a purchaser; and
  - 1544 (B) the purchaser's primary purpose for the underlying transaction is the processed data  
1545 or information;
  - 1546 (v) installation or maintenance of the following on a customer's premises:

- 1547 (A) equipment; or  
1548 (B) wiring;  
1549 (vi) Internet access service;  
1550 (vii) a paging service;  
1551 (viii) a product transferred electronically, including:  
1552 (A) music;  
1553 (B) reading material;  
1554 (C) a ring tone;  
1555 (D) software; or  
1556 (E) video;  
1557 (ix) a radio and television audio and video programming service:  
1558 (A) regardless of the medium; and  
1559 (B) including:  
1560 (I) furnishing conveyance, routing, or transmission of a television audio and video  
1561 programming service by a programming service provider;  
1562 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or  
1563 (III) audio and video programming services delivered by a commercial mobile radio  
1564 service provider as defined in 47 C.F.R. Sec. 20.3;  
1565 (x) a value-added nonvoice data service; or  
1566 (xi) tangible personal property.  
1567 (130) (a) "Telecommunications service provider" means a person that:  
1568 (i) owns, controls, operates, or manages a telecommunications service; and  
1569 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or  
1570 resale to any person of the telecommunications service.  
1571 (b) A person described in Subsection (130)(a) is a telecommunications service provider  
1572 whether or not the Public Service Commission of Utah regulates:  
1573 (i) that person; or  
1574 (ii) the telecommunications service that the person owns, controls, operates, or  
1575 manages.  
1576 (131) (a) "Telecommunications switching or routing equipment, machinery, or  
1577 software" means an item listed in Subsection (131)(b) if that item is purchased or leased

1578 primarily for switching or routing:

- 1579 (i) an ancillary service;
- 1580 (ii) data communications;
- 1581 (iii) voice communications; or
- 1582 (iv) telecommunications service.

1583 (b) The following apply to Subsection (131)(a):

- 1584 (i) a bridge;
- 1585 (ii) a computer;
- 1586 (iii) a cross connect;
- 1587 (iv) a modem;
- 1588 (v) a multiplexer;
- 1589 (vi) plug in circuitry;
- 1590 (vii) a router;
- 1591 (viii) software;
- 1592 (ix) a switch; or

1593 (x) equipment, machinery, or software that functions similarly to an item listed in  
1594 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in  
1595 accordance with Subsection (131)(c).

1596 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1597 commission may by rule define what constitutes equipment, machinery, or software that  
1598 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

1599 (132) (a) "Telecommunications transmission equipment, machinery, or software"  
1600 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for  
1601 sending, receiving, or transporting:

- 1602 (i) an ancillary service;
- 1603 (ii) data communications;
- 1604 (iii) voice communications; or
- 1605 (iv) telecommunications service.

1606 (b) The following apply to Subsection (132)(a):

- 1607 (i) an amplifier;
- 1608 (ii) a cable;

1609 (iii) a closure;  
1610 (iv) a conduit;  
1611 (v) a controller;  
1612 (vi) a duplexer;  
1613 (vii) a filter;  
1614 (viii) an input device;  
1615 (ix) an input/output device;  
1616 (x) an insulator;  
1617 (xi) microwave machinery or equipment;  
1618 (xii) an oscillator;  
1619 (xiii) an output device;  
1620 (xiv) a pedestal;  
1621 (xv) a power converter;  
1622 (xvi) a power supply;  
1623 (xvii) a radio channel;  
1624 (xviii) a radio receiver;  
1625 (xix) a radio transmitter;  
1626 (xx) a repeater;  
1627 (xxi) software;  
1628 (xxii) a terminal;  
1629 (xxiii) a timing unit;  
1630 (xxiv) a transformer;  
1631 (xxv) a wire; or  
1632 (xxvi) equipment, machinery, or software that functions similarly to an item listed in  
1633 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in  
1634 accordance with Subsection (132)(c).

1635 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1636 commission may by rule define what constitutes equipment, machinery, or software that  
1637 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

1638 (133) (a) "Textbook for a higher education course" means a textbook or other printed  
1639 material that is required for a course:

- 1640 (i) offered by an institution of higher education; and
- 1641 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1642 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1643 (134) "Tobacco" means:

- 1644 (a) a cigarette;
- 1645 (b) a cigar;
- 1646 (c) chewing tobacco;
- 1647 (d) pipe tobacco; or
- 1648 (e) any other item that contains tobacco.

1649 (135) "Unassisted amusement device" means an amusement device, skill device, or  
1650 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
1651 the amusement device, skill device, or ride device.

1652 (136) (a) "Use" means the exercise of any right or power over tangible personal  
1653 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
1654 incident to the ownership or the leasing of that tangible personal property, product transferred  
1655 electronically, or service.

1656 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
1657 property, a product transferred electronically, or a service in the regular course of business and  
1658 held for resale.

1659 (137) "Value-added nonvoice data service" means a service:

1660 (a) that otherwise meets the definition of a telecommunications service except that a  
1661 computer processing application is used to act primarily for a purpose other than conveyance,  
1662 routing, or transmission; and

1663 (b) with respect to which a computer processing application is used to act on data or  
1664 information:

- 1665 (i) code;
- 1666 (ii) content;
- 1667 (iii) form; or
- 1668 (iv) protocol.

1669 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are  
1670 required to be titled, registered, or titled and registered:

- 1671 (i) an aircraft as defined in Section 72-10-102;
- 1672 (ii) a vehicle as defined in Section 41-1a-102;
- 1673 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1674 (iv) a vessel as defined in Section 41-1a-102.
- 1675 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1676 (i) a vehicle described in Subsection (138)(a); or
- 1677 (ii) (A) a locomotive;
- 1678 (B) a freight car;
- 1679 (C) railroad work equipment; or
- 1680 (D) other railroad rolling stock.
- 1681 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 1682 exchanging a vehicle as defined in Subsection (138).
- 1683 (140) (a) "Vertical service" means an ancillary service that:
- 1684 (i) is offered in connection with one or more telecommunications services; and
- 1685 (ii) offers an advanced calling feature that allows a customer to:
- 1686 (A) identify a caller; and
- 1687 (B) manage multiple calls and call connections.
- 1688 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1689 conference bridging service.
- 1690 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
- 1691 receive, send, or store a recorded message.
- 1692 (b) "Voice mail service" does not include a vertical service that a customer is required
- 1693 to have in order to utilize a voice mail service.
- 1694 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a
- 1695 facility that generates electricity:
- 1696 (i) using as the primary source of energy waste materials that would be placed in a
- 1697 landfill or refuse pit if it were not used to generate electricity, including:
- 1698 (A) tires;
- 1699 (B) waste coal;
- 1700 (C) oil shale; or
- 1701 (D) municipal solid waste; and

- 1702 (ii) in amounts greater than actually required for the operation of the facility.
- 1703 (b) "Waste energy facility" does not include a facility that incinerates:
- 1704 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1705 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1706 (143) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1707 (144) "Wind energy" means wind used as the sole source of energy to produce
- 1708 electricity.
- 1709 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
- 1710 location by the United States Postal Service.
- 1711 Section 5. Section **63A-3-110** is amended to read:
- 1712 **63A-3-110. Personal use expenditures for state officers and employees.**
- 1713 (1) As used in this section:
- 1714 (a) "Employee" means a person who is not an elected or appointed officer and who is
- 1715 employed on a full- or part-time basis by a governmental entity.
- 1716 (b) "Governmental entity" means:
- 1717 (i) an executive branch agency of the state, the offices of the governor, lieutenant
- 1718 governor, state auditor, attorney general, and state treasurer, the State Board of Education, and
- 1719 the State Board of Regents;
- 1720 (ii) the Office of the Legislative Auditor General, the Office of the Legislative Fiscal
- 1721 Analyst, the Office of Legislative Research and General Counsel, the Legislature, and
- 1722 legislative committees;
- 1723 (iii) courts, the Judicial Council, the [~~Office of the Court Administrator~~]
- 1724 Administrative Office of the Courts, and similar administrative units in the judicial branch;
- 1725 (iv) independent state entities created under Title 63H, Independent State Entities; or
- 1726 (v) the Utah Science Technology and Research Governing Authority created under
- 1727 Section 63M-2-301.
- 1728 (c) "Officer" means a person who is elected or appointed to an office or position within
- 1729 a governmental entity.
- 1730 (d) (i) "Personal use expenditure" means an expenditure made without the authority of
- 1731 law that:
- 1732 (A) is not directly related to the performance of an activity as a state officer or



1733 employee;

1734 (B) primarily furthers a personal interest of a state officer or employee or a state  
1735 officer's or employee's family, friend, or associate; and

1736 (C) would constitute taxable income under federal law.

1737 (ii) "Personal use expenditure" does not include:

1738 (A) a de minimis or incidental expenditure; or

1739 (B) a state vehicle or a monthly stipend for a vehicle that an officer or employee uses to  
1740 travel to and from the officer or employee's official duties, including a minimal allowance for a  
1741 detour as provided by the state.

1742 (e) "Public funds" means the same as that term is defined in Section [51-7-3](#).

1743 (2) A state officer or employee may not:

1744 (a) use public funds for a personal use expenditure; or

1745 (b) incur indebtedness or liability on behalf of, or payable by, a governmental entity for  
1746 a personal use expenditure.

1747 (3) If the Division of Finance or the responsible governmental entity determines that a  
1748 state officer or employee has intentionally made a personal use expenditure in violation of  
1749 Subsection (2), the governmental entity shall:

1750 (a) require the state officer or employee to deposit the amount of the personal use  
1751 expenditure into the fund or account from which:

1752 (i) the personal use expenditure was disbursed; or

1753 (ii) payment for the indebtedness or liability for a personal use expenditure was  
1754 disbursed;

1755 (b) require the state officer or employee to remit an administrative penalty in an  
1756 amount equal to 50% of the personal use expenditure to the Division of Finance; and

1757 (c) deposit the money received under Subsection (3)(b) into the General Fund.

1758 (4) (a) Any state officer or employee who has been found by a governmental entity to  
1759 have made a personal use expenditure in violation of Subsection (2) may appeal the finding of  
1760 the governmental entity.

1761 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1762 Division of Finance shall make rules regarding an appeal process for an appeal made under  
1763 Subsection (4)(a), including the designation of an appeal authority.

1764 (5) (a) Subject to Subsection (5)(b), the Division of Finance may withhold all or a  
1765 portion of the wages of a state officer or employee who has violated Subsection (2) until the  
1766 requirements of Subsection (3) have been met.

1767 (b) If the state officer or employee has requested an appeal under Subsection (4), the  
1768 Division of Finance may only withhold the wages of the officer or employee after the appeal  
1769 authority described in Subsection (4)(b) has confirmed that the officer or employee violated  
1770 Subsection (2).

1771 (6) Nothing in this chapter immunizes a state officer or employee from or precludes  
1772 any criminal prosecution or civil or employment action for an unlawful personal use  
1773 expenditure.

1774 (7) A state officer or employee who has been convicted of misusing public money  
1775 under Section [76-8-402](#) may not disburse public funds or access public accounts.

1776 Section 6. Section **63B-5-201** is amended to read:

1777 **63B-5-201. Legislative intent statements.**

1778 (1) If the United States Department of Defense has not provided matching funds to  
1779 construct the National Guard Armory in Orem by December 31, 1997, the Division of Facilities  
1780 Construction and Management shall transfer any funds received from issuance of a General  
1781 Obligation Bond for benefit of the Orem Armory to the Provo Armory for capital  
1782 improvements.

1783 (2) It is the intent of the Legislature that the University of Utah use institutional funds  
1784 to plan, design, and construct:

1785 (a) the Health Science East parking structure under the supervision of the director of  
1786 the Division of Facilities Construction and Management unless supervisory authority is  
1787 delegated by the director;

1788 (b) the Health Science Office Building under the supervision of the director of the  
1789 Division of Facilities Construction and Management unless supervisory authority is delegated  
1790 by the director; and

1791 (c) the new Student Housing/Olympic Athletes Village under the supervision of the  
1792 director of the Division of Facilities Construction and Management unless supervisory  
1793 authority is delegated by the director.

1794 (3) It is the intent of the Legislature that Utah State University use institutional funds to

1795 plan, design, and construct a multipurpose facility under the supervision of the director of the  
1796 Division of Facilities Construction and Management unless supervisory authority is delegated  
1797 by the director.

1798 (4) It is the intent of the Legislature that the Utah Geologic Survey use agency internal  
1799 funding to plan, design, and construct a sample library facility under the supervision of the  
1800 director of the Division of Facilities Construction and Management unless supervisory  
1801 authority is delegated by the director.

1802 (5) (a) If legislation introduced in the 1996 General Session to fund the Wasatch State  
1803 Park Club House does not pass, the State Building Ownership Authority, under authority of  
1804 Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute  
1805 obligations, or enter into or arrange for a lease purchase agreement in which participation  
1806 interests may be created, to provide up to \$1,500,000 for the remodel and expansion of the  
1807 clubhouse at Wasatch Mountain State Park for the Division of Parks and Recreation, together  
1808 with additional amounts necessary to:

- 1809 (i) pay costs of issuance;  
1810 (ii) pay capitalized interest; and  
1811 (iii) fund any debt service reserve requirements.

1812 (b) The State Building Ownership Authority shall work cooperatively with the  
1813 Division of Parks and Recreation to seek out the most cost effective and prudent lease purchase  
1814 plan available.

1815 (6) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter  
1816 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter  
1817 into or arrange for a lease purchase agreement in which participation interests may be created,  
1818 to provide up to \$835,300 for the construction of a liquor store in the Snyderville area, together  
1819 with additional amounts necessary to:

- 1820 (i) pay costs of issuance;  
1821 (ii) pay capitalized interest; and  
1822 (iii) fund any debt service reserve requirements.

1823 (b) The State Building Ownership Authority shall work cooperatively with the  
1824 Department of Alcoholic Beverage Control to seek out the most cost effective and prudent  
1825 lease purchase plan available.

1826 (7) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter  
1827 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter  
1828 into or arrange for a lease purchase agreement in which participation interests may be created,  
1829 to provide up to \$15,000,000 for the construction of the Huntsman Cancer Institute, together  
1830 with additional amounts necessary to:

- 1831 (i) pay costs of issuance;
- 1832 (ii) pay capitalized interest; and
- 1833 (iii) fund any debt service reserve requirements.

1834 (b) The State Building Ownership Authority shall work cooperatively with the  
1835 University of Utah to seek out the most cost effective and prudent lease purchase plan  
1836 available.

1837 (c) It is the intent of the Legislature that the University of Utah lease land to the State  
1838 Building Ownership Authority for the construction of the Huntsman Cancer Institute facility.

1839 (8) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter  
1840 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter  
1841 into or arrange for a lease purchase agreement in which participation interests may be created,  
1842 to provide up to \$857,600 for the construction of an addition to the Human Services facility in  
1843 Vernal, Utah together with additional amounts necessary to:

- 1844 (i) pay costs of issuance;
- 1845 (ii) pay capitalized interest; and
- 1846 (iii) fund any debt service reserve requirements.

1847 (b) The State Building Ownership Authority shall work cooperatively with the  
1848 Department of Human Services to seek out the most cost effective and prudent lease purchase  
1849 plan available.

1850 (9) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter  
1851 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter  
1852 into or arrange for a lease purchase agreement in which participation interests may be created,  
1853 to provide up to \$3,470,200 for the construction of the Student Services Center, at Utah State  
1854 University Eastern, together with additional amounts necessary to:

- 1855 (i) pay costs of issuance;
- 1856 (ii) pay capitalized interest; and

1857 (iii) fund any debt service reserve requirements.

1858 (b) The State Building Ownership Authority shall work cooperatively with Utah State  
1859 University Eastern to seek out the most cost effective and prudent lease purchase plan  
1860 available.

1861 (10) (a) Notwithstanding anything to the contrary in Title 53B, Chapter 21, Revenue  
1862 Bonds, which prohibits the issuance of revenue bonds payable from legislative appropriations,  
1863 the State Board of Regents, on behalf of Dixie College, may issue, sell, and deliver revenue  
1864 bonds or other evidences of indebtedness of Dixie College to borrow money on the credit of  
1865 the income and revenues, including legislative appropriations, of Dixie College, to finance the  
1866 acquisition of the Dixie Center.

1867 (b) (i) The bonds or other evidences of indebtedness authorized by this section shall be  
1868 issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under terms and conditions  
1869 and in amounts that the board, by resolution, determines are reasonable and necessary and may  
1870 not exceed \$6,000,000 together with additional amounts necessary to:

1871 (A) pay cost of issuance;

1872 (B) pay capitalized interest; and

1873 (C) fund any debt service reserve requirements.

1874 (ii) To the extent that future legislative appropriations will be required to provide for  
1875 payment of debt service in full, the board shall ensure that the revenue bonds are issued  
1876 containing a clause that provides for payment from future legislative appropriations that are  
1877 legally available for that purpose.

1878 (11) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter  
1879 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter  
1880 into or arrange for a lease purchase agreement in which participation interests may be created,  
1881 to provide up to \$10,479,000 for the construction of a facility for the Courts - Davis County  
1882 Regional Expansion, together with additional amounts necessary to:

1883 (i) pay costs of issuance;

1884 (ii) pay capitalized interest; and

1885 (iii) fund any debt service reserve requirements.

1886 (b) The State Building Ownership Authority shall work cooperatively with the [Office  
1887 of the Court Administrator] Administrative Office of the Courts to seek out the most cost

1888 effective and prudent lease purchase plan available.

1889 (12) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter  
1890 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter  
1891 into or arrange for a lease purchase agreement in which participation interests may be created,  
1892 to provide up to \$4,200,000 for the purchase and remodel of the Washington County  
1893 Courthouse, together with additional amounts necessary to:

- 1894 (i) pay costs of issuance;
- 1895 (ii) pay capitalized interest; and
- 1896 (iii) fund any debt service reserve requirements.

1897 (b) The State Building Ownership Authority shall work cooperatively with the [~~Office~~  
1898 ~~of the Court Administrator~~] Administrative Office of the Courts to seek out the most cost  
1899 effective and prudent lease purchase plan available.

1900 (13) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter  
1901 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter  
1902 into or arrange for a lease purchase agreement in which participation interests may be created,  
1903 to provide up to \$14,299,700 for the construction of a facility for the State Library and the  
1904 Division of Services for the Blind and Visually Impaired, together with additional amounts  
1905 necessary to:

- 1906 (i) pay costs of issuance;
- 1907 (ii) pay capitalized interest; and
- 1908 (iii) fund any debt service reserve requirements.

1909 (b) The State Building Ownership Authority shall work cooperatively with the State  
1910 Board of Education and the Governor's Office of Economic Development to seek out the most  
1911 cost effective and prudent lease purchase plan available.

1912 Section 7. Section **63G-2-103** is amended to read:

1913 **63G-2-103. Definitions.**

1914 As used in this chapter:

1915 (1) "Audit" means:

1916 (a) a systematic examination of financial, management, program, and related records  
1917 for the purpose of determining the fair presentation of financial statements, adequacy of  
1918 internal controls, or compliance with laws and regulations; or

1919 (b) a systematic examination of program procedures and operations for the purpose of  
1920 determining their effectiveness, economy, efficiency, and compliance with statutes and  
1921 regulations.

1922 (2) "Chronological logs" mean the regular and customary summary records of law  
1923 enforcement agencies and other public safety agencies that show:

1924 (a) the time and general nature of police, fire, and paramedic calls made to the agency;  
1925 and

1926 (b) any arrests or jail bookings made by the agency.

1927 (3) "Classification," "classify," and their derivative forms mean determining whether a  
1928 record series, record, or information within a record is public, private, controlled, protected, or  
1929 exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

1930 (4) (a) "Computer program" means:

1931 (i) a series of instructions or statements that permit the functioning of a computer  
1932 system in a manner designed to provide storage, retrieval, and manipulation of data from the  
1933 computer system; and

1934 (ii) any associated documentation and source material that explain how to operate the  
1935 computer program.

1936 (b) "Computer program" does not mean:

1937 (i) the original data, including numbers, text, voice, graphics, and images;

1938 (ii) analysis, compilation, and other manipulated forms of the original data produced by  
1939 use of the program; or

1940 (iii) the mathematical or statistical formulas, excluding the underlying mathematical  
1941 algorithms contained in the program, that would be used if the manipulated forms of the  
1942 original data were to be produced manually.

1943 (5) (a) "Contractor" means:

1944 (i) any person who contracts with a governmental entity to provide goods or services  
1945 directly to a governmental entity; or

1946 (ii) any private, nonprofit organization that receives funds from a governmental entity.

1947 (b) "Contractor" does not mean a private provider.

1948 (6) "Controlled record" means a record containing data on individuals that is controlled  
1949 as provided by Section [63G-2-304](#).

1950 (7) "Designation," "designate," and their derivative forms mean indicating, based on a  
1951 governmental entity's familiarity with a record series or based on a governmental entity's  
1952 review of a reasonable sample of a record series, the primary classification that a majority of  
1953 records in a record series would be given if classified and the classification that other records  
1954 typically present in the record series would be given if classified.

1955 (8) "Elected official" means each person elected to a state office, county office,  
1956 municipal office, school board or school district office, local district office, or special service  
1957 district office, but does not include judges.

1958 (9) "Explosive" means a chemical compound, device, or mixture:

1959 (a) commonly used or intended for the purpose of producing an explosion; and

1960 (b) that contains oxidizing or combustive units or other ingredients in proportions,  
1961 quantities, or packing so that:

1962 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the  
1963 compound or mixture may cause a sudden generation of highly heated gases; and

1964 (ii) the resultant gaseous pressures are capable of:

1965 (A) producing destructive effects on contiguous objects; or

1966 (B) causing death or serious bodily injury.

1967 (10) "Government audit agency" means any governmental entity that conducts an audit.

1968 (11) (a) "Governmental entity" means:

1969 (i) executive department agencies of the state, the offices of the governor, lieutenant  
1970 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,  
1971 the Board of Examiners, the National Guard, the Career Service Review Office, the State  
1972 Board of Education, the State Board of Regents, and the State Archives;

1973 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal  
1974 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative  
1975 committees, except any political party, group, caucus, or rules or sifting committee of the  
1976 Legislature;

1977 (iii) courts, the Judicial Council, the [~~Office of the Court Administrator~~]  
1978 Administrative Office of the Courts, and similar administrative units in the judicial branch;

1979 (iv) any state-funded institution of higher education or public education; or

1980 (v) any political subdivision of the state, but, if a political subdivision has adopted an



1981 ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this  
1982 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or  
1983 as specified in any other section of this chapter that specifically refers to political subdivisions.

1984 (b) "Governmental entity" also means:

1985 (i) every office, agency, board, bureau, committee, department, advisory board, or  
1986 commission of an entity listed in Subsection (11)(a) that is funded or established by the  
1987 government to carry out the public's business;

1988 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative  
1989 undertaking;

1990 (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation; and

1991 (iv) an association as defined in Section 53A-1-1601.

1992 (c) "Governmental entity" does not include the Utah Educational Savings Plan created  
1993 in Section 53B-8a-103.

1994 (12) "Gross compensation" means every form of remuneration payable for a given  
1995 period to an individual for services provided including salaries, commissions, vacation pay,  
1996 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any  
1997 similar benefit received from the individual's employer.

1998 (13) "Individual" means a human being.

1999 (14) (a) "Initial contact report" means an initial written or recorded report, however  
2000 titled, prepared by peace officers engaged in public patrol or response duties describing official  
2001 actions initially taken in response to either a public complaint about or the discovery of an  
2002 apparent violation of law, which report may describe:

2003 (i) the date, time, location, and nature of the complaint, the incident, or offense;

2004 (ii) names of victims;

2005 (iii) the nature or general scope of the agency's initial actions taken in response to the  
2006 incident;

2007 (iv) the general nature of any injuries or estimate of damages sustained in the incident;

2008 (v) the name, address, and other identifying information about any person arrested or  
2009 charged in connection with the incident; or

2010 (vi) the identity of the public safety personnel, except undercover personnel, or  
2011 prosecuting attorney involved in responding to the initial incident.

2012 (b) Initial contact reports do not include follow-up or investigative reports prepared  
2013 after the initial contact report. However, if the information specified in Subsection (14)(a)  
2014 appears in follow-up or investigative reports, it may only be treated confidentially if it is  
2015 private, controlled, protected, or exempt from disclosure under Subsection [63G-2-201](#)(3)(b).

2016 (15) "Legislative body" means the Legislature.

2017 (16) "Notice of compliance" means a statement confirming that a governmental entity  
2018 has complied with a records committee order.

2019 (17) "Person" means:

2020 (a) an individual;

2021 (b) a nonprofit or profit corporation;

2022 (c) a partnership;

2023 (d) a sole proprietorship;

2024 (e) other type of business organization; or

2025 (f) any combination acting in concert with one another.

2026 (18) "Private provider" means any person who contracts with a governmental entity to  
2027 provide services directly to the public.

2028 (19) "Private record" means a record containing data on individuals that is private as  
2029 provided by Section [63G-2-302](#).

2030 (20) "Protected record" means a record that is classified protected as provided by  
2031 Section [63G-2-305](#).

2032 (21) "Public record" means a record that is not private, controlled, or protected and that  
2033 is not exempt from disclosure as provided in Subsection [63G-2-201](#)(3)(b).

2034 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,  
2035 card, tape, recording, electronic data, or other documentary material regardless of physical form  
2036 or characteristics:

2037 (i) that is prepared, owned, received, or retained by a governmental entity or political  
2038 subdivision; and

2039 (ii) where all of the information in the original is reproducible by photocopy or other  
2040 mechanical or electronic means.

2041 (b) "Record" does not mean:

2042 (i) a personal note or personal communication prepared or received by an employee or

2043 officer of a governmental entity:

2044 (A) in a capacity other than the employee's or officer's governmental capacity; or

2045 (B) that is unrelated to the conduct of the public's business;

2046 (ii) a temporary draft or similar material prepared for the originator's personal use or

2047 prepared by the originator for the personal use of an individual for whom the originator is

2048 working;

2049 (iii) material that is legally owned by an individual in the individual's private capacity;

2050 (iv) material to which access is limited by the laws of copyright or patent unless the

2051 copyright or patent is owned by a governmental entity or political subdivision;

2052 (v) proprietary software;

2053 (vi) junk mail or a commercial publication received by a governmental entity or an

2054 official or employee of a governmental entity;

2055 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections

2056 of a library open to the public;

2057 (viii) material that is cataloged, indexed, or inventoried and contained in the collections

2058 of a library open to the public, regardless of physical form or characteristics of the material;

2059 (ix) a daily calendar or other personal note prepared by the originator for the

2060 originator's personal use or for the personal use of an individual for whom the originator is

2061 working;

2062 (x) a computer program that is developed or purchased by or for any governmental

2063 entity for its own use;

2064 (xi) a note or internal memorandum prepared as part of the deliberative process by:

2065 (A) a member of the judiciary;

2066 (B) an administrative law judge;

2067 (C) a member of the Board of Pardons and Parole; or

2068 (D) a member of any other body, other than an association or appeals panel as defined

2069 in Section [53A-1-1601](#), charged by law with performing a quasi-judicial function;

2070 (xii) a telephone number or similar code used to access a mobile communication

2071 device that is used by an employee or officer of a governmental entity, provided that the

2072 employee or officer of the governmental entity has designated at least one business telephone

2073 number that is a public record as provided in Section [63G-2-301](#);

2074 (xiii) information provided by the Public Employees' Benefit and Insurance Program,  
2075 created in Section 49-20-103, to a county to enable the county to calculate the amount to be  
2076 paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

2077 (xiv) information that an owner of unimproved property provides to a local entity as  
2078 provided in Section 11-42-205; or

2079 (xv) a video or audio recording of an interview, or a transcript of the video or audio  
2080 recording, that is conducted at a Children's Justice Center established under Section 67-5b-102.

2081 (23) "Record series" means a group of records that may be treated as a unit for  
2082 purposes of designation, description, management, or disposition.

2083 (24) "Records committee" means the State Records Committee created in Section  
2084 63G-2-501.

2085 (25) "Records officer" means the individual appointed by the chief administrative  
2086 officer of each governmental entity, or the political subdivision to work with state archives in  
2087 the care, maintenance, scheduling, designation, classification, disposal, and preservation of  
2088 records.

2089 (26) "Schedule," "scheduling," and their derivative forms mean the process of  
2090 specifying the length of time each record series should be retained by a governmental entity for  
2091 administrative, legal, fiscal, or historical purposes and when each record series should be  
2092 transferred to the state archives or destroyed.

2093 (27) "Sponsored research" means research, training, and other sponsored activities as  
2094 defined by the federal Executive Office of the President, Office of Management and Budget:

2095 (a) conducted:

2096 (i) by an institution within the state system of higher education defined in Section  
2097 53B-1-102; and

2098 (ii) through an office responsible for sponsored projects or programs; and

2099 (b) funded or otherwise supported by an external:

2100 (i) person that is not created or controlled by the institution within the state system of  
2101 higher education; or

2102 (ii) federal, state, or local governmental entity.

2103 (28) "State archives" means the Division of Archives and Records Service created in  
2104 Section 63A-12-101.

2105 (29) "State archivist" means the director of the state archives.

2106 (30) "Summary data" means statistical records and compilations that contain data  
2107 derived from private, controlled, or protected information but that do not disclose private,  
2108 controlled, or protected information.

2109 Section 8. Section **63I-1-278** is amended to read:

2110 **63I-1-278. Repeal dates, Title 78A and Title 78B.**

2111 [~~(1) The Office of the Court Administrator, created in Section [78A-2-105](#), is repealed~~  
2112 ~~July 1, 2018.~~]

2113 [~~(2)~~] (1) Section [78B-3-421](#), regarding medical malpractice arbitration agreements, is  
2114 repealed July 1, 2019.

2115 [~~(3)~~] (2) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed  
2116 July 1, 2026.

2117 [~~(4)~~] (3) Section [78B-6-802.7](#) is repealed on July 1, 2018.

2118 Section 9. Section **63I-5-201** is amended to read:

2119 **63I-5-201. Internal auditing programs -- State agencies.**

2120 (1) (a) The departments of Administrative Services, Agriculture, Commerce, Heritage  
2121 and Arts, Corrections, Workforce Services, Environmental Quality, Health, Human Services,  
2122 Natural Resources, Public Safety, and Transportation, and the State Tax Commission shall  
2123 conduct various types of auditing procedures as determined by the agency head or governor.

2124 (b) The governor may, by executive order, require a state agency not described in  
2125 Subsection (1)(a) to establish an internal audit program.

2126 (c) The governor shall ensure that each state agency that reports to the governor has  
2127 adequate internal audit coverage.

2128 (2) (a) The [~~Office of the Court Administrator~~] Administrative Office of the Courts  
2129 shall establish an internal audit program under the direction of the Judicial Council, including  
2130 auditing procedures for courts not of record.

2131 (b) The Judicial Council may, by rule, require other judicial agencies to establish an  
2132 internal audit program.

2133 (3) (a) Dixie State University, the University of Utah, Utah State University, Salt Lake  
2134 Community College, Southern Utah University, Utah Valley University, Weber State  
2135 University, and Snow College shall establish an internal audit program under the direction of

2136 the Board of Regents.

2137 (b) The State Board of Regents may issue policies requiring other higher education  
2138 entities or programs to establish an internal audit program.

2139 (4) The State Board of Education shall establish an internal audit program that provides  
2140 internal audit services for each program administered by the State Board of Education.

2141 (5) Subject to Section [32B-2-302.5](#), the internal audit division of the Department of  
2142 Alcoholic Beverage Control shall establish an internal audit program under the direction of the  
2143 Alcoholic Beverage Control Commission.

2144 Section 10. Section **67-8-5** is amended to read:

2145 **67-8-5. Duties of commission -- Salary recommendations.**

2146 (1) The commission shall recommend to the Legislature:

2147 (a) salaries for the governor, the lieutenant governor, the attorney general, the state  
2148 auditor, and the state treasurer;

2149 (b) salaries for justices of the Supreme Court and judges of the constitutional and  
2150 statutory courts of record; and

2151 (c) compensation for members of the State Board of Education.

2152 (2) The commission shall:

2153 (a) in making recommendations on salaries described in Subsections (1)(a) and (b):

2154 (i) make studies and formulate recommendations concerning the wage and salary  
2155 classification plan based upon factors such as educational requirements, experience,  
2156 responsibility, accountability for funds and staff, comparisons with wages paid in other  
2157 comparable public and private employment within this state, and other states similarly situated,  
2158 and any other factors generally used in similar comprehensive wage and salary classification  
2159 plans so that the plan and its administration reflect current conditions at all times; and

2160 (ii) consult and advise with, and make recommendation to, the Department of Human  
2161 Resource Management regarding the plan, its administration, and the position of any elected  
2162 official and judge covered by the plan;

2163 (b) in making recommendations on compensation described in Subsection (1)(c), make  
2164 studies and formulate recommendations concerning compensation of members of state boards  
2165 of education in other states and other factors the commission determines to be relevant so that  
2166 the compensation reflects current conditions at all times;

2167 (c) submit to the Executive Appropriations Committee not later than 60 days before  
2168 commencement of each annual general session:

2169 (i) a report briefly summarizing its activities during the calendar year immediately  
2170 preceding the session;

2171 (ii) recommendations concerning revisions, modifications, or changes, if any, that  
2172 should be made in the plan, its administration, the classification of any elected official or judge  
2173 under the plan, or the compensation of members of the State Board of Education; and

2174 (iii) specific recommendations regarding the office of governor, lieutenant governor,  
2175 attorney general, state auditor, and state treasurer concerning adjustments, if any, that should be  
2176 made in the salary or other emoluments of office so that all elected and judicial officials receive  
2177 equitable and consistent treatment regardless of whether salaries are fixed by the Legislature or  
2178 by the Department of Human Resource Management; and

2179 (d) conduct a comprehensive review of judicial salary levels and make  
2180 recommendations for judicial salaries in a report to the president of the Senate, the speaker of  
2181 the House of Representatives, and the governor by November 1, prior to the convening of the  
2182 general session of the Legislature in each odd-numbered year.

2183 (3) (a) The recommendation under Subsection (2)(d) shall be based upon consultation  
2184 with the Judicial Council and upon consideration for the career status of judges. It shall be  
2185 based upon comparisons with salaries paid in other states and in comparable public and private  
2186 employment within this state.

2187 (b) In even-numbered years, the commission shall update its prior report, based upon  
2188 the Consumer Price Index and other relevant factors, and shall forward its updated  
2189 recommendations as prescribed in this section.

2190 (4) The Judicial Council shall cooperate with the commission in providing information  
2191 on the judicial branch of government and on the individual levels of court as requested. The  
2192 director of personnel from the [~~Office of the Court Administrator~~] Administrative Office of the  
2193 Courts shall provide the salary comparison data referred to in this section to the legislative  
2194 fiscal analyst and shall provide other staff assistance and support as requested by the legislative  
2195 fiscal analyst.

2196 Section 11. Section **76-8-309** is amended to read:

2197 **76-8-309. Escape and aggravated escape -- Consecutive sentences -- Definitions.**

2198 (1) (a) (i) A prisoner is guilty of escape if [~~he~~] the prisoner leaves official custody  
2199 without lawful authorization.

2200 (ii) If a prisoner obtains authorization to leave official custody by means of deceit,  
2201 fraud, or other artifice, the prisoner has not received lawful authorization.

2202 (b) Escape under this Subsection (1) is a third degree felony except as provided under  
2203 Subsection (1)(c).

2204 (c) Escape under this Subsection (1) is a second degree felony if:

2205 (i) the actor escapes from a state prison; or

2206 (ii) (A) the actor is convicted as a party to the offense, as defined in Section [76-2-202](#);  
2207 and

2208 (B) the actor is an employee at or a volunteer of a law enforcement agency, the  
2209 Department of Corrections, a county or district attorney's office, the office of the state attorney  
2210 general, the Board of Pardons and Parole, or the courts, the Judicial Council, the [~~Office of the~~  
2211 ~~Court Administrator~~] Administrative Office of the Courts, or similar administrative units in the  
2212 judicial branch of government.

2213 (2) (a) A prisoner is guilty of aggravated escape if in the commission of an escape [~~he~~]  
2214 the prisoner uses a dangerous weapon, as defined in Section [76-1-601](#), or causes serious bodily  
2215 injury to another.

2216 (b) Aggravated escape is a first degree felony.

2217 (3) Any prison term imposed upon a prisoner for escape under this section shall run  
2218 consecutively with any other sentence.

2219 (4) For the purposes of this section:

2220 (a) "Confinement" means the prisoner is:

2221 (i) housed in a state prison or any other facility pursuant to a contract with the Utah  
2222 Department of Corrections after being sentenced and committed and the sentence has not been  
2223 terminated or voided or the prisoner is not on parole;

2224 (ii) lawfully detained in a county jail prior to trial or sentencing or housed in a county  
2225 jail after sentencing and commitment and the sentence has not been terminated or voided or the  
2226 prisoner is not on parole; or

2227 (iii) lawfully detained following arrest.

2228 (b) "Escape" is considered to be a continuing activity commencing with the conception



2229 of the design to escape and continuing until the escaping prisoner is returned to official custody  
2230 or the prisoner's attempt to escape is thwarted or abandoned.

2231 (c) "Official custody" means arrest, whether with or without warrant, or confinement in  
2232 a state prison, jail, institution for secure confinement of juvenile offenders, or any confinement  
2233 pursuant to an order of the court or sentenced and committed and the sentence has not been  
2234 terminated or voided or the prisoner is not on parole. A person is considered confined in the  
2235 state prison if [~~he~~] the person:

2236 (i) without authority fails to return to [~~his~~] the person's place of confinement from work  
2237 release or home visit by the time designated for return;

2238 (ii) is in prehearing custody after arrest for parole violation;

2239 (iii) is being housed in a county jail, after felony commitment, pursuant to a contract  
2240 with the Department of Corrections; or

2241 (iv) is being transported as a prisoner in the state prison by correctional officers.

2242 (d) "Prisoner" means any person who is in official custody and includes persons under  
2243 trusty status.

2244 (e) "Volunteer" means any person who donates service without pay or other  
2245 compensation except expenses actually and reasonably incurred as approved by the supervising  
2246 agency.

2247 Section 12. Section **77-10a-2** is amended to read:

2248 **77-10a-2. Panel of judges -- Appointment -- Membership -- Ordering of grand**  
2249 **jury.**

2250 (1) (a) The presiding officer of the Judicial Council shall appoint a panel of five judges  
2251 from the district courts of the state to hear in secret all persons claiming to have information  
2252 that would justify the calling of a grand jury. The presiding officer may appoint senior status  
2253 district court judges to the panel. The presiding officer shall designate one member of the  
2254 panel as supervising judge to serve at the pleasure of the presiding officer. The panel has the  
2255 authority of the district court.

2256 (b) To ensure geographical diversity on the panel one judge shall be appointed from the  
2257 first or second district for a five-year term, one judge shall be appointed from the third district  
2258 for a four-year term, one judge shall be appointed from the fourth district for a three-year term,  
2259 one judge shall be appointed from the fifth, sixth, seventh, or eighth districts for a two-year

2260 term, and one judge shall be appointed from the third district for a one-year term. Following  
2261 the first term, all terms on the panel are for five years.

2262 (c) The panel shall schedule hearings in each judicial district at least once every three  
2263 years and may meet at any location within the state. Three members of the panel constitute a  
2264 quorum for the transaction of panel business. The panel shall act by the concurrence of a  
2265 majority of members present and may act through the supervising judge or managing judge.  
2266 The schedule for the hearings shall be set by the panel and published by the [~~Office of the~~  
2267 ~~Court Administrator~~] Administrative Office of the Courts. Persons who desire to appear before  
2268 the panel shall schedule an appointment with the [~~Office of the Court Administrator~~]  
2269 Administrative Office of the Courts at least 10 days in advance. If no appointments are  
2270 scheduled, the hearing may be canceled. Persons appearing before the panel shall be placed  
2271 under oath and examined by the judges conducting the hearings. Hearsay evidence may be  
2272 presented at the hearings only under the same provisions and limitations that apply to  
2273 preliminary hearings.

2274 (2) (a) If the panel finds good cause to believe a grand jury is necessary, the panel shall  
2275 make its findings in writing and may order a grand jury to be summoned.

2276 (b) The panel may refer a matter to the attorney general, county attorney, district  
2277 attorney, or city attorney for investigation and prosecution. The referral shall contain as much  
2278 of the information presented to the panel as the panel determines relevant. The attorney  
2279 general, county attorney, district attorney, or city attorney shall report to the panel the results of  
2280 any investigation and whether the matter will be prosecuted by a prosecutor's information. The  
2281 report shall be filed with the panel within 120 days after the referral unless the panel provides  
2282 for a different amount of time. If the panel is not satisfied with the action of the attorney  
2283 general, county attorney, district attorney, or city attorney, the panel may order a grand jury to  
2284 be summoned.

2285 (3) When the attorney general, a county attorney, a district attorney, municipal  
2286 attorney, or a special prosecutor appointed under Section [77-10a-12](#) certifies in writing to the  
2287 supervising judge that in his judgment a grand jury is necessary because of criminal activity in  
2288 the state, the panel shall order a grand jury to be summoned if the panel finds good cause  
2289 exists.

2290 (4) In determining whether good cause exists under Subsection (3), the panel shall

2291 consider, among other factors, whether a grand jury is needed to help maintain public  
2292 confidence in the impartiality of the criminal justice process.

2293 (5) A written certification under Subsection (3) shall contain a statement that in the  
2294 prosecutor's judgement a grand jury is necessary, but the certification need not contain any  
2295 information which if disclosed may create a risk of:

2296 (a) destruction or tainting of evidence;

2297 (b) flight or other conduct by the subject of the investigation to avoid prosecution;

2298 (c) damage to a person's reputation or privacy;

2299 (d) harm to any person; or

2300 (e) a serious impediment to the investigation.

2301 (6) A written certification under Subsection (3) shall be accompanied by a statement of  
2302 facts in support of the need for a grand jury.

2303 (7) The supervising judge shall seal any written statement of facts submitted under  
2304 Subsection (6).

2305 (8) The supervising judge may at the time the grand jury is summoned:

2306 (a) order that it be drawn from the state at large as provided in this chapter or from any  
2307 district within the state; and

2308 (b) retain authority to supervise the grand jury or delegate the supervision of the grand  
2309 jury to any judge of any district court within the state.

2310 (9) If after the certification under Subsection (3) the panel does not order the  
2311 summoning of a grand jury or the grand jury does not return an indictment regarding the  
2312 subject matter of the certification, the prosecuting attorney may release to the public a copy of  
2313 the written certification if in the prosecutor's judgment the release does not create a risk as  
2314 described in Subsection (5).

2315 Section 13. Section **78A-2-103** is amended to read:

2316 **78A-2-103. Definitions.**

2317 As used in this chapter:

2318 [~~(1) "Administrator" means the administrator of the courts appointed under Section~~  
2319 ~~78A-2-105.~~]

2320 [~~(2)~~ (1) "Conference" means the annual statewide judicial conference established by  
2321 Section 78A-2-111.

2322            [~~3~~] (2) "Council" means the Judicial Council established by Article VIII, Sec. 12,  
2323 Utah Constitution.

2324            [~~4~~] (3) "Courts" mean all courts of this state, including all courts of record and not of  
2325 record.

2326            Section 14. Section **78A-2-104** is amended to read:

2327            **78A-2-104. Judicial Council -- Creation -- Members -- Terms and election --**  
2328 **Responsibilities -- Reports -- Guardian Ad Litem Oversight Committee.**

2329            (1) The Judicial Council, established by Article VIII, Section 12, Utah Constitution,  
2330 shall be composed of:

- 2331            (a) the chief justice of the Supreme Court;
- 2332            (b) one member elected by the justices of the Supreme Court;
- 2333            (c) one member elected by the judges of the Court of Appeals;
- 2334            (d) five members elected by the judges of the district courts;
- 2335            (e) two members elected by the judges of the juvenile courts;
- 2336            (f) three members elected by the justice court judges; and
- 2337            (g) a member or ex officio member of the Board of Commissioners of the Utah State  
2338 Bar who is an active member of the Bar in good standing at the time of election by the Board of  
2339 Commissioners.

2340            (2) The Judicial Council shall have a seal.

2341            (3) (a) The chief justice of the Supreme Court shall act as presiding officer of the  
2342 council and chief administrative officer for the courts. The chief justice shall vote only in the  
2343 case of a tie.

2344            (b) All members of the council shall serve for three-year terms.

2345            (i) If a council member should die, resign, retire, or otherwise fail to complete a term  
2346 of office, the appropriate constituent group shall elect a member to complete the term of office.

2347            (ii) In courts having more than one member, the members shall be elected to staggered  
2348 terms.

2349            (iii) The person elected by the Board of Commissioners may complete a three-year  
2350 term of office on the Judicial Council even though the person ceases to be a member or ex  
2351 officio member of the Board of Commissioners. The person shall be an active member of the  
2352 Bar in good standing for the entire term of the Judicial Council.

2353 (c) Elections shall be held under rules made by the Judicial Council.

2354 (4) The council is responsible for the development of uniform administrative policy for  
2355 the courts throughout the state. The presiding officer of the Judicial Council is responsible for  
2356 the implementation of the policies developed by the council and for the general management of  
2357 the courts, with the aid of the state court administrator. The council has authority and  
2358 responsibility to:

2359 (a) establish and assure compliance with policies for the operation of the courts,  
2360 including uniform rules and forms; and

2361 (b) publish and submit to the governor, the chief justice of the Supreme Court, and the  
2362 Legislature an annual report of the operations of the courts, which shall include financial and  
2363 statistical data and may include suggestions and recommendations for legislation.

2364 (5) The council shall establish standards for the operation of the courts of the state  
2365 including, but not limited to, facilities, court security, support services, and staff levels for  
2366 judicial and support personnel.

2367 (6) The council shall by rule establish the time and manner for destroying court  
2368 records, including computer records, and shall establish retention periods for these records.

2369 (7) (a) Consistent with the requirements of judicial office and security policies, the  
2370 council shall establish procedures to govern the assignment of state vehicles to public officers  
2371 of the judicial branch.

2372 (b) The vehicles shall be marked in a manner consistent with Section [41-1a-407](#) and  
2373 may be assigned for unlimited use, within the state only.

2374 (8) (a) The council shall advise judicial officers and employees concerning ethical  
2375 issues and shall establish procedures for issuing informal and formal advisory opinions on  
2376 these issues.

2377 (b) Compliance with an informal opinion is evidence of good faith compliance with the  
2378 Code of Judicial Conduct.

2379 (c) A formal opinion constitutes a binding interpretation of the Code of Judicial  
2380 Conduct.

2381 (9) (a) The council shall establish written procedures authorizing the presiding officer  
2382 of the council to appoint judges of courts of record by special or general assignment to serve  
2383 temporarily in another level of court in a specific court or generally within that level. The

2384 appointment shall be for a specific period and shall be reported to the council.

2385 (b) These procedures shall be developed in accordance with Subsection 78A-2-107(10)  
2386 regarding temporary appointment of judges.

2387 (10) The Judicial Council may by rule designate municipalities in addition to those  
2388 designated by statute as a location of a trial court of record. There shall be at least one court  
2389 clerk's office open during regular court hours in each county. Any trial court of record may  
2390 hold court in any municipality designated as a location of a court of record.

2391 (11) The Judicial Council shall by rule determine whether the administration of a court  
2392 shall be the obligation of the [~~administrative office of the courts~~] Administrative Office of the  
2393 Courts or whether the [~~administrative office of the courts~~] Administrative Office of the Courts  
2394 should contract with local government for court support services.

2395 (12) The Judicial Council may by rule direct that a district court location be  
2396 administered from another court location within the county.

2397 (13) (a) The Judicial Council shall:

2398 (i) establish the Office of Guardian Ad Litem, in accordance with Title 78A, Chapter 6,  
2399 Part 9, Guardian Ad Litem; and

2400 (ii) establish and supervise a Guardian Ad Litem Oversight Committee.

2401 (b) The Guardian Ad Litem Oversight Committee described in Subsection (13)(a)(ii)  
2402 shall oversee the Office of Guardian Ad Litem, established under Subsection (13)(a)(i), and  
2403 assure that the Office of Guardian Ad Litem complies with state and federal law, regulation,  
2404 policy, and court rules.

2405 (14) The Judicial Council shall establish and maintain, in cooperation with the Office  
2406 of Recovery Services within the Department of Human Services, the part of the state case  
2407 registry that contains records of each support order established or modified in the state on or  
2408 after October 1, 1998, as is necessary to comply with the Social Security Act, 42 U.S.C. Sec.  
2409 654a.

2410 Section 15. Section 78A-2-105 is amended to read:

2411 **78A-2-105. State court administrator -- Appointment -- Qualifications -- Salary.**

2412 The Supreme Court shall appoint a chief administrative officer of the council who shall  
2413 have the title of the state court administrator [~~of the courts~~] and shall serve at the pleasure of  
2414 the council [~~and/or~~] ~~Š→~~ **[and]** , ~~←Š~~ the Supreme Court ~~Š→~~ , **or both** ~~←Š~~ . The state court  
2414a administrator shall be selected on

2415 the basis of professional ability and experience in the field of public administration and shall  
2416 possess an understanding of court procedures as well as of the nature and significance of other  
2417 court services. [~~He~~] The state court administrator shall devote [~~his~~] the state court  
2418 administrator's full time and attention to the duties of [~~his~~] the state court administrator's office,  
2419 and shall receive a salary equal to that of a district court judge.

2420 Section 16. Section **78A-2-107** is amended to read:

2421 **78A-2-107. State court administrator -- Powers, duties, and responsibilities.**

2422 Under the general supervision of the presiding officer of the Judicial Council, and  
2423 within the policies established by the council, the state court administrator shall:

- 2424 (1) organize and administer all of the nonjudicial activities of the courts;  
2425 (2) assign, supervise, and direct the work of the nonjudicial officers of the courts;  
2426 (3) implement the standards, policies, and rules established by the council;  
2427 (4) formulate and administer a system of personnel administration, including in-service  
2428 training programs;  
2429 (5) prepare and administer the state judicial budget, fiscal, accounting, and  
2430 procurement activities for the operation of the courts of record, and assist justices' courts in  
2431 their budgetary, fiscal, and accounting procedures;  
2432 (6) conduct studies of the business of the courts, including the preparation of  
2433 recommendations and reports relating to them;  
2434 (7) develop uniform procedures for the management of court business, including the  
2435 management of court calendars;  
2436 (8) maintain liaison with the governmental and other public and private groups having  
2437 an interest in the administration of the courts;  
2438 (9) establish uniform policy concerning vacations and sick leave for judges and  
2439 nonjudicial officers of the courts;  
2440 (10) establish uniform hours for court sessions throughout the state and may, with the  
2441 consent of the presiding officer of the Judicial Council, call and appoint justices or judges of  
2442 courts of record to serve temporarily as Court of Appeals, district court, or juvenile court  
2443 judges and set reasonable compensation for their services;  
2444 (11) when necessary for administrative reasons, change the county for trial of any case  
2445 if no party to the litigation files timely objections to this change;

2446 (12) organize and administer a program of continuing education for judges and support  
2447 staff, including training for justice court judges;

2448 (13) provide for an annual meeting for each level of the courts of record, and the  
2449 annual judicial conference; and

2450 (14) perform other duties as assigned by the presiding officer of the council.

2451 Section 17. Section **78A-2-108** is amended to read:

2452 **78A-2-108. Assistants for state court administrator -- Appointment of trial court**  
2453 **executives.**

2454 (1) The state court administrator [~~of the courts~~], with the approval of the presiding  
2455 officer of the council, is responsible for the establishment of positions and salaries of assistants  
2456 as necessary to enable [~~him~~] the state court administrator to perform the powers and duties  
2457 vested in [~~him~~] the state court administrator by this chapter, including the positions of appellate  
2458 court administrator, district court administrator, juvenile court administrator, and justices' court  
2459 administrator, whose appointments shall be made by the state court administrator [~~of the~~  
2460 ~~courts~~] with the concurrence of the respective boards as established by the council.

2461 (2) The district court administrator, with the concurrence of the presiding judge of a  
2462 district or the district court judge in single judge districts, may appoint in each district a trial  
2463 court executive. The trial court executive may appoint, subject to budget limitations, necessary  
2464 support personnel including clerks, research clerks, secretaries, and other persons required to  
2465 carry out the work of the court. The trial court executive shall supervise the work of all  
2466 nonjudicial court staff and serve as administrative officer of the district.

2467 (3) Administrators and assistants appointed under this section shall be known  
2468 collectively as the Administrative Office of the Courts.

2469 Section 18. Section **78A-2-109** is amended to read:

2470 **78A-2-109. Courts to provide information and statistical data to state court**  
2471 **administrator.**

2472 The judges, clerks of the courts, and all other officers, state and local, shall comply with  
2473 all requests made by the state court administrator or [~~his~~] the state court administrator's  
2474 assistants for information and statistical data bearing on the state of the dockets of the courts  
2475 and such other information as may reflect the business transacted by them and the expenditure  
2476 of public money for the maintenance and operation of the judicial system.



2477 Section 19. Section **78A-2-301** is amended to read:

2478 **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

2479 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a  
2480 court of record not governed by another subsection is \$360.

2481 (b) The fee for filing a complaint or petition is:

2482 (i) \$75 if the claim for damages or amount in interpleader exclusive of court costs,  
2483 interest, and attorney fees is \$2,000 or less;

2484 (ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,  
2485 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

2486 (iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;

2487 (iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter  
2488 4, Separate Maintenance;

2489 (v) \$35 for a motion for temporary separation order filed under Section [30-3-4.5](#);

2490 (vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender  
2491 Registry under Section [77-41-112](#); and

2492 (vii) \$35 if the petition is for guardianship and the prospective ward is the biological or  
2493 adoptive child of the petitioner.

2494 (c) The fee for filing a small claims affidavit is:

2495 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,  
2496 interest, and attorney fees is \$2,000 or less;

2497 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,  
2498 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

2499 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,  
2500 interest, and attorney fees is \$7,500 or more.

2501 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party  
2502 complaint, or other claim for relief against an existing or joined party other than the original  
2503 complaint or petition is:

2504 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is  
2505 \$2,000 or less;

2506 (ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is  
2507 greater than \$2,000 and less than \$10,000;

2508 (iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is  
2509 \$10,000 or more, or the party seeks relief other than monetary damages; and

2510 (iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,  
2511 Chapter 4, Separate Maintenance.

2512 (e) The fee for filing a small claims counter affidavit is:

2513 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is  
2514 \$2,000 or less;

2515 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is  
2516 greater than \$2,000, but less than \$7,500; and

2517 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is  
2518 \$7,500 or more.

2519 (f) The fee for depositing funds under Section 57-1-29 when not associated with an  
2520 action already before the court is determined under Subsection (1)(b) based on the amount  
2521 deposited.

2522 (g) The fee for filing a petition is:

2523 (i) \$225 for trial de novo of an adjudication of the justice court or of the small claims  
2524 department; and

2525 (ii) \$65 for an appeal of a municipal administrative determination in accordance with  
2526 Section 10-3-703.7.

2527 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or  
2528 petition for writ of certiorari is \$225.

2529 (i) The fee for filing a petition for expungement is \$135.

2530 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be  
2531 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'  
2532 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'  
2533 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement  
2534 Act.

2535 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be  
2536 allocated by the state treasurer to be deposited in the restricted account, Children's Legal  
2537 Defense Account, as provided in Section 51-9-408.

2538 (iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g),

2539 and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided  
2540 in Section 78B-6-209.

2541 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),  
2542 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be  
2543 deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

2544 (v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and  
2545 (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court  
2546 Security Account, as provided in Section 78A-2-602.

2547 (k) The fee for filing a judgment, order, or decree of a court of another state or of the  
2548 United States is \$35.

2549 (l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is  
2550 50% of the fee for filing an original action seeking the same relief.

2551 (m) The fee for filing probate or child custody documents from another state is \$35.

2552 (n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the  
2553 Utah State Tax Commission is \$30.

2554 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state  
2555 or a judgment, order, or decree of an administrative agency, commission, board, council, or  
2556 hearing officer of this state or of its political subdivisions other than the Utah State Tax  
2557 Commission, is \$50.

2558 (o) The fee for filing a judgment by confession without action under Section  
2559 78B-5-205 is \$35.

2560 (p) The fee for filing an award of arbitration for confirmation, modification, or  
2561 vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an  
2562 action before the court is \$35.

2563 (q) The fee for filing a petition or counter-petition to modify a domestic relations order  
2564 other than a protective order or stalking injunction is \$100.

2565 (r) The fee for filing any accounting required by law is:

2566 (i) \$15 for an estate valued at \$50,000 or less;

2567 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

2568 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

2569 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

- 2570 (v) \$175 for an estate valued at more than \$168,000.
- 2571 (s) The fee for filing a demand for a civil jury is \$250.
- 2572 (t) The fee for filing a notice of deposition in this state concerning an action pending in  
2573 another state under Utah Rules of Civil Procedure, Rule 30 is \$35.
- 2574 (u) The fee for filing documents that require judicial approval but are not part of an  
2575 action before the court is \$35.
- 2576 (v) The fee for a petition to open a sealed record is \$35.
- 2577 (w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in  
2578 addition to any fee for a complaint or petition.
- 2579 (x) (i) The fee for a petition for authorization for a minor to marry required by Section  
2580 [30-1-9](#) is \$5.
- 2581 (ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6,  
2582 Part 8, Emancipation, is \$50.
- 2583 (y) The fee for a certificate issued under Section [26-2-25](#) is \$8.
- 2584 (z) The fee for a certified copy of a document is \$4 per document plus 50 cents per  
2585 page.
- 2586 (aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents  
2587 per page.
- 2588 (bb) The Judicial Council shall by rule establish a schedule of fees for copies of  
2589 documents and forms and for the search and retrieval of records under Title 63G, Chapter 2,  
2590 Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall  
2591 be credited to the court as a reimbursement of expenditures.
- 2592 (cc) There is no fee for services or the filing of documents not listed in this section or  
2593 otherwise provided by law.
- 2594 (dd) Except as provided in this section, all fees collected under this section are paid to  
2595 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk  
2596 accepts the pleading for filing or performs the requested service.
- 2597 (ee) The filing fees under this section may not be charged to the state, its agencies, or  
2598 political subdivisions filing or defending any action. In judgments awarded in favor of the  
2599 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court  
2600 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums

2601 collected under this Subsection (1)(ee) shall be applied to the fees after credit to the judgment,  
2602 order, fine, tax, lien, or other penalty and costs permitted by law.

2603 (2) (a) (i) From March 17, 1994, until June 30, 1998, the state court administrator [~~of~~  
2604 ~~the courts~~] shall transfer all revenues representing the difference between the fees in effect after  
2605 May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division  
2606 of Facilities Construction and Management Capital Projects Fund.

2607 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities  
2608 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the  
2609 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to  
2610 initiate the development of a courts complex in Salt Lake City.

2611 (B) If the Legislature approves funding for construction of a courts complex in Salt  
2612 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and  
2613 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection  
2614 (2)(a)(ii) to construct a courts complex in Salt Lake City.

2615 (C) After the courts complex is completed and all bills connected with its construction  
2616 have been paid, the Division of Facilities Construction and Management shall use any money  
2617 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal  
2618 District Court building.

2619 (iii) The Division of Facilities Construction and Management may enter into  
2620 agreements and make expenditures related to this project before the receipt of revenues  
2621 provided for under this Subsection (2)(a)(iii).

2622 (iv) The Division of Facilities Construction and Management shall:

2623 (A) make those expenditures from unexpended and unencumbered building funds  
2624 already appropriated to the Capital Projects Fund; and

2625 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for  
2626 under this Subsection (2).

2627 (b) After June 30, 1998, the state court administrator [~~of the courts~~] shall ensure that all  
2628 revenues representing the difference between the fees in effect after May 2, 1994, and the fees  
2629 in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the  
2630 restricted account.

2631 (c) The Division of Finance shall deposit all revenues received from the state court

2632 administrator into the restricted account created by this section.

2633 (d) (i) From May 1, 1995, until June 30, 1998, the state court administrator [~~of the~~  
2634 ~~courts~~] shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title  
2635 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and  
2636 Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110  
2637 shall be calculated on the balance of the fine or bail forfeiture paid.

2638 (ii) After June 30, 1998, the state court administrator [~~of the courts~~] or a municipality  
2639 shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor  
2640 Vehicles, in a court of record to the Division of Finance for deposit in the restricted account  
2641 created by this section. The division of money pursuant to Section 78A-5-110 shall be  
2642 calculated on the balance of the fine or bail forfeiture paid.

2643 (3) (a) There is created within the General Fund a restricted account known as the State  
2644 Courts Complex Account.

2645 (b) The Legislature may appropriate money from the restricted account to the state  
2646 court administrator [~~of the courts~~] for the following purposes only:

- 2647 (i) to repay costs associated with the construction of the court complex that were  
2648 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and
- 2649 (ii) to cover operations and maintenance costs on the court complex.

2650 Section 20. Section 78A-11-106 is amended to read:

2651 **78A-11-106. Criminal investigation of a judge -- Administrative leave.**

2652 (1) (a) (i) If the commission, during the course of its investigation into an allegation of  
2653 judicial misconduct, receives information upon which a reasonable person might conclude that  
2654 a misdemeanor or felony under state or federal law has been committed by a judge other than  
2655 the chief justice of the Supreme Court, the commission shall immediately refer the allegation  
2656 and any information relevant to the potential criminal violation to the chief justice of the  
2657 Supreme Court.

2658 (ii) (A) Unless the allegation is plainly frivolous, the commission shall also  
2659 immediately refer the allegation of criminal misconduct and any information relevant to the  
2660 potential criminal violation to the local prosecuting attorney having jurisdiction to investigate  
2661 and prosecute the crime.

2662 (B) If the local prosecuting attorney receiving the allegation of criminal misconduct of

2663 a judge practices before that judge on a regular basis, or has a conflict of interest in  
2664 investigating the crime, the local prosecuting attorney shall refer the allegation of criminal  
2665 misconduct to another local or state prosecutor who would not have the same disability or  
2666 conflict.

2667 (C) The commission may concurrently proceed with its investigation of the complaint  
2668 without waiting for the resolution of the criminal investigation by the prosecuting attorney.

2669 (b) The chief justice of the Supreme Court may place a justice of the Supreme Court,  
2670 an appellate court judge, district court judge, active senior judge, juvenile court judge, justice  
2671 court judge, active senior justice court judge, or judge pro tempore on administrative leave with  
2672 or without pay if the chief justice has a reasonable basis to believe that the alleged crime  
2673 occurred, that the justice of the Supreme Court, appellate court judge, district court judge,  
2674 active senior judge, juvenile court judge, justice court judge, active senior justice court judge,  
2675 or judge pro tempore committed the crime, and that the crime was either a felony or a  
2676 misdemeanor which conduct may be prejudicial to the administration of justice or which brings  
2677 a judicial office into disrepute.

2678 (2) (a) If the commission, during the course of its investigation into an allegation of  
2679 judicial misconduct, receives information upon which a reasonable person might conclude that  
2680 a misdemeanor or felony under state or federal law has been committed by the chief justice of  
2681 the Supreme Court, the commission shall immediately refer the allegation and any information  
2682 relevant to the potential criminal violation to two justices of the Supreme Court and the local  
2683 prosecuting attorney in accordance with Subsection (1)(a)(ii).

2684 (b) Two justices of the Supreme Court may place the chief justice of the Supreme  
2685 Court on administrative leave with or without pay if the two justices have a reasonable basis to  
2686 believe that the alleged crime occurred, that the chief justice committed the crime, and that the  
2687 crime was either a felony or a misdemeanor which conduct may be prejudicial to the  
2688 administration of justice or which brings a judicial office into disrepute.

2689 (3) (a) If a judge is or has been criminally charged or indicted for a class A  
2690 misdemeanor or any felony under state or federal law and if the Supreme Court has not already  
2691 acted under Subsection (1) or (2), the appropriate member or members of the Supreme Court as  
2692 provided in Subsection (1) or (2), shall place the judge on administrative leave with or without  
2693 pay pending the outcome of the criminal proceeding.

2694 (b) The state court administrator [~~of the courts~~] shall, for the duration of the  
2695 administrative leave, withhold all employer and employee contributions required under  
2696 Sections 49-17-301 and 49-18-301.

2697 (c) If the judge is not convicted of the criminal charge, and if after an investigation and  
2698 final disposition of the case by the Judicial Conduct Commission, the judge is reinstated by the  
2699 Supreme Court as provided in Subsection (4), then the judge shall be paid the salary or  
2700 compensation for the period of administrative leave, and all contributions withheld under  
2701 Subsection (3)(b) shall be deposited in accordance with Sections 49-17-301 and 49-18-301.

2702 (4) The chief justice of the Supreme Court or two justices of the Supreme Court who  
2703 ordered the judge on administrative leave shall order the reinstatement of the judge:

2704 (a) if the prosecutor to whom the allegations are referred by the commission determines  
2705 no charge or indictment should be filed; or

2706 (b) after final disposition of the criminal case, if the judge is not convicted of a  
2707 criminal charge and if the commission has not ordered the removal of the judge.

2708 Section 21. Section **78B-1-117** is amended to read:

2709 **78B-1-117. Jurors and witnesses -- State payment for jurors and subpoenaed**  
2710 **persons -- Appropriations and costs -- Expenses in justice court.**

2711 (1) The state is responsible for payment of all fees and expenses authorized by law for  
2712 prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs in  
2713 criminal actions in the courts of record and actions in the juvenile court. The state is  
2714 responsible for payment of all fees and expenses authorized by law for jurors in the courts of  
2715 record. For these payments, the Judicial Council shall receive an annual appropriation  
2716 contained in a separate line item appropriation.

2717 (2) If expenses, for the purposes of this section, exceed the line item appropriation, the  
2718 state court administrator [~~of the courts~~] shall submit a claim against the state to the Board of  
2719 Examiners and request the board to recommend and submit a supplemental appropriation  
2720 request to the Legislature for the deficit incurred.

2721 (3) In the justice courts, the fees, mileage, and other expenses authorized by law for  
2722 jurors, prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter  
2723 costs shall be paid by the municipality if the action is prosecuted by the city attorney, and by  
2724 the county if the action is prosecuted by the county attorney or district attorney.



2725 (4) Beginning July 1, 2014, the state court administrator [~~of the courts~~] shall provide a  
2726 report during each interim to the Executive Offices and Criminal Justice Appropriations  
2727 Subcommittee detailing expenses, trends, and efforts made to minimize expenses and  
2728 maximize performance of the costs under this section.

2729 (5) The funding of additional full-time equivalent employees shall be authorized by the  
2730 Legislature through specific intent language.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**