

1 **ADMINISTRATIVE OFFICE OF THE COURTS**

2 **AMENDMENTS**

3 2018 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: V. Lowry Snow**

6 Senate Sponsor: Todd Weiler

8 **LONG TITLE**

9 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

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

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

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

19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **20A-1-506**, as last amended by Laws of Utah 2017, Chapter 115

27 **36-21-1**, as enacted by Laws of Utah 1995, Chapter 44

28 **41-6a-2002**, as last amended by Laws of Utah 2014, Chapter 276

29 **59-12-102**, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422

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

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

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

50 **20A-1-506. Vacancy in the office of justice court judge.**

51 (1) As used in this section:

52 (a) "Appointing authority" means:

53 (i) for a county:

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

56 (B) the county executive in a county having the county executive-council form of
 57 government; and

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

59 (b) "Local legislative body" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

84 (b) If the local legislative body does not confirm the appointment within 30 days of
85 submission, the appointing authority may either appoint another of the applicants or reopen the

86 vacancy by advertisement and solicitations of applications.

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

88 **36-21-1. Definition -- Deadline for state governmental entities filing legislation --**

89 **Waiver.**

90 (1) "Governmental entity" means:

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

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

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

98 (d) the National Guard;

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

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

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

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

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

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

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

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

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

115 **41-6a-2002. Definitions.**

116 As used in this section:

117 (1) "Automatic license plate reader system" means a system of one or more mobile or
118 fixed automated high-speed cameras used in combination with computer algorithms to convert
119 an image of a license plate into computer-readable data.

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

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

124 (i) executive department agencies of the state;

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

127 (iii) the Board of Pardons and Parole;

128 (iv) the Board of Examiners;

129 (v) the National Guard;

130 (vi) the Career Service Review Office;

131 (vii) the State Board of Education;

132 (viii) the State Board of Regents;

133 (ix) the State Archives;

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

135 (xi) the Office of Legislative Fiscal Analyst;

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

137 (xiii) the Legislature;

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

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

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

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

143 (xvii) any political subdivision of the state.

144 (b) "Governmental entity" includes:

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

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

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

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

154 **59-12-102. Definitions.**

155 As used in this chapter:

156 (1) "800 service" means a telecommunications service that:

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

158 (b) is typically marketed:

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

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

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

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

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

164 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
165 Federal Communications Commission.

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

167 (i) a subscriber purchases;

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

- 170 (A) prerecorded announcement; or
- 171 (B) live service; and
- 172 (iii) is typically marketed:
 - 173 (A) under the name 900 service; or
 - 174 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
 - 175 Communications Commission.
- 176 (b) "900 service" does not include a charge for:
 - 177 (i) a collection service a seller of a telecommunications service provides to a
 - 178 subscriber; or
 - 179 (ii) the following a subscriber sells to the subscriber's customer:
 - 180 (A) a product; or
 - 181 (B) a service.
 - 182 (3) (a) "Admission or user fees" includes season passes.
 - 183 (b) "Admission or user fees" does not include annual membership dues to private
 - 184 organizations.
- 185 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 186 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 187 Agreement after November 12, 2002.
- 188 (5) "Agreement combined tax rate" means the sum of the tax rates:
 - 189 (a) listed under Subsection (6); and
 - 190 (b) that are imposed within a local taxing jurisdiction.
- 191 (6) "Agreement sales and use tax" means a tax imposed under:
 - 192 (a) Subsection 59-12-103(2)(a)(i)(A);
 - 193 (b) Subsection 59-12-103(2)(b)(i);
 - 194 (c) Subsection 59-12-103(2)(c)(i);
 - 195 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
 - 196 (e) Section 59-12-204;
 - 197 (f) Section 59-12-401;

- 198 (g) Section 59-12-402;
- 199 (h) Section 59-12-402.1;
- 200 (i) Section 59-12-703;
- 201 (j) Section 59-12-802;
- 202 (k) Section 59-12-804;
- 203 (l) Section 59-12-1102;
- 204 (m) Section 59-12-1302;
- 205 (n) Section 59-12-1402;
- 206 (o) Section 59-12-1802;
- 207 (p) Section 59-12-2003;
- 208 (q) Section 59-12-2103;
- 209 (r) Section 59-12-2213;
- 210 (s) Section 59-12-2214;
- 211 (t) Section 59-12-2215;
- 212 (u) Section 59-12-2216;
- 213 (v) Section 59-12-2217;
- 214 (w) Section 59-12-2218; or
- 215 (x) Section 59-12-2219.
- 216 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 217 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 218 (a) except for:
- 219 (i) an airline as defined in Section 59-2-102; or
- 220 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 221 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 222 state, of an airline; and
- 223 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 224 whether the business entity performs the following in this state:
- 225 (i) check, diagnose, overhaul, and repair:

- 226 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 227 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 228 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 229 engine;
- 230 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 231 aircraft:
- 232 (A) an inspection;
- 233 (B) a repair, including a structural repair or modification;
- 234 (C) changing landing gear; and
- 235 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 236 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 237 completely apply new paint to the fixed wing turbine powered aircraft; and
- 238 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 239 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 240 authority that certifies the fixed wing turbine powered aircraft.
- 241 (9) "Alcoholic beverage" means a beverage that:
- 242 (a) is suitable for human consumption; and
- 243 (b) contains .5% or more alcohol by volume.
- 244 (10) "Alternative energy" means:
- 245 (a) biomass energy;
- 246 (b) geothermal energy;
- 247 (c) hydroelectric energy;
- 248 (d) solar energy;
- 249 (e) wind energy; or
- 250 (f) energy that is derived from:
- 251 (i) coal-to-liquids;
- 252 (ii) nuclear fuel;
- 253 (iii) oil-impregnated diatomaceous earth;

- 254 (iv) oil sands;
- 255 (v) oil shale;
- 256 (vi) petroleum coke; or
- 257 (vii) waste heat from:
 - 258 (A) an industrial facility; or
 - 259 (B) a power station in which an electric generator is driven through a process in which
 - 260 water is heated, turns into steam, and spins a steam turbine.

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

- 263 (i) uses alternative energy to produce electricity; and
- 264 (ii) has a production capacity of two megawatts or greater.
- 265 (b) A facility is an alternative energy electricity production facility regardless of
266 whether the facility is:
 - 267 (i) connected to an electric grid; or
 - 268 (ii) located on the premises of an electricity consumer.

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

- 271 (b) "Ancillary service" includes:
 - 272 (i) a conference bridging service;
 - 273 (ii) a detailed communications billing service;
 - 274 (iii) directory assistance;
 - 275 (iv) a vertical service; or
 - 276 (v) a voice mail service.

277 (13) "Area agency on aging" means the same as that term is defined in Section
278 [62A-3-101](#).

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

- 281 (a) who is not the purchaser or renter of the right to use or operate the amusement

282 device, skill device, or ride device; and

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

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

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

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

292 (16) "Authorized carrier" means:

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

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

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

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

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

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

305 (A) slash and brush from forests and woodlands;

306 (B) animal waste;

307 (C) waste vegetable oil;

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

310 thermal conversion process;

311 (E) aquatic plants; and

312 (F) agricultural products.

313 (b) "Biomass energy" does not include:

314 (i) black liquor; or

315 (ii) treated woods.

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

318 (i) distinct and identifiable; and

319 (ii) sold for one nonitemized price.

320 (b) "Bundled transaction" does not include:

321 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on

322 the basis of the selection by the purchaser of the items of tangible personal property included in
323 the transaction;

324 (ii) the sale of real property;

325 (iii) the sale of services to real property;

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

327 (A) the tangible personal property:

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

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

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

331 (v) the retail sale of two services if:

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

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

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

335 (vi) a transaction that includes tangible personal property or a product subject to

336 taxation under this chapter and tangible personal property or a product that is not subject to

337 taxation under this chapter if the:

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

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

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

344 (A) that retail sale includes:

345 (I) food and food ingredients;

346 (II) a drug;

347 (III) durable medical equipment;

348 (IV) mobility enhancing equipment;

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

350 (VI) a prosthetic device; or

351 (VII) a medical supply; and

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

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

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

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

359 (A) packaging that:

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

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

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

365 (C) an item of tangible personal property, a product, or a service included in the

366 definition of "purchase price."

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

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

376 (A) a binding sales document; or

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

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

380 (A) a bill of sale;

381 (B) a contract;

382 (C) an invoice;

383 (D) a lease agreement;

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

385 (F) a price list;

386 (G) a rate card;

387 (H) a receipt; or

388 (I) a service agreement.

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

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

393 (B) the seller's sales price of the tangible personal property or product is 10% or less of

394 the seller's total sales price of the bundled transaction.

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

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

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

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

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

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

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

412 (i) on a transaction; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

443 (25) "Component part" includes:

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

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

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

449 (d) feed, seeds, and seedlings.

- 450 (26) "Computer" means an electronic device that accepts information:
451 (a) (i) in digital form; or
452 (ii) in a form similar to digital form; and
453 (b) manipulates that information for a result based on a sequence of instructions.
- 454 (27) "Computer software" means a set of coded instructions designed to cause:
455 (a) a computer to perform a task; or
456 (b) automatic data processing equipment to perform a task.
- 457 (28) "Computer software maintenance contract" means a contract that obligates a seller
458 of computer software to provide a customer with:
459 (a) future updates or upgrades to computer software;
460 (b) support services with respect to computer software; or
461 (c) a combination of Subsections (28)(a) and (b).
- 462 (29) (a) "Conference bridging service" means an ancillary service that links two or
463 more participants of an audio conference call or video conference call.
464 (b) "Conference bridging service" may include providing a telephone number as part of
465 the ancillary service described in Subsection (29)(a).
466 (c) "Conference bridging service" does not include a telecommunications service used
467 to reach the ancillary service described in Subsection (29)(a).
- 468 (30) "Construction materials" means any tangible personal property that will be
469 converted into real property.
- 470 (31) "Delivered electronically" means delivered to a purchaser by means other than
471 tangible storage media.
- 472 (32) (a) "Delivery charge" means a charge:
473 (i) by a seller of:
474 (A) tangible personal property;
475 (B) a product transferred electronically; or
476 (C) services; and
477 (ii) for preparation and delivery of the tangible personal property, product transferred

478 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
479 purchaser.

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

481 (i) transportation;

482 (ii) shipping;

483 (iii) postage;

484 (iv) handling;

485 (v) crating; or

486 (vi) packing.

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

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

490 (a) is intended to supplement the diet;

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

492 (i) a vitamin;

493 (ii) a mineral;

494 (iii) an herb or other botanical;

495 (iv) an amino acid;

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

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

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

501 (A) tablet form;

502 (B) capsule form;

503 (C) powder form;

504 (D) softgel form;

505 (E) gelcap form; or

506 (F) liquid form; or
507 (ii) if the product is not intended for ingestion in a form described in Subsections
508 (34)(c)(i)(A) through (F), is not represented:
509 (A) as conventional food; and
510 (B) for use as a sole item of:
511 (I) a meal; or
512 (II) the diet; and
513 (d) is required to be labeled as a dietary supplement:
514 (i) identifiable by the "Supplemental Facts" box found on the label; and
515 (ii) as required by 21 C.F.R. Sec. 101.36.
516 (35) "Digital audio-visual work" means a series of related images which, when shown
517 in succession, imparts an impression of motion, together with accompanying sounds, if any.
518 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
519 musical, spoken, or other sounds.
520 (b) "Digital audio work" includes a ringtone.
521 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
522 sense as a book.
523 (38) (a) "Direct mail" means printed material delivered or distributed by United States
524 mail or other delivery service:
525 (i) to:
526 (A) a mass audience; or
527 (B) addressees on a mailing list provided:
528 (I) by a purchaser of the mailing list; or
529 (II) at the discretion of the purchaser of the mailing list; and
530 (ii) if the cost of the printed material is not billed directly to the recipients.
531 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
532 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
533 (c) "Direct mail" does not include multiple items of printed material delivered to a

534 single address.

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

536 (a) address information; or

537 (b) telephone number information.

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

540 (i) cannot withstand repeated use; and

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

542 (A) a health care facility as defined in Section 26-21-2;

543 (B) a health care provider as defined in Section 78B-3-403;

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

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

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

547 (i) a drug;

548 (ii) durable medical equipment;

549 (iii) a hearing aid;

550 (iv) a hearing aid accessory;

551 (v) mobility enhancing equipment; or

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

553 (A) eyeglasses; or

554 (B) contact lenses.

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

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

558 (a) located in the state;

559 (b) with respect to which 51% or more of the manufacturing activities of the facility
560 consist of manufacturing component parts of drilling equipment;

561 (c) that uses pressure of 800,000 or more pounds per square inch as part of the

562 manufacturing process; and

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

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

567 (i) recognized in:

568 (A) the official United States Pharmacopoeia;

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

570 (C) the official National Formulary; or

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

572 (ii) intended for use in the:

573 (A) diagnosis of disease;

574 (B) cure of disease;

575 (C) mitigation of disease;

576 (D) treatment of disease; or

577 (E) prevention of disease; or

578 (iii) intended to affect:

579 (A) the structure of the body; or

580 (B) any function of the body.

581 (b) "Drug" does not include:

582 (i) food and food ingredients;

583 (ii) a dietary supplement;

584 (iii) an alcoholic beverage; or

585 (iv) a prosthetic device.

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

588 (i) can withstand repeated use;

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

- 590 (iii) generally is not useful to a person in the absence of illness or injury; and
591 (iv) is not worn in or on the body.
- 592 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
593 equipment described in Subsection (43)(a).
- 594 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 595 (44) "Electronic" means:
- 596 (a) relating to technology; and
597 (b) having:
- 598 (i) electrical capabilities;
599 (ii) digital capabilities;
600 (iii) magnetic capabilities;
601 (iv) wireless capabilities;
602 (v) optical capabilities;
603 (vi) electromagnetic capabilities; or
604 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- 605 (45) "Electronic financial payment service" means an establishment:
- 606 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
607 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
608 federal Executive Office of the President, Office of Management and Budget; and
609 (b) that performs electronic financial payment services.
- 610 (46) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 611 (47) "Fixed guideway" means a public transit facility that uses and occupies:
- 612 (a) rail for the use of public transit; or
613 (b) a separate right-of-way for the use of public transit.
- 614 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
- 615 (a) is powered by turbine engines;
616 (b) operates on jet fuel; and
617 (c) has wings that are permanently attached to the fuselage of the aircraft.

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

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

621 (i) regardless of whether the substances are in:

622 (A) liquid form;

623 (B) concentrated form;

624 (C) solid form;

625 (D) frozen form;

626 (E) dried form; or

627 (F) dehydrated form; and

628 (ii) that are:

629 (A) sold for:

630 (I) ingestion by humans; or

631 (II) chewing by humans; and

632 (B) consumed for the substance's:

633 (I) taste; or

634 (II) nutritional value.

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

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

637 (i) an alcoholic beverage;

638 (ii) tobacco; or

639 (iii) prepared food.

640 (51) (a) "Fundraising sales" means sales:

641 (i) (A) made by a school; or

642 (B) made by a school student;

643 (ii) that are for the purpose of raising funds for the school to purchase equipment,
644 materials, or provide transportation; and

645 (iii) that are part of an officially sanctioned school activity.

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

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

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

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

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

656 (53) "Governing board of the agreement" means the governing board of the agreement
657 that is:

658 (a) authorized to administer the agreement; and

659 (b) established in accordance with the agreement.

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

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

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

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

670 (iv) the National Guard;

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

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

673 (b) "Governmental entity" does not include the state systems of public and higher

674 education, including:

675 (i) a school;

676 (ii) the State Board of Education;

677 (iii) the State Board of Regents; or

678 (iv) an institution of higher education described in Section [53B-1-102](#).

679 (55) "Hydroelectric energy" means water used as the sole source of energy to produce
680 electricity.

681 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
682 other fuels:

683 (a) in mining or extraction of minerals;

684 (b) in agricultural operations to produce an agricultural product up to the time of
685 harvest or placing the agricultural product into a storage facility, including:

686 (i) commercial greenhouses;

687 (ii) irrigation pumps;

688 (iii) farm machinery;

689 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
690 under Title 41, Chapter 1a, Part 2, Registration; and

691 (v) other farming activities;

692 (c) in manufacturing tangible personal property at an establishment described in SIC
693 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
694 Executive Office of the President, Office of Management and Budget;

695 (d) by a scrap recycler if:

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

699 (A) iron;

700 (B) steel;

701 (C) nonferrous metal;

702 (D) paper;
703 (E) glass;
704 (F) plastic;
705 (G) textile; or
706 (H) rubber; and
707 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with
708 nonrecycled materials; or

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

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

713 (i) tangible personal property; or
714 (ii) a product transferred electronically.

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

716 (i) repairs or renovations of:

717 (A) tangible personal property; or
718 (B) a product transferred electronically; or

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

720 (A) to other tangible personal property; and
721 (B) as part of a manufacturing or fabrication process.

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

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

726 (i) (A) a fixed term; or
727 (B) an indeterminate term; and

728 (ii) consideration.

729 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the

730 amount of consideration may be increased or decreased by reference to the amount realized
731 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
732 Code.

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

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

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

739 (A) upon completion of required payments; and

740 (B) if the payment of an option price does not exceed the greater of:

741 (I) \$100; or

742 (II) 1% of the total required payments; or

743 (iii) providing tangible personal property along with an operator for a fixed period of
744 time or an indeterminate period of time if the operator is necessary for equipment to perform as
745 designed.

746 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
747 perform as designed if the operator's duties exceed the:

748 (i) set-up of tangible personal property;

749 (ii) maintenance of tangible personal property; or

750 (iii) inspection of tangible personal property.

751 (60) "Life science establishment" means an establishment in this state that is classified
752 under the following NAICS codes of the 2007 North American Industry Classification System
753 of the federal Executive Office of the President, Office of Management and Budget:

754 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

755 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
756 Manufacturing; or

757 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

758 (61) "Life science research and development facility" means a facility owned, leased,
759 or rented by a life science establishment if research and development is performed in 51% or
760 more of the total area of the facility.

761 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media
762 if the tangible storage media is not physically transferred to the purchaser.

763 (63) "Local taxing jurisdiction" means a:

764 (a) county that is authorized to impose an agreement sales and use tax;

765 (b) city that is authorized to impose an agreement sales and use tax; or

766 (c) town that is authorized to impose an agreement sales and use tax.

767 (64) "Manufactured home" means the same as that term is defined in Section
768 [15A-1-302](#).

769 (65) "Manufacturing facility" means:

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

773 (b) a scrap recycler if:

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

777 (A) iron;

778 (B) steel;

779 (C) nonferrous metal;

780 (D) paper;

781 (E) glass;

782 (F) plastic;

783 (G) textile; or

784 (H) rubber; and

785 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with

786 nonrecycled materials; or

787 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
788 placed in service on or after May 1, 2006.

789 (66) "Member of the immediate family of the producer" means a person who is related
790 to a producer described in Subsection 59-12-104(20)(a) as a:

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

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

793 (ii) a foster child or foster stepchild;

794 (b) grandchild or stepgrandchild;

795 (c) grandparent or stepgrandparent;

796 (d) nephew or stepnephew;

797 (e) niece or stepniece;

798 (f) parent or stepparent;

799 (g) sibling or stepsibling;

800 (h) spouse;

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

802 or

803 (j) person similar to a person described in Subsections (66)(a) through (i) as

804 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

805 Administrative Rulemaking Act.

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

807 (68) "Mobile telecommunications service" is as defined in the Mobile

808 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

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

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

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

813 (iii) the origination point described in Subsection (69)(a)(i) and the termination point

814 described in Subsection (69)(a)(ii) are not fixed.

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

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

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

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

823 (ii) appropriate for use in a:

824 (A) home; or

825 (B) motor vehicle; and

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

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

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

830 (i) a motor vehicle;

831 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
832 vehicle manufacturer;

833 (iii) durable medical equipment; or

834 (iv) a prosthetic device.

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

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

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

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

843 (i) collected by the seller; and

844 (ii) to the appropriate local taxing jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

862 (b) yield mixtures of liquid hydrocarbon; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

894 (B) attached only to facilitate the operation of the tangible personal property;

895 (ii) a temporary detachment of tangible personal property from real property for a
896 repair or renovation if the repair or renovation is performed where the tangible personal
897 property and real property are located; or

898 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
899 Subsection (84)(c)(iii) or (iv).

900 (c) "Permanently attached to real property" does not include:

901 (i) the attachment of portable or movable tangible personal property to real property if
902 that portable or movable tangible personal property is attached to real property only for:

903 (A) convenience;

904 (B) stability; or

905 (C) for an obvious temporary purpose;

906 (ii) the detachment of tangible personal property from real property except for the
907 detachment described in Subsection (84)(b)(ii);

908 (iii) an attachment of the following tangible personal property to real property if the
909 attachment to real property is only through a line that supplies water, electricity, gas,
910 telecommunications, cable, or supplies a similar item as determined by the commission by rule
911 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

912 (A) a computer;

913 (B) a telephone;

914 (C) a television; or

915 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as
916 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
917 Administrative Rulemaking Act; or

918 (iv) an item listed in Subsection (125)(c).

919 (85) "Person" includes any individual, firm, partnership, joint venture, association,
920 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
921 municipality, district, or other local governmental entity of the state, or any group or
922 combination acting as a unit.

923 (86) "Place of primary use":

924 (a) for telecommunications service other than mobile telecommunications service,
925 means the street address representative of where the customer's use of the telecommunications

926 service primarily occurs, which shall be:

927 (i) the residential street address of the customer; or

928 (ii) the primary business street address of the customer; or

929 (b) for mobile telecommunications service, is as defined in the Mobile

930 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

931 (87) (a) "Postpaid calling service" means a telecommunications service a person

932 obtains by making a payment on a call-by-call basis:

933 (i) through the use of a:

934 (A) bank card;

935 (B) credit card;

936 (C) debit card; or

937 (D) travel card; or

938 (ii) by a charge made to a telephone number that is not associated with the origination

939 or termination of the telecommunications service.

940 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling

941 service, that would be a prepaid wireless calling service if the service were exclusively a

942 telecommunications service.

943 (88) "Postproduction" means an activity related to the finishing or duplication of a

944 medium described in Subsection [59-12-104\(54\)\(a\)](#).

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

946 (a) that allows a purchaser access to telecommunications service that is exclusively

947 telecommunications service;

948 (b) that:

949 (i) is paid for in advance; and

950 (ii) enables the origination of a call using an:

951 (A) access number; or

952 (B) authorization code;

953 (c) that is dialed:

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

982 item; or

983 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided

984 by the seller, including a:

985 (A) plate;

986 (B) knife;

987 (C) fork;

988 (D) spoon;

989 (E) glass;

990 (F) cup;

991 (G) napkin; or

992 (H) straw.

993 (b) "Prepared food" does not include:

994 (i) food that a seller only:

995 (A) cuts;

996 (B) repackages; or

997 (C) pasteurizes; or

998 (ii) (A) the following:

999 (I) raw egg;

1000 (II) raw fish;

1001 (III) raw meat;

1002 (IV) raw poultry; or

1003 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);

1004 and

1005 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the

1006 Food and Drug Administration's Food Code that a consumer cook the items described in

1007 Subsection (91)(b)(ii)(A) to prevent food borne illness; or

1008 (iii) the following if sold without eating utensils provided by the seller:

1009 (A) food and food ingredients sold by a seller if the seller's proper primary

1010 classification under the 2002 North American Industry Classification System of the federal
1011 Executive Office of the President, Office of Management and Budget, is manufacturing in
1012 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla

1013 Manufacturing;

1014 (B) food and food ingredients sold in an unheated state:

1015 (I) by weight or volume; and

1016 (II) as a single item; or

1017 (C) a bakery item, including:

1018 (I) a bagel;

1019 (II) a bar;

1020 (III) a biscuit;

1021 (IV) bread;

1022 (V) a bun;

1023 (VI) a cake;

1024 (VII) a cookie;

1025 (VIII) a croissant;

1026 (IX) a danish;

1027 (X) a donut;

1028 (XI) a muffin;

1029 (XII) a pastry;

1030 (XIII) a pie;

1031 (XIV) a roll;

1032 (XV) a tart;

1033 (XVI) a torte; or

1034 (XVII) a tortilla.

1035 (c) An eating utensil provided by the seller does not include the following used to
1036 transport the food:

1037 (i) a container; or

- 1038 (ii) packaging.
- 1039 (92) "Prescription" means an order, formula, or recipe that is issued:
- 1040 (a) (i) orally;
- 1041 (ii) in writing;
- 1042 (iii) electronically; or
- 1043 (iv) by any other manner of transmission; and
- 1044 (b) by a licensed practitioner authorized by the laws of a state.
- 1045 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 1046 software" means computer software that is not designed and developed:
- 1047 (i) by the author or other creator of the computer software; and
- 1048 (ii) to the specifications of a specific purchaser.
- 1049 (b) "Prewritten computer software" includes:
- 1050 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 1051 software is not designed and developed:
- 1052 (A) by the author or other creator of the computer software; and
- 1053 (B) to the specifications of a specific purchaser;
- 1054 (ii) computer software designed and developed by the author or other creator of the
- 1055 computer software to the specifications of a specific purchaser if the computer software is sold
- 1056 to a person other than the purchaser; or
- 1057 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
- 1058 prewritten portion of prewritten computer software:
- 1059 (A) that is modified or enhanced to any degree; and
- 1060 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
- 1061 designed and developed to the specifications of a specific purchaser.
- 1062 (c) "Prewritten computer software" does not include a modification or enhancement
- 1063 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:
- 1064 (i) reasonable; and
- 1065 (ii) subject to Subsections [59-12-103\(2\)\(e\)\(ii\)](#) and [\(2\)\(f\)\(i\)](#), separately stated on the

1066 invoice or other statement of price provided to the purchaser at the time of sale or later, as
1067 demonstrated by:

1068 (A) the books and records the seller keeps at the time of the transaction in the regular
1069 course of business, including books and records the seller keeps at the time of the transaction in
1070 the regular course of business for nontax purposes;

1071 (B) a preponderance of the facts and circumstances at the time of the transaction; and

1072 (C) the understanding of all of the parties to the transaction.

1073 (94) (a) "Private communications service" means a telecommunications service:

1074 (i) that entitles a customer to exclusive or priority use of one or more communications
1075 channels between or among termination points; and

1076 (ii) regardless of the manner in which the one or more communications channels are
1077 connected.

1078 (b) "Private communications service" includes the following provided in connection
1079 with the use of one or more communications channels:

1080 (i) an extension line;

1081 (ii) a station;

1082 (iii) switching capacity; or

1083 (iv) another associated service that is provided in connection with the use of one or
1084 more communications channels as defined in Section 59-12-215.

1085 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
1086 means a product transferred electronically that would be subject to a tax under this chapter if
1087 that product was transferred in a manner other than electronically.

1088 (b) "Product transferred electronically" does not include:

1089 (i) an ancillary service;

1090 (ii) computer software; or

1091 (iii) a telecommunications service.

1092 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:

1093 (i) artificially replace a missing portion of the body;

- 1094 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1095 (iii) support a weak or deformed portion of the body.
- 1096 (b) "Prosthetic device" includes:
- 1097 (i) parts used in the repairs or renovation of a prosthetic device;
- 1098 (ii) replacement parts for a prosthetic device;
- 1099 (iii) a dental prosthesis; or
- 1100 (iv) a hearing aid.
- 1101 (c) "Prosthetic device" does not include:
- 1102 (i) corrective eyeglasses; or
- 1103 (ii) contact lenses.
- 1104 (97) (a) "Protective equipment" means an item:
- 1105 (i) for human wear; and
- 1106 (ii) that is:
- 1107 (A) designed as protection:
- 1108 (I) to the wearer against injury or disease; or
- 1109 (II) against damage or injury of other persons or property; and
- 1110 (B) not suitable for general use.
- 1111 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1112 commission shall make rules:
- 1113 (i) listing the items that constitute "protective equipment"; and
- 1114 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1115 under the agreement.
- 1116 (98) (a) For purposes of Subsection [59-12-104\(41\)](#), "publication" means any written or
- 1117 printed matter, other than a photocopy:
- 1118 (i) regardless of:
- 1119 (A) characteristics;
- 1120 (B) copyright;
- 1121 (C) form;

1122 (D) format;
1123 (E) method of reproduction; or
1124 (F) source; and
1125 (ii) made available in printed or electronic format.
1126 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1127 commission may by rule define the term "photocopy."
1128 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
1129 (i) valued in money; and
1130 (ii) for which tangible personal property, a product transferred electronically, or
1131 services are:
1132 (A) sold;
1133 (B) leased; or
1134 (C) rented.
1135 (b) "Purchase price" and "sales price" include:
1136 (i) the seller's cost of the tangible personal property, a product transferred
1137 electronically, or services sold;
1138 (ii) expenses of the seller, including:
1139 (A) the cost of materials used;
1140 (B) a labor cost;
1141 (C) a service cost;
1142 (D) interest;
1143 (E) a loss;
1144 (F) the cost of transportation to the seller; or
1145 (G) a tax imposed on the seller;
1146 (iii) a charge by the seller for any service necessary to complete the sale; or
1147 (iv) consideration a seller receives from a person other than the purchaser if:
1148 (A) (I) the seller actually receives consideration from a person other than the purchaser;
1149 and

1150 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
1151 price reduction or discount on the sale;

1152 (B) the seller has an obligation to pass the price reduction or discount through to the
1153 purchaser;

1154 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1155 the seller at the time of the sale to the purchaser; and

1156 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1157 seller to claim a price reduction or discount; and

1158 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1159 coupon, or other documentation with the understanding that the person other than the seller
1160 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1161 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1162 organization allowed a price reduction or discount, except that a preferred customer card that is
1163 available to any patron of a seller does not constitute membership in a group or organization
1164 allowed a price reduction or discount; or

1165 (III) the price reduction or discount is identified as a third party price reduction or
1166 discount on the:

1167 (Aa) invoice the purchaser receives; or

1168 (Bb) certificate, coupon, or other documentation the purchaser presents.

1169 (c) "Purchase price" and "sales price" do not include:

1170 (i) a discount:

1171 (A) in a form including:

1172 (I) cash;

1173 (II) term; or

1174 (III) coupon;

1175 (B) that is allowed by a seller;

1176 (C) taken by a purchaser on a sale; and

1177 (D) that is not reimbursed by a third party; or

1178 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
1179 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
1180 sale or later, as demonstrated by the books and records the seller keeps at the time of the
1181 transaction in the regular course of business, including books and records the seller keeps at the
1182 time of the transaction in the regular course of business for nontax purposes, by a
1183 preponderance of the facts and circumstances at the time of the transaction, and by the
1184 understanding of all of the parties to the transaction:

1185 (A) the following from credit extended on the sale of tangible personal property or
1186 services:

- 1187 (I) a carrying charge;
- 1188 (II) a financing charge; or
- 1189 (III) an interest charge;
- 1190 (B) a delivery charge;
- 1191 (C) an installation charge;
- 1192 (D) a manufacturer rebate on a motor vehicle; or
- 1193 (E) a tax or fee legally imposed directly on the consumer.

1194 (100) "Purchaser" means a person to whom:

- 1195 (a) a sale of tangible personal property is made;
- 1196 (b) a product is transferred electronically; or
- 1197 (c) a service is furnished.

1198 (101) "Qualifying enterprise data center" means an establishment that will:

- 1199 (a) own and operate a data center facility that will house a group of networked server
1200 computers in one physical location in order to centralize the dissemination, management, and
1201 storage of data and information;
- 1202 (b) be located in the state;
- 1203 (c) be a new operation constructed on or after July 1, 2016;
- 1204 (d) consist of one or more buildings that total 150,000 or more square feet;
- 1205 (e) be owned or leased by:

- 1206 (i) the establishment; or
1207 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1208 establishment; and
1209 (f) be located on one or more parcels of land that are owned or leased by:
1210 (i) the establishment; or
1211 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1212 establishment.
- 1213 (102) "Regularly rented" means:
1214 (a) rented to a guest for value three or more times during a calendar year; or
1215 (b) advertised or held out to the public as a place that is regularly rented to guests for
1216 value.
- 1217 (103) "Rental" means the same as that term is defined in Subsection (59).
- 1218 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
1219 personal property" means:
1220 (i) a repair or renovation of tangible personal property that is not permanently attached
1221 to real property; or
1222 (ii) attaching tangible personal property or a product transferred electronically to other
1223 tangible personal property or detaching tangible personal property or a product transferred
1224 electronically from other tangible personal property if:
1225 (A) the other tangible personal property to which the tangible personal property or
1226 product transferred electronically is attached or from which the tangible personal property or
1227 product transferred electronically is detached is not permanently attached to real property; and
1228 (B) the attachment of tangible personal property or a product transferred electronically
1229 to other tangible personal property or detachment of tangible personal property or a product
1230 transferred electronically from other tangible personal property is made in conjunction with a
1231 repair or replacement of tangible personal property or a product transferred electronically.
- 1232 (b) "Repairs or renovations of tangible personal property" does not include:
1233 (i) attaching prewritten computer software to other tangible personal property if the

1234 other tangible personal property to which the prewritten computer software is attached is not
1235 permanently attached to real property; or

1236 (ii) detaching prewritten computer software from other tangible personal property if the
1237 other tangible personal property from which the prewritten computer software is detached is
1238 not permanently attached to real property.

1239 (105) "Research and development" means the process of inquiry or experimentation
1240 aimed at the discovery of facts, devices, technologies, or applications and the process of
1241 preparing those devices, technologies, or applications for marketing.

1242 (106) (a) "Residential telecommunications services" means a telecommunications
1243 service or an ancillary service that is provided to an individual for personal use:

1244 (i) at a residential address; or

1245 (ii) at an institution, including a nursing home or a school, if the telecommunications
1246 service or ancillary service is provided to and paid for by the individual residing at the
1247 institution rather than the institution.

1248 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

1249 (i) apartment; or

1250 (ii) other individual dwelling unit.

1251 (107) "Residential use" means the use in or around a home, apartment building,
1252 sleeping quarters, and similar facilities or accommodations.

1253 (108) (a) "Retailer" means any person engaged in a regularly organized business in
1254 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1255 who is selling to the user or consumer and not for resale.

1256 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1257 engaged in the business of selling to users or consumers within the state.

1258 (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1259 than:

1260 (a) resale;

1261 (b) sublease; or

- 1262 (c) subrent.
- 1263 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1264 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1265 Subsection 59-12-103(1), for consideration.
- 1266 (b) "Sale" includes:
- 1267 (i) installment and credit sales;
- 1268 (ii) any closed transaction constituting a sale;
- 1269 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1270 chapter;
- 1271 (iv) any transaction if the possession of property is transferred but the seller retains the
1272 title as security for the payment of the price; and
- 1273 (v) any transaction under which right to possession, operation, or use of any article of
1274 tangible personal property is granted under a lease or contract and the transfer of possession
1275 would be taxable if an outright sale were made.
- 1276 (111) "Sale at retail" means the same as that term is defined in Subsection (109).
- 1277 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
1278 personal property or a product transferred electronically that is subject to a tax under this
1279 chapter is transferred:
- 1280 (a) by a purchaser-lessee;
- 1281 (b) to a lessor;
- 1282 (c) for consideration; and
- 1283 (d) if:
- 1284 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1285 of the tangible personal property or product transferred electronically;
- 1286 (ii) the sale of the tangible personal property or product transferred electronically to the
1287 lessor is intended as a form of financing:
- 1288 (A) for the tangible personal property or product transferred electronically; and
- 1289 (B) to the purchaser-lessee; and

1290 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1291 is required to:

1292 (A) capitalize the tangible personal property or product transferred electronically for
1293 financial reporting purposes; and

1294 (B) account for the lease payments as payments made under a financing arrangement.

1295 (113) "Sales price" means the same as that term is defined in Subsection (99).

1296 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1297 amounts charged by a school:

1298 (i) sales that are directly related to the school's educational functions or activities
1299 including:

1300 (A) the sale of:

1301 (I) textbooks;

1302 (II) textbook fees;

1303 (III) laboratory fees;

1304 (IV) laboratory supplies; or

1305 (V) safety equipment;

1306 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1307 that:

1308 (I) a student is specifically required to wear as a condition of participation in a
1309 school-related event or school-related activity; and

1310 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1311 place of ordinary clothing;

1312 (C) sales of the following if the net or gross revenues generated by the sales are
1313 deposited into a school district fund or school fund dedicated to school meals:

1314 (I) food and food ingredients; or

1315 (II) prepared food; or

1316 (D) transportation charges for official school activities; or

1317 (ii) amounts paid to or amounts charged by a school for admission to a school-related

- 1318 event or school-related activity.
- 1319 (b) "Sales relating to schools" does not include:
- 1320 (i) bookstore sales of items that are not educational materials or supplies;
- 1321 (ii) except as provided in Subsection (114)(a)(i)(B):
- 1322 (A) clothing;
- 1323 (B) clothing accessories or equipment;
- 1324 (C) protective equipment; or
- 1325 (D) sports or recreational equipment; or
- 1326 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1327 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1328 (A) other than a:
- 1329 (I) school;
- 1330 (II) nonprofit organization authorized by a school board or a governing body of a
- 1331 private school to organize and direct a competitive secondary school activity; or
- 1332 (III) nonprofit association authorized by a school board or a governing body of a
- 1333 private school to organize and direct a competitive secondary school activity; and
- 1334 (B) that is required to collect sales and use taxes under this chapter.
- 1335 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1336 commission may make rules defining the term "passed through."
- 1337 (115) For purposes of this section and Section [59-12-104](#), "school":
- 1338 (a) means:
- 1339 (i) an elementary school or a secondary school that:
- 1340 (A) is a:
- 1341 (I) public school; or
- 1342 (II) private school; and
- 1343 (B) provides instruction for one or more grades kindergarten through 12; or
- 1344 (ii) a public school district; and
- 1345 (b) includes the Electronic High School as defined in Section [53A-15-1002](#).

- 1346 (116) "Seller" means a person that makes a sale, lease, or rental of:
1347 (a) tangible personal property;
1348 (b) a product transferred electronically; or
1349 (c) a service.
- 1350 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
1351 means tangible personal property or a product transferred electronically if the tangible personal
1352 property or product transferred electronically is:
- 1353 (i) used primarily in the process of:
1354 (A) (I) manufacturing a semiconductor;
1355 (II) fabricating a semiconductor; or
1356 (III) research or development of a:
1357 (Aa) semiconductor; or
1358 (Bb) semiconductor manufacturing process; or
1359 (B) maintaining an environment suitable for a semiconductor; or
1360 (ii) consumed primarily in the process of:
1361 (A) (I) manufacturing a semiconductor;
1362 (II) fabricating a semiconductor; or
1363 (III) research or development of a:
1364 (Aa) semiconductor; or
1365 (Bb) semiconductor manufacturing process; or
1366 (B) maintaining an environment suitable for a semiconductor.
- 1367 (b) "Semiconductor fabricating, processing, research, or development materials"
1368 includes:
- 1369 (i) parts used in the repairs or renovations of tangible personal property or a product
1370 transferred electronically described in Subsection (117)(a); or
1371 (ii) a chemical, catalyst, or other material used to:
1372 (A) produce or induce in a semiconductor a:
1373 (I) chemical change; or

- 1374 (II) physical change;
- 1375 (B) remove impurities from a semiconductor; or
- 1376 (C) improve the marketable condition of a semiconductor.
- 1377 (118) "Senior citizen center" means a facility having the primary purpose of providing
- 1378 services to the aged as defined in Section [62A-3-101](#).
- 1379 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"
- 1380 means tangible personal property that:
- 1381 (i) a business that provides accommodations and services described in Subsection
- 1382 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services
- 1383 to a purchaser;
- 1384 (ii) is intended to be consumed by the purchaser; and
- 1385 (iii) is:
- 1386 (A) included in the purchase price of the accommodations and services; and
- 1387 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 1388 to the purchaser.
- 1389 (b) "Short-term lodging consumable" includes:
- 1390 (i) a beverage;
- 1391 (ii) a brush or comb;
- 1392 (iii) a cosmetic;
- 1393 (iv) a hair care product;
- 1394 (v) lotion;
- 1395 (vi) a magazine;
- 1396 (vii) makeup;
- 1397 (viii) a meal;
- 1398 (ix) mouthwash;
- 1399 (x) nail polish remover;
- 1400 (xi) a newspaper;
- 1401 (xii) a notepad;

- 1402 (xiii) a pen;
- 1403 (xiv) a pencil;
- 1404 (xv) a razor;
- 1405 (xvi) saline solution;
- 1406 (xvii) a sewing kit;
- 1407 (xviii) shaving cream;
- 1408 (xix) a shoe shine kit;
- 1409 (xx) a shower cap;
- 1410 (xxi) a snack item;
- 1411 (xxii) soap;
- 1412 (xxiii) toilet paper;
- 1413 (xxiv) a toothbrush;
- 1414 (xxv) toothpaste; or
- 1415 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
- 1416 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1417 Rulemaking Act.
- 1418 (c) "Short-term lodging consumable" does not include:
- 1419 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1420 property to be reused; or
- 1421 (ii) a product transferred electronically.
- 1422 (120) "Simplified electronic return" means the electronic return:
- 1423 (a) described in Section 318(C) of the agreement; and
- 1424 (b) approved by the governing board of the agreement.
- 1425 (121) "Solar energy" means the sun used as the sole source of energy for producing
- 1426 electricity.
- 1427 (122) (a) "Sports or recreational equipment" means an item:
- 1428 (i) designed for human use; and
- 1429 (ii) that is:

- 1430 (A) worn in conjunction with:
- 1431 (I) an athletic activity; or
- 1432 (II) a recreational activity; and
- 1433 (B) not suitable for general use.
- 1434 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1435 commission shall make rules:
- 1436 (i) listing the items that constitute "sports or recreational equipment"; and
- 1437 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1438 equipment" under the agreement.
- 1439 (123) "State" means the state of Utah, its departments, and agencies.
- 1440 (124) "Storage" means any keeping or retention of tangible personal property or any
- 1441 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except
- 1442 sale in the regular course of business.
- 1443 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"
- 1444 means personal property that:
- 1445 (i) may be:
- 1446 (A) seen;
- 1447 (B) weighed;
- 1448 (C) measured;
- 1449 (D) felt; or
- 1450 (E) touched; or
- 1451 (ii) is in any manner perceptible to the senses.
- 1452 (b) "Tangible personal property" includes:
- 1453 (i) electricity;
- 1454 (ii) water;
- 1455 (iii) gas;
- 1456 (iv) steam; or
- 1457 (v) prewritten computer software, regardless of the manner in which the prewritten

1458 computer software is transferred.

1459 (c) "Tangible personal property" includes the following regardless of whether the item
1460 is attached to real property:

1461 (i) a dishwasher;

1462 (ii) a dryer;

1463 (iii) a freezer;

1464 (iv) a microwave;

1465 (v) a refrigerator;

1466 (vi) a stove;

1467 (vii) a washer; or

1468 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the
1469 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1470 Rulemaking Act.

1471 (d) "Tangible personal property" does not include a product that is transferred
1472 electronically.

1473 (e) "Tangible personal property" does not include the following if attached to real
1474 property, regardless of whether the attachment to real property is only through a line that
1475 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1476 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1477 Rulemaking Act:

1478 (i) a hot water heater;

1479 (ii) a water filtration system; or

1480 (iii) a water softener system.

1481 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1482 software" means an item listed in Subsection (126)(b) if that item is purchased or leased
1483 primarily to enable or facilitate one or more of the following to function:

1484 (i) telecommunications switching or routing equipment, machinery, or software; or

1485 (ii) telecommunications transmission equipment, machinery, or software.

1486 (b) The following apply to Subsection (126)(a):

1487 (i) a pole;

1488 (ii) software;

1489 (iii) a supplementary power supply;

1490 (iv) temperature or environmental equipment or machinery;

1491 (v) test equipment;

1492 (vi) a tower; or

1493 (vii) equipment, machinery, or software that functions similarly to an item listed in

1494 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in

1495 accordance with Subsection (126)(c).

1496 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1497 commission may by rule define what constitutes equipment, machinery, or software that

1498 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

1499 (127) "Telecommunications equipment, machinery, or software required for 911

1500 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

1501 Sec. 20.18.

1502 (128) "Telecommunications maintenance or repair equipment, machinery, or software"

1503 means equipment, machinery, or software purchased or leased primarily to maintain or repair

1504 one or more of the following, regardless of whether the equipment, machinery, or software is

1505 purchased or leased as a spare part or as an upgrade or modification to one or more of the

1506 following:

1507 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1508 (b) telecommunications switching or routing equipment, machinery, or software; or

1509 (c) telecommunications transmission equipment, machinery, or software.

1510 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or

1511 transmission of audio, data, video, voice, or any other information or signal to a point, or

1512 among or between points.

1513 (b) "Telecommunications service" includes:

- 1514 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1515 processing application is used to act:
- 1516 (A) on the code, form, or protocol of the content;
 - 1517 (B) for the purpose of electronic conveyance, routing, or transmission; and
 - 1518 (C) regardless of whether the service:
 - 1519 (I) is referred to as voice over Internet protocol service; or
 - 1520 (II) is classified by the Federal Communications Commission as enhanced or value
1521 added;
 - 1522 (ii) an 800 service;
 - 1523 (iii) a 900 service;
 - 1524 (iv) a fixed wireless service;
 - 1525 (v) a mobile wireless service;
 - 1526 (vi) a postpaid calling service;
 - 1527 (vii) a prepaid calling service;
 - 1528 (viii) a prepaid wireless calling service; or
 - 1529 (ix) a private communications service.
- 1530 (c) "Telecommunications service" does not include:
- 1531 (i) advertising, including directory advertising;
 - 1532 (ii) an ancillary service;
 - 1533 (iii) a billing and collection service provided to a third party;
 - 1534 (iv) a data processing and information service if:
 - 1535 (A) the data processing and information service allows data to be:
 - 1536 (I) (Aa) acquired;
 - 1537 (Bb) generated;
 - 1538 (Cc) processed;
 - 1539 (Dd) retrieved; or
 - 1540 (Ee) stored; and
 - 1541 (II) delivered by an electronic transmission to a purchaser; and

- 1542 (B) the purchaser's primary purpose for the underlying transaction is the processed data
1543 or information;
- 1544 (v) installation or maintenance of the following on a customer's premises:
- 1545 (A) equipment; or
- 1546 (B) wiring;
- 1547 (vi) Internet access service;
- 1548 (vii) a paging service;
- 1549 (viii) a product transferred electronically, including:
- 1550 (A) music;
- 1551 (B) reading material;
- 1552 (C) a ring tone;
- 1553 (D) software; or
- 1554 (E) video;
- 1555 (ix) a radio and television audio and video programming service:
- 1556 (A) regardless of the medium; and
- 1557 (B) including:
- 1558 (I) furnishing conveyance, routing, or transmission of a television audio and video
1559 programming service by a programming service provider;
- 1560 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1561 (III) audio and video programming services delivered by a commercial mobile radio
1562 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1563 (x) a value-added nonvoice data service; or
- 1564 (xi) tangible personal property.
- 1565 (130) (a) "Telecommunications service provider" means a person that:
- 1566 (i) owns, controls, operates, or manages a telecommunications service; and
- 1567 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
1568 resale to any person of the telecommunications service.
- 1569 (b) A person described in Subsection (130)(a) is a telecommunications service provider

1570 whether or not the Public Service Commission of Utah regulates:

1571 (i) that person; or

1572 (ii) the telecommunications service that the person owns, controls, operates, or
1573 manages.

1574 (131) (a) "Telecommunications switching or routing equipment, machinery, or
1575 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
1576 primarily for switching or routing:

1577 (i) an ancillary service;

1578 (ii) data communications;

1579 (iii) voice communications; or

1580 (iv) telecommunications service.

1581 (b) The following apply to Subsection (131)(a):

1582 (i) a bridge;

1583 (ii) a computer;

1584 (iii) a cross connect;

1585 (iv) a modem;

1586 (v) a multiplexer;

1587 (vi) plug in circuitry;

1588 (vii) a router;

1589 (viii) software;

1590 (ix) a switch; or

1591 (x) equipment, machinery, or software that functions similarly to an item listed in
1592 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in
1593 accordance with Subsection (131)(c).

1594 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1595 commission may by rule define what constitutes equipment, machinery, or software that
1596 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

1597 (132) (a) "Telecommunications transmission equipment, machinery, or software"

1598 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for
1599 sending, receiving, or transporting:

- 1600 (i) an ancillary service;
 - 1601 (ii) data communications;
 - 1602 (iii) voice communications; or
 - 1603 (iv) telecommunications service.
- 1604 (b) The following apply to Subsection (132)(a):
- 1605 (i) an amplifier;
 - 1606 (ii) a cable;
 - 1607 (iii) a closure;
 - 1608 (iv) a conduit;
 - 1609 (v) a controller;
 - 1610 (vi) a duplexer;
 - 1611 (vii) a filter;
 - 1612 (viii) an input device;
 - 1613 (ix) an input/output device;
 - 1614 (x) an insulator;
 - 1615 (xi) microwave machinery or equipment;
 - 1616 (xii) an oscillator;
 - 1617 (xiii) an output device;
 - 1618 (xiv) a pedestal;
 - 1619 (xv) a power converter;
 - 1620 (xvi) a power supply;
 - 1621 (xvii) a radio channel;
 - 1622 (xviii) a radio receiver;
 - 1623 (xix) a radio transmitter;
 - 1624 (xx) a repeater;
 - 1625 (xxi) software;

1626 (xxii) a terminal;
1627 (xxiii) a timing unit;
1628 (xxiv) a transformer;
1629 (xxv) a wire; or
1630 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
1631 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
1632 accordance with Subsection (132)(c).

1633 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1634 commission may by rule define what constitutes equipment, machinery, or software that
1635 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

1636 (133) (a) "Textbook for a higher education course" means a textbook or other printed
1637 material that is required for a course:

- 1638 (i) offered by an institution of higher education; and
- 1639 (ii) that the purchaser of the textbook or other printed material attends or will attend.

1640 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1641 (134) "Tobacco" means:

- 1642 (a) a cigarette;
- 1643 (b) a cigar;
- 1644 (c) chewing tobacco;
- 1645 (d) pipe tobacco; or
- 1646 (e) any other item that contains tobacco.

1647 (135) "Unassisted amusement device" means an amusement device, skill device, or
1648 ride device that is started and stopped by the purchaser or renter of the right to use or operate
1649 the amusement device, skill device, or ride device.

1650 (136) (a) "Use" means the exercise of any right or power over tangible personal
1651 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),
1652 incident to the ownership or the leasing of that tangible personal property, product transferred
1653 electronically, or service.

1654 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1655 property, a product transferred electronically, or a service in the regular course of business and
1656 held for resale.

1657 (137) "Value-added nonvoice data service" means a service:

1658 (a) that otherwise meets the definition of a telecommunications service except that a
1659 computer processing application is used to act primarily for a purpose other than conveyance,
1660 routing, or transmission; and

1661 (b) with respect to which a computer processing application is used to act on data or
1662 information:

- 1663 (i) code;
- 1664 (ii) content;
- 1665 (iii) form; or
- 1666 (iv) protocol.

1667 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
1668 required to be titled, registered, or titled and registered:

- 1669 (i) an aircraft as defined in Section [72-10-102](#);
- 1670 (ii) a vehicle as defined in Section [41-1a-102](#);
- 1671 (iii) an off-highway vehicle as defined in Section [41-22-2](#); or
- 1672 (iv) a vessel as defined in Section [41-1a-102](#).

1673 (b) For purposes of Subsection [59-12-104\(33\)](#) only, "vehicle" includes:

- 1674 (i) a vehicle described in Subsection (138)(a); or
- 1675 (ii) (A) a locomotive;
- 1676 (B) a freight car;
- 1677 (C) railroad work equipment; or
- 1678 (D) other railroad rolling stock.

1679 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1680 exchanging a vehicle as defined in Subsection (138).

1681 (140) (a) "Vertical service" means an ancillary service that:

1682 (i) is offered in connection with one or more telecommunications services; and

1683 (ii) offers an advanced calling feature that allows a customer to:

1684 (A) identify a caller; and

1685 (B) manage multiple calls and call connections.

1686 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1687 conference bridging service.

1688 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
1689 receive, send, or store a recorded message.

1690 (b) "Voice mail service" does not include a vertical service that a customer is required
1691 to have in order to utilize a voice mail service.

1692 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a
1693 facility that generates electricity:

1694 (i) using as the primary source of energy waste materials that would be placed in a
1695 landfill or refuse pit if it were not used to generate electricity, including:

1696 (A) tires;

1697 (B) waste coal;

1698 (C) oil shale; or

1699 (D) municipal solid waste; and

1700 (ii) in amounts greater than actually required for the operation of the facility.

1701 (b) "Waste energy facility" does not include a facility that incinerates:

1702 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1703 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1704 (143) "Watercraft" means a vessel as defined in Section [73-18-2](#).

1705 (144) "Wind energy" means wind used as the sole source of energy to produce
1706 electricity.

1707 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1708 location by the United States Postal Service.

1709 Section 5. Section **63A-3-110** is amended to read:

1710 **63A-3-110. Personal use expenditures for state officers and employees.**
1711 (1) As used in this section:
1712 (a) "Employee" means a person who is not an elected or appointed officer and who is
1713 employed on a full- or part-time basis by a governmental entity.
1714 (b) "Governmental entity" means:
1715 (i) an executive branch agency of the state, the offices of the governor, lieutenant
1716 governor, state auditor, attorney general, and state treasurer, the State Board of Education, and
1717 the State Board of Regents;
1718 (ii) the Office of the Legislative Auditor General, the Office of the Legislative Fiscal
1719 Analyst, the Office of Legislative Research and General Counsel, the Legislature, and
1720 legislative committees;
1721 (iii) courts, the Judicial Council, the ~~[Office of the Court Administrator]~~
1722 Administrative Office of the Courts, and similar administrative units in the judicial branch;
1723 (iv) independent state entities created under Title 63H, Independent State Entities; or
1724 (v) the Utah Science Technology and Research Governing Authority created under
1725 Section [63M-2-301](#).
1726 (c) "Officer" means a person who is elected or appointed to an office or position within
1727 a governmental entity.
1728 (d) (i) "Personal use expenditure" means an expenditure made without the authority of
1729 law that:
1730 (A) is not directly related to the performance of an activity as a state officer or
1731 employee;
1732 (B) primarily furthers a personal interest of a state officer or employee or a state
1733 officer's or employee's family, friend, or associate; and
1734 (C) would constitute taxable income under federal law.
1735 (ii) "Personal use expenditure" does not include:
1736 (A) a de minimis or incidental expenditure; or
1737 (B) a state vehicle or a monthly stipend for a vehicle that an officer or employee uses to

1738 travel to and from the officer or employee's official duties, including a minimal allowance for a
1739 detour as provided by the state.

1740 (e) "Public funds" means the same as that term is defined in Section 51-7-3.

1741 (2) A state officer or employee may not:

1742 (a) use public funds for a personal use expenditure; or

1743 (b) incur indebtedness or liability on behalf of, or payable by, a governmental entity for
1744 a personal use expenditure.

1745 (3) If the Division of Finance or the responsible governmental entity determines that a
1746 state officer or employee has intentionally made a personal use expenditure in violation of
1747 Subsection (2), the governmental entity shall:

1748 (a) require the state officer or employee to deposit the amount of the personal use
1749 expenditure into the fund or account from which:

1750 (i) the personal use expenditure was disbursed; or

1751 (ii) payment for the indebtedness or liability for a personal use expenditure was
1752 disbursed;

1753 (b) require the state officer or employee to remit an administrative penalty in an
1754 amount equal to 50% of the personal use expenditure to the Division of Finance; and

1755 (c) deposit the money received under Subsection (3)(b) into the General Fund.

1756 (4) (a) Any state officer or employee who has been found by a governmental entity to
1757 have made a personal use expenditure in violation of Subsection (2) may appeal the finding of
1758 the governmental entity.

1759 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1760 Division of Finance shall make rules regarding an appeal process for an appeal made under
1761 Subsection (4)(a), including the designation of an appeal authority.

1762 (5) (a) Subject to Subsection (5)(b), the Division of Finance may withhold all or a
1763 portion of the wages of a state officer or employee who has violated Subsection (2) until the
1764 requirements of Subsection (3) have been met.

1765 (b) If the state officer or employee has requested an appeal under Subsection (4), the

1766 Division of Finance may only withhold the wages of the officer or employee after the appeal
1767 authority described in Subsection (4)(b) has confirmed that the officer or employee violated
1768 Subsection (2).

1769 (6) Nothing in this chapter immunizes a state officer or employee from or precludes
1770 any criminal prosecution or civil or employment action for an unlawful personal use
1771 expenditure.

1772 (7) A state officer or employee who has been convicted of misusing public money
1773 under Section 76-8-402 may not disburse public funds or access public accounts.

1774 Section 6. Section **63B-5-201** is amended to read:

1775 **63B-5-201. Legislative intent statements.**

1776 (1) If the United States Department of Defense has not provided matching funds to
1777 construct the National Guard Armory in Orem by December 31, 1997, the Division of Facilities
1778 Construction and Management shall transfer any funds received from issuance of a General
1779 Obligation Bond for benefit of the Orem Armory to the Provo Armory for capital
1780 improvements.

1781 (2) It is the intent of the Legislature that the University of Utah use institutional funds
1782 to plan, design, and construct:

1783 (a) the Health Science East parking structure under the supervision of the director of
1784 the Division of Facilities Construction and Management unless supervisory authority is
1785 delegated by the director;

1786 (b) the Health Science Office Building under the supervision of the director of the
1787 Division of Facilities Construction and Management unless supervisory authority is delegated
1788 by the director; and

1789 (c) the new Student Housing/Olympic Athletes Village under the supervision of the
1790 director of the Division of Facilities Construction and Management unless supervisory
1791 authority is delegated by the director.

1792 (3) It is the intent of the Legislature that Utah State University use institutional funds to
1793 plan, design, and construct a multipurpose facility under the supervision of the director of the

1794 Division of Facilities Construction and Management unless supervisory authority is delegated
1795 by the director.

1796 (4) It is the intent of the Legislature that the Utah Geologic Survey use agency internal
1797 funding to plan, design, and construct a sample library facility under the supervision of the
1798 director of the Division of Facilities Construction and Management unless supervisory
1799 authority is delegated by the director.

1800 (5) (a) If legislation introduced in the 1996 General Session to fund the Wasatch State
1801 Park Club House does not pass, the State Building Ownership Authority, under authority of
1802 Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute
1803 obligations, or enter into or arrange for a lease purchase agreement in which participation
1804 interests may be created, to provide up to \$1,500,000 for the remodel and expansion of the
1805 clubhouse at Wasatch Mountain State Park for the Division of Parks and Recreation, together
1806 with additional amounts necessary to:

- 1807 (i) pay costs of issuance;
- 1808 (ii) pay capitalized interest; and
- 1809 (iii) fund any debt service reserve requirements.

1810 (b) The State Building Ownership Authority shall work cooperatively with the
1811 Division of Parks and Recreation to seek out the most cost effective and prudent lease purchase
1812 plan available.

1813 (6) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter
1814 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
1815 into or arrange for a lease purchase agreement in which participation interests may be created,
1816 to provide up to \$835,300 for the construction of a liquor store in the Snyderville area, together
1817 with additional amounts necessary to:

- 1818 (i) pay costs of issuance;
- 1819 (ii) pay capitalized interest; and
- 1820 (iii) fund any debt service reserve requirements.

1821 (b) The State Building Ownership Authority shall work cooperatively with the

1822 Department of Alcoholic Beverage Control to seek out the most cost effective and prudent
1823 lease purchase plan available.

1824 (7) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter
1825 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
1826 into or arrange for a lease purchase agreement in which participation interests may be created,
1827 to provide up to \$15,000,000 for the construction of the Huntsman Cancer Institute, together
1828 with additional amounts necessary to:

- 1829 (i) pay costs of issuance;
- 1830 (ii) pay capitalized interest; and
- 1831 (iii) fund any debt service reserve requirements.

1832 (b) The State Building Ownership Authority shall work cooperatively with the
1833 University of Utah to seek out the most cost effective and prudent lease purchase plan
1834 available.

1835 (c) It is the intent of the Legislature that the University of Utah lease land to the State
1836 Building Ownership Authority for the construction of the Huntsman Cancer Institute facility.

1837 (8) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter
1838 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
1839 into or arrange for a lease purchase agreement in which participation interests may be created,
1840 to provide up to \$857,600 for the construction of an addition to the Human Services facility in
1841 Vernal, Utah together with additional amounts necessary to:

- 1842 (i) pay costs of issuance;
- 1843 (ii) pay capitalized interest; and
- 1844 (iii) fund any debt service reserve requirements.

1845 (b) The State Building Ownership Authority shall work cooperatively with the
1846 Department of Human Services to seek out the most cost effective and prudent lease purchase
1847 plan available.

1848 (9) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter
1849 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter

1850 into or arrange for a lease purchase agreement in which participation interests may be created,
1851 to provide up to \$3,470,200 for the construction of the Student Services Center, at Utah State
1852 University Eastern, together with additional amounts necessary to:

- 1853 (i) pay costs of issuance;
- 1854 (ii) pay capitalized interest; and
- 1855 (iii) fund any debt service reserve requirements.

1856 (b) The State Building Ownership Authority shall work cooperatively with Utah State
1857 University Eastern to seek out the most cost effective and prudent lease purchase plan
1858 available.

1859 (10) (a) Notwithstanding anything to the contrary in Title 53B, Chapter 21, Revenue
1860 Bonds, which prohibits the issuance of revenue bonds payable from legislative appropriations,
1861 the State Board of Regents, on behalf of Dixie College, may issue, sell, and deliver revenue
1862 bonds or other evidences of indebtedness of Dixie College to borrow money on the credit of
1863 the income and revenues, including legislative appropriations, of Dixie College, to finance the
1864 acquisition of the Dixie Center.

1865 (b) (i) The bonds or other evidences of indebtedness authorized by this section shall be
1866 issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under terms and conditions
1867 and in amounts that the board, by resolution, determines are reasonable and necessary and may
1868 not exceed \$6,000,000 together with additional amounts necessary to:

- 1869 (A) pay cost of issuance;
- 1870 (B) pay capitalized interest; and
- 1871 (C) fund any debt service reserve requirements.

1872 (ii) To the extent that future legislative appropriations will be required to provide for
1873 payment of debt service in full, the board shall ensure that the revenue bonds are issued
1874 containing a clause that provides for payment from future legislative appropriations that are
1875 legally available for that purpose.

1876 (11) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter
1877 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter

1878 into or arrange for a lease purchase agreement in which participation interests may be created,
1879 to provide up to \$10,479,000 for the construction of a facility for the Courts - Davis County
1880 Regional Expansion, together with additional amounts necessary to:

- 1881 (i) pay costs of issuance;
- 1882 (ii) pay capitalized interest; and
- 1883 (iii) fund any debt service reserve requirements.

1884 (b) The State Building Ownership Authority shall work cooperatively with the [~~Office~~
1885 ~~of the Court Administrator~~] Administrative Office of the Courts to seek out the most cost
1886 effective and prudent lease purchase plan available.

1887 (12) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter
1888 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
1889 into or arrange for a lease purchase agreement in which participation interests may be created,
1890 to provide up to \$4,200,000 for the purchase and remodel of the Washington County
1891 Courthouse, together with additional amounts necessary to:

- 1892 (i) pay costs of issuance;
- 1893 (ii) pay capitalized interest; and
- 1894 (iii) fund any debt service reserve requirements.

1895 (b) The State Building Ownership Authority shall work cooperatively with the [~~Office~~
1896 ~~of the Court Administrator~~] Administrative Office of the Courts to seek out the most cost
1897 effective and prudent lease purchase plan available.

1898 (13) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter
1899 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
1900 into or arrange for a lease purchase agreement in which participation interests may be created,
1901 to provide up to \$14,299,700 for the construction of a facility for the State Library and the
1902 Division of Services for the Blind and Visually Impaired, together with additional amounts
1903 necessary to:

- 1904 (i) pay costs of issuance;
- 1905 (ii) pay capitalized interest; and

1906 (iii) fund any debt service reserve requirements.

1907 (b) The State Building Ownership Authority shall work cooperatively with the State
1908 Board of Education and the Governor's Office of Economic Development to seek out the most
1909 cost effective and prudent lease purchase plan available.

1910 Section 7. Section **63G-2-103** is amended to read:

1911 **63G-2-103. Definitions.**

1912 As used in this chapter:

1913 (1) "Audit" means:

1914 (a) a systematic examination of financial, management, program, and related records
1915 for the purpose of determining the fair presentation of financial statements, adequacy of
1916 internal controls, or compliance with laws and regulations; or

1917 (b) a systematic examination of program procedures and operations for the purpose of
1918 determining their effectiveness, economy, efficiency, and compliance with statutes and
1919 regulations.

1920 (2) "Chronological logs" mean the regular and customary summary records of law
1921 enforcement agencies and other public safety agencies that show:

1922 (a) the time and general nature of police, fire, and paramedic calls made to the agency;
1923 and

1924 (b) any arrests or jail bookings made by the agency.

1925 (3) "Classification," "classify," and their derivative forms mean determining whether a
1926 record series, record, or information within a record is public, private, controlled, protected, or
1927 exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

1928 (4) (a) "Computer program" means:

1929 (i) a series of instructions or statements that permit the functioning of a computer
1930 system in a manner designed to provide storage, retrieval, and manipulation of data from the
1931 computer system; and

1932 (ii) any associated documentation and source material that explain how to operate the
1933 computer program.

- 1934 (b) "Computer program" does not mean:
- 1935 (i) the original data, including numbers, text, voice, graphics, and images;
- 1936 (ii) analysis, compilation, and other manipulated forms of the original data produced by
- 1937 use of the program; or
- 1938 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
- 1939 algorithms contained in the program, that would be used if the manipulated forms of the
- 1940 original data were to be produced manually.
- 1941 (5) (a) "Contractor" means:
- 1942 (i) any person who contracts with a governmental entity to provide goods or services
- 1943 directly to a governmental entity; or
- 1944 (ii) any private, nonprofit organization that receives funds from a governmental entity.
- 1945 (b) "Contractor" does not mean a private provider.
- 1946 (6) "Controlled record" means a record containing data on individuals that is controlled
- 1947 as provided by Section [63G-2-304](#).
- 1948 (7) "Designation," "designate," and their derivative forms mean indicating, based on a
- 1949 governmental entity's familiarity with a record series or based on a governmental entity's
- 1950 review of a reasonable sample of a record series, the primary classification that a majority of
- 1951 records in a record series would be given if classified and the classification that other records
- 1952 typically present in the record series would be given if classified.
- 1953 (8) "Elected official" means each person elected to a state office, county office,
- 1954 municipal office, school board or school district office, local district office, or special service
- 1955 district office, but does not include judges.
- 1956 (9) "Explosive" means a chemical compound, device, or mixture:
- 1957 (a) commonly used or intended for the purpose of producing an explosion; and
- 1958 (b) that contains oxidizing or combustive units or other ingredients in proportions,
- 1959 quantities, or packing so that:
- 1960 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
- 1961 compound or mixture may cause a sudden generation of highly heated gases; and

- 1962 (ii) the resultant gaseous pressures are capable of:
- 1963 (A) producing destructive effects on contiguous objects; or
- 1964 (B) causing death or serious bodily injury.
- 1965 (10) "Government audit agency" means any governmental entity that conducts an audit.
- 1966 (11) (a) "Governmental entity" means:
- 1967 (i) executive department agencies of the state, the offices of the governor, lieutenant
- 1968 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
- 1969 the Board of Examiners, the National Guard, the Career Service Review Office, the State
- 1970 Board of Education, the State Board of Regents, and the State Archives;
- 1971 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
- 1972 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative
- 1973 committees, except any political party, group, caucus, or rules or sifting committee of the
- 1974 Legislature;
- 1975 (iii) courts, the Judicial Council, the [~~Office of the Court Administrator~~]
- 1976 Administrative Office of the Courts, and similar administrative units in the judicial branch;
- 1977 (iv) any state-funded institution of higher education or public education; or
- 1978 (v) any political subdivision of the state, but, if a political subdivision has adopted an
- 1979 ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this
- 1980 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or
- 1981 as specified in any other section of this chapter that specifically refers to political subdivisions.
- 1982 (b) "Governmental entity" also means:
- 1983 (i) every office, agency, board, bureau, committee, department, advisory board, or
- 1984 commission of an entity listed in Subsection (11)(a) that is funded or established by the
- 1985 government to carry out the public's business;
- 1986 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative
- 1987 undertaking;
- 1988 (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation; and
- 1989 (iv) an association as defined in Section 53A-1-1601.

1990 (c) "Governmental entity" does not include the Utah Educational Savings Plan created
1991 in Section [53B-8a-103](#).

1992 (12) "Gross compensation" means every form of remuneration payable for a given
1993 period to an individual for services provided including salaries, commissions, vacation pay,
1994 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any
1995 similar benefit received from the individual's employer.

1996 (13) "Individual" means a human being.

1997 (14) (a) "Initial contact report" means an initial written or recorded report, however
1998 titled, prepared by peace officers engaged in public patrol or response duties describing official
1999 actions initially taken in response to either a public complaint about or the discovery of an
2000 apparent violation of law, which report may describe:

2001 (i) the date, time, location, and nature of the complaint, the incident, or offense;

2002 (ii) names of victims;

2003 (iii) the nature or general scope of the agency's initial actions taken in response to the
2004 incident;

2005 (iv) the general nature of any injuries or estimate of damages sustained in the incident;

2006 (v) the name, address, and other identifying information about any person arrested or
2007 charged in connection with the incident; or

2008 (vi) the identity of the public safety personnel, except undercover personnel, or
2009 prosecuting attorney involved in responding to the initial incident.

2010 (b) Initial contact reports do not include follow-up or investigative reports prepared
2011 after the initial contact report. However, if the information specified in Subsection (14)(a)
2012 appears in follow-up or investigative reports, it may only be treated confidentially if it is
2013 private, controlled, protected, or exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

2014 (15) "Legislative body" means the Legislature.

2015 (16) "Notice of compliance" means a statement confirming that a governmental entity
2016 has complied with a records committee order.

2017 (17) "Person" means:

- 2018 (a) an individual;
- 2019 (b) a nonprofit or profit corporation;
- 2020 (c) a partnership;
- 2021 (d) a sole proprietorship;
- 2022 (e) other type of business organization; or
- 2023 (f) any combination acting in concert with one another.
- 2024 (18) "Private provider" means any person who contracts with a governmental entity to
- 2025 provide services directly to the public.
- 2026 (19) "Private record" means a record containing data on individuals that is private as
- 2027 provided by Section [63G-2-302](#).
- 2028 (20) "Protected record" means a record that is classified protected as provided by
- 2029 Section [63G-2-305](#).
- 2030 (21) "Public record" means a record that is not private, controlled, or protected and that
- 2031 is not exempt from disclosure as provided in Subsection [63G-2-201\(3\)\(b\)](#).
- 2032 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,
- 2033 card, tape, recording, electronic data, or other documentary material regardless of physical form
- 2034 or characteristics:
- 2035 (i) that is prepared, owned, received, or retained by a governmental entity or political
- 2036 subdivision; and
- 2037 (ii) where all of the information in the original is reproducible by photocopy or other
- 2038 mechanical or electronic means.
- 2039 (b) "Record" does not mean:
- 2040 (i) a personal note or personal communication prepared or received by an employee or
- 2041 officer of a governmental entity:
- 2042 (A) in a capacity other than the employee's or officer's governmental capacity; or
- 2043 (B) that is unrelated to the conduct of the public's business;
- 2044 (ii) a temporary draft or similar material prepared for the originator's personal use or
- 2045 prepared by the originator for the personal use of an individual for whom the originator is

2046 working;

2047 (iii) material that is legally owned by an individual in the individual's private capacity;

2048 (iv) material to which access is limited by the laws of copyright or patent unless the

2049 copyright or patent is owned by a governmental entity or political subdivision;

2050 (v) proprietary software;

2051 (vi) junk mail or a commercial publication received by a governmental entity or an

2052 official or employee of a governmental entity;

2053 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections

2054 of a library open to the public;

2055 (viii) material that is cataloged, indexed, or inventoried and contained in the collections

2056 of a library open to the public, regardless of physical form or characteristics of the material;

2057 (ix) a daily calendar or other personal note prepared by the originator for the

2058 originator's personal use or for the personal use of an individual for whom the originator is

2059 working;

2060 (x) a computer program that is developed or purchased by or for any governmental

2061 entity for its own use;

2062 (xi) a note or internal memorandum prepared as part of the deliberative process by:

2063 (A) a member of the judiciary;

2064 (B) an administrative law judge;

2065 (C) a member of the Board of Pardons and Parole; or

2066 (D) a member of any other body, other than an association or appeals panel as defined

2067 in Section [53A-1-1601](#), charged by law with performing a quasi-judicial function;

2068 (xii) a telephone number or similar code used to access a mobile communication

2069 device that is used by an employee or officer of a governmental entity, provided that the

2070 employee or officer of the governmental entity has designated at least one business telephone

2071 number that is a public record as provided in Section [63G-2-301](#);

2072 (xiii) information provided by the Public Employees' Benefit and Insurance Program,

2073 created in Section [49-20-103](#), to a county to enable the county to calculate the amount to be

2074 paid to a health care provider under Subsection 17-50-319(2)(e)(ii);
2075 (xiv) information that an owner of unimproved property provides to a local entity as
2076 provided in Section 11-42-205; or
2077 (xv) a video or audio recording of an interview, or a transcript of the video or audio
2078 recording, that is conducted at a Children's Justice Center established under Section 67-5b-102.
2079 (23) "Record series" means a group of records that may be treated as a unit for
2080 purposes of designation, description, management, or disposition.
2081 (24) "Records committee" means the State Records Committee created in Section
2082 63G-2-501.
2083 (25) "Records officer" means the individual appointed by the chief administrative
2084 officer of each governmental entity, or the political subdivision to work with state archives in
2085 the care, maintenance, scheduling, designation, classification, disposal, and preservation of
2086 records.
2087 (26) "Schedule," "scheduling," and their derivative forms mean the process of
2088 specifying the length of time each record series should be retained by a governmental entity for
2089 administrative, legal, fiscal, or historical purposes and when each record series should be
2090 transferred to the state archives or destroyed.
2091 (27) "Sponsored research" means research, training, and other sponsored activities as
2092 defined by the federal Executive Office of the President, Office of Management and Budget:
2093 (a) conducted:
2094 (i) by an institution within the state system of higher education defined in Section
2095 53B-1-102; and
2096 (ii) through an office responsible for sponsored projects or programs; and
2097 (b) funded or otherwise supported by an external:
2098 (i) person that is not created or controlled by the institution within the state system of
2099 higher education; or
2100 (ii) federal, state, or local governmental entity.
2101 (28) "State archives" means the Division of Archives and Records Service created in

2102 Section [63A-12-101](#).

2103 (29) "State archivist" means the director of the state archives.

2104 (30) "Summary data" means statistical records and compilations that contain data
2105 derived from private, controlled, or protected information but that do not disclose private,
2106 controlled, or protected information.

2107 Section 8. Section **63I-1-278** is amended to read:

2108 **63I-1-278. Repeal dates, Title 78A and Title 78B.**

2109 [~~(1)~~] The Office of the Court Administrator, created in Section [78A-2-105](#), is repealed
2110 July 1, 2018:]

2111 [~~(2)~~] (1) Section [78B-3-421](#), regarding medical malpractice arbitration agreements, is
2112 repealed July 1, 2019.

2113 [~~(3)~~] (2) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed
2114 July 1, 2026.

2115 [~~(4)~~] (3) Section [78B-6-802.7](#) is repealed on July 1, 2018.

2116 Section 9. Section **63I-5-201** is amended to read:

2117 **63I-5-201. Internal auditing programs -- State agencies.**

2118 (1) (a) The departments of Administrative Services, Agriculture, Commerce, Heritage
2119 and Arts, Corrections, Workforce Services, Environmental Quality, Health, Human Services,
2120 Natural Resources, Public Safety, and Transportation, and the State Tax Commission shall
2121 conduct various types of auditing procedures as determined by the agency head or governor.

2122 (b) The governor may, by executive order, require a state agency not described in
2123 Subsection (1)(a) to establish an internal audit program.

2124 (c) The governor shall ensure that each state agency that reports to the governor has
2125 adequate internal audit coverage.

2126 (2) (a) The [~~Office of the Court Administrator~~] Administrative Office of the Courts
2127 shall establish an internal audit program under the direction of the Judicial Council, including
2128 auditing procedures for courts not of record.

2129 (b) The Judicial Council may, by rule, require other judicial agencies to establish an

2130 internal audit program.

2131 (3) (a) Dixie State University, the University of Utah, Utah State University, Salt Lake
2132 Community College, Southern Utah University, Utah Valley University, Weber State
2133 University, and Snow College shall establish an internal audit program under the direction of
2134 the Board of Regents.

2135 (b) The State Board of Regents may issue policies requiring other higher education
2136 entities or programs to establish an internal audit program.

2137 (4) The State Board of Education shall establish an internal audit program that provides
2138 internal audit services for each program administered by the State Board of Education.

2139 (5) Subject to Section [32B-2-302.5](#), the internal audit division of the Department of
2140 Alcoholic Beverage Control shall establish an internal audit program under the direction of the
2141 Alcoholic Beverage Control Commission.

2142 Section 10. Section **67-8-5** is amended to read:

2143 **67-8-5. Duties of commission -- Salary recommendations.**

2144 (1) The commission shall recommend to the Legislature:

2145 (a) salaries for the governor, the lieutenant governor, the attorney general, the state
2146 auditor, and the state treasurer;

2147 (b) salaries for justices of the Supreme Court and judges of the constitutional and
2148 statutory courts of record; and

2149 (c) compensation for members of the State Board of Education.

2150 (2) The commission shall:

2151 (a) in making recommendations on salaries described in Subsections (1)(a) and (b):

2152 (i) make studies and formulate recommendations concerning the wage and salary
2153 classification plan based upon factors such as educational requirements, experience,
2154 responsibility, accountability for funds and staff, comparisons with wages paid in other
2155 comparable public and private employment within this state, and other states similarly situated,
2156 and any other factors generally used in similar comprehensive wage and salary classification
2157 plans so that the plan and its administration reflect current conditions at all times; and

2158 (ii) consult and advise with, and make recommendation to, the Department of Human
2159 Resource Management regarding the plan, its administration, and the position of any elected
2160 official and judge covered by the plan;

2161 (b) in making recommendations on compensation described in Subsection (1)(c), make
2162 studies and formulate recommendations concerning compensation of members of state boards
2163 of education in other states and other factors the commission determines to be relevant so that
2164 the compensation reflects current conditions at all times;

2165 (c) submit to the Executive Appropriations Committee not later than 60 days before
2166 commencement of each annual general session:

2167 (i) a report briefly summarizing its activities during the calendar year immediately
2168 preceding the session;

2169 (ii) recommendations concerning revisions, modifications, or changes, if any, that
2170 should be made in the plan, its administration, the classification of any elected official or judge
2171 under the plan, or the compensation of members of the State Board of Education; and

2172 (iii) specific recommendations regarding the office of governor, lieutenant governor,
2173 attorney general, state auditor, and state treasurer concerning adjustments, if any, that should be
2174 made in the salary or other emoluments of office so that all elected and judicial officials receive
2175 equitable and consistent treatment regardless of whether salaries are fixed by the Legislature or
2176 by the Department of Human Resource Management; and

2177 (d) conduct a comprehensive review of judicial salary levels and make
2178 recommendations for judicial salaries in a report to the president of the Senate, the speaker of
2179 the House of Representatives, and the governor by November 1, prior to the convening of the
2180 general session of the Legislature in each odd-numbered year.

2181 (3) (a) The recommendation under Subsection (2)(d) shall be based upon consultation
2182 with the Judicial Council and upon consideration for the career status of judges. It shall be
2183 based upon comparisons with salaries paid in other states and in comparable public and private
2184 employment within this state.

2185 (b) In even-numbered years, the commission shall update its prior report, based upon

2186 the Consumer Price Index and other relevant factors, and shall forward its updated
2187 recommendations as prescribed in this section.

2188 (4) The Judicial Council shall cooperate with the commission in providing information
2189 on the judicial branch of government and on the individual levels of court as requested. The
2190 director of personnel from the [~~Office of the Court Administrator~~] Administrative Office of the
2191 Courts shall provide the salary comparison data referred to in this section to the legislative
2192 fiscal analyst and shall provide other staff assistance and support as requested by the legislative
2193 fiscal analyst.

2194 Section 11. Section **76-8-309** is amended to read:

2195 **76-8-309. Escape and aggravated escape -- Consecutive sentences -- Definitions.**

2196 (1) (a) (i) A prisoner is guilty of escape if [~~he~~] the prisoner leaves official custody
2197 without lawful authorization.

2198 (ii) If a prisoner obtains authorization to leave official custody by means of deceit,
2199 fraud, or other artifice, the prisoner has not received lawful authorization.

2200 (b) Escape under this Subsection (1) is a third degree felony except as provided under
2201 Subsection (1)(c).

2202 (c) Escape under this Subsection (1) is a second degree felony if:

2203 (i) the actor escapes from a state prison; or

2204 (ii) (A) the actor is convicted as a party to the offense, as defined in Section [76-2-202](#);

2205 and

2206 (B) the actor is an employee at or a volunteer of a law enforcement agency, the
2207 Department of Corrections, a county or district attorney's office, the office of the state attorney
2208 general, the Board of Pardons and Parole, or the courts, the Judicial Council, the [~~Office of the~~
2209 ~~Court Administrator~~] Administrative Office of the Courts, or similar administrative units in the
2210 judicial branch of government.

2211 (2) (a) A prisoner is guilty of aggravated escape if in the commission of an escape [~~he~~]
2212 the prisoner uses a dangerous weapon, as defined in Section [76-1-601](#), or causes serious bodily
2213 injury to another.

2214 (b) Aggravated escape is a first degree felony.
2215 (3) Any prison term imposed upon a prisoner for escape under this section shall run
2216 consecutively with any other sentence.
2217 (4) For the purposes of this section:
2218 (a) "Confinement" means the prisoner is:
2219 (i) housed in a state prison or any other facility pursuant to a contract with the Utah
2220 Department of Corrections after being sentenced and committed and the sentence has not been
2221 terminated or voided or the prisoner is not on parole;
2222 (ii) lawfully detained in a county jail prior to trial or sentencing or housed in a county
2223 jail after sentencing and commitment and the sentence has not been terminated or voided or the
2224 prisoner is not on parole; or
2225 (iii) lawfully detained following arrest.
2226 (b) "Escape" is considered to be a continuing activity commencing with the conception
2227 of the design to escape and continuing until the escaping prisoner is returned to official custody
2228 or the prisoner's attempt to escape is thwarted or abandoned.
2229 (c) "Official custody" means arrest, whether with or without warrant, or confinement in
2230 a state prison, jail, institution for secure confinement of juvenile offenders, or any confinement
2231 pursuant to an order of the court or sentenced and committed and the sentence has not been
2232 terminated or voided or the prisoner is not on parole. A person is considered confined in the
2233 state prison if ~~he~~ the person:
2234 (i) without authority fails to return to ~~his~~ the person's place of confinement from work
2235 release or home visit by the time designated for return;
2236 (ii) is in prehearing custody after arrest for parole violation;
2237 (iii) is being housed in a county jail, after felony commitment, pursuant to a contract
2238 with the Department of Corrections; or
2239 (iv) is being transported as a prisoner in the state prison by correctional officers.
2240 (d) "Prisoner" means any person who is in official custody and includes persons under
2241 trusty status.

2242 (e) "Volunteer" means any person who donates service without pay or other
2243 compensation except expenses actually and reasonably incurred as approved by the supervising
2244 agency.

2245 Section 12. Section **77-10a-2** is amended to read:

2246 **77-10a-2. Panel of judges -- Appointment -- Membership -- Ordering of grand**
2247 **jury.**

2248 (1) (a) The presiding officer of the Judicial Council shall appoint a panel of five judges
2249 from the district courts of the state to hear in secret all persons claiming to have information
2250 that would justify the calling of a grand jury. The presiding officer may appoint senior status
2251 district court judges to the panel. The presiding officer shall designate one member of the
2252 panel as supervising judge to serve at the pleasure of the presiding officer. The panel has the
2253 authority of the district court.

2254 (b) To ensure geographical diversity on the panel one judge shall be appointed from the
2255 first or second district for a five-year term, one judge shall be appointed from the third district
2256 for a four-year term, one judge shall be appointed from the fourth district for a three-year term,
2257 one judge shall be appointed from the fifth, sixth, seventh, or eighth districts for a two-year
2258 term, and one judge shall be appointed from the third district for a one-year term. Following
2259 the first term, all terms on the panel are for five years.

2260 (c) The panel shall schedule hearings in each judicial district at least once every three
2261 years and may meet at any location within the state. Three members of the panel constitute a
2262 quorum for the transaction of panel business. The panel shall act by the concurrence of a
2263 majority of members present and may act through the supervising judge or managing judge.
2264 The schedule for the hearings shall be set by the panel and published by the [~~Office of the~~
2265 ~~Court Administrator~~] Administrative Office of the Courts. Persons who desire to appear before
2266 the panel shall schedule an appointment with the [~~Office of the Court Administrator~~]
2267 Administrative Office of the Courts at least 10 days in advance. If no appointments are
2268 scheduled, the hearing may be canceled. Persons appearing before the panel shall be placed
2269 under oath and examined by the judges conducting the hearings. Hearsay evidence may be

2270 presented at the hearings only under the same provisions and limitations that apply to
2271 preliminary hearings.

2272 (2) (a) If the panel finds good cause to believe a grand jury is necessary, the panel shall
2273 make its findings in writing and may order a grand jury to be summoned.

2274 (b) The panel may refer a matter to the attorney general, county attorney, district
2275 attorney, or city attorney for investigation and prosecution. The referral shall contain as much
2276 of the information presented to the panel as the panel determines relevant. The attorney
2277 general, county attorney, district attorney, or city attorney shall report to the panel the results of
2278 any investigation and whether the matter will be prosecuted by a prosecutor's information. The
2279 report shall be filed with the panel within 120 days after the referral unless the panel provides
2280 for a different amount of time. If the panel is not satisfied with the action of the attorney
2281 general, county attorney, district attorney, or city attorney, the panel may order a grand jury to
2282 be summoned.

2283 (3) When the attorney general, a county attorney, a district attorney, municipal
2284 attorney, or a special prosecutor appointed under Section 77-10a-12 certifies in writing to the
2285 supervising judge that in his judgment a grand jury is necessary because of criminal activity in
2286 the state, the panel shall order a grand jury to be summoned if the panel finds good cause
2287 exists.

2288 (4) In determining whether good cause exists under Subsection (3), the panel shall
2289 consider, among other factors, whether a grand jury is needed to help maintain public
2290 confidence in the impartiality of the criminal justice process.

2291 (5) A written certification under Subsection (3) shall contain a statement that in the
2292 prosecutor's judgement a grand jury is necessary, but the certification need not contain any
2293 information which if disclosed may create a risk of:

- 2294 (a) destruction or tainting of evidence;
2295 (b) flight or other conduct by the subject of the investigation to avoid prosecution;
2296 (c) damage to a person's reputation or privacy;
2297 (d) harm to any person; or

2298 (e) a serious impediment to the investigation.

2299 (6) A written certification under Subsection (3) shall be accompanied by a statement of
2300 facts in support of the need for a grand jury.

2301 (7) The supervising judge shall seal any written statement of facts submitted under
2302 Subsection (6).

2303 (8) The supervising judge may at the time the grand jury is summoned:

2304 (a) order that it be drawn from the state at large as provided in this chapter or from any
2305 district within the state; and

2306 (b) retain authority to supervise the grand jury or delegate the supervision of the grand
2307 jury to any judge of any district court within the state.

2308 (9) If after the certification under Subsection (3) the panel does not order the
2309 summoning of a grand jury or the grand jury does not return an indictment regarding the
2310 subject matter of the certification, the prosecuting attorney may release to the public a copy of
2311 the written certification if in the prosecutor's judgment the release does not create a risk as
2312 described in Subsection (5).

2313 Section 13. Section **78A-2-103** is amended to read:

2314 **78A-2-103. Definitions.**

2315 As used in this chapter:

2316 [~~1~~] "~~Administrator~~" means the administrator of the courts appointed under Section
2317 ~~78A-2-105~~.]

2318 [~~2~~] (1) "Conference" means the annual statewide judicial conference established by
2319 Section ~~78A-2-111~~.

2320 [~~3~~] (2) "Council" means the Judicial Council established by Article VIII, Sec. 12,
2321 Utah Constitution.

2322 [~~4~~] (3) "Courts" mean all courts of this state, including all courts of record and not of
2323 record.

2324 Section 14. Section **78A-2-104** is amended to read:

2325 **78A-2-104. Judicial Council -- Creation -- Members -- Terms and election --**

2326 **Responsibilities -- Reports -- Guardian Ad Litem Oversight Committee.**

2327 (1) The Judicial Council, established by Article VIII, Section 12, Utah Constitution,
2328 shall be composed of:

2329 (a) the chief justice of the Supreme Court;

2330 (b) one member elected by the justices of the Supreme Court;

2331 (c) one member elected by the judges of the Court of Appeals;

2332 (d) five members elected by the judges of the district courts;

2333 (e) two members elected by the judges of the juvenile courts;

2334 (f) three members elected by the justice court judges; and

2335 (g) a member or ex officio member of the Board of Commissioners of the Utah State
2336 Bar who is an active member of the Bar in good standing at the time of election by the Board of
2337 Commissioners.

2338 (2) The Judicial Council shall have a seal.

2339 (3) (a) The chief justice of the Supreme Court shall act as presiding officer of the
2340 council and chief administrative officer for the courts. The chief justice shall vote only in the
2341 case of a tie.

2342 (b) All members of the council shall serve for three-year terms.

2343 (i) If a council member should die, resign, retire, or otherwise fail to complete a term
2344 of office, the appropriate constituent group shall elect a member to complete the term of office.

2345 (ii) In courts having more than one member, the members shall be elected to staggered
2346 terms.

2347 (iii) The person elected by the Board of Commissioners may complete a three-year
2348 term of office on the Judicial Council even though the person ceases to be a member or ex
2349 officio member of the Board of Commissioners. The person shall be an active member of the
2350 Bar in good standing for the entire term of the Judicial Council.

2351 (c) Elections shall be held under rules made by the Judicial Council.

2352 (4) The council is responsible for the development of uniform administrative policy for
2353 the courts throughout the state. The presiding officer of the Judicial Council is responsible for

2354 the implementation of the policies developed by the council and for the general management of
2355 the courts, with the aid of the state court administrator. The council has authority and
2356 responsibility to:

2357 (a) establish and assure compliance with policies for the operation of the courts,
2358 including uniform rules and forms; and

2359 (b) publish and submit to the governor, the chief justice of the Supreme Court, and the
2360 Legislature an annual report of the operations of the courts, which shall include financial and
2361 statistical data and may include suggestions and recommendations for legislation.

2362 (5) The council shall establish standards for the operation of the courts of the state
2363 including, but not limited to, facilities, court security, support services, and staff levels for
2364 judicial and support personnel.

2365 (6) The council shall by rule establish the time and manner for destroying court
2366 records, including computer records, and shall establish retention periods for these records.

2367 (7) (a) Consistent with the requirements of judicial office and security policies, the
2368 council shall establish procedures to govern the assignment of state vehicles to public officers
2369 of the judicial branch.

2370 (b) The vehicles shall be marked in a manner consistent with Section [41-1a-407](#) and
2371 may be assigned for unlimited use, within the state only.

2372 (8) (a) The council shall advise judicial officers and employees concerning ethical
2373 issues and shall establish procedures for issuing informal and formal advisory opinions on
2374 these issues.

2375 (b) Compliance with an informal opinion is evidence of good faith compliance with the
2376 Code of Judicial Conduct.

2377 (c) A formal opinion constitutes a binding interpretation of the Code of Judicial
2378 Conduct.

2379 (9) (a) The council shall establish written procedures authorizing the presiding officer
2380 of the council to appoint judges of courts of record by special or general assignment to serve
2381 temporarily in another level of court in a specific court or generally within that level. The

2382 appointment shall be for a specific period and shall be reported to the council.

2383 (b) These procedures shall be developed in accordance with Subsection 78A-2-107(10)
2384 regarding temporary appointment of judges.

2385 (10) The Judicial Council may by rule designate municipalities in addition to those
2386 designated by statute as a location of a trial court of record. There shall be at least one court
2387 clerk's office open during regular court hours in each county. Any trial court of record may
2388 hold court in any municipality designated as a location of a court of record.

2389 (11) The Judicial Council shall by rule determine whether the administration of a court
2390 shall be the obligation of the [~~administrative office of the courts~~] Administrative Office of the
2391 Courts or whether the [~~administrative office of the courts~~] Administrative Office of the Courts
2392 should contract with local government for court support services.

2393 (12) The Judicial Council may by rule direct that a district court location be
2394 administered from another court location within the county.

2395 (13) (a) The Judicial Council shall:

2396 (i) establish the Office of Guardian Ad Litem, in accordance with Title 78A, Chapter 6,
2397 Part 9, Guardian Ad Litem; and

2398 (ii) establish and supervise a Guardian Ad Litem Oversight Committee.

2399 (b) The Guardian Ad Litem Oversight Committee described in Subsection (13)(a)(ii)
2400 shall oversee the Office of Guardian Ad Litem, established under Subsection (13)(a)(i), and
2401 assure that the Office of Guardian Ad Litem complies with state and federal law, regulation,
2402 policy, and court rules.

2403 (14) The Judicial Council shall establish and maintain, in cooperation with the Office
2404 of Recovery Services within the Department of Human Services, the part of the state case
2405 registry that contains records of each support order established or modified in the state on or
2406 after October 1, 1998, as is necessary to comply with the Social Security Act, 42 U.S.C. Sec.
2407 654a.

2408 Section 15. Section 78A-2-105 is amended to read:

2409 **78A-2-105. State court administrator -- Appointment -- Qualifications -- Salary.**

2410 The Supreme Court shall appoint a chief administrative officer of the council who shall
2411 have the title of the state court administrator [~~of the courts~~] and shall serve at the pleasure of
2412 the council [~~and/or~~], the Supreme Court, or both. The state court administrator shall be
2413 selected on the basis of professional ability and experience in the field of public administration
2414 and shall possess an understanding of court procedures as well as of the nature and significance
2415 of other court services. [~~He~~] The state court administrator shall devote [~~his~~] the state court
2416 administrator's full time and attention to the duties of [~~his~~] the state court administrator's office,
2417 and shall receive a salary equal to that of a district court judge.

2418 Section 16. Section **78A-2-107** is amended to read:

2419 **78A-2-107. State court administrator -- Powers, duties, and responsibilities.**

2420 Under the general supervision of the presiding officer of the Judicial Council, and
2421 within the policies established by the council, the state court administrator shall:

- 2422 (1) organize and administer all of the nonjudicial activities of the courts;
2423 (2) assign, supervise, and direct the work of the nonjudicial officers of the courts;
2424 (3) implement the standards, policies, and rules established by the council;
2425 (4) formulate and administer a system of personnel administration, including in-service
2426 training programs;
2427 (5) prepare and administer the state judicial budget, fiscal, accounting, and
2428 procurement activities for the operation of the courts of record, and assist justices' courts in
2429 their budgetary, fiscal, and accounting procedures;
2430 (6) conduct studies of the business of the courts, including the preparation of
2431 recommendations and reports relating to them;
2432 (7) develop uniform procedures for the management of court business, including the
2433 management of court calendars;
2434 (8) maintain liaison with the governmental and other public and private groups having
2435 an interest in the administration of the courts;
2436 (9) establish uniform policy concerning vacations and sick leave for judges and
2437 nonjudicial officers of the courts;

2438 (10) establish uniform hours for court sessions throughout the state and may, with the
2439 consent of the presiding officer of the Judicial Council, call and appoint justices or judges of
2440 courts of record to serve temporarily as Court of Appeals, district court, or juvenile court
2441 judges and set reasonable compensation for their services;

2442 (11) when necessary for administrative reasons, change the county for trial of any case
2443 if no party to the litigation files timely objections to this change;

2444 (12) organize and administer a program of continuing education for judges and support
2445 staff, including training for justice court judges;

2446 (13) provide for an annual meeting for each level of the courts of record, and the
2447 annual judicial conference; and

2448 (14) perform other duties as assigned by the presiding officer of the council.

2449 Section 17. Section **78A-2-108** is amended to read:

2450 **78A-2-108. Assistants for state court administrator -- Appointment of trial court**
2451 **executives.**

2452 (1) The state court administrator [~~of the courts~~], with the approval of the presiding
2453 officer of the council, is responsible for the establishment of positions and salaries of assistants
2454 as necessary to enable [~~him~~] the state court administrator to perform the powers and duties
2455 vested in [~~him~~] the state court administrator by this chapter, including the positions of appellate
2456 court administrator, district court administrator, juvenile court administrator, and justices' court
2457 administrator, whose appointments shall be made by the state court administrator [~~of the~~
2458 ~~courts~~] with the concurrence of the respective boards as established by the council.

2459 (2) The district court administrator, with the concurrence of the presiding judge of a
2460 district or the district court judge in single judge districts, may appoint in each district a trial
2461 court executive. The trial court executive may appoint, subject to budget limitations, necessary
2462 support personnel including clerks, research clerks, secretaries, and other persons required to
2463 carry out the work of the court. The trial court executive shall supervise the work of all
2464 nonjudicial court staff and serve as administrative officer of the district.

2465 (3) Administrators and assistants appointed under this section shall be known

2466 collectively as the Administrative Office of the Courts.

2467 Section 18. Section **78A-2-109** is amended to read:

2468 **78A-2-109. Courts to provide information and statistical data to state court**
2469 **administrator.**

2470 The judges, clerks of the courts, and all other officers, state and local, shall comply with
2471 all requests made by the state court administrator or [~~his~~] the state court administrator's
2472 assistants for information and statistical data bearing on the state of the dockets of the courts
2473 and such other information as may reflect the business transacted by them and the expenditure
2474 of public money for the maintenance and operation of the judicial system.

2475 Section 19. Section **78A-2-301** is amended to read:

2476 **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

2477 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
2478 court of record not governed by another subsection is \$360.

2479 (b) The fee for filing a complaint or petition is:

2480 (i) \$75 if the claim for damages or amount in interpleader exclusive of court costs,
2481 interest, and attorney fees is \$2,000 or less;

2482 (ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
2483 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

2484 (iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;

2485 (iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter
2486 4, Separate Maintenance;

2487 (v) \$35 for a motion for temporary separation order filed under Section [30-3-4.5](#);

2488 (vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender
2489 Registry under Section [77-41-112](#); and

2490 (vii) \$35 if the petition is for guardianship and the prospective ward is the biological or
2491 adoptive child of the petitioner.

2492 (c) The fee for filing a small claims affidavit is:

2493 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,

2494 interest, and attorney fees is \$2,000 or less;

2495 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,
2496 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

2497 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
2498 interest, and attorney fees is \$7,500 or more.

2499 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
2500 complaint, or other claim for relief against an existing or joined party other than the original
2501 complaint or petition is:

2502 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is
2503 \$2,000 or less;

2504 (ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is
2505 greater than \$2,000 and less than \$10,000;

2506 (iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is
2507 \$10,000 or more, or the party seeks relief other than monetary damages; and

2508 (iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
2509 Chapter 4, Separate Maintenance.

2510 (e) The fee for filing a small claims counter affidavit is:

2511 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
2512 \$2,000 or less;

2513 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is
2514 greater than \$2,000, but less than \$7,500; and

2515 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is
2516 \$7,500 or more.

2517 (f) The fee for depositing funds under Section [57-1-29](#) when not associated with an
2518 action already before the court is determined under Subsection (1)(b) based on the amount
2519 deposited.

2520 (g) The fee for filing a petition is:

2521 (i) \$225 for trial de novo of an adjudication of the justice court or of the small claims

2522 department; and

2523 (ii) \$65 for an appeal of a municipal administrative determination in accordance with
2524 Section [10-3-703.7](#).

2525 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
2526 petition for writ of certiorari is \$225.

2527 (i) The fee for filing a petition for expungement is \$135.

2528 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
2529 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
2530 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
2531 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
2532 Act.

2533 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be
2534 allocated by the state treasurer to be deposited in the restricted account, Children's Legal
2535 Defense Account, as provided in Section [51-9-408](#).

2536 (iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g),
2537 and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided
2538 in Section [78B-6-209](#).

2539 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),
2540 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be
2541 deposited in the restricted account, Court Security Account, as provided in Section [78A-2-602](#).

2542 (v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and
2543 (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court
2544 Security Account, as provided in Section [78A-2-602](#).

2545 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
2546 United States is \$35.

2547 (l) The fee for filing a renewal of judgment in accordance with Section [78B-6-1801](#) is
2548 50% of the fee for filing an original action seeking the same relief.

2549 (m) The fee for filing probate or child custody documents from another state is \$35.

2550 (n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the
2551 Utah State Tax Commission is \$30.

2552 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
2553 or a judgment, order, or decree of an administrative agency, commission, board, council, or
2554 hearing officer of this state or of its political subdivisions other than the Utah State Tax
2555 Commission, is \$50.

2556 (o) The fee for filing a judgment by confession without action under Section
2557 [78B-5-205](#) is \$35.

2558 (p) The fee for filing an award of arbitration for confirmation, modification, or
2559 vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an
2560 action before the court is \$35.

2561 (q) The fee for filing a petition or counter-petition to modify a domestic relations order
2562 other than a protective order or stalking injunction is \$100.

2563 (r) The fee for filing any accounting required by law is:

2564 (i) \$15 for an estate valued at \$50,000 or less;

2565 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

2566 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

2567 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

2568 (v) \$175 for an estate valued at more than \$168,000.

2569 (s) The fee for filing a demand for a civil jury is \$250.

2570 (t) The fee for filing a notice of deposition in this state concerning an action pending in
2571 another state under Utah Rules of Civil Procedure, Rule 30 is \$35.

2572 (u) The fee for filing documents that require judicial approval but are not part of an
2573 action before the court is \$35.

2574 (v) The fee for a petition to open a sealed record is \$35.

2575 (w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in
2576 addition to any fee for a complaint or petition.

2577 (x) (i) The fee for a petition for authorization for a minor to marry required by Section

2578 30-1-9 is \$5.

2579 (ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6,
2580 Part 8, Emancipation, is \$50.

2581 (y) The fee for a certificate issued under Section 26-2-25 is \$8.

2582 (z) The fee for a certified copy of a document is \$4 per document plus 50 cents per
2583 page.

2584 (aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
2585 per page.

2586 (bb) The Judicial Council shall by rule establish a schedule of fees for copies of
2587 documents and forms and for the search and retrieval of records under Title 63G, Chapter 2,
2588 Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall
2589 be credited to the court as a reimbursement of expenditures.

2590 (cc) There is no fee for services or the filing of documents not listed in this section or
2591 otherwise provided by law.

2592 (dd) Except as provided in this section, all fees collected under this section are paid to
2593 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
2594 accepts the pleading for filing or performs the requested service.

2595 (ee) The filing fees under this section may not be charged to the state, its agencies, or
2596 political subdivisions filing or defending any action. In judgments awarded in favor of the
2597 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court
2598 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums
2599 collected under this Subsection (1)(ee) shall be applied to the fees after credit to the judgment,
2600 order, fine, tax, lien, or other penalty and costs permitted by law.

2601 (2) (a) (i) From March 17, 1994, until June 30, 1998, the state court administrator [~~of~~
2602 ~~the courts~~] shall transfer all revenues representing the difference between the fees in effect after
2603 May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division
2604 of Facilities Construction and Management Capital Projects Fund.

2605 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities

2606 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the
2607 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to
2608 initiate the development of a courts complex in Salt Lake City.

2609 (B) If the Legislature approves funding for construction of a courts complex in Salt
2610 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and
2611 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection
2612 (2)(a)(ii) to construct a courts complex in Salt Lake City.

2613 (C) After the courts complex is completed and all bills connected with its construction
2614 have been paid, the Division of Facilities Construction and Management shall use any money
2615 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal
2616 District Court building.

2617 (iii) The Division of Facilities Construction and Management may enter into
2618 agreements and make expenditures related to this project before the receipt of revenues
2619 provided for under this Subsection (2)(a)(iii).

2620 (iv) The Division of Facilities Construction and Management shall:

2621 (A) make those expenditures from unexpended and unencumbered building funds
2622 already appropriated to the Capital Projects Fund; and

2623 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
2624 under this Subsection (2).

2625 (b) After June 30, 1998, the state court administrator [~~of the courts~~] shall ensure that all
2626 revenues representing the difference between the fees in effect after May 2, 1994, and the fees
2627 in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the
2628 restricted account.

2629 (c) The Division of Finance shall deposit all revenues received from the state court
2630 administrator into the restricted account created by this section.

2631 (d) (i) From May 1, 1995, until June 30, 1998, the state court administrator [~~of the~~
2632 ~~courts~~] shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title
2633 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and

2634 Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110
2635 shall be calculated on the balance of the fine or bail forfeiture paid.

2636 (ii) After June 30, 1998, the state court administrator [~~of the courts~~] or a municipality
2637 shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor
2638 Vehicles, in a court of record to the Division of Finance for deposit in the restricted account
2639 created by this section. The division of money pursuant to Section 78A-5-110 shall be
2640 calculated on the balance of the fine or bail forfeiture paid.

2641 (3) (a) There is created within the General Fund a restricted account known as the State
2642 Courts Complex Account.

2643 (b) The Legislature may appropriate money from the restricted account to the state
2644 court administrator [~~of the courts~~] for the following purposes only:

2645 (i) to repay costs associated with the construction of the court complex that were
2646 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

2647 (ii) to cover operations and maintenance costs on the court complex.

2648 Section 20. Section 78A-11-106 is amended to read:

2649 **78A-11-106. Criminal investigation of a judge -- Administrative leave.**

2650 (1) (a) (i) If the commission, during the course of its investigation into an allegation of
2651 judicial misconduct, receives information upon which a reasonable person might conclude that
2652 a misdemeanor or felony under state or federal law has been committed by a judge other than
2653 the chief justice of the Supreme Court, the commission shall immediately refer the allegation
2654 and any information relevant to the potential criminal violation to the chief justice of the
2655 Supreme Court.

2656 (ii) (A) Unless the allegation is plainly frivolous, the commission shall also
2657 immediately refer the allegation of criminal misconduct and any information relevant to the
2658 potential criminal violation to the local prosecuting attorney having jurisdiction to investigate
2659 and prosecute the crime.

2660 (B) If the local prosecuting attorney receiving the allegation of criminal misconduct of
2661 a judge practices before that judge on a regular basis, or has a conflict of interest in

2662 investigating the crime, the local prosecuting attorney shall refer the allegation of criminal
2663 misconduct to another local or state prosecutor who would not have the same disability or
2664 conflict.

2665 (C) The commission may concurrently proceed with its investigation of the complaint
2666 without waiting for the resolution of the criminal investigation by the prosecuting attorney.

2667 (b) The chief justice of the Supreme Court may place a justice of the Supreme Court,
2668 an appellate court judge, district court judge, active senior judge, juvenile court judge, justice
2669 court judge, active senior justice court judge, or judge pro tempore on administrative leave with
2670 or without pay if the chief justice has a reasonable basis to believe that the alleged crime
2671 occurred, that the justice of the Supreme Court, appellate court judge, district court judge,
2672 active senior judge, juvenile court judge, justice court judge, active senior justice court judge,
2673 or judge pro tempore committed the crime, and that the crime was either a felony or a
2674 misdemeanor which conduct may be prejudicial to the administration of justice or which brings
2675 a judicial office into disrepute.

2676 (2) (a) If the commission, during the course of its investigation into an allegation of
2677 judicial misconduct, receives information upon which a reasonable person might conclude that
2678 a misdemeanor or felony under state or federal law has been committed by the chief justice of
2679 the Supreme Court, the commission shall immediately refer the allegation and any information
2680 relevant to the potential criminal violation to two justices of the Supreme Court and the local
2681 prosecuting attorney in accordance with Subsection (1)(a)(ii).

2682 (b) Two justices of the Supreme Court may place the chief justice of the Supreme
2683 Court on administrative leave with or without pay if the two justices have a reasonable basis to
2684 believe that the alleged crime occurred, that the chief justice committed the crime, and that the
2685 crime was either a felony or a misdemeanor which conduct may be prejudicial to the
2686 administration of justice or which brings a judicial office into disrepute.

2687 (3) (a) If a judge is or has been criminally charged or indicted for a class A
2688 misdemeanor or any felony under state or federal law and if the Supreme Court has not already
2689 acted under Subsection (1) or (2), the appropriate member or members of the Supreme Court as

2690 provided in Subsection (1) or (2), shall place the judge on administrative leave with or without
2691 pay pending the outcome of the criminal proceeding.

2692 (b) The state court administrator [~~of the courts~~] shall, for the duration of the
2693 administrative leave, withhold all employer and employee contributions required under
2694 Sections 49-17-301 and 49-18-301.

2695 (c) If the judge is not convicted of the criminal charge, and if after an investigation and
2696 final disposition of the case by the Judicial Conduct Commission, the judge is reinstated by the
2697 Supreme Court as provided in Subsection (4), then the judge shall be paid the salary or
2698 compensation for the period of administrative leave, and all contributions withheld under
2699 Subsection (3)(b) shall be deposited in accordance with Sections 49-17-301 and 49-18-301.

2700 (4) The chief justice of the Supreme Court or two justices of the Supreme Court who
2701 ordered the judge on administrative leave shall order the reinstatement of the judge:

2702 (a) if the prosecutor to whom the allegations are referred by the commission determines
2703 no charge or indictment should be filed; or

2704 (b) after final disposition of the criminal case, if the judge is not convicted of a
2705 criminal charge and if the commission has not ordered the removal of the judge.

2706 Section 21. Section 78B-1-117 is amended to read:

2707 **78B-1-117. Jurors and witnesses -- State payment for jurors and subpoenaed**
2708 **persons -- Appropriations and costs -- Expenses in justice court.**

2709 (1) The state is responsible for payment of all fees and expenses authorized by law for
2710 prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs in
2711 criminal actions in the courts of record and actions in the juvenile court. The state is
2712 responsible for payment of all fees and expenses authorized by law for jurors in the courts of
2713 record. For these payments, the Judicial Council shall receive an annual appropriation
2714 contained in a separate line item appropriation.

2715 (2) If expenses, for the purposes of this section, exceed the line item appropriation, the
2716 state court administrator [~~of the courts~~] shall submit a claim against the state to the Board of
2717 Examiners and request the board to recommend and submit a supplemental appropriation

2718 request to the Legislature for the deficit incurred.

2719 (3) In the justice courts, the fees, mileage, and other expenses authorized by law for
2720 jurors, prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter
2721 costs shall be paid by the municipality if the action is prosecuted by the city attorney, and by
2722 the county if the action is prosecuted by the county attorney or district attorney.

2723 (4) Beginning July 1, 2014, the state court administrator [~~of the courts~~] shall provide a
2724 report during each interim to the Executive Offices and Criminal Justice Appropriations
2725 Subcommittee detailing expenses, trends, and efforts made to minimize expenses and
2726 maximize performance of the costs under this section.

2727 (5) The funding of additional full-time equivalent employees shall be authorized by the
2728 Legislature through specific intent language.