



- 28            [49-11-406](#), as last amended by Laws of Utah 2013, Chapter 310
- 29            [49-13-203](#), as last amended by Laws of Utah 2018, Chapter 10 and last amended by
- 30    Coordination Clause, Laws of Utah 2018, Chapter 315
- 31            [49-22-205](#), as last amended by Laws of Utah 2018, Chapter 10
- 32            [53B-17-1101](#), as enacted by Laws of Utah 2018, Chapter 453
- 33            [53B-18-1601](#), as enacted by Laws of Utah 2018, Chapter 453
- 34            [53F-2-203](#), as last amended by Laws of Utah 2018, Chapters 448, 456 and renumbered
- 35    and amended by Laws of Utah 2018, Chapter 2
- 36            [53F-2-414](#), as enacted by Laws of Utah 2018, Chapter 464
- 37            [53F-2-505](#), as renumbered and amended by Laws of Utah 2018, Chapter 2
- 38            [63A-3-110](#), as last amended by Laws of Utah 2018, Chapter 25
- 39            [63A-5-204](#), as last amended by Laws of Utah 2018, Chapter 401
- 40            [63J-1-602.2](#), as repealed and reenacted by Laws of Utah 2018, Chapter 469
- 41            [63M-2-101](#), as last amended by Laws of Utah 2015, Chapter 283
- 42            [63M-2-102](#), as last amended by Laws of Utah 2016, Chapter 240
- 43            [63M-2-301](#), as last amended by Laws of Utah 2016, Chapter 240
- 44            [63M-2-302](#), as repealed and reenacted by Laws of Utah 2016, Chapter 240
- 45            [63M-2-302.5](#), as last amended by Laws of Utah 2016, Chapter 240
- 46            [63M-2-501](#), as enacted by Laws of Utah 2016, Chapter 240
- 47            [63M-2-502](#), as last amended by Laws of Utah 2018, Chapter 453
- 48            [63M-2-503](#), as enacted by Laws of Utah 2016, Chapter 240
- 49            [63M-2-504](#), as enacted by Laws of Utah 2016, Chapter 240
- 50            [63M-2-602](#), as last amended by Laws of Utah 2018, Chapter 453
- 51            [63M-2-701](#), as enacted by Laws of Utah 2016, Chapter 240
- 52            [63M-2-703](#), as enacted by Laws of Utah 2016, Chapter 240
- 53            [63M-2-801](#), as enacted by Laws of Utah 2016, Chapter 240
- 54            [63M-2-802](#), as last amended by Laws of Utah 2018, Chapter 453
- 55            [63M-2-803](#), as renumbered and amended by Laws of Utah 2016, Chapter 240
- 56            [63N-1-501](#), as renumbered and amended by Laws of Utah 2015, Chapter 283
- 57            [63N-3-204](#), as last amended by Laws of Utah 2018, Chapter 453
- 58            [63N-3-305](#), as last amended by Laws of Utah 2016, Chapter 253

59 [67-19-15](#), as last amended by Laws of Utah 2018, Chapters 39 and 415

60 [67-22-2](#), as last amended by Laws of Utah 2018, Chapter 39

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

63 Section 1. Section **49-11-406** is amended to read:

64 **49-11-406. Governor's appointed executives and senior staff -- Appointed**  
 65 **legislative employees -- Transfer of value of accrued defined benefit -- Procedures.**

66 (1) As used in this section:

67 (a) "Defined benefit balance" means the total amount of the contributions made on  
 68 behalf of a member to a defined benefit system plus refund interest.

69 (b) "Senior staff" means an at-will employee who reports directly to an elected official,  
 70 executive director, or director and includes a deputy director and other similar, at-will  
 71 employee positions designated by the governor, the speaker of the House, or the president of  
 72 the Senate and filed with the Department of Human Resource Management and the Utah State  
 73 Retirement Office.

74 (2) In accordance with this section and subject to federal law, a member who has  
 75 service credit from a system may elect to be exempt from coverage under a defined benefit  
 76 system and to have the member's defined benefit balance transferred from the defined benefit  
 77 system or plan to a defined contribution plan in the member's own name if the member is:

78 (a) the state auditor;

79 (b) the state treasurer;

80 (c) an appointed executive under Subsection [67-22-2\(1\)\(a\)](#);

81 (d) an employee in the Governor's Office;

82 (e) senior staff in the Governor's Office of Management and Budget;

83 (f) senior staff in the Governor's Office of Economic Development;

84 (g) senior staff in the Commission on Criminal and Juvenile Justice;

85 (h) a legislative employee appointed under Subsection [36-12-7\(3\)\(a\)](#);

86 (i) a legislative employee appointed by the speaker of the House of Representatives, the  
 87 House of Representatives minority leader, the president of the Senate, or the Senate minority  
 88 leader; or

89 (j) senior staff of [~~the Utah Science Technology and Research Initiative~~] Innovate Utah

90 created under Title 63M, Chapter 2, Innovate Utah [~~Science Technology and Research~~  
91 ~~Governing Authority Act~~].

92 (3) An election made under Subsection (2):

93 (a) is final, and no right exists to make any further election;

94 (b) is considered a request to be exempt from coverage under a defined benefits  
95 system; and

96 (c) shall be made on forms provided by the office.

97 (4) The board shall adopt rules to implement and administer this section.

98 Section 2. Section **49-13-203** is amended to read:

99 **49-13-203. Exclusions from membership in system.**

100 (1) The following employees are not eligible for service credit in this system:

101 (a) subject to the requirements of Subsection (2), an employee whose employment  
102 status is temporary in nature due to the nature or the type of work to be performed;

103 (b) except as provided under Subsection (3)(a), an employee of an institution of higher  
104 education who participates in a retirement system with a public or private retirement system,  
105 organization, or company designated by the State Board of Regents, or the Board of Directors  
106 of each technical college for an employee of each technical college, during any period in which  
107 required contributions based on compensation have been paid on behalf of the employee by the  
108 employer;

109 (c) an employee serving as an exchange employee from outside the state;

110 (d) an executive department head of the state or a legislative director, senior executive  
111 employed by the governor's office, a member of the State Tax Commission, a member of the  
112 Public Service Commission, and a member of a full-time or part-time board or commission  
113 who files a formal request for exemption;

114 (e) an employee of the Department of Workforce Services who is covered under  
115 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

116 (f) an employee who is employed with an employer that has elected to be excluded  
117 from participation in this system under Subsection [49-13-202\(5\)](#), effective on or after the date  
118 of the employer's election under Subsection [49-13-202\(5\)](#);

119 (g) an employee who is employed with a withdrawing entity that has elected under  
120 Section [49-11-623](#), prior to January 1, 2017, to exclude:

121 (i) new employees from participation in this system under Subsection 49-11-623(3)(a);

122 or

123 (ii) all employees from participation in this system under Subsection 49-11-623(3)(b);

124 or

125 (h) an employee described in Subsection (1)(h)(i) or (ii) who is employed with a

126 withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to

127 exclude:

128 (i) new employees from participation in this system under Subsection 49-11-624(3)(a);

129 or

130 (ii) all employees from participation in this system under Subsection 49-11-624(3)(b).

131 (2) If an employee whose status is temporary in nature due to the nature of type of

132 work to be performed:

133 (a) is employed for a term that exceeds six months and the employee otherwise

134 qualifies for service credit in this system, the participating employer shall report and certify to

135 the office that the employee is a regular full-time employee effective the beginning of the

136 seventh month of employment; or

137 (b) was previously terminated prior to being eligible for service credit in this system

138 and is reemployed within three months of termination by the same participating employer, the

139 participating employer shall report and certify that the member is a regular full-time employee

140 when the total of the periods of employment equals six months and the employee otherwise

141 qualifies for service credits in this system.

142 (3) (a) Upon cessation of the participating employer contributions, an employee under

143 Subsection (1)(b) is eligible for service credit in this system.

144 (b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service

145 credit earned by an employee under this chapter before the date of the election under

146 Subsection 49-13-202(5) is not affected under Subsection (1)(f).

147 (4) Upon filing a written request for exemption with the office, the following

148 employees shall be exempt from coverage under this system:

149 (a) a full-time student or the spouse of a full-time student and individuals employed in

150 a trainee relationship;

151 (b) an elected official;

152 (c) an executive department head of the state, a member of the State Tax Commission,  
153 a member of the Public Service Commission, and a member of a full-time or part-time board or  
154 commission;

155 (d) an employee of the Governor's Office of Management and Budget;

156 (e) an employee of the Governor's Office of Economic Development;

157 (f) an employee of the Commission on Criminal and Juvenile Justice;

158 (g) an employee of the Governor's Office;

159 (h) an employee of the State Auditor's Office;

160 (i) an employee of the State Treasurer's Office;

161 (j) any other member who is permitted to make an election under Section 49-11-406;

162 (k) a person appointed as a city manager or chief city administrator or another person  
163 employed by a municipality, county, or other political subdivision, who is an at-will employee;

164 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,  
165 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through  
166 membership in a labor organization that provides retirement benefits to its members; and

167 (m) an employee of [~~the Utah Science Technology and Research Initiative~~] Innovate  
168 Utah created under Title 63M, Chapter 2, Innovate Utah [~~Science Technology and Research~~  
169 ~~Governing Authority Act~~].

170 (5) (a) Each participating employer shall prepare and maintain a list designating those  
171 positions eligible for exemption under Subsection (4).

172 (b) An employee may not be exempted unless the employee is employed in a position  
173 designated by the participating employer.

174 (6) (a) In accordance with this section, Section 49-12-203, and Section 49-22-205, a  
175 municipality, county, or political subdivision may not exempt a total of more than 50 positions  
176 or a number equal to 10% of the eligible employees of the municipality, county, or political  
177 subdivision, whichever is less.

178 (b) A municipality, county, or political subdivision may exempt at least one regular  
179 full-time employee.

180 (7) Each participating employer shall:

181 (a) maintain a list of employee exemptions; and

182 (b) update the employee exemptions in the event of any change.

183 (8) The office may make rules to implement this section.

184 Section 3. Section **49-22-205** is amended to read:

185 **49-22-205. Exemptions from participation in system.**

186 (1) Upon filing a written request for exemption with the office, the following  
187 employees are exempt from participation in the system as provided in this section:

188 (a) an executive department head of the state;

189 (b) a member of the State Tax Commission;

190 (c) a member of the Public Service Commission;

191 (d) a member of a full-time or part-time board or commission;

192 (e) an employee of the Governor's Office of Management and Budget;

193 (f) an employee of the Governor's Office of Economic Development;

194 (g) an employee of the Commission on Criminal and Juvenile Justice;

195 (h) an employee of the Governor's Office;

196 (i) an employee of the State Auditor's Office;

197 (j) an employee of the State Treasurer's Office;

198 (k) any other member who is permitted to make an election under Section [49-11-406](#);

199 (l) a person appointed as a city manager or appointed as a city administrator or another  
200 at-will employee of a municipality, county, or other political subdivision;

201 (m) an employee of an interlocal cooperative agency created under Title 11, Chapter  
202 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided  
203 through membership in a labor organization that provides retirement benefits to its members;  
204 and

205 (n) an employee of [~~the Utah Science Technology and Research Initiative~~] Innovate  
206 Utah created under Title 63M, Chapter 2, Innovate Utah [~~Science Technology and Research~~  
207 ~~Governing Authority Act~~].

208 (2) (a) A participating employer shall prepare and maintain a list designating those  
209 positions eligible for exemption under Subsection (1).

210 (b) An employee may not be exempted unless the employee is employed in a position  
211 designated by the participating employer under Subsection (1).

212 (3) (a) In accordance with this section, Section [49-12-203](#), and Section [49-13-203](#), a  
213 municipality, county, or political subdivision may not exempt a total of more than 50 positions

214 or a number equal to 10% of the eligible employees of the municipality, county, or political  
215 subdivision, whichever is less.

216 (b) A municipality, county, or political subdivision may exempt at least one regular  
217 full-time employee.

218 (4) Each participating employer shall:

219 (a) maintain a list of employee exemptions; and

220 (b) update an employee exemption in the event of any change.

221 (5) Beginning on the effective date of the exemption for an employee who elects to be  
222 exempt in accordance with Subsection (1):

223 (a) for a member of the Tier II defined contribution plan:

224 (i) the participating employer shall contribute the nonelective contribution and the  
225 amortization rate described in Section 49-22-401, except that the nonelective contribution is  
226 exempt from the vesting requirements of Subsection 49-22-401(3)(a); and

227 (ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

228 (b) for a member of the Tier II hybrid retirement system:

229 (i) the participating employer shall contribute the nonelective contribution and the  
230 amortization rate described in Section 49-22-401, except that the contribution is exempt from  
231 the vesting requirements of Subsection 49-22-401(3)(a);

232 (ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

233 (iii) the member is not eligible for additional service credit in the system.

234 (6) If an employee who is a member of the Tier II hybrid retirement system  
235 subsequently revokes the election of exemption made under Subsection (1), the provisions  
236 described in Subsection (5)(b) shall no longer be applicable and the coverage for the employee  
237 shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.

238 (7) (a) All employer contributions made on behalf of an employee shall be invested in  
239 accordance with Subsection 49-22-303(3)(a) or 49-22-401(4)(a) until the one-year election  
240 period under Subsection 49-22-201(2)(c) is expired if the employee:

241 (i) elects to be exempt in accordance with Subsection (1); and

242 (ii) continues employment with the participating employer through the one-year  
243 election period under Subsection 49-22-201(2)(c).

244 (b) An employee is entitled to receive a distribution of the employer contributions



245 made on behalf of the employee and all associated investment gains and losses if the employee:

246 (i) elects to be exempt in accordance with Subsection (1); and

247 (ii) terminates employment prior to the one-year election period under Subsection

248 49-22-201(2)(c).

249 (8) (a) The office shall make rules to implement this section.

250 (b) The rules made under this Subsection (8) shall include provisions to allow the  
251 exemption provided under Subsection (1) to apply to all contributions made beginning on or  
252 after July 1, 2011, on behalf of an exempted employee who began the employment before May  
253 8, 2012.

254 Section 4. Section 53B-17-1101 is amended to read:

255 **53B-17-1101. Definitions.**

256 As used in this part:

257 (1) "Researcher" means an individual who:

258 (a) on May 8, 2018, is employed, alone or as part of a research team, by the university;

259 (b) before May 8, 2018, received funding from USTAR for some or all of the  
260 researcher's startup costs or salary;

261 (c) was recruited to become a member of the university's faculty; and

262 (d) after May 8, 2018, receives some or all of the researcher's start up costs or salary  
263 from a legislative appropriation to the university for that purpose.

264 (2) "University" means the University of Utah.

265 (3) "USTAR" means the Utah Science Technology and Research Initiative, which is  
266 now known as the Innovate Utah program created in Section 63M-2-301.

267 Section 5. Section 53B-18-1601 is amended to read:

268 **53B-18-1601. Definitions.**

269 As used in this part:

270 (1) "Researcher" means an individual who:

271 (a) on May 8, 2018, is employed, alone or as part of a research team, by the university;

272 (b) before May 8, 2018, received funding from USTAR for some or all of the  
273 researcher's startup costs or salary;

274 (c) was recruited to become a member of the university's faculty; and

275 (d) after May 8, 2018, receives some or all of the researcher's start up costs or salary

276 from a legislative appropriation to the university for that purpose.

277 (2) "University" means Utah State University.

278 (3) "USTAR" means the Utah Science Technology and Research Initiative, which is  
279 now known as the Innovate Utah program created in Section 63M-2-301.

280 Section 6. Section 53F-2-203 is amended to read:

281 **53F-2-203. Reduction of local education board allocation based on insufficient**  
282 **revenues.**

283 (1) As used in this section, "Minimum School Program funds" means the total of state  
284 and local funds appropriated for the Minimum School Program, excluding:

285 (a) an appropriation for a state guaranteed local levy increment as described in Section  
286 53F-2-601; and

287 (b) the appropriation to charter schools to replace local property tax revenues pursuant  
288 to Section 53F-2-704.

289 (2) If the Legislature reduces appropriations made to support public schools under this  
290 chapter because an Education Fund budget deficit, as defined in Section 63J-1-312, exists, the  
291 State Board of Education, after consultation with each local education board, shall allocate the  
292 reduction among school districts and charter schools in proportion to each school district's or  
293 charter school's percentage share of Minimum School Program funds.

294 (3) Except as provided in Subsection (5) and subject to the requirements of Subsection  
295 (7), a local education board shall determine which programs are affected by a reduction  
296 pursuant to Subsection (2) and the amount each program is reduced.

297 (4) Except as provided in Subsections (5) and (6), the requirement to spend a specified  
298 amount in any particular program is waived if reductions are made pursuant to Subsection (2).

299 (5) A local education board may not reduce or reallocate spending of funds distributed  
300 to the school district or charter school for the following programs:

301 (a) educator salary adjustments provided in Section 53F-2-405;

302 (b) the Teacher Salary Supplement Program provided in Section 53F-2-504;

303 (c) the extended year for special educators provided in Section 53F-2-310;

304 (d) [~~USTAR~~] Innovate Utah centers provided in Section 53F-2-505;

305 (e) the School LAND Trust Program described in Sections 53F-2-404 and 53F-7-1206;

306 or

307 (f) a special education program within the basic school program.

308 (6) A local education board may not reallocate spending of funds distributed to the  
309 school district or charter school to a reserve account.

310 (7) A local education board that reduces or reallocates funds in accordance with this  
311 section shall report all transfers into, or out of, Minimum School Program programs to the  
312 State Board of Education as part of the school district or charter school's Annual Financial and  
313 Program report.

314 Section 7. Section **53F-2-414** is amended to read:

315 **53F-2-414. Review of related to basic school programs.**

316 (1) No later than November 30, 2018, the Public Education Appropriations  
317 Subcommittee shall:

318 (a) review and make recommendations on each program in the related to basic school  
319 programs described in Subsection (3);

320 (b) adopt a review schedule going forward for each program described in Subsection  
321 (3), placing a program on a schedule to review annually or every four years; and

322 (c) review annually or every four years each program according to the schedule adopted  
323 under Subsection (1)(b).

324 (2) For a related to basic school program that is not listed in Subsection (3) and is  
325 adopted by the Legislature after January 1, 2018, the Public Education Appropriations  
326 Subcommittee shall:

327 (a) review and make recommendations for the program in the program's initial year of  
328 implementation;

329 (b) adopt a review schedule going forward for the program, placing the program on a  
330 schedule to review annually or every four years; and

331 (c) review annually or every four years the program according to the schedule adopted  
332 under Subsection (2)(b).

333 (3) The programs subject to review under Subsection (1) are the following:

334 (a) the state-supported transportation program described in Section [53F-2-403](#);

335 (b) the state contribution guarantee program for transportation described in Section  
336 [53F-2-403](#);

337 (c) the weighted pupil unit flexibility allocations described in Section [53F-2-205](#);

- 338 (d) the Enhancement for At-Risk Students Program described in Section 53F-2-410;
- 339 (e) the youth in custody program described in Section 53E-3-503;
- 340 (f) the adult education program described in Title 53E, Chapter 10, Part 2, Adult
- 341 Education;
- 342 (g) the Enhancement for Accelerated Students Program described in Section
- 343 53F-2-408;
- 344 (h) the Centennial Scholarship Program described in Section 53F-2-501;
- 345 (i) the concurrent enrollment program described in Title 53E, Chapter 10, Part 3,
- 346 Concurrent Enrollment;
- 347 (j) the Title I Schools Paraeducators Program described in Section 53F-2-411;
- 348 (k) the School LAND Trust Program described in Section 53F-2-404;
- 349 (l) the charter school local replacement funding program described in Section
- 350 53F-2-702;
- 351 (m) the charter school administration allocations described in Section 53F-2-306;
- 352 (n) the K-3 Reading Improvement Program described in Section 53F-2-503;
- 353 (o) the educator salary adjustments described in Section 53F-2-405;
- 354 (p) the Teacher Salary Supplement Program described in Section 53F-2-504;
- 355 (q) the school library books and electronic resources appropriation described in Section
- 356 53F-2-407;
- 357 (r) the matching appropriation for school nurses described in Section 53F-2-519;
- 358 (s) the Critical Languages Program described in Section 53F-2-516;
- 359 (t) the Dual Language Immersion Program described in Section 53F-2-502;
- 360 (u) the [~~Utah Science Technology and Research (USTAR) Initiative~~] Innovate Utah
- 361 Centers Program described in Section 53F-2-505;
- 362 (v) the Beverley Taylor Sorenson Elementary Arts Learning Program described in
- 363 Section 53F-2-506;
- 364 (w) the early intervention program described in Section 53F-2-507; and
- 365 (x) the Digital Teaching and Learning Grant Program described in Section 53F-2-510.
- 366 Section 8. Section 53F-2-505 is amended to read:
- 367 **53F-2-505. Utah Science Technology and Research Initiative Centers Program.**
- 368 (1) (a) The [~~Utah Science Technology and Research Initiative (USTAR)~~] Innovate

369 Utah Centers Program is created to provide a financial incentive for local education boards to  
370 adopt programs in respective charter schools and school districts that result in a more efficient  
371 use of human resources and capital facilities.

372 (b) The potential benefits of the program include:

373 (i) increased compensation for math and science teachers by providing opportunities  
374 for an expanded contract year which will enhance school districts' and charter schools' ability to  
375 attract and retain talented and highly qualified math and science teachers;

376 (ii) increased capacity of school buildings by using buildings more hours of the day or  
377 more days of the year, resulting in reduced capital facilities costs;

378 (iii) decreased class sizes created by expanding the number of instructional  
379 opportunities in a year;

380 (iv) opportunities for earlier high school graduation;

381 (v) improved student college preparation;

382 (vi) increased opportunities to offer additional remedial and advanced courses in math  
383 and science;

384 (vii) opportunities to coordinate high school and post-secondary math and science  
385 education; and

386 (viii) the creation or improvement of science, technology, engineering, and math  
387 centers (STEM Centers).

388 (2) From money appropriated for the [U~~STAR~~] Innovate Utah Centers Program, the  
389 State Board of Education shall award grants to charter schools and school districts to pay for  
390 costs related to the adoption and implementation of the program.

391 (3) The State Board of Education shall:

392 (a) solicit proposals from the State Charter School Board and local school boards for  
393 the use of grant money to facilitate the adoption and implementation of the program; and

394 (b) award grants on a competitive basis.

395 (4) The State Charter School Board shall:

396 (a) solicit proposals from charter school governing boards that may be interested in  
397 participating in the [U~~STAR~~] Innovate Utah Centers Program;

398 (b) prioritize and consolidate the proposals into the equivalent of a single school  
399 district request; and

- 400 (c) submit the consolidated request to the State Board of Education.
- 401 (5) In selecting a grant recipient, the State Board of Education shall consider:
  - 402 (a) the degree to which a charter school or school district's proposed adoption and
  - 403 implementation of an extended year for math and science teachers achieves the benefits
  - 404 described in Subsection (1);
  - 405 (b) the unique circumstances of different urban, rural, large, small, growing, and
  - 406 declining charter schools and school districts; and
  - 407 (c) providing pilot programs in as many different school districts and charter schools as
  - 408 possible.
  - 409 (6) (a) Except as provided in Subsection (6)(b), a school district or charter school may
  - 410 only use grant money to provide full year teacher contracts, part-time teacher contract
  - 411 extensions, or combinations of both, for math and science teachers.
    - 412 (b) Up to 5% of the grant money may be used to fund math and science field trips,
    - 413 textbooks, and supplies.
    - 414 (7) Participation in the [U~~STAR~~] Innovate Utah Centers Program shall be:
      - 415 (a) voluntary for an individual teacher; and
      - 416 (b) voluntary for a charter school or school district.
  - 417 Section 9. Section **63A-3-110** is amended to read:
    - 418 **63A-3-110. Personal use expenditures for state officers and employees.**
      - 419 (1) As used in this section:
        - 420 (a) "Employee" means a person who is not an elected or appointed officer and who is
        - 421 employed on a full- or part-time basis by a governmental entity.
        - 422 (b) "Governmental entity" means:
          - 423 (i) an executive branch agency of the state, the offices of the governor, lieutenant
          - 424 governor, state auditor, attorney general, and state treasurer, the State Board of Education, and
          - 425 the State Board of Regents;
          - 426 (ii) the Office of the Legislative Auditor General, the Office of the Legislative Fiscal
          - 427 Analyst, the Office of Legislative Research and General Counsel, the Legislature, and
          - 428 legislative committees;
          - 429 (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar
          - 430 administrative units in the judicial branch;

431 (iv) independent state entities created under Title 63H, Independent State Entities; or

432 (v) the [~~Utah Science Technology and Research Governing Authority~~] Innovate Utah  
433 program created under Section [63M-2-301](#).

434 (c) "Officer" means a person who is elected or appointed to an office or position within  
435 a governmental entity.

436 (d) (i) "Personal use expenditure" means an expenditure made without the authority of  
437 law that:

438 (A) is not directly related to the performance of an activity as a state officer or  
439 employee;

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

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

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

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

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

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

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

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

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

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

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

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

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

461 (b) require the state officer or employee to remit an administrative penalty in an

462 amount equal to 50% of the personal use expenditure to the Division of Finance; and

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

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

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

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

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

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

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

482 Section 10. Section 63A-5-204 is amended to read:

483 **63A-5-204. Specific powers and duties of director.**

484 (1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the  
485 same meaning as provided in Section 63C-9-102.

486 (2) (a) The director shall:

487 (i) recommend rules to the executive director for the use and management of facilities  
488 and grounds owned or occupied by the state for the use of its departments and agencies;

489 (ii) supervise and control the allocation of space, in accordance with legislative  
490 directive through annual appropriations acts or other specific legislation, to the various  
491 departments, commissions, institutions, and agencies in all buildings or space owned, leased, or  
492 rented by or to the state, except capitol hill facilities and capitol hill grounds and except as



493 otherwise provided by law;

494 (iii) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3,  
495 Division of Facilities Construction and Management Leasing;

496 (iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature  
497 through the appropriations act or other specific legislation, and hold title to, in the name of the  
498 division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its  
499 agencies;

500 (v) collect and maintain all deeds, abstracts of title, and all other documents evidencing  
501 title to or interest in property belonging to the state or any of its departments, except  
502 institutions of higher education and the School and Institutional Trust Lands Administration;

503 (vi) report all properties acquired by the state, except those acquired by institutions of  
504 higher education, to the director of the Division of Finance for inclusion in the state's financial  
505 records;

506 (vii) before charging a rate, fee, or other amount for services provided by the division's  
507 internal service fund to an executive branch agency, or to a subscriber of services other than an  
508 executive branch agency:

509 (A) submit the proposed rates, fees, and cost analysis to the Rate Committee  
510 established in Section [63A-1-114](#); and

511 (B) obtain the approval of the Legislature as required by Section [63J-1-410](#);

512 (viii) conduct a market analysis by July 1, 2005, and periodically thereafter, of  
513 proposed rates and fees, which analysis shall include a comparison of the division's rates and  
514 fees with the fees of other public or private sector providers where comparable services and  
515 rates are reasonably available;

516 (ix) implement the State Building Energy Efficiency Program under Section  
517 [63A-5-701](#);

518 (x) convey, lease, or dispose of the real property or water rights associated with the  
519 Utah State Developmental Center according to the Utah State Developmental Center Board's  
520 determination, as described in Subsection [62A-5-206.6\(5\)](#);

521 (xi) after receiving the notice required under Subsection [10-2-419\(2\)\(d\)](#), file a written  
522 protest at or before the public hearing required under Subsection [10-2-419\(2\)\(b\)](#), if:

523 (A) it is in the best interest of the state to protest the boundary adjustment; or

524 (B) the Legislature instructs the director to protest the boundary adjustment; and  
525 (xii) take all other action necessary for carrying out the purposes of this chapter.

526 (b) Legislative approval is not required for acquisitions by the division that cost less  
527 than \$250,000.

528 (3) (a) The director shall direct or delegate maintenance and operations, preventive  
529 maintenance, and facilities inspection programs and activities for any agency, except:

530 (i) the State Capitol Preservation Board; and

531 (ii) state institutions of higher education.

532 (b) The director may choose to delegate responsibility for these functions only when  
533 the director determines that:

534 (i) the agency has requested the responsibility;

535 (ii) the agency has the necessary resources and skills to comply with facility  
536 maintenance standards approved by the State Building Board; and

537 (iii) the delegation would result in net cost savings to the state as a whole.

538 (c) The State Capitol Preservation Board and state institutions of higher education are  
539 exempt from Division of Facilities Construction and Management oversight.

540 (d) Each state institution of higher education shall comply with the facility  
541 maintenance standards approved by the State Building Board.

542 (e) Except for the State Capitol Preservation Board, agencies and institutions that are  
543 exempt from division oversight shall annually report their compliance with the facility  
544 maintenance standards to the division in the format required by the division.

545 (f) The division shall:

546 (i) prescribe a standard format for reporting compliance with the facility maintenance  
547 standards;

548 (ii) report agency compliance or noncompliance with the standards to the Legislature;  
549 and

550 (iii) conduct periodic audits of exempt agencies and institutions to ensure that they are  
551 complying with the standards.

552 (4) (a) In making any allocations of space under Subsection (2), the director shall:

553 (i) conduct studies to determine the actual needs of each agency; and

554 (ii) comply with the restrictions contained in this Subsection (4).

- 555 (b) The supervision and control of the legislative area is reserved to the Legislature.
- 556 (c) The supervision and control of the judicial area is reserved to the judiciary for trial  
557 courts only.
- 558 (d) The director may not supervise or control the allocation of space for entities in the  
559 public and higher education systems.
- 560 (e) The supervision and control of capitol hill facilities and capitol hill grounds is  
561 reserved to the State Capitol Preservation Board.
- 562 (5) The director may:
- 563 (a) hire or otherwise procure assistance and services, professional, skilled, or  
564 otherwise, that are necessary to carry out the director's responsibilities, and may expend funds  
565 provided for that purpose either through annual operating budget appropriations or from  
566 nonlapsing project funds;
- 567 (b) sue and be sued in the name of the division; and
- 568 (c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the  
569 Legislature, whatever real or personal property that is necessary for the discharge of the  
570 director's duties.
- 571 (6) Notwithstanding the provisions of Subsection (2)(a)(iv), the following entities may  
572 hold title to any real property, buildings, fixtures, and appurtenances held by them for purposes  
573 other than administration that are under their control and management:
- 574 (a) the Office of Trust Administrator;
- 575 (b) the Department of Transportation;
- 576 (c) the Division of Forestry, Fire, and State Lands;
- 577 (d) the Department of Natural Resources;
- 578 (e) the Utah National Guard;
- 579 (f) any area vocational center or other institution administered by the State Board of  
580 Education; and
- 581 (g) any institution of higher education[~~;~~ and].  
582 [~~(h) the Utah Science Technology and Research Governing Authority.~~]
- 583 (7) The director shall ensure that any firm performing testing and inspection work  
584 governed by the American Society for Testing Materials Standard E-329 on public buildings  
585 under the director's supervision shall:

586 (a) fully comply with the American Society for Testing Materials standard  
587 specifications for agencies engaged in the testing and inspection of materials known as ASTM  
588 E-329; and

589 (b) carry a minimum of \$1,000,000 of errors and omissions insurance.

590 (8) Notwithstanding Subsections (2)(a)(iii) and (iv), the School and Institutional Trust  
591 Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances  
592 held by it that are under its control.

593 Section 11. Section **63J-1-602.2** is amended to read:

594 **63J-1-602.2. List of nonlapsing appropriations to programs.**

595 Appropriations made to the following programs are nonlapsing:

596 (1) The Legislature and its committees.

597 (2) The Percent-for-Art Program created in Section [9-6-404](#).

598 (3) The LeRay McAllister Critical Land Conservation Program created in Section  
599 [11-38-301](#).

600 (4) Dedicated credits accrued to the Utah Marriage Commission as provided under  
601 Subsection [17-16-21\(2\)\(d\)\(ii\)](#).

602 (5) The Division of Wildlife Resources for the appraisal and purchase of lands under  
603 the Pelican Management Act, as provided in Section [23-21a-6](#).

604 (6) The primary care grant program created in Section [26-10b-102](#).

605 (7) Sanctions collected as dedicated credits from Medicaid provider under Subsection  
606 [26-18-3\(7\)](#).

607 (8) The Utah Health Care Workforce Financial Assistance Program created in Section  
608 [26-46-102](#).

609 (9) The Rural Physician Loan Repayment Program created in Section [26-46a-103](#).

610 (10) The Opiate Overdose Outreach Pilot Program created in Section [26-55-107](#).

611 (11) Funds that the Department of Alcoholic Beverage Control retains in accordance  
612 with Subsection [32B-2-301\(7\)\(a\)\(ii\)](#) or (b).

613 (12) The General Assistance program administered by the Department of Workforce  
614 Services, as provided in Section [35A-3-401](#).

615 (13) A new program or agency that is designated as nonlapsing under Section  
616 [36-24-101](#).

- 617 (14) The Utah National Guard, created in Title 39, Militia and Armories.
- 618 (15) The State Tax Commission under Section [41-1a-1201](#) for the:
- 619 (a) purchase and distribution of license plates and decals; and
- 620 (b) administration and enforcement of motor vehicle registration requirements.
- 621 (16) The Search and Rescue Financial Assistance Program, as provided in Section
- 622 [53-2a-1102](#).
- 623 (17) The Motorcycle Rider Education Program, as provided in Section [53-3-905](#).
- 624 (18) The State Board of Regents for teacher preparation programs, as provided in
- 625 Section [53B-6-104](#).
- 626 (19) The Medical Education Program administered by the Medical Education Council,
- 627 as provided in Section [53B-24-202](#).
- 628 (20) The State Board of Education, as provided in Section [53F-2-205](#).
- 629 (21) The Division of Services for People with Disabilities, as provided in Section
- 630 [62A-5-102](#).
- 631 (22) The Division of Fleet Operations for the purpose of upgrading underground
- 632 storage tanks under Section [63A-9-401](#).
- 633 (23) The Utah Seismic Safety Commission, as provided in Section [63C-6-104](#).
- 634 (24) Appropriations to the Department of Technology Services for technology
- 635 innovation as provided under Section [63F-4-202](#).
- 636 (25) The Office of Administrative Rules for publishing, as provided in Section
- 637 [63G-3-402](#).
- 638 (26) The [~~Utah Science Technology and Research Initiative~~] Innovate Utah program
- 639 created in Section [63M-2-301](#).
- 640 (27) The Governor's Office of Economic Development to fund the Enterprise Zone
- 641 Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.
- 642 (28) Appropriations to fund the Governor's Office of Economic Development's Rural
- 643 Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural
- 644 Employment Expansion Program.
- 645 (29) The Department of Human Resource Management user training program, as
- 646 provided in Section [67-19-6](#).
- 647 (30) The University of Utah Poison Control Center program, as provided in Section

648 69-2-5.5.

649 (31) A public safety answering point's emergency telecommunications service fund, as  
650 provided in Section 69-2-301.

651 (32) The Traffic Noise Abatement Program created in Section 72-6-112.

652 (33) The Judicial Council for compensation for special prosecutors, as provided in  
653 Section 77-10a-19.

654 (34) A state rehabilitative employment program, as provided in Section 78A-6-210.

655 (35) The Utah Geological Survey, as provided in Section 79-3-401.

656 (36) The Bonneville Shoreline Trail Program created under Section 79-5-503.

657 (37) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and  
658 78B-6-144.5.

659 (38) Indigent defense as provided in Title 77, Chapter 32, Part 8, Utah Indigent  
660 Defense Commission.

661 Section 12. Section 63M-2-101 is amended to read:

662 **CHAPTER 2. INNOVATE UTAH**

663 **63M-2-101. Title.**

664 (1) This title is known as "Governor's Programs."

665 (2) This chapter is known as [~~the "Utah Science Technology and Research Governing~~  
666 ~~Authority Act."~~] "Innovate Utah."

667 Section 13. Section 63M-2-102 is amended to read:

668 **63M-2-102. Definitions.**

669 As used in this chapter:

670 (1) "Executive director" means the individual appointed under Subsection  
671 63M-2-301(9).

672 (2) "Governing authority" means the [~~Utah Science Technology and Research~~]  
673 Innovate Utah Governing Authority created in Section 63M-2-301.

674 (3) "Higher education institution" means an institution listed in Section 53B-2-101.

675 [~~(4) "Principal researcher" means an individual who:~~]

676 [(a) (i) ~~on May 10, 2016, is employed, alone or as part of a research team, by a research~~  
677 ~~university;~~]

678 [(ii) ~~before May 10, 2016, received funding from USTAR for some or all of the~~

679 researcher's startup costs or research university salary;]

680       [(iii) was recruited by a research university to become a member of a research

681 university's faculty; and]

682       [(iv) on or after May 10, 2016, continues to receive USTAR support; or]

683       [(b) (i) is employed on or after May 10, 2016 as a researcher by a higher education

684 institution;]

685       [(ii) receives USTAR support; and]

686       [(iii) is recruited by the governing authority and the higher education institution to

687 become a member of the higher education institution's faculty.]

688       [(5) "Private entity":]

689       [(a) means a privately owned corporation, limited liability company, partnership, or

690 other business entity or association; and]

691       [(b) does not include an individual or a sole proprietorship.]

692       [(6) "Research building" means a building:]

693       [(a) for which the governing authority holds title; and]

694       [(b) that is located on the campus of a research university.]

695       [(7) "Research university" means:]

696       [(a) the University of Utah; or]

697       [(b) Utah State University.]

698       [(8)] (4) ["USTAR"] "Innovate Utah" means the [~~Utah Science Technology and~~

699 ~~Research Initiative~~] Innovate Utah program created in Section [63M-2-301](#).

700       [(9)] (5) ["USTAR"] "Innovate Utah researcher" means:

701       (a) a principal researcher; or

702       (b) an individual, other than a principal researcher, who:

703       (i) is employed by a higher education institution; and

704       (ii) receives [USTAR] Innovate Utah support.

705       [(10)] (6) ["USTAR"] "Innovate Utah support" means assistance provided by [USTAR]

706 Innovate Utah, including:

707       (a) financial support;

708       (b) technical assistance;

709       (c) mentoring; and

- 710 (d) the use of:
- 711 (i) research or laboratory space controlled by [~~USTAR~~] Innovate Utah in a building
- 712 other than a research building; and
- 713 (ii) equipment in research or laboratory space described in Subsection [~~(10)~~] (6)(d)(i).
- 714 (7) "Principal researcher" means an individual who:
- 715 (a) (i) on May 10, 2016, is employed, alone or as part of a research team, by a research
- 716 university;
- 717 (ii) before May 10, 2016, received funding from Innovate Utah for some or all of the
- 718 researcher's startup costs or research university salary;
- 719 (iii) was recruited by a research university to become a member of a research
- 720 university's faculty; and
- 721 (iv) on or after May 10, 2016, continues to receive Innovate Utah support; or
- 722 (b) (i) is employed on or after May 10, 2016 as a researcher by a higher education
- 723 institution;
- 724 (ii) receives Innovate Utah support; and
- 725 (iii) is recruited by the governing authority and the higher education institution to
- 726 become a member of the higher education institution's faculty.
- 727 (8) "Private entity":
- 728 (a) means a privately owned corporation, limited liability company, partnership, or
- 729 other business entity or association; and
- 730 (b) does not include an individual or a sole proprietorship.
- 731 (9) "Research building" means a building:
- 732 (a) for which the governing authority holds title; and
- 733 (b) that is located on the campus of a research university.
- 734 (10) "Research university" means:
- 735 (a) the University of Utah; or
- 736 (b) Utah State University.

Section 14. Section **63M-2-301** is amended to read:

**Part 3. Innovate Utah Governing Authority**

**63M-2-301. The Innovate Utah program -- Governing authority -- Executive director.**



741 (1) There is created the [~~Utah Science Technology and Research Initiative~~] Innovate  
 742 Utah program.

743 (2) To oversee [~~USTAR~~] Innovate Utah, there is created the [~~Utah Science Technology~~  
 744 ~~and Research~~] Innovate Utah Governing Authority consisting of:

745 (a) the state treasurer or the state treasurer's designee;  
 746 [~~(b) the executive director of the Governor's Office of Economic Development;~~]  
 747 [~~(c)~~] (b) three members appointed by the governor, with the consent of the Senate;  
 748 [~~(d)~~] (c) two members appointed by the president of the Senate;  
 749 [~~(e)~~] (d) two members appointed by the speaker of the House of Representatives; and  
 750 [~~(f)~~] (e) one member appointed by the commissioner of higher education.

751 (3) (a) The eight appointed members under Subsections (2)[~~(c) through (f)~~] (b) through  
 752 (e) shall serve four-year staggered terms.

753 (b) An appointed member under Subsection (2)[~~(c), (d), (e), or (f)~~] (b), (c), (d), or (e):

754 (i) may not serve more than two full consecutive terms; and  
 755 (ii) may be removed from the governing authority for any reason before the member's  
 756 term is completed:

757 (A) at the discretion of the original appointing authority; and  
 758 (B) after the original appointing authority consults with the governing authority.

759 (4) A vacancy on the governing authority in an appointed position under Subsection  
 760 (2)[~~(c), (d), (e), or (f)~~] (b), (c), (d), or (e) shall be filled for the unexpired term by the  
 761 appointing authority in the same manner as the original appointment.

762 (5) (a) Except as provided in Subsection (5)(b), the governor, with the consent of the  
 763 Senate, shall select the chair of the governing authority to serve a one-year term.

764 (b) The governor may extend the term of a sitting chair of the governing authority  
 765 without the consent of the Senate.

766 [~~(c) The executive director of the Governor's Office of Economic Development shall~~  
 767 ~~serve as the vice chair of the governing authority.]~~

768 (6) The governing authority shall meet at least six times each year and may meet more  
 769 frequently at the request of a majority of the members of the governing authority.

770 (7) Five members of the governing authority are a quorum.

771 (8) A member of the governing authority may not receive compensation or benefits for

772 the member's service, but may receive per diem and travel expenses as allowed in:

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

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

775 (c) rules made by the Division of Finance:

776 (i) pursuant to Sections 63A-3-106 and 63A-3-107; and

777 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

778 (9) (a) After consultation with the governing authority, the governor, with the consent

779 of the Senate, shall appoint a full-time executive director to provide staff support for the

780 governing authority.

781 (b) The executive director is an at-will employee who may be terminated with or

782 without cause by [~~(i) the governor, or (ii) majority vote of the governing authority~~] the

783 governor.

784 Section 15. Section **63M-2-302** is amended to read:

785 **63M-2-302. Governing authority powers and duties.**

786 (1) The governing authority shall:

787 (a) ensure that funds appropriated to [USTAR] Innovate Utah are used appropriately,

788 effectively, and efficiently in accordance with this chapter;

789 (b) in cooperation with a research university's administration, work to expand research

790 at the research university;

791 (c) enhance technology transfer and commercialization of research and technology

792 developed at a higher education institution to create high-quality jobs and new industries in the

793 private sector in the state;

794 (d) ensure that [USTAR] Innovate Utah programs do not duplicate existing or planned

795 programs of other state agencies;

796 (e) establish written economic development objectives for [USTAR] Innovate Utah

797 that are measurable and verifiable;

798 (f) consider input from the Governor's Office of Economic Development and higher

799 education institutions;

800 (g) establish and administer a grant program, as provided in Section 63M-2-503, and

801 provide [USTAR] Innovate Utah support, as provided in Section 63M-2-504, consistent with

802 and to further economic development objectives that the governing authority establishes; and

803 (h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
804 make rules to implement this chapter.

805 (2) The governing authority may:

806 (a) in addition to receiving money appropriated by the Legislature, receive  
807 contributions to [USTAR] Innovate Utah from any source, in the form of money, property,  
808 labor, or other thing of value;

809 (b) subject to restrictions imposed by a donor or legislative appropriation, allocate  
810 money for programs and activities described in this chapter;

811 (c) enter into an agreement necessary to obtain private equity investment in [USTAR]  
812 Innovate Utah;

813 (d) charge and collect rent for space in a facility or building that [USTAR] Innovate  
814 Utah controls;

815 (e) in fulfilling the governing authority's duties and responsibilities under this chapter,  
816 collaborate with:

817 (i) the Governor's Office of Economic Development and other state agencies with an  
818 interest in economic development; and

819 (ii) private entities with an interest in economic development; and

820 (f) delegate powers and duties to the executive director.

821 (3) A state agency, higher education institution, or political subdivision with which the  
822 governing authority seeks to collaborate in fulfilling the governing authority's duties under this  
823 chapter shall cooperate with the governing authority as reasonably necessary to enable the  
824 governing authority to fulfill its duties under this chapter.

825 Section 16. Section **63M-2-302.5** is amended to read:

826 **63M-2-302.5. Governing authority requirements.**

827 The governing authority is subject to the requirements of an executive branch agency  
828 and is:

829 (1) an agency for purposes of Title 63J, Chapter 1, Budgetary Procedures Act;

830 (2) an executive branch procurement unit for purposes of Title 63G, Chapter 6a, Utah  
831 Procurement Code;

832 (3) a governmental entity for purposes of Title 63G, Chapter 2, Government Records  
833 Access and Management Act; and

834 (4) a public body for purposes of Title 52, Chapter 4, Open and Public Meetings Act.  
835 Section 17. Section 63M-2-501 is amended to read:

836 **Part 5. Innovate Utah Support**

837 **63M-2-501. Title.**

838 This part is known as [~~USTAR~~] "Innovate Utah Support."

839 Section 18. Section 63M-2-502 is amended to read:

840 **63M-2-502. Principal researchers -- Agreement requirements -- Discontinuing**  
841 **funding.**

842 (1) Subject to [~~Subsection~~] Subsections (5) and (6) and legislative appropriation, the  
843 governing authority shall:

844 (a) provide funding to help a research university honor its commitments to principal  
845 researchers employed by the research university; and

846 (b) give priority to funding provided under Subsection (1)(a).

847 (2) The governing authority shall enter into a written agreement with a higher  
848 education institution that employs a principal researcher[~~:(a)~~] establishing performance  
849 standards and expectations for a principal researcher[~~; and~~].

850 [~~(b) requiring the higher education institution to require a principal researcher to~~  
851 ~~comply with reporting requirements set forth in Section 63M-2-702.~~]

852 (3) (a) A principal researcher may not be hired on or after May 10, 2016 without the  
853 approval of the governing authority and the higher education institution.

854 (b) A higher education institution that enters into or renews an agreement with a  
855 principal researcher on or after May 10, 2016 shall include in the agreement:

856 (i) a specific time period for the commitment of [~~USTAR~~] Innovate Utah funding;

857 (ii) the amount of [~~USTAR~~] Innovate Utah funding committed to the higher education  
858 institution for the principal researcher, specifying the purpose of the funding;

859 (iii) an acknowledgment that the principal researcher understands and agrees to the  
860 reporting requirements and performance standards under this chapter; and

861 (iv) the governing authority's written approval of the terms of the new or renewed  
862 agreement.

863 [~~(4) The governing authority may not allocate money to a higher education institution~~  
864 ~~for a principal researcher unless the higher education institution provides the reporting required~~

865 under Section ~~63M-2-702.~~]

866 [(5)] (4) The governing authority may discontinue allocating money to a higher  
867 education institution for a principal researcher if the governing authority and the president of  
868 the higher education institution employing the principal researcher agree in writing that:

869 (a) the principal researcher:

870 (i) fails to meet the performance standards and expectations established under  
871 Subsection (2)~~[(a)]~~;

872 (ii) receives a reasonable opportunity to remedy the failure to meet performance  
873 standards and expectations; and

874 (iii) fails to remedy the failure to meet performance standards and expectations; and

875 (b) under the circumstances, discontinuing [~~USTAR~~] Innovate Utah funding to the  
876 higher education institution for the principal researcher is appropriate and justified.

877 [(6)] (5) Beginning on July 1, 2018, [~~USTAR~~] Innovate Utah may not provide funding  
878 to help a research university honor its commitments to principal researchers employed by the  
879 research university.

880 (6) Beginning on May 14, 2019, Innovate Utah may liquidate funds from escrow  
881 accounts to the University of Utah and Utah State University.

882 Section 19. Section **63M-2-503** is amended to read:

883 **63M-2-503. Innovate Utah grant programs.**

884 (1) The governing authority shall establish at least one competitive grant program that:

885 (a) is designed to:

886 (i) address market gaps in technology development in the state~~[-or]~~, including:

887 (A) technology sectors centered in hard sciences; or

888 (B) technologies facing market entry barriers, including high capital requirements; or

889 (ii) facilitate research and development of promising technologies;

890 (b) does not overlap with or duplicate other state funded programs; and

891 (c) offers grants, on a competitive basis, to:

892 (i) researchers employed by higher education institutions;

893 (ii) private entities; or

894 (iii) partnerships between researchers employed by higher education institutions and  
895 private entities.

896 (2) The grants described in Subsection (1)(c) may be offered for the following  
 897 purposes:  
 898 (a) developing general technology;  
 899 (b) commercializing activities;  
 900 (c) securing intellectual property protections;  
 901 (d) providing salaries for researchers during the length of a grant for a technology  
 902 commercialization project;  
 903 (e) providing internship opportunities during the length of a grant directly related to a  
 904 technology commercialization project; and  
 905 (f) other purposes that the governing authority determines are consistent with the  
 906 mission and responsibilities of Innovate Utah.

907 [~~2~~] (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
 908 Act, the governing authority shall make rules that describe, for each grant program:

909 (a) the purpose;  
 910 (b) eligibility criteria to receive a grant;  
 911 (c) how the governing authority determines which proposals receive grants;  
 912 (d) reporting requirements in accordance with Part 7, Reporting by Recipients of  
 913 [USTAR] Innovate Utah Support; and  
 914 (e) other information the governing authority determines is necessary or appropriate.

915 [~~3~~] (4) The governing authority:

916 (a) shall solicit proposals for each grant program; [and]  
 917 (b) may, subject to legislative appropriation and Subsection 63M-2-502(1)(b), award  
 918 grants for each program[-]; and

919 (c) shall determine the targeted technology sectors and grant requirements in  
 920 consultation with the following:

921 (i) other economic development entities including the Governor's Office of Economic  
 922 Development;

923 (ii) industry partners, including public and private entities; and

924 (iii) university partners.

925 [~~4~~] (5) In evaluating a grant proposal received in response to a solicitation under this  
 926 section, the governing authority shall consider, as applicable:

- 927 (a) the extent to which the planned research has the potential for commercialization;  
 928 (b) the market gap the technology or research fills; and  
 929 (c) other factors the governing authority determines are relevant, important, or  
 930 necessary.

931 ~~[(5)]~~ (6) The governing authority shall require a recipient of a grant under this section,  
 932 as a condition of receiving a grant, to comply with the reporting requirements described in~~[-~~  
 933 ~~(a) Section 63M-2-702, for a USTAR researcher; or (b)]~~ Section 63M-2-703, for a private  
 934 entity or for a partnership between a [USTAR] Innovate Utah researcher and a private entity.

935 Section 20. Section 63M-2-504 is amended to read:

936 **63M-2-504. Other Innovate Utah support.**

937 (1) The governing authority shall:

938 (a) provide mentoring, networking, and entrepreneurial training for a private entity or  
 939 [USTAR] Innovate Utah researcher to help take a new technology to market;

940 (b) provide support to a private entity or [USTAR] Innovate Utah researcher in  
 941 assessing the potential for bringing a technology to market; and

942 (c) encourage industry partnerships between a private entity and ~~[a USTAR]~~ an  
 943 Innovate Utah researcher.

944 (2) The governing authority shall require a recipient of [USTAR] Innovate Utah  
 945 support under this section, as a condition of receiving [USTAR] Innovate Utah support, to  
 946 comply with the reporting requirements in~~[-~~ ~~(a) Section 63M-2-702, for a USTAR researcher;~~  
 947 ~~or (b)]~~ Section 63M-2-703, for a private entity or for a partnership between ~~[a USTAR]~~ an  
 948 Innovate Utah researcher and a private entity.

949 Section 21. Section 63M-2-602 is amended to read:

950 **63M-2-602. Lease agreement for a research building -- Requirements for lease**  
 951 **agreement.**

952 (1) Subject to Subsection (3), the governing authority shall enter into a written lease  
 953 agreement with a research university to lease to the research university a research building  
 954 constructed on the research university's campus.

955 (2) A lease agreement under Subsection (1) shall:

956 (a) require the research university to pay the ongoing operation and maintenance  
 957 expenses associated with the research building, including for any infrastructure in the research

958 building; and

959 (b) [~~subject to the reporting requirements described in Section 63M-2-705;~~] permit the  
960 research university to use or rent space within the research building for research other than  
961 research receiving [USTAR] Innovate Utah support, including research by a private entity.

962 (3) (a) On or before October 1, 2018, the governing authority shall transfer ownership  
963 and title of the:

964 (i) research building known as the James L. Sorenson Molecular Biotechnology  
965 Building, USTAR Building, located at 36 South Wasatch Drive, Salt Lake City, to the  
966 University of Utah; and

967 (ii) research building known as the USTAR BioInnovations Center located at 650 East  
968 1600 North, North Logan, to Utah State University.

969 (b) The provisions of Subsections (1) and (2) are no longer in effect after the transfer of  
970 ownership described in this Subsection (3) occurs.

971 Section 22. Section 63M-2-701 is amended to read:

972 **Part 7. Reporting by Recipients of Innovate Utah Support**

973 **63M-2-701. Title.**

974 This part is known as "Reporting by Recipients of [USTAR] Innovate Utah Support."

975 Section 23. Section 63M-2-703 is amended to read:

976 **63M-2-703. Reporting requirements for private entities.**

977 (1) On or before September 1 of each year, the governing authority shall collect the  
978 information described in Subsection (2) from each private entity that:

979 (a) receives [USTAR] Innovate Utah support;

980 (b) receives more than 20 hours of training from [USTAR] Innovate Utah;

981 (c) purchases a private entity that previously received [USTAR] Innovate Utah support;

982 or

983 (d) licenses a technology developed by [~~a~~USTAR] an Innovate Utah researcher.

984 (2) The governing authority shall collect information on:

985 (a) public or private investment received by the private entity after the private entity:

986 (i) begins to receive [USTAR] Innovate Utah support;

987 (ii) licenses a technology from [~~a~~USTAR] an Innovate Utah researcher; or

988 (iii) purchases a private entity that previously received [USTAR] Innovate Utah



989 support;

990 (b) sales or revenue generated by the product or technology;

991 (c) the number of jobs created by the private entity and the average wage for each  
992 position; and

993 (d) the location of the private entity.

994 (3) (a) To collect the information described in Subsection (2), the governing authority  
995 shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, contract with an  
996 independent third party to conduct a survey of each private entity described in Subsection (1).

997 (b) The independent third party selected under Subsection (3)(a) shall use industry  
998 standard practices to collect the information described in Subsection (2).

999 (4) The governing authority and Department of Workforce Services shall coordinate to  
1000 verify the job and average wage information described in Subsection (2)(c).

1001 Section 24. Section **63M-2-801** is amended to read:

1002 **Part 8. Innovate Utah Reporting and Audit Requirements**

1003 **63M-2-801. Title.**

1004 This part is known as [~~USTAR~~] "Innovate Utah Reporting and Audit Requirements."

1005 Section 25. Section **63M-2-802** is amended to read:

1006 **63M-2-802. Innovate Utah annual report.**

1007 (1) (a) On or before October 1 of each year, the governing authority shall submit, in  
1008 accordance with Section [68-3-14](#), an annual written report for the preceding fiscal year to:

1009 (i) the Business, Economic Development, and Labor Appropriations Subcommittee;

1010 (ii) the Economic Development and Workforce Services Interim Committee;

1011 (iii) the Business and Labor Interim Committee; and

1012 (iv) the governor.

1013 (b) An annual report under Subsection (1)(a) is subject to modification as provided in  
1014 Subsection (5) after an audit described in Section [63M-2-803](#) is released.

1015 (2) An annual report described in Subsection (1) shall include:

1016 (a) information reported to the governing authority through the survey described in  
1017 Section [63M-2-703](#);

1018 (b) a clear description of the methodology used to arrive at any information in the  
1019 report that is based on an estimate;

- 1020 (c) starting with fiscal year 2017 data as a baseline, data from previous years for
- 1021 comparison with the annual data reported under this Subsection (2);
- 1022 (d) relevant federal and state statutory references and requirements;
- 1023 (e) contact information for the executive director;
- 1024 (f) other information determined by the governing authority that promotes
- 1025 accountability and transparency; and
- 1026 (g) the written economic development objectives required under Subsection
- 1027 [63M-2-302\(1\)\(e\)](#) and a description of progress or challenges in meeting the objectives.
- 1028 (3) The governing authority shall design the annual report to provide clear, accurate,
- 1029 and accessible information to the public, the governor, and the Legislature.
- 1030 (4) The governing authority shall:
- 1031 (a) submit the annual report in accordance with Section [68-3-14](#); and
- 1032 (b) place a link to the annual report and previous annual reports on USTAR's website.
- 1033 (5) Following the completion of an annual audit described in Section [63M-2-803](#), the
- 1034 governing authority shall:
- 1035 (a) publicly issue a revised annual report that:
- 1036 (i) addresses the audit;
- 1037 (ii) responds to audit findings; and
- 1038 (iii) incorporates any revisions to the annual report based on audit findings;
- 1039 (b) publish the revised annual report on USTAR's website, with a link to the audit; and
- 1040 (c) submit, in accordance with Section [68-3-14](#), written notification of any revisions of
- 1041 the annual report to:
- 1042 (i) the Business, Economic Development, and Labor Appropriations Subcommittee;
- 1043 (ii) the Economic Development and Workforce Services Interim Committee;
- 1044 (iii) the Business and Labor Interim Committee; and
- 1045 (iv) the governor.
- 1046 (6) In addition to the annual written report described in this section, the governing
- 1047 authority shall:
- 1048 (a) provide information and progress reports to a legislative committee upon request;
- 1049 **[and]**
- 1050 (b) on or before August 1, 2018, and every five years after August 1, 2018, provide to

1051 the same entities that receive the annual report described in Subsection (1)(a) a written analysis  
1052 and recommendations concerning the usefulness of the information required in the annual  
1053 report and [USTAR's] Innovate Utah's ongoing effectiveness, including whether:

1054 (i) the reporting requirements are effective at measuring [USTAR's] Innovate Utah's  
1055 performance;

1056 (ii) the reporting requirements should be modified;

1057 (iii) [USTAR] Innovate Utah is beneficial to the state and should continue; and

1058 (iv) [~~whether~~] programs in other agencies could provide similar benefits to the state  
1059 more effectively or at a lower cost[~~;~~]; and

1060 (c) on or before August 1, 2019, provide to the same entities that receive the annual  
1061 report described in Subsection (1)(a), a written analysis and recommendations concerning the  
1062 following:

1063 (i) options for converting grants awarded under Section 63M-2-503 to a revenue or  
1064 investment model, including changes that would allow for the grant program to be converted to  
1065 a procurement process after the first five years of a grant;

1066 (ii) options for managing existing incubation facilities, including the current model,  
1067 other cost sharing related models, or a procurement process for facility management; and

1068 (iii) an audit of technology supported through the grant program established under  
1069 Section 63M-2-503 and other Innovate Utah funding provided to the University of Utah and  
1070 Utah State University, including the current status of each technology.

1071 Section 26. Section **63M-2-803** is amended to read:

1072 **63M-2-803. Audit requirements.**

1073 (1) Every third year beginning 2018, an audit of [USTAR] Innovate Utah shall be made  
1074 as described in this section.

1075 (2) (a) As approved by the Legislative Audit Subcommittee, the audit shall be  
1076 conducted by:

1077 (i) the legislative auditor; or

1078 (ii) an independent auditor engaged by the legislative auditor.

1079 (b) An independent auditor used under Subsection (2)(a)(ii) may not have a direct  
1080 financial conflict of interest with [USTAR] Innovate Utah or the governing authority.

1081 (3) The governing authority shall pay the costs associated with the annual audit.

- 1082 (4) The annual audit shall:
- 1083 (a) include a verification of the accuracy of the information required to be included in
- 1084 the annual report described in Section 63M-2-802; and
- 1085 (b) be completed by December 1 of the year the report is required under Subsection (1).
- 1086 Section 27. Section 63N-1-501 is amended to read:
- 1087 **63N-1-501. Governor's Economic Development Coordinating Council --**
- 1088 **Membership -- Expenses.**
- 1089 (1) There is created in the office the Governor's Economic Development Coordinating
- 1090 Council, consisting of the following 11 members:
- 1091 (a) the executive director, who shall serve as chair of the council;
- 1092 (b) the chair of the board or the chair's designee;
- 1093 (c) the chair of the [~~Utah Science Technology and Research~~] Innovate Utah Governing
- 1094 Authority created in Section 63M-2-301 or the chair's designee;
- 1095 (d) the chair of the Governor's Rural Partnership Board created in Section 63C-10-102
- 1096 or the chair's designee;
- 1097 (e) the chair of the board of directors of the Utah Capital Investment Corporation
- 1098 created in Section 63N-6-301 or the chair's designee;
- 1099 (f) the chair of the Economic Development Corporation of Utah or its successor
- 1100 organization or the chair's designee;
- 1101 (g) the chair of the World Trade Center Utah or its successor organization or the chair's
- 1102 designee; and
- 1103 (h) four members appointed by the governor, with the consent of the Senate, who have
- 1104 expertise in business, economic development, entrepreneurship, or the raising of venture or
- 1105 seed capital for research and business growth.
- 1106 (2) (a) The four members appointed by the governor may serve for no more than two
- 1107 consecutive two-year terms.
- 1108 (b) The governor shall appoint a replacement if a vacancy occurs from the membership
- 1109 appointed under Subsection (1)(h).
- 1110 (3) Six members of the council constitute a quorum for the purpose of conducting
- 1111 council business and the action of a majority of a quorum constitutes the action of the council.
- 1112 (4) A member may not receive compensation or benefits for the member's service on

1113 the council, but may receive per diem and travel expenses in accordance with:

1114 (a) Sections 63A-3-106 and 63A-3-107; and

1115 (b) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1116 (5) The office shall provide office space and administrative staff support for the  
1117 council.

1118 (6) The council, as a governmental entity, has all the rights, privileges, and immunities  
1119 of a governmental entity of the state and its meetings are subject to Title 52, Chapter 4, Open  
1120 and Public Meetings Act.

1121 Section 28. Section 63N-3-204 is amended to read:

1122 **63N-3-204. Administration -- Grants and loans.**

1123 (1) The office shall administer this part.

1124 (2) (a) (i) The office may award Technology Commercialization and Innovation

1125 Program grants or issue loans under this part to an applicant that is:

1126 (A) an institution of higher education;

1127 (B) a licensee; or

1128 (C) a small business.

1129 (ii) If loans are issued under Subsection (2)(a)(i), the Division of Finance may set up a  
1130 fund or account as necessary for the proper accounting of the loans.

1131 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1132 office shall make rules for a process to determine whether an institution of higher education  
1133 that receives a grant under this part must return the grant proceeds or a portion of the grant  
1134 proceeds if the technology that is developed with the grant proceeds is licensed to a licensee  
1135 that:

1136 (i) does not maintain a manufacturing or service location in the state from which the  
1137 licensee or a sublicensee exploits the technology; or

1138 (ii) initially maintains a manufacturing or service location in the state from which the  
1139 licensee or a sublicensee exploits the technology, but within five years after issuance of the  
1140 license the licensee or sublicensee transfers the manufacturing or service location for the  
1141 technology to a location out of the state.

1142 (c) A repayment by an institution of higher education of grant proceeds or a portion of  
1143 the grant proceeds may only come from the proceeds of the license established between the

1144 licensee and the institution of higher education.

1145 (d) (i) An applicant that is a licensee or small business that receives a grant under this  
1146 part shall return the grant proceeds or a portion of the grant proceeds to the office if the  
1147 applicant:

1148 (A) does not maintain a manufacturing or service location in the state from which the  
1149 applicant exploits the technology; or

1150 (B) initially maintains a manufacturing or service location in the state from which the  
1151 applicant exploits the technology, but within five years after issuance of the grant, the applicant  
1152 transfers the manufacturing or service location for the technology to an out-of-state location.

1153 (ii) A repayment by an applicant shall be prorated based on the number of full years the  
1154 applicant operated in the state from the date of the awarded grant.

1155 (iii) A repayment by a licensee that receives a grant may only come from the proceeds  
1156 of the license to that licensee.

1157 (3) (a) Funding allocations shall be made by the office with the advice of the board.

1158 (b) Each proposal shall receive the best available outside review.

1159 (4) (a) In considering each proposal, the office shall weigh technical merit, the level of  
1160 matching funds from private and federal sources, and the potential for job creation and  
1161 economic development.

1162 (b) Proposals or consortia that combine and coordinate related research at two or more  
1163 institutions of higher education shall be encouraged.

1164 (5) The office shall review the activities and progress of grant recipients on a regular  
1165 basis and, as part of the office's annual written report described in Section [63N-1-301](#), report  
1166 on the accomplishments and direction of the Technology Commercialization and Innovation  
1167 Program.

1168 (6) (a) On or before August 1, 2018, the office shall provide a written analysis and  
1169 recommendations concerning the usefulness of the Technology Commercialization and  
1170 Innovation Program described in this part, including whether:

1171 (i) the program is beneficial to the state and should continue; and

1172 (ii) other office programs or programs in other agencies could provide similar benefits  
1173 to the state more effectively or at a lower cost.

1174 (b) The written analysis and recommendations described in this Subsection (6) shall be

1175 provided to:

1176 (i) the Business, Economic Development, and Labor Appropriations Subcommittee;

1177 (ii) the Economic Development and Workforce Services Interim Committee;

1178 (iii) the Business and Labor Interim Committee; and

1179 (iv) the governor.

1180 (7) Beginning May 14, 2019, the office may not enter into, extend, or renew any grant

1181 commitments or agreements or issue new loans under this part.

1182 Section 29. Section **63N-3-305** is amended to read:

1183 **63N-3-305. Duties and responsibilities of a business resource center.**

1184 (1) A business resource center shall:

1185 (a) have a director;

1186 (b) be the organization responsible for identifying, tracking, coordinating, and

1187 measuring output of assisted business clients in its region;

1188 (c) develop programs to aid business clients in finding needed resources;

1189 (d) recruit state-funded agencies to locate and establish their programs in the business

1190 center's region;

1191 (e) initiate and encourage business education programs, including programs in

1192 collaboration with public, private, and governmental and educational institutions; and

1193 (f) work with the host institution in providing academic resources, including faculty

1194 and student assistance.

1195 (2) A business resource center shall collaborate with the host institution and state

1196 agencies to:

1197 (a) provide research, development, or training programs for new or existing businesses,

1198 industries, or high technology business located in its region;

1199 (b) assist in providing needs assessment relating to new or existing businesses,

1200 industries, or high technology business in conjunction with other public or private economic

1201 development programs or initiatives;

1202 (c) assist in providing business incubator space or services, or both, if considered

1203 feasible and practical, to clients based on criteria established by the office;

1204 (d) work with local business leaders and government officials to help them formulate

1205 and implement sound, coordinated, and measurable economic development programs for their

1206 communities; ~~and~~

1207 (e) work with local government and other entities in its region in developing and  
1208 certifying non-state funded satellite business resource centers~~[-]; and~~

1209 (f) provide services to facilitate relationships between business clients and private risk  
1210 capital investors.

1211 Section 30. Section **67-19-15** is amended to read:

1212 **67-19-15. Career service -- Exempt positions -- Schedules for civil service**  
1213 **positions -- Coverage of career service provisions.**

1214 (1) Except as otherwise provided by law or by rules and regulations established for  
1215 federally aided programs, the following positions are exempt from the career service provisions  
1216 of this chapter and are designated under the following schedules:

1217 (a) schedule AA includes the governor, members of the Legislature, and all other  
1218 elected state officers;

1219 (b) schedule AB includes appointed executives and board or commission executives  
1220 enumerated in Section [67-22-2](#);

1221 (c) schedule AC includes all employees and officers in:

1222 (i) the office and at the residence of the governor;

1223 (ii) ~~[the Utah Science Technology and Research Initiative (USTAR)]~~ Innovate Utah;

1224 (iii) the Public Lands Policy Coordinating Council;

1225 (iv) the Office of the State Auditor; and

1226 (v) the Office of the State Treasurer;

1227 (d) schedule AD includes employees who:

1228 (i) are in a confidential relationship to an agency head or commissioner; and

1229 (ii) report directly to, and are supervised by, a department head, commissioner, or  
1230 deputy director of an agency or its equivalent;

1231 (e) schedule AE includes each employee of the State Board of Education that the State  
1232 Board of Education designates as exempt from the career service provisions of this chapter;

1233 (f) schedule AG includes employees in the Office of the Attorney General who are  
1234 under their own career service pay plan under Sections [67-5-7](#) through [67-5-13](#);

1235 (g) schedule AH includes:

1236 (i) teaching staff of all state institutions; and



- 1237 (ii) employees of the Utah Schools for the Deaf and the Blind who are:
- 1238 (A) educational interpreters as classified by the department; or
- 1239 (B) educators as defined by Section [53E-8-102](#);
- 1240 (h) schedule AN includes employees of the Legislature;
- 1241 (i) schedule AO includes employees of the judiciary;
- 1242 (j) schedule AP includes all judges in the judiciary;
- 1243 (k) schedule AQ includes:
- 1244 (i) members of state and local boards and councils appointed by the governor and
- 1245 governing bodies of agencies;
- 1246 (ii) a water commissioner appointed under Section [73-5-1](#);
- 1247 (iii) other local officials serving in an ex officio capacity; and
- 1248 (iv) officers, faculty, and other employees of state universities and other state
- 1249 institutions of higher education;
- 1250 (l) schedule AR includes employees in positions that involve responsibility:
- 1251 (i) for determining policy;
- 1252 (ii) for determining the way in which a policy is carried out; or
- 1253 (iii) of a type not appropriate for career service, as determined by the agency head with
- 1254 the concurrence of the executive director;
- 1255 (m) schedule AS includes any other employee:
- 1256 (i) whose appointment is required by statute to be career service exempt;
- 1257 (ii) whose agency is not subject to this chapter; or
- 1258 (iii) whose agency has authority to make rules regarding the performance,
- 1259 compensation, and bonuses for its employees;
- 1260 (n) schedule AT includes employees of the Department of Technology Services,
- 1261 designated as executive/professional positions by the executive director of the Department of
- 1262 Technology Services with the concurrence of the executive director;
- 1263 (o) schedule AU includes patients and inmates employed in state institutions;
- 1264 (p) employees of the Department of Workforce Services, designated as schedule AW:
- 1265 (i) who are temporary employees that are federally funded and are required to work
- 1266 under federally qualified merit principles as certified by the director; or
- 1267 (ii) for whom substantially all of their work is repetitive, measurable, or transaction

1268 based, and who voluntarily apply for and are accepted by the Department of Workforce  
1269 Services to work in a pay for performance program designed by the Department of Workforce  
1270 Services with the concurrence of the executive director; and

1271 (q) for employees in positions that are temporary, seasonal, time limited, funding  
1272 limited, or variable hour in nature, under schedule codes and parameters established by the  
1273 department by administrative rule.

1274 (2) The civil service shall consist of two schedules as follows:

1275 (a) (i) Schedule A is the schedule consisting of positions under Subsection (1).

1276 (ii) Removal from any appointive position under schedule A, unless otherwise  
1277 regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

1278 (b) Schedule B is the competitive career service schedule, consisting of:

1279 (i) all positions filled through competitive selection procedures as defined by the  
1280 executive director; or

1281 (ii) positions filled through a department approved on-the-job examination intended to  
1282 appoint a qualified person with a disability, or a veteran in accordance with Title 71, Chapter  
1283 10, Veterans Preference.

1284 (3) (a) The executive director, after consultation with the heads of concerned executive  
1285 branch departments and agencies and with the approval of the governor, shall allocate positions  
1286 to the appropriate schedules under this section.

1287 (b) Agency heads shall make requests and obtain approval from the executive director  
1288 before changing the schedule assignment and tenure rights of any position.

1289 (c) Unless the executive director's decision is reversed by the governor, when the  
1290 executive director denies an agency's request, the executive director's decision is final.

1291 (4) (a) Compensation for employees of the Legislature shall be established by the  
1292 directors of the legislative offices in accordance with Section 36-12-7.

1293 (b) Compensation for employees of the judiciary shall be established by the state court  
1294 administrator in accordance with Section 78A-2-107.

1295 (c) Compensation for officers, faculty, and other employees of state universities and  
1296 institutions of higher education shall be established as provided in Title 53B, Chapter 1,  
1297 Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of  
1298 Higher Education.

1299 (d) Unless otherwise provided by law, compensation for all other schedule A  
1300 employees shall be established by their appointing authorities, within ranges approved by, and  
1301 after consultation with the executive director of the Department of Human Resource  
1302 Management.

1303 (5) An employee who is in a position designated schedule AC and who holds career  
1304 service status on June 30, 2010, shall retain the career service status if the employee:

1305 (a) remains in the position that the employee is in on June 30, 2010; and

1306 (b) does not elect to convert to career service exempt status in accordance with a rule  
1307 made by the department.

1308 Section 31. Section ~~67-22-2~~ is amended to read:

1309 **67-22-2. Compensation -- Other state officers.**

1310 (1) As used in this section:

1311 (a) "Appointed executive" means the:

1312 (i) commissioner of the Department of Agriculture and Food;

1313 (ii) commissioner of the Insurance Department;

1314 (iii) commissioner of the Labor Commission;

1315 (iv) director, Department of Alcoholic Beverage Control;

1316 (v) commissioner of the Department of Financial Institutions;

1317 (vi) executive director, Department of Commerce;

1318 (vii) executive director, Commission on Criminal and Juvenile Justice;

1319 (viii) adjutant general;

1320 (ix) executive director, Department of Heritage and Arts;

1321 (x) executive director, Department of Corrections;

1322 (xi) commissioner, Department of Public Safety;

1323 (xii) executive director, Department of Natural Resources;

1324 (xiii) executive director, Governor's Office of Management and Budget;

1325 (xiv) executive director, Department of Administrative Services;

1326 (xv) executive director, Department of Human Resource Management;

1327 (xvi) executive director, Department of Environmental Quality;

1328 (xvii) director, Governor's Office of Economic Development;

1329 (xviii) executive director, [~~Utah Science Technology and Research Governing~~

1330 Authority] Innovate Utah;

1331 (xix) executive director, Department of Workforce Services;

1332 (xx) executive director, Department of Health, Nonphysician;

1333 (xxi) executive director, Department of Human Services;

1334 (xxii) executive director, Department of Transportation;

1335 (xxiii) executive director, Department of Technology Services; and

1336 (xxiv) executive director, Department of Veterans and Military Affairs.

1337 (b) "Board or commission executive" means:

1338 (i) members, Board of Pardons and Parole;

1339 (ii) chair, State Tax Commission;

1340 (iii) commissioners, State Tax Commission;

1341 (iv) executive director, State Tax Commission;

1342 (v) chair, Public Service Commission; and

1343 (vi) commissioners, Public Service Commission.

1344 (c) "Deputy" means the person who acts as the appointed executive's second in

1345 command as determined by the Department of Human Resource Management.

1346 (2) (a) The executive director of the Department of Human Resource Management  
1347 shall:

1348 (i) before October 31 of each year, recommend to the governor a compensation plan for  
1349 the appointed executives and the board or commission executives; and

1350 (ii) base those recommendations on market salary studies conducted by the Department  
1351 of Human Resource Management.

1352 (b) (i) The Department of Human Resource Management shall determine the salary  
1353 range for the appointed executives by:

1354 (A) identifying the salary range assigned to the appointed executive's deputy;

1355 (B) designating the lowest minimum salary from those deputies' salary ranges as the  
1356 minimum salary for the appointed executives' salary range; and

1357 (C) designating 105% of the highest maximum salary range from those deputies' salary  
1358 ranges as the maximum salary for the appointed executives' salary range.

1359 (ii) If the deputy is a medical doctor, the Department of Human Resource Management  
1360 may not consider that deputy's salary range in designating the salary range for appointed

1361 executives.

1362 (c) (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for  
1363 board or commission executives, the Department of Human Resource Management shall set  
1364 the maximum salary in the salary range for each of those positions at 90% of the salary for  
1365 district judges as established in the annual appropriation act under Section 67-8-2.

1366 (ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii)  
1367 or (iii), the Department of Human Resource Management shall set the maximum salary in the  
1368 salary range for each of those positions at 100% of the salary for district judges as established  
1369 in the annual appropriation act under Section 67-8-2.

1370 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a  
1371 specific salary for each appointed executive within the range established under Subsection  
1372 (2)(b).

1373 (ii) If the executive director of the Department of Health is a physician, the governor  
1374 shall establish a salary within the highest physician salary range established by the Department  
1375 of Human Resource Management.

1376 (iii) The governor may provide salary increases for appointed executives within the  
1377 range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

1378 (b) The governor shall apply the same overtime regulations applicable to other FLSA  
1379 exempt positions.

1380 (c) The governor may develop standards and criteria for reviewing the appointed  
1381 executives.

1382 (4) Salaries for other Schedule A employees, as defined in Section 67-19-15, that are  
1383 not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial  
1384 Salary Act, shall be established as provided in Section 67-19-15.

1385 (5) (a) The Legislature fixes benefits for the appointed executives and the board or  
1386 commission executives as follows:

1387 (i) the option of participating in a state retirement system established by Title 49, Utah  
1388 State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered  
1389 by the State Retirement Office in accordance with the Internal Revenue Code and its  
1390 accompanying rules and regulations;

1391 (ii) health insurance;

- 1392 (iii) dental insurance;
- 1393 (iv) basic life insurance;
- 1394 (v) unemployment compensation;
- 1395 (vi) workers' compensation;
- 1396 (vii) required employer contribution to Social Security;
- 1397 (viii) long-term disability income insurance;
- 1398 (ix) the same additional state-paid life insurance available to other noncareer service
- 1399 employees;
- 1400 (x) the same severance pay available to other noncareer service employees;
- 1401 (xi) the same leave, holidays, and allowances granted to Schedule B state employees as
- 1402 follows:
- 1403 (A) sick leave;
- 1404 (B) converted sick leave if accrued prior to January 1, 2014;
- 1405 (C) educational allowances;
- 1406 (D) holidays; and
- 1407 (E) annual leave except that annual leave shall be accrued at the maximum rate
- 1408 provided to Schedule B state employees;
- 1409 (xii) the option to convert accumulated sick leave to cash or insurance benefits as
- 1410 provided by law or rule upon resignation or retirement according to the same criteria and
- 1411 procedures applied to Schedule B state employees;
- 1412 (xiii) the option to purchase additional life insurance at group insurance rates according
- 1413 to the same criteria and procedures applied to Schedule B state employees; and
- 1414 (xiv) professional memberships if being a member of the professional organization is a
- 1415 requirement of the position.
- 1416 (b) Each department shall pay the cost of additional state-paid life insurance for its
- 1417 executive director from its existing budget.
- 1418 (6) The Legislature fixes the following additional benefits:
- 1419 (a) for the executive director of the State Tax Commission a vehicle for official and
- 1420 personal use;
- 1421 (b) for the executive director of the Department of Transportation a vehicle for official
- 1422 and personal use;

1423 (c) for the executive director of the Department of Natural Resources a vehicle for  
1424 commute and official use;

1425 (d) for the commissioner of Public Safety:

1426 (i) an accidental death insurance policy if POST certified; and

1427 (ii) a public safety vehicle for official and personal use;

1428 (e) for the executive director of the Department of Corrections:

1429 (i) an accidental death insurance policy if POST certified; and

1430 (ii) a public safety vehicle for official and personal use;

1431 (f) for the adjutant general a vehicle for official and personal use; and

1432 (g) for each member of the Board of Pardons and Parole a vehicle for commute and  
1433 official use.