

HB0264S01 compared with HB0264

~~{deleted text}~~ shows text that was in HB0264 but was deleted in HB0264S01.

Inserted text shows text that was not in HB0264 but was inserted into HB0264S01.

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~~{STATE TECHNOLOGY COMMERCIALIZATION AMENDMENTS}~~ bill:
Representative Mike Winder proposes the following measure:

ECONOMIC DEVELOPMENT MODIFICATIONS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Winder

Senate Sponsor: ~~{_____}~~ Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions ~~{of the Utah Science Technology and Research Governing Authority Act and}~~ related to the Governor's Office of Economic Development ~~{(GOED)}~~.

Highlighted Provisions:

This bill:

- ▶ ~~{changes the name of the Utah Science Technology and Research (USTAR) Initiative to Innovate Utah;~~
- ▶ ~~modifies the membership of the governing authority;~~
- ▶ ~~modifies the grant-making authority of Innovate Utah;~~
- ▶ ~~modifies reporting requirement of Innovate Utah;~~ defines terms and modifies definitions;

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- ▶ modifies provisions related to ~~{GOED's grant-making authority under the Technology Commercialization and Innovation Program (TCIP);~~
- ~~modifies GOED's responsibilities regarding business resource centers; and}~~ tax credit incentives for economic development;
- ▶ modifies provisions related to the Utah Rural Jobs Act;
- ▶ repeals provisions related to the Alternative Energy Manufacturing Tax Credit Act;
and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

~~{None}~~ This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

~~{49-11-406}~~ 59-7-159, as ~~{last amended}~~ enacted by Laws of Utah ~~{2013}~~ 2016, Third Special Session, Chapter ~~{310}~~ 1

~~{49-13-203}~~ 59-10-137, as ~~{last amended}~~ enacted by Laws of Utah ~~{2018, Chapter 10~~
and last amended by Coordination Clause, Laws of Utah 2018, Chapter 315

~~49-22-205}~~ 2016, Third Special Session, Chapter 1

59-10-1025, as last amended by Laws of Utah ~~{2018}~~ 2016, Third Special Session,
Chapter ~~{10}~~ 1

~~{53B-17-1101, as enacted by Laws of Utah 2018, Chapter 453~~

~~53B-18-1601, as enacted by Laws of Utah 2018, Chapter 453~~

~~53F-2-203, as last amended by Laws of Utah 2018, Chapters 448, 456 and
renumbered and amended by Laws of Utah 2018, Chapter 2~~

~~53F-2-414, as enacted by Laws of Utah 2018, Chapter 464~~

~~53F-2-505}~~ 63N-1-102, as renumbered and amended by Laws of Utah ~~{2018}~~ 2015,
Chapter ~~{2}~~ 283

~~{63A-3-110}~~ 63N-2-103, as last amended by Laws of Utah ~~{2018}~~ 2016, Chapter
~~{25}~~ 350

~~{63A-5-204}~~ 63N-2-202, as last amended by Laws of Utah ~~{2018}~~ 2016, Chapter

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~~{401}~~11

~~{63J-1-602.2, as repealed and reenacted by Laws of Utah 2018, Chapter 469~~

~~63M-2-101, as last amended by Laws of Utah 2015, Chapter 283~~

~~63M-2-102, as last amended}~~63N-4-302, as enacted by Laws of Utah ~~{2016}~~2017,

Chapter ~~{240}~~274

~~{63M-2-301}~~63N-4-309, as ~~{last amended}~~enacted by Laws of Utah ~~{2016}~~2017,

Chapter ~~{240}~~274

~~{63M-2-302, as repealed and reenacted by Laws of Utah 2016, Chapter 240~~

~~63M-2-302.5, as last amended}~~63N-4-402, as enacted by Laws of Utah ~~{2016}~~2018,

Chapter ~~{240}~~340

REPEALS:

~~{63M-2-501}~~59-7-614.8, as ~~{enacted}~~last amended by Laws of Utah 2016, ~~{Chapter 240~~

~~63M-2-502, as last}~~Third Special Session, Chapter 1

59-10-1030, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

63N-2-701, as renumbered and amended by Laws of Utah ~~{2018, Chapter 453~~

~~63M-2-503, as enacted by Laws of Utah 2016, Chapter 240~~

~~63M-2-504, as enacted by Laws of Utah 2016, Chapter 240~~

~~63M-2-602, as last}~~2015, Chapter 283

63N-2-702, as renumbered and amended by Laws of Utah ~~{2018}~~2015, Chapter

~~{453}~~283

~~{63M-2-701}~~63N-2-703, as ~~{enacted}~~last amended by Laws of Utah ~~{2016}~~2018,

Chapter ~~{240}~~149

~~{63M-2-703}~~63N-2-704, as ~~{enacted by Laws of Utah 2016, Chapter 240~~

~~63M-2-801, as enacted by Laws of Utah 2016, Chapter 240~~

~~63M-2-802, as last}~~renumbered and amended by Laws of Utah ~~{2018}~~2015, Chapter

~~{453}~~283

~~{63M-2-803}~~63N-2-705, as renumbered and amended by Laws of Utah ~~{2016, Chapter~~

240

~~63N-1-501, as renumbered and amended by Laws of Utah 2015, Chapter 283~~

~~63N-3-204, as last amended by Laws of Utah 2018, Chapter 453~~

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~~63N-3-305, as last amended by Laws of Utah 2016, Chapter 253~~

~~67-19-15, as last amended by Laws of Utah 2018, Chapters 39 and 415~~

~~67-22-2, as last amended by Laws of Utah 2018, Chapter 39~~

~~2015, Chapter 283~~

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

Section 1. Section ~~{49-11-406}~~59-7-159 is amended to read:

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

~~(1) As used in this section:~~

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

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

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

~~(a) the state auditor;~~

~~(b) the state treasurer;~~

~~(c) an appointed executive under Subsection 67-22-2(1)(a);~~

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

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

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

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

~~(h) a legislative employee appointed under Subsection 36-12-7(3)(a);~~

~~(i) a legislative employee appointed by the speaker of the House of Representatives, the House of Representatives minority leader, the president of the Senate, or the Senate minority~~

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~~leader; or~~

~~—— (j) senior staff of [the Utah Science Technology and Research Initiative] Innovate Utah created under Title 63M, Chapter 2, Innovate Utah [Science Technology and Research Governing Authority Act].~~

~~—— (3) An election made under Subsection (2):~~

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

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

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

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

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

~~—— **49-13-203. Exclusions from membership in system.**~~

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

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

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

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

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

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

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

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

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

~~or~~

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

~~or~~

~~—— (h) an employee described in Subsection (1)(h)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:~~

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

~~or~~

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

~~—— (2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:~~

~~—— (a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or~~

~~—— (b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.~~

~~—— (3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.~~

~~—— (b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before the date of the election under Subsection 49-13-202(5) is not affected under Subsection (1)(f).~~

~~—— (4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:~~

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

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~~a trainee relationship;~~

~~—— (b) an elected official;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~—— (7) Each participating employer shall:~~

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- ~~— (a) maintain a list of employee exemptions; and~~
- ~~— (b) update the employee exemptions in the event of any change.~~
- ~~— (8) The office may make rules to implement this section.~~
- ~~— Section 3. Section 49-22-205 is amended to read:~~
- ~~— 49-22-205. Exemptions from participation in system.~~
- ~~— (1) Upon filing a written request for exemption with the office, the following employees are exempt from participation in the system as provided in this section:~~
- ~~— (a) an executive department head of the state;~~
- ~~— (b) a member of the State Tax Commission;~~
- ~~— (c) a member of the Public Service Commission;~~
- ~~— (d) a member of a full-time or part-time board or commission;~~
- ~~— (e) an employee of the Governor's Office of Management and Budget;~~
- ~~— (f) an employee of the Governor's Office of Economic Development;~~
- ~~— (g) an employee of the Commission on Criminal and Juvenile Justice;~~
- ~~— (h) an employee of the Governor's Office;~~
- ~~— (i) an employee of the State Auditor's Office;~~
- ~~— (j) an employee of the State Treasurer's Office;~~
- ~~— (k) any other member who is permitted to make an election under Section 49-11-406;~~
- ~~— (l) a person appointed as a city manager or appointed as a city administrator or another at-will employee of a municipality, county, or other political subdivision;~~
- ~~— (m) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and~~
- ~~— (n) an employee of [the Utah Science Technology and Research Initiative] Innovate Utah created under Title 63M, Chapter 2, Innovate Utah [Science Technology and Research Governing Authority Act].~~
- ~~— (2) (a) A participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (1).~~
- ~~— (b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (1).~~

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~~—— (3) (a) In accordance with this section, Section 49-12-203, and Section 49-13-203, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.~~

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

~~—— (4) Each participating employer shall:~~

~~—— (a) maintain a list of employee exemptions; and~~

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

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

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

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

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

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

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

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

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

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

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

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

~~—— (ii) continues employment with the participating employer through the one-year~~

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~~election period under Subsection 49-22-201(2)(c):~~

~~—— (b) An employee is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses if the employee:~~

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

~~—— (ii) terminates employment prior to the one-year election period under Subsection 49-22-201(2)(c):~~

~~—— (8) (a) The office shall make rules to implement this section:~~

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

~~—— Section 4. Section **53B-17-1101** is amended to read:~~

~~—— **53B-17-1101. Definitions.**~~

~~—— As used in this part:~~

~~—— (1) "Researcher" means an individual who:~~

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

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

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

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

~~—— (2) "University" means the University of Utah:~~

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

~~—— Section 5. Section **53B-18-1601** is amended to read:~~

~~—— **53B-18-1601. Definitions.**~~

~~—— As used in this part:~~

~~—— (1) "Researcher" means an individual who:~~

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

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

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

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

~~_____ (2) "University" means Utah State University.~~

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

~~_____ Section 6. Section **53F-2-203** is amended to read:~~

~~_____ **53F-2-203. Reduction of local education board allocation based on insufficient revenues:**~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~—— Section 7. Section 53F-2-414 is amended to read:~~

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

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

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

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

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

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

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

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

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

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

~~—— (a) the state-supported transportation program described in Section 53F-2-403;~~

~~—— (b) the state contribution guarantee program for transportation described in Section~~

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~~53F-2-403;~~

~~—— (c) the weighted pupil unit flexibility allocations described in Section 53F-2-205;~~

~~—— (d) the Enhancement for At-Risk Students Program described in Section 53F-2-410;~~

~~—— (e) the youth in custody program described in Section 53E-3-503;~~

~~—— (f) the adult education program described in Title 53E, Chapter 10, Part 2, Adult Education;~~

~~—— (g) the Enhancement for Accelerated Students Program described in Section 53F-2-408;~~

~~—— (h) the Centennial Scholarship Program described in Section 53F-2-501;~~

~~—— (i) the concurrent enrollment program described in Title 53E, Chapter 10, Part 3, Concurrent Enrollment;~~

~~—— (j) the Title I Schools Paraeducators Program described in Section 53F-2-411;~~

~~—— (k) the School LAND Trust Program described in Section 53F-2-404;~~

~~—— (l) the charter school local replacement funding program described in Section 53F-2-702;~~

~~—— (m) the charter school administration allocations described in Section 53F-2-306;~~

~~—— (n) the K-3 Reading Improvement Program described in Section 53F-2-503;~~

~~—— (o) the educator salary adjustments described in Section 53F-2-405;~~

~~—— (p) the Teacher Salary Supplement Program described in Section 53F-2-504;~~

~~—— (q) the school library books and electronic resources appropriation described in Section 53F-2-407;~~

~~—— (r) the matching appropriation for school nurses described in Section 53F-2-519;~~

~~—— (s) the Critical Languages Program described in Section 53F-2-516;~~

~~—— (t) the Dual Language Immersion Program described in Section 53F-2-502;~~

~~—— (u) the [Utah Science Technology and Research (USTAR) Initiative] Innovate Utah Centers Program described in Section 53F-2-505;~~

~~—— (v) the Beverley Taylor Sorenson Elementary Arts Learning Program described in Section 53F-2-506;~~

~~—— (w) the early intervention program described in Section 53F-2-507; and~~

~~—— (x) the Digital Teaching and Learning Grant Program described in Section 53F-2-510.~~

~~—— Section 8. Section **53F-2-505** is amended to read:~~

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~~53F-2-505. Utah Science Technology and Research Initiative Centers Program.~~

~~(1) (a) The [Utah Science Technology and Research Initiative (USTAR)] Innovate Utah Centers Program is created to provide a financial incentive for local education boards to adopt programs in respective charter schools and school districts that result in a more efficient use of human resources and capital facilities:~~

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

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

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

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

~~(iv) opportunities for earlier high school graduation;~~

~~(v) improved student college preparation;~~

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

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

~~(viii) the creation or improvement of science, technology, engineering, and math centers (STEM Centers):~~

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

~~(3) The State Board of Education shall:~~

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

~~(b) award grants on a competitive basis:~~

~~(4) The State Charter School Board shall:~~

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

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- ~~—— (b) prioritize and consolidate the proposals into the equivalent of a single school district request; and~~
- ~~—— (c) submit the consolidated request to the State Board of Education.~~
- ~~—— (5) In selecting a grant recipient, the State Board of Education shall consider:~~
 - ~~—— (a) the degree to which a charter school or school district's proposed adoption and implementation of an extended year for math and science teachers achieves the benefits described in Subsection (1);~~
 - ~~—— (b) the unique circumstances of different urban, rural, large, small, growing, and declining charter schools and school districts; and~~
 - ~~—— (c) providing pilot programs in as many different school districts and charter schools as possible.~~
- ~~—— (6) (a) Except as provided in Subsection (6)(b), a school district or charter school may only use grant money to provide full year teacher contracts, part-time teacher contract extensions, or combinations of both, for math and science teachers.~~
 - ~~—— (b) Up to 5% of the grant money may be used to fund math and science field trips, textbooks, and supplies.~~
- ~~—— (7) Participation in the [USTAR] Innovate Utah Centers Program shall be:~~
 - ~~—— (a) voluntary for an individual teacher; and~~
 - ~~—— (b) voluntary for a charter school or school district.~~

‡ **59-7-159. Review of credits allowed under this chapter.**

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic Development to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of

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Economic Development is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-601;

(ii) Section 59-7-607;

(iii) Section 59-7-612;

(iv) Section 59-7-614.1; and

(v) Section 59-7-614.5.

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-609;

(ii) Section 59-7-614.2;

(iii) Section 59-7-614.10;

(iv) Section 59-7-617;

(v) Section 59-7-619; and

(vi) Section 59-7-620.

(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

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- (i) Section 59-7-605;
- (ii) Section 59-7-610;
- (iii) Section 59-7-614;
- (iv) Section 59-7-614.7; and
- ~~[(v) Section 59-7-614.8; and]~~
- ~~[(vi)]~~ (v) Section 59-7-618.

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 2. Section 59-10-137 is amended to read:

59-10-137. Review of credits allowed under this chapter.

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

- (i) schedule time on at least one committee agenda to conduct the review;
- (ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;
- (iii) (A) invite the Governor's Office of Economic Development to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Development is required to make a report under this chapter; and
(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;
- (iv) ensure that the committee's recommendations described in this section include an evaluation of:

- (A) the cost of the tax credit to the state;

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- (B) the purpose and effectiveness of the tax credit; and
- (C) the extent to which the state benefits from the tax credit; and
- (v) undertake other review efforts as determined by the committee chairs or as

otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

- (i) Section 59-10-1004;
- (ii) Section 59-10-1010;
- (iii) Section 59-10-1015;
- (iv) Section 59-10-1025;
- (v) Section 59-10-1027;
- (vi) Section 59-10-1031;
- (vii) Section 59-10-1032;
- (viii) Section 59-10-1035;
- (ix) Section 59-10-1104;
- (x) Section 59-10-1105; and
- (xi) Section 59-10-1108.

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

- (i) Section 59-10-1005;
- (ii) Section 59-10-1006;
- (iii) Section 59-10-1012;
- (iv) Section 59-10-1013;
- (v) Section 59-10-1022;
- (vi) Section 59-10-1023;
- (vii) Section 59-10-1028;
- (viii) Section 59-10-1034;
- (ix) Section 59-10-1037; and
- (x) Section 59-10-1107.

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(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

- (i) Section 59-10-1007;
- (ii) Section 59-10-1009;
- (iii) Section 59-10-1014;
- (iv) Section 59-10-1017;
- (v) Section 59-10-1018;
- (vi) Section 59-10-1019;
- (vii) Section 59-10-1024;
- (viii) Section 59-10-1029;
- ~~[(ix) Section 59-10-1030;]~~
- ~~[(x)]~~ [(ix)] Section 59-10-1033;
- ~~[(xi)]~~ [(x)] Section 59-10-1036;
- ~~[(xii)]~~ [(xi)] Section 59-10-1106; and
- ~~[(xiii)]~~ [(xii)] Section 59-10-1111.

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 3. Section 59-10-1025 is amended to read:

59-10-1025. Nonrefundable tax credit for investment in certain life science establishments.

(1) As used in this section:

(a) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.

(b) "Eligible claimant, estate, or trust" means the same as that term is defined in Section 63N-2-802.

(c) "Life science establishment" means an establishment primarily engaged in the development or manufacture of products in one or more of the following categories:

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- (i) biotechnologies;
- (ii) medical devices;
- (iii) medical diagnostics; and
- (iv) pharmaceuticals.
- (d) "Office" means the Governor's Office of Economic Development.
- (e) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.
- (f) "Pass-through entity taxpayer" means the same as that term is defined in Section

59-10-1402.

(g) "Qualifying ownership interest" means an ownership interest that is:

- (i) (A) common stock;
- (B) preferred stock; or
- (C) an ownership interest in a pass-through entity;
- (ii) originally issued to:
 - (A) an eligible claimant, estate, or trust; or

(B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit under this section was a pass-through entity taxpayer of the pass-through entity on the day on which the qualifying ownership interest was issued and remains a pass-through entity taxpayer of the pass-through entity until the last day of the taxable year for which the eligible claimant, estate, or trust claims a tax credit under this section; and

(iii) issued:

- (A) by a Utah small business corporation;
- (B) on or after January 1, 2011; and
- (C) for money or other property, except for stock or securities.

(h) (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation" means the same as that term is defined in Section 59-10-1022.

(ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal Revenue Code, is considered to include a pass-through entity.

(2) Subject to the other provisions of this section, for a taxable year beginning on or after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate issued to the eligible claimant, estate, or trust in accordance with Section 63N-2-808 for that taxable year may claim a nonrefundable tax credit in an amount up to 35% of the purchase

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price of a qualifying ownership interest in a Utah small business corporation by the claimant, estate, or trust if:

(a) the qualifying ownership interest is issued by a Utah small business corporation that is a life science establishment;

(b) the qualifying ownership interest in the Utah small business corporation is purchased for at least \$25,000;

(c) the eligible claimant, estate, or trust owned less than 30% of the qualifying ownership interest of the Utah small business corporation at the time of the purchase of the qualifying ownership interest; and

(d) on each day of the taxable year in which the purchase of the qualifying ownership interest was made, the Utah small business corporation described in Subsection (2)(a) has at least 50% of its employees in the state.

(3) Subject to Subsection (4), the tax credit under Subsection (2):

(a) may only be claimed by an eligible claimant, estate, or trust:

(i) for a taxable year for which the eligible claimant, estate, or trust holds a tax credit certificate issued in accordance with Section 63N-2-808; and

(ii) subject to obtaining a tax credit certificate for each taxable year as required by Subsection (3)(a)(i), for a period of three taxable years as follows:

(A) the tax credit in the taxable year in which the purchase of the qualifying ownership interest was made may not exceed 10% of the purchase price of the qualifying ownership interest;

(B) the tax credit in the taxable year after the taxable year described in Subsection (3)(a)(ii)(A) may not exceed 10% of the purchase price of the qualifying ownership interest; and

(C) the tax credit in the taxable year two years after the taxable year described in Subsection (3)(a)(ii)(A) may not exceed 15% of the purchase price of the qualifying ownership interest; and

(b) may not exceed the lesser of:

(i) the amount listed on the tax credit certificate issued in accordance with Section 63N-2-808; or

(ii) \$350,000 in a taxable year.

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(4) An eligible claimant, estate, or trust may not claim a tax credit under this section for a taxable year if the eligible claimant, estate, or trust:

(a) has sold any of the qualifying ownership interest during the taxable year; or

(b) does not hold a tax credit certificate for that taxable year that is issued to the eligible claimant, estate, or trust by the office in accordance with Section 63N-2-808.

(5) If a Utah small business corporation in which an eligible claimant, estate, or trust purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the eligible claimant, estate, or trust may not claim both the tax credit provided in this section and a capital loss on the qualifying ownership interest.

(6) If an eligible claimant is a pass-through entity taxpayer that files a return under Chapter 7, Corporate Franchise and Income Taxes, the eligible claimant may claim the tax credit under this section on the return filed under Chapter 7, Corporate Franchise and Income Taxes.

(7) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

(8) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) Except as provided in Subsection (8)(c), for purposes of the study required by this Subsection (8), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:

(i) the amount of tax credit that the office grants to each eligible business entity for each taxable year;

(ii) the amount of eligible new state tax revenues generated by each eligible product or project;

(iii) estimates for each of the next three calendar years of the following:

(A) the amount of tax credit that the office will grant;

(B) the amount of eligible new state tax revenues that will be generated; and

(C) the number of new incremental jobs within the state that will be generated; and

~~[(iv) the information contained in the office's latest report under Section 63N-2-705;~~

and

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~~(v)~~ (iv) any other information that the Office of the Legislative Fiscal Analyst requests.

(c) (i) In providing the information described in Subsection (8)(b), the office shall redact information that identifies a recipient of a tax credit under this section.

(ii) If, notwithstanding the redactions made under Subsection (8)(c)(i), reporting the information described in Subsection (8)(b) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (8)(b) in the aggregate for all entities that receive the tax credit under this section.

(d) As part of the study required by this Subsection (8), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (8)(b).

(e) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (8)(a) include an evaluation of:

- (i) the cost of the tax credit under this section;
- (ii) the purpose and effectiveness of the tax credit; and
- (iii) the extent to which the state benefits from the tax credit.

Section ~~{9}~~4. Section ~~{63A-3-110}~~63N-1-102 is amended to read:

~~{~~ **63A-3-110. Personal use expenditures for state officers and employees.**

~~_____~~ (1) As used in this section:

~~_____~~ (a) "Employee" means a person who is not an elected or appointed officer and who is employed on a full- or part-time basis by a governmental entity.

~~_____~~ (b) "Governmental entity" means:

~~_____~~ (i) an executive branch agency of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the State Board of Education, and the State Board of Regents;

~~_____~~ (ii) the Office of the Legislative Auditor General, the Office of the Legislative Fiscal Analyst, the Office of Legislative Research and General Counsel, the Legislature, and legislative committees;

~~_____~~ (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar

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~~administrative units in the judicial branch;~~

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

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

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

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

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

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

~~—— (C) would constitute taxable income under federal law.~~

~~—— (ii) "Personal use expenditure" does not include:~~

~~—— (A) a de minimis or incidental expenditure; or~~

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

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

~~—— (2) A state officer or employee may not:~~

~~—— (a) use public funds for a personal use expenditure; or~~

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

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

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

~~—— (i) the personal use expenditure was disbursed; or~~

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

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

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

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

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

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

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

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

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

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

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

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

~~—— (2) (a) The director shall:~~

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

~~—— (ii) supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts or other specific legislation, to the various departments, commissions, institutions, and agencies in all buildings or space owned, leased, or~~

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~~rented by or to the state, except capitol hill facilities and capitol hill grounds and except as otherwise provided by law;~~

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

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

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

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

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

~~—— (A) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section 63A-1-114; and~~

~~—— (B) obtain the approval of the Legislature as required by Section 63J-1-410;~~

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

~~—— (ix) implement the State Building Energy Efficiency Program under Section 63A-5-701;~~

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

~~—— (xi) after receiving the notice required under Subsection 10-2-419(2)(d), file a written protest at or before the public hearing required under Subsection 10-2-419(2)(b), if:~~

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- ~~—— (A) it is in the best interest of the state to protest the boundary adjustment; or~~
- ~~—— (B) the Legislature instructs the director to protest the boundary adjustment; and~~
- ~~—— (xii) take all other action necessary for carrying out the purposes of this chapter.~~
- ~~—— (b) Legislative approval is not required for acquisitions by the division that cost less than \$250,000.~~
- ~~—— (3) (a) The director shall direct or delegate maintenance and operations, preventive maintenance, and facilities inspection programs and activities for any agency, except:~~
 - ~~—— (i) the State Capitol Preservation Board; and~~
 - ~~—— (ii) state institutions of higher education.~~
- ~~—— (b) The director may choose to delegate responsibility for these functions only when the director determines that:~~
 - ~~—— (i) the agency has requested the responsibility;~~
 - ~~—— (ii) the agency has the necessary resources and skills to comply with facility maintenance standards approved by the State Building Board; and~~
 - ~~—— (iii) the delegation would result in net cost savings to the state as a whole.~~
- ~~—— (c) The State Capitol Preservation Board and state institutions of higher education are exempt from Division of Facilities Construction and Management oversight.~~
- ~~—— (d) Each state institution of higher education shall comply with the facility maintenance standards approved by the State Building Board.~~
- ~~—— (e) Except for the State Capitol Preservation Board, agencies and institutions that are exempt from division oversight shall annually report their compliance with the facility maintenance standards to the division in the format required by the division.~~
- ~~—— (f) The division shall:~~
 - ~~—— (i) prescribe a standard format for reporting compliance with the facility maintenance standards;~~
 - ~~—— (ii) report agency compliance or noncompliance with the standards to the Legislature; and~~
 - ~~—— (iii) conduct periodic audits of exempt agencies and institutions to ensure that they are complying with the standards.~~
- ~~—— (4) (a) In making any allocations of space under Subsection (2), the director shall:~~
 - ~~—— (i) conduct studies to determine the actual needs of each agency; and~~

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- ~~—— (ii) comply with the restrictions contained in this Subsection (4).~~
- ~~—— (b) The supervision and control of the legislative area is reserved to the Legislature.~~
- ~~—— (c) The supervision and control of the judicial area is reserved to the judiciary for trial courts only.~~
- ~~—— (d) The director may not supervise or control the allocation of space for entities in the public and higher education systems.~~
- ~~—— (e) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.~~
- ~~—— (5) The director may:~~
 - ~~—— (a) hire or otherwise procure assistance and services, professional, skilled, or otherwise, that are necessary to carry out the director's responsibilities, and may expend funds provided for that purpose either through annual operating budget appropriations or from nonlapsing project funds;~~
 - ~~—— (b) sue and be sued in the name of the division; and~~
 - ~~—— (c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the Legislature, whatever real or personal property that is necessary for the discharge of the director's duties.~~
- ~~—— (6) Notwithstanding the provisions of Subsection (2)(a)(iv), the following entities may hold title to any real property, buildings, fixtures, and appurtenances held by them for purposes other than administration that are under their control and management:~~
 - ~~—— (a) the Office of Trust Administrator;~~
 - ~~—— (b) the Department of Transportation;~~
 - ~~—— (c) the Division of Forestry, Fire, and State Lands;~~
 - ~~—— (d) the Department of Natural Resources;~~
 - ~~—— (e) the Utah National Guard;~~
 - ~~—— (f) any area vocational center or other institution administered by the State Board of Education; and~~
 - ~~—— (g) any institution of higher education[; and].~~
 - ~~—— [(h) the Utah Science Technology and Research Governing Authority.]~~
- ~~—— (7) The director shall ensure that any firm performing testing and inspection work governed by the American Society for Testing Materials Standard E-329 on public buildings~~

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~~under the director's supervision shall:~~

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

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

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

~~—— Section 11. Section ~~63J-1-602.2~~ is amended to read:~~

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

~~—— Appropriations made to the following programs are nonlapsing:~~

~~—— (1) The Legislature and its committees:~~

~~—— (2) The Percent-for-Art Program created in Section 9-6-404.~~

~~—— (3) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.~~

~~—— (4) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii):~~

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

~~—— (6) The primary care grant program created in Section 26-10b-102.~~

~~—— (7) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7):~~

~~—— (8) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.~~

~~—— (9) The Rural Physician Loan Repayment Program created in Section 26-46a-103.~~

~~—— (10) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.~~

~~—— (11) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(7)(a)(ii) or (b):~~

~~—— (12) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.~~

~~—— (13) A new program or agency that is designated as nonlapsing under Section~~

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~~36-24-101.~~

~~—— (14) The Utah National Guard, created in Title 39, Militia and Armories.~~

~~—— (15) The State Tax Commission under Section 41-1a-1201 for the:~~

~~—— (a) purchase and distribution of license plates and decals; and~~

~~—— (b) administration and enforcement of motor vehicle registration requirements.~~

~~—— (16) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.~~

~~—— (17) The Motorcycle Rider Education Program, as provided in Section 53-3-905.~~

~~—— (18) The State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.~~

~~—— (19) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.~~

~~—— (20) The State Board of Education, as provided in Section 53F-2-205.~~

~~—— (21) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.~~

~~—— (22) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.~~

~~—— (23) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.~~

~~—— (24) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.~~

~~—— (25) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.~~

~~—— (26) The [Utah Science Technology and Research Initiative] Innovate Utah program created in Section 63M-2-301.~~

~~—— (27) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.~~

~~—— (28) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.~~

~~—— (29) The Department of Human Resource Management user training program, as provided in Section 67-19-6.~~

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~~—— (30) The University of Utah Poison Control Center program, as provided in Section 69-2-5.5.~~

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

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

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

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

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

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

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

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

~~—— Section 12. Section **63M-2-101** is amended to read:~~

~~**CHAPTER 2. INNOVATE UTAH**~~

~~—— **63M-2-101. Title:**~~

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

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

~~—— Section 13. Section **63M-2-102** is amended to read:~~

~~—— **63M-2-102. Definitions:**~~

~~—— As used in this chapter:~~

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

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

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

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

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

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~~—— [(ii) before May 10, 2016, received funding from USTAR for some or all of the researcher's startup costs or research university salary;]~~

~~—— [(iii) was recruited by a research university to become a member of a research university's faculty; and]~~

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

~~—— [(b) (i) is employed on or after May 10, 2016 as a researcher by a higher education institution;]~~

~~—— [(ii) receives USTAR support; and]~~

~~—— [(iii) is recruited by the governing authority and the higher education institution to become a member of the higher education institution's faculty.]~~

~~—— [(5) "Private entity":]~~

~~—— [(a) means a privately owned corporation, limited liability company, partnership, or other business entity or association; and]~~

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

~~—— [(6) "Research building" means a building:]~~

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

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

~~—— [(7) "Research university" means:]~~

~~—— [(a) the University of Utah; or]~~

~~—— [(b) Utah State University.]~~

~~—— [(8)] (4) ["USTAR"] "Innovate Utah" means the [Utah Science Technology and Research Initiative] Innovate Utah program created in Section 63M-2-301.~~

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

~~—— (a) a principal researcher; or~~

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

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

~~—— (ii) receives [USTAR] Innovate Utah support.~~

~~—— [(10)] (6) ["USTAR"] "Innovate Utah support" means assistance provided by [USTAR] Innovate Utah, including:~~

~~—— (a) financial support;~~

~~—— (b) technical assistance;~~

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~~—— (c) mentoring; and~~

~~—— (d) the use of:~~

~~—— (i) research or laboratory space controlled by [USTAR] Innovate Utah in a building other than a research building; and~~

~~—— (ii) equipment in research or laboratory space described in Subsection [(10)] ~~(6)(d)(i)~~.~~

~~—— (7) "Principal researcher" means an individual who:~~

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

~~—— (ii) before May 10, 2016, received funding from Innovate Utah for some or all of the researcher's startup costs or research university salary;~~

~~—— (iii) was recruited by a research university to become a member of a research university's faculty; and~~

~~—— (iv) on or after May 10, 2016, continues to receive Innovate Utah support, or~~

~~—— (b) (i) is employed on or after May 10, 2016 as a researcher by a higher education institution;~~

~~—— (ii) receives Innovate Utah support; and~~

~~—— (iii) is recruited by the governing authority and the higher education institution to become a member of the higher education institution's faculty.~~

~~—— (8) "Private entity":~~

~~—— (a) means a privately owned corporation, limited liability company, partnership, or other business entity or association; and~~

~~—— (b) does not include an individual or a sole proprietorship.~~

~~—— (9) "Research building" means a building:~~

~~—— (a) for which the governing authority holds title; and~~

~~—— (b) that is located on the campus of a research university.~~

~~—— (10) "Research university" means:~~

~~—— (a) the University of Utah; or~~

~~—— (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~~~~

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director:

- ~~—— (1) There is created the [Utah Science Technology and Research Initiative] Innovate Utah program.~~
- ~~—— (2) To oversee [USTAR] Innovate Utah, there is created the [Utah Science Technology and Research] Innovate Utah Governing Authority consisting of:~~
- ~~—— (a) the state treasurer or the state treasurer's designee;~~
- ~~—— [(b) the executive director of the Governor's Office of Economic Development;]~~
- ~~—— [(c)] (b) three members appointed by the governor, with the consent of the Senate;~~
- ~~—— [(d)] (c) two members appointed by the president of the Senate;~~
- ~~—— [(e)] (d) two members appointed by the speaker of the House of Representatives; and~~
- ~~—— [(f)] (e) one member appointed by the commissioner of higher education.~~
- ~~—— (3) (a) The eight appointed members under Subsections (2)[(c) through (f)] (b) through (e) shall serve four-year staggered terms.~~
- ~~—— (b) An appointed member under Subsection (2)[(c), (d), (e), or (f)] (b), (c), (d), or (e):~~
- ~~—— (i) may not serve more than two full consecutive terms; and~~
- ~~—— (ii) may be removed from the governing authority for any reason before the member's term is completed:~~
- ~~—— (A) at the discretion of the original appointing authority; and~~
- ~~—— (B) after the original appointing authority consults with the governing authority.~~
- ~~—— (4) A vacancy on the governing authority in an appointed position under Subsection (2)[(c), (d), (e), or (f)] (b), (c), (d), or (e) shall be filled for the unexpired term by the appointing authority in the same manner as the original appointment.~~
- ~~—— (5) (a) Except as provided in Subsection (5)(b), the governor, with the consent of the Senate, shall select the chair of the governing authority to serve a one-year term.~~
- ~~—— (b) The governor may extend the term of a sitting chair of the governing authority without the consent of the Senate.~~
- ~~—— [(c) The executive director of the Governor's Office of Economic Development shall serve as the vice chair of the governing authority.]~~
- ~~—— (6) The governing authority shall meet at least six times each year and may meet more frequently at the request of a majority of the members of the governing authority.~~
- ~~—— (7) Five members of the governing authority are a quorum.~~

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~~—— (8) A member of the governing authority may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:~~

~~—— (a) Section 63A-3-106;~~

~~—— (b) Section 63A-3-107; and~~

~~—— (c) rules made by the Division of Finance:~~

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

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

~~—— (9) (a) After consultation with the governing authority, the governor, with the consent of the Senate, shall appoint a full-time executive director to provide staff support for the governing authority:~~

~~—— (b) The executive director is an at-will employee who may be terminated with or without cause by[: (i) the governor; or (ii) majority vote of the governing authority] the governor:~~

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

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

~~—— (1) The governing authority shall:~~

~~—— (a) ensure that funds appropriated to [USTAR] Innovate Utah are used appropriately, effectively, and efficiently in accordance with this chapter;~~

~~—— (b) in cooperation with a research university's administration, work to expand research at the research university;~~

~~—— (c) enhance technology transfer and commercialization of research and technology developed at a higher education institution to create high-quality jobs and new industries in the private sector in the state;~~

~~—— (d) ensure that [USTAR] Innovate Utah programs do not duplicate existing or planned programs of other state agencies;~~

~~—— (e) establish written economic development objectives for [USTAR] Innovate Utah that are measurable and verifiable;~~

~~—— (f) consider input from the Governor's Office of Economic Development and higher education institutions;~~

~~—— (g) establish and administer a grant program, as provided in Section 63M-2-503, and provide [USTAR] Innovate Utah support, as provided in Section 63M-2-504, consistent with~~

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

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

~~—— (2) The governing authority may:~~

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

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

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

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

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

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

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

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

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

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

~~—— **63M-2-302.5. Governing authority requirements.**~~

~~—— The governing authority is subject to the requirements of an executive branch agency and is:~~

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

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

~~—— (3) a governmental entity for purposes of Title 63G, Chapter 2, Government Records~~

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~~Access and Management Act; and~~

~~—— (4) a public body for purposes of Title 52, Chapter 4, Open and Public Meetings Act.~~

~~—— Section 17. Section 63M-2-501 is amended to read:~~

~~Part 5. Innovate Utah Support~~

~~—— 63M-2-501. Title:~~

~~—— This part is known as [“USTAR”] Innovate Utah Support.”~~

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

~~—— 63M-2-502. **Principal researchers -- Agreement requirements -- Discontinuing funding.**~~

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

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

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

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

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

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

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

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

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

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

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

~~—— [(4) The governing authority may not allocate money to a higher education institution~~

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for a principal researcher unless the higher education institution provides the reporting required under Section 63M-2-702.]

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

~~— (a) the principal researcher:~~

~~— (i) fails to meet the performance standards and expectations established under Subsection (2)(a);~~

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

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

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

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

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

~~— Section 19. Section 63M-2-503 is amended to read:~~

~~— 63M-2-503. Innovate Utah grant programs:~~

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

~~— (a) is designed to:~~

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

~~— (A) technology sectors centered in hard sciences; or~~

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

~~— (ii) facilitate research and development of promising technologies;~~

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

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

~~— (i) researchers employed by higher education institutions;~~

~~— (ii) private entities; or~~

~~— (iii) partnerships between researchers employed by higher education institutions and~~

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~~private entities:~~

~~—— (2) The grants described in Subsection (1)(c) may be offered for the following purposes:~~

~~—— (a) developing general technology;~~

~~—— (b) commercializing activities;~~

~~—— (c) securing intellectual property protections;~~

~~—— (d) providing salaries for researchers during the length of a grant for a technology commercialization project;~~

~~—— (e) providing internship opportunities during the length of a grant directly related to a technology commercialization project; and~~

~~—— (f) other purposes that the governing authority determines are consistent with the mission and responsibilities of Innovate Utah.~~

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

~~—— (a) the purpose;~~

~~—— (b) eligibility criteria to receive a grant;~~

~~—— (c) how the governing authority determines which proposals receive grants;~~

~~—— (d) reporting requirements in accordance with Part 7, Reporting by Recipients of [USTAR] Innovate Utah Support; and~~

~~—— (e) other information the governing authority determines is necessary or appropriate.~~

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

~~—— (a) shall solicit proposals for each grant program; [and]~~

~~—— (b) may, subject to legislative appropriation and Subsection 63M-2-502(1)(b), award grants for each program[.]; and~~

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

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

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

~~—— (iii) university partners.~~

~~—— [(4)] (5) In evaluating a grant proposal received in response to a solicitation under this~~

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~~section, the governing authority shall consider, as applicable:~~

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

~~—— [(5)] (6) The governing authority shall require a recipient of a grant under this section, as a condition of receiving a grant, to comply with the reporting requirements described in[:~~

~~(a) Section 63M-2-702, for a USTAR researcher; or (b)] Section 63M-2-703, for a private entity or for a partnership between a [USTAR] Innovate Utah researcher and a private entity.~~

~~—— Section 20. Section **63M-2-504** is amended to read:~~

~~—— **63M-2-504. Other Innovate Utah support.**~~

~~—— (1) The governing authority shall:~~

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

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

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

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

~~—— Section 21. Section **63M-2-602** is amended to read:~~

~~—— **63M-2-602. Lease agreement for a research building -- Requirements for lease agreement.**~~

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

~~—— (2) A lease agreement under Subsection (1) shall:~~

~~—— (a) require the research university to pay the ongoing operation and maintenance~~

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~~expenses associated with the research building, including for any infrastructure in the research building; and~~

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

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

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

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

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

~~_____ Section 22. Section **63M-2-701** is amended to read:~~

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

~~_____ **63M-2-701. Title:**~~

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

~~_____ Section 23. Section **63M-2-703** is amended to read:~~

~~_____ **63M-2-703. Reporting requirements for private entities:**~~

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

~~_____ (a) receives [USTAR] Innovate Utah support;~~

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

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

~~or~~

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

~~_____ (2) The governing authority shall collect information on:~~

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

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

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

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~~—— (iii) purchases a private entity that previously received [USTAR] Innovate Utah support;~~

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

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

~~—— (d) the location of the private entity.~~

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

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

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

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

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

~~—— **63M-2-801. Title.**~~

~~—— This part is known as [“USTAR”] “Innovate Utah Reporting and Audit Requirements.”~~

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

~~—— **63M-2-802. Innovate Utah annual report.**~~

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

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

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

~~—— (iii) the Business and Labor Interim Committee; and~~

~~—— (iv) the governor.~~

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

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

~~—— (a) information reported to the governing authority through the survey described in Section 63M-2-703;~~

~~—— (b) a clear description of the methodology used to arrive at any information in the~~

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~~report that is based on an estimate;~~

~~—— (c) starting with fiscal year 2017 data as a baseline, data from previous years for comparison with the annual data reported under this Subsection (2);~~

~~—— (d) relevant federal and state statutory references and requirements;~~

~~—— (e) contact information for the executive director;~~

~~—— (f) other information determined by the governing authority that promotes accountability and transparency; and~~

~~—— (g) the written economic development objectives required under Subsection 63M-2-302(1)(c) and a description of progress or challenges in meeting the objectives;~~

~~—— (3) The governing authority shall design the annual report to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.~~

~~—— (4) The governing authority shall:~~

~~—— (a) submit the annual report in accordance with Section 68-3-14; and~~

~~—— (b) place a link to the annual report and previous annual reports on USTAR's website.~~

~~—— (5) Following the completion of an annual audit described in Section 63M-2-803, the governing authority shall:~~

~~—— (a) publicly issue a revised annual report that:~~

~~—— (i) addresses the audit;~~

~~—— (ii) responds to audit findings; and~~

~~—— (iii) incorporates any revisions to the annual report based on audit findings;~~

~~—— (b) publish the revised annual report on USTAR's website, with a link to the audit; and~~

~~—— (c) submit, in accordance with Section 68-3-14, written notification of any revisions of the annual report to:~~

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

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

~~—— (iii) the Business and Labor Interim Committee; and~~

~~—— (iv) the governor.~~

~~—— (6) In addition to the annual written report described in this section, the governing authority shall:~~

~~—— (a) provide information and progress reports to a legislative committee upon request;~~

~~[and]~~

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~~_____ (b) on or before August 1, 2018, and every five years after August 1, 2018, provide to the same entities that receive the annual report described in Subsection (1)(a) a written analysis and recommendations concerning the usefulness of the information required in the annual report and [USTAR's] Innovate Utah's ongoing effectiveness, including whether:~~

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

~~_____ (ii) the reporting requirements should be modified;~~

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

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

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

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

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

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

~~_____ Section 26. Section 63M-2-803 is amended to read:~~

~~_____ 63M-2-803. Audit requirements.~~

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

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

~~_____ (i) the legislative auditor; or~~

~~_____ (ii) an independent auditor engaged by the legislative auditor.~~

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

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

~~— (4) The annual audit shall:~~

~~— (a) include a verification of the accuracy of the information required to be included in the annual report described in Section 63M-2-802; and~~

~~— (b) be completed by December 1 of the year the report is required under Subsection (1).~~

‡ **63N-1-102. Definitions.**

As used in this title:

(1) "Baseline jobs" means the number of full-time employee positions that existed within a business entity in the state before the date on which a project related to the business entity is approved by the office or by the board.

(2) "Baseline state revenue" means the amount of state tax revenue collected from a business entity or the employees of a business entity during the year before the date on which a project related to the business entity is approved by the office or by the board.

~~[(1)]~~ (3) "Board" means the Board of Business and Economic Development created in Section 63N-1-401.

~~[(2)]~~ (4) "Council" means the Governor's Economic Development Coordinating Council created in Section 63N-1-501.

~~[(3)]~~ (5) "Executive director" means the executive director of the office.

(6) "Full-time employee" means an employment position that is filled by an employee who works at least 30 hours per week and:

(a) may include an employment position filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee; and

(b) may not include an employment position that is shifted from one jurisdiction in the state to another jurisdiction in the state.

(7) "High paying job" means a newly created full-time employee position where the aggregate average annual gross wage of the employment position, not including health care or other paid or unpaid benefits, is at least:

(a) 110% of the average wage of the county in which the employment position exists for a county of the first or second class; or

(b) 100% of the average wage of the county in which the employment position exists

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for a county of the third, fourth, fifth, or sixth class.

(8) "Incremental job" means a full-time employment position in the state that:

(a) did not exist within a business entity in the state before the beginning of a project related to the business entity; and

(b) is created in addition to the number of baseline jobs that existed within a business entity.

(9) "New state revenue" means the state tax revenue collected from a business entity or a business entity's employees during a calendar year minus the baseline state revenue calculation.

~~[(4)]~~ (10) "Office" or "GOED" means the Governor's Office of Economic Development.

(11) "State revenue" means state tax revenue paid by a business entity or a business entity's employees under any combination of the following provisions:

(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and

Information;

(c) Title 59, Chapter 10, Part 2, Trusts and Estates;

(d) Title 59, Chapter 10, Part 4, Withholding of Tax; and

(e) Title 59, Chapter 12, Sales and Use Tax Act.

Section ~~{27}~~5. Section ~~{63N-1-501}~~63N-2-103 is amended to read:

~~{~~ **63N-1-501. Governor's Economic Development Coordinating Council--**
Membership -- Expenses.

~~_____~~ (1) ~~There is created in the office the Governor's Economic Development Coordinating Council, consisting of the following 11 members:~~

~~_____~~ (a) ~~the executive director, who shall serve as chair of the council;~~

~~_____~~ (b) ~~the chair of the board or the chair's designee;~~

~~_____~~ (c) ~~the chair of the [Utah Science Technology and Research] Innovate Utah Governing Authority created in Section 63M-2-301 or the chair's designee;~~

~~_____~~ (d) ~~the chair of the Governor's Rural Partnership Board created in Section 63C-10-102 or the chair's designee;~~

~~_____~~ (e) ~~the chair of the board of directors of the Utah Capital Investment Corporation~~

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~~created in Section 63N-6-301 or the chair's designee;~~

~~—— (f) the chair of the Economic Development Corporation of Utah or its successor organization or the chair's designee;~~

~~—— (g) the chair of the World Trade Center Utah or its successor organization or the chair's designee; and~~

~~—— (h) four members appointed by the governor, with the consent of the Senate, who have expertise in business, economic development, entrepreneurship, or the raising of venture or seed capital for research and business growth.~~

~~—— (2) (a) The four members appointed by the governor may serve for no more than two consecutive two-year terms.~~

~~—— (b) The governor shall appoint a replacement if a vacancy occurs from the membership appointed under Subsection (1)(h).~~

~~—— (3) Six members of the council constitute a quorum for the purpose of conducting council business and the action of a majority of a quorum constitutes the action of the council.~~

~~—— (4) A member may not receive compensation or benefits for the member's service on the council, but may receive per diem and travel expenses in accordance with:~~

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

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

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

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

‡ **63N-2-103. Definitions.**

As used in this part:

(1) "Business entity" means a person that enters into an agreement with the office to initiate a new commercial project in Utah that will qualify the person to receive a tax credit under Section 59-7-614.2 or 59-10-1107.

(2) "Community reinvestment agency" has the same meaning as that term is defined in Section 17C-1-102.

(3) "Development zone" means an economic development zone created under Section

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63N-2-104.

~~[(4) "High paying jobs" means:]~~

~~[(a) with respect to a business entity, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits, of newly created full-time employment positions in a business entity that are at least 110% of the average wage of a community in which the employment positions will exist;]~~

~~[(b) with respect to a county, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits, of newly created full-time employment positions in a new commercial project within the county that are at least 110% of the average wage of the county in which the employment positions will exist; or]~~

~~[(c) with respect to a city or town, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits of newly created full-time employment positions in a new commercial project within the city or town that are at least 110% of the average wages of the city or town in which the employment positions will exist.]~~

~~[(5)]~~ (4) "Local government entity" means a county, city, or town that enters into an agreement with the office to have a new commercial project that:

(a) is initiated within the county's, city's, or town's boundaries; and

(b) qualifies the county, city, or town to receive a tax credit under Section 59-7-614.2.

~~[(6)]~~ (5) (a) "New commercial project" means an economic development opportunity that involves new or expanded industrial, manufacturing, distribution, or business services in Utah.

(b) "New commercial project" does not include retail business.

~~[(7) (a) "New incremental jobs" means full-time employment positions that are filled by employees who work at least 30 hours per week and that are:]~~

~~[(i) with respect to a business entity, created in addition to the baseline count of employment positions that existed within the business entity before the new commercial project;]~~

~~[(ii) with respect to a county, created as a result of a new commercial project with respect to which the county or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2; or]~~

~~[(iii) with respect to a city or town, created as a result of a new commercial project~~

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with respect to which the city, town, or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2.]

[(b) "New incremental jobs" may include full-time equivalent positions that are filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee.]

[(c) "New incremental jobs" does not include jobs that are shifted from one jurisdiction in the state to another jurisdiction in the state.]

[(8) "New state revenues" means:]

[(a) with respect to a business entity:]

[(i) incremental new state sales and use tax revenues that a business entity pays under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;]

[(ii) incremental new state tax revenues that a business entity pays as a result of a new commercial project in a development zone under:]

[(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]

[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;]

[(C) Title 59, Chapter 10, Part 2, Trusts and Estates;]

[(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or]

[(E) a combination of Subsections (8)(a)(i)(A) through (D);]

[(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or]

[(iv) a combination of Subsections (8)(a)(i) through (iii); or]

[(b) with respect to a local government entity:]

[(i) incremental new state sales and use tax revenues that are collected under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development

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~~zone;~~

~~[(ii) incremental new state tax revenues that are collected as a result of a new commercial project in a development zone under;~~

~~[(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;~~

~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;~~

~~[(C) Title 59, Chapter 10, Part 2, Trusts and Estates;~~

~~[(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or~~

~~[(E) a combination of Subsections (8)(b)(ii)(A) through (D);~~

~~[(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or~~

~~[(iv) a combination of Subsections (8)(b)(i) through (iii);~~

~~[(9)] (6) "Significant capital investment" means an amount of at least \$10,000,000 to purchase capital or fixed assets, which may include real property, personal property, and other fixtures related to a new commercial project:~~

~~(a) that represents an expansion of existing operations in the state; or~~

~~(b) that maintains or increases the business entity's existing work force in the state.~~

~~[(10)] (7) "Tax credit" means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.~~

~~[(11)] (8) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.~~

~~[(12)] (9) "Tax credit certificate" means a certificate issued by the office that:~~

~~(a) lists the name of the business entity, local government entity, or community development and renewal agency to which the office authorizes a tax credit;~~

~~(b) lists the business entity's, local government entity's, or community development and renewal agency's taxpayer identification number;~~

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- (c) lists the amount of tax credit that the office authorizes the business entity, local government entity, or community development and renewal agency for the taxable year; and
- (d) may include other information as determined by the office.

Section 6. Section 63N-2-202 is amended to read:

63N-2-202. Definitions.

As used in this part:

- (1) "Business entity" means an entity, sole proprietorship, or individual:
 - (a) including a claimant, estate, or trust; and
 - (b) under which or by whom business is conducted or transacted.
- (2) "Claimant" means a resident or nonresident person that has:
 - (a) Utah taxable income as defined in Section 59-7-101; or
 - (b) state taxable income under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information.
- (3) "County applicant" means the governing authority of a county that meets the requirements for designation as an enterprise zone under Section 63N-2-204.
- (4) "Estate" means a nonresident estate or a resident estate that has state taxable income under Title 59, Chapter 10, Part 2, Trusts and Estates.
- (5) "Municipal applicant" means the governing authority of a city or town that meets the requirements for designation as an enterprise zone under Section 63N-2-204.
- ~~[(6) "New full-time employee position" means a position that has been newly created in addition to the highest baseline count of employment positions that existed within the business entity during the previous three taxable years and is filled by an employee working at least 30 hours per week:]~~
 - ~~[(a) for a period of at least six consecutive months; and]~~
 - ~~[(b) where the period ends in the tax year for which the credit is claimed.]~~
- ~~[(7)]~~ (6) "Nonrefundable tax credit" or "tax credit" means a tax credit that a business entity may:
 - (a) claim:
 - (i) as provided by statute; and
 - (ii) in an amount that does not exceed the business entity's tax liability for a taxable year under:

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(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(B) Title 59, Chapter 10, Individual Income Tax Act; and

(b) carry forward or carry back:

(i) if allowed by statute; and

(ii) to the extent that the amount of the tax credit exceeds the business entity's tax

liability for a taxable year under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(B) Title 59, Chapter 10, Individual Income Tax Act.

~~[(8)]~~ [(7)] "Tax incentives" or "tax benefits" means the nonrefundable tax credits described in Section 63N-2-213.

~~[(9)]~~ [(8)] "Trust" means a nonresident trust or a resident trust that has state taxable income under Title 59, Chapter 10, Part 2, Trusts and Estates.

Section ~~{28}~~ 7. Section ~~{63N-3-204}~~ 63N-4-302 is amended to read:

~~{~~ ~~63N-3-204. Administration -- Grants and loans.~~

~~_____ (1) The office shall administer this part.~~

~~_____ (2) (a) (i) The office may award Technology Commercialization and Innovation Program grants or issue loans under this part to an applicant that is:~~

~~_____ (A) an institution of higher education;~~

~~_____ (B) a licensee; or~~

~~_____ (C) a small business.~~

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

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

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

~~_____ (ii) initially maintains a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology, but within five years after issuance of the~~

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~~license the licensee or sublicensee transfers the manufacturing or service location for the technology to a location out of the state:~~

~~—— (c) A repayment by an institution of higher education of grant proceeds or a portion of the grant proceeds may only come from the proceeds of the license established between the licensee and the institution of higher education:~~

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

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

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

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

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

~~—— (3) (a) Funding allocations shall be made by the office with the advice of the board:~~

~~—— (b) Each proposal shall receive the best available outside review:~~

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

~~—— (b) Proposals or consortia that combine and coordinate related research at two or more institutions of higher education shall be encouraged:~~

~~—— (5) The office shall review the activities and progress of grant recipients on a regular basis and, as part of the office's annual written report described in Section 63N-1-301, report on the accomplishments and direction of the Technology Commercialization and Innovation Program:~~

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

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

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

~~—— (b) The written analysis and recommendations described in this Subsection (6) shall be provided to:~~

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

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

~~—— (iii) the Business and Labor Interim Committee; and~~

~~—— (iv) the governor.~~

~~—— (7) Beginning May 14, 2019, the office may not enter into, extend, or renew any grant commitments or agreements or issue new loans under this part.~~

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

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

~~—— (1) A business resource center shall:~~

~~—— (a) have a director;~~

~~—— (b) be the organization responsible for identifying, tracking, coordinating, and measuring output of assisted business clients in its region;~~

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

~~—— (d) recruit state-funded agencies to locate and establish their programs in the business center's region;~~

~~—— (e) initiate and encourage business education programs, including programs in collaboration with public, private, and governmental and educational institutions; and~~

~~—— (f) work with the host institution in providing academic resources, including faculty and student assistance.~~

~~—— (2) A business resource center shall collaborate with the host institution and state agencies to:~~

~~—— (a) provide research, development, or training programs for new or existing businesses, industries, or high technology business located in its region;~~

~~—— (b) assist in providing needs assessment relating to new or existing businesses, industries, or high technology business in conjunction with other public or private economic development programs or initiatives;~~

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~~— (c) assist in providing business incubator space or services, or both, if considered feasible and practical, to clients based on criteria established by the office;~~

~~— (d) work with local business leaders and government officials to help them formulate and implement sound, coordinated, and measurable economic development programs for their communities; [and]~~

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

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

‡ **63N-4-302. Definitions.**

As used in this part:

(1) (a) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(b) For the purposes of this part, a person controls another person if the person holds, directly or indirectly, the majority voting or ownership interest in the controlled person or has control over the day-to-day operations of the controlled person by contract or by law.

(2) "Claimant" means a resident or nonresident person that has state taxable income.

(3) "Closing date" means the date on which a rural investment company has collected all of the investments described in Subsection 63N-4-303(7).

(4) (a) "Credit-eligible contribution" means an investment of cash by a claimant in a rural investment company that is or will be eligible for a tax credit as evidenced by notification issued by the office under Subsection 63N-4-303(5)(c).

(b) The investment shall purchase an equity interest in the rural investment company or purchase, at par value or premium, a debt instrument issued by the rural investment company that has a maturity date at least five years after the closing date.

(5) "Eligible small business" means a business that at the time of an initial growth investment in the business by a rural investment company:

(a) has fewer than 150 employees;

(b) has less than \$10,000,000 in net income for the preceding taxable year;

(c) maintains the business's principal business operations in the state; and

(d) is engaged in an industry related to:

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- (i) aerospace;
- (ii) defense;
- (iii) energy and natural resources;
- (iv) financial services;
- (v) life sciences;
- (vi) outdoor products;
- (vii) software development;
- (viii) information technology;
- (ix) manufacturing; or
- (x) agribusiness.

(6) (a) "Excess return" means the difference between:

(i) the present value of all growth investments made by a rural investment company on the day the rural investment company applies to exit the program under Section 63N-4-309, including the present value of all distributions and gains from the growth investments; and

(ii) the sum of the amount of the original growth investment and an amount equal to any projected increase in the equity holder's federal or state tax liability, including penalties and interest, related to the equity holder's ownership, management, or operation of the rural investment company.

(b) If the amount calculated in Subsection (6)(a) is less than zero, the excess return is equal to zero.

(7) "Federally licensed rural business investment company" means a person licensed as a rural business investment company under 7 U.S.C. Sec. 2009cc.

(8) "Federally licensed small business investment company" means a person licensed as a small business investment company under 15 U.S.C. Sec. 681.

(9) (a) "Full-time employee" means an employee that throughout the year works at least 30 hours per week or meets the customary practices accepted by that industry as full time.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules that establish additional hour or other criteria to determine what constitutes a full-time employee.

(10) "Growth investment" means any capital or equity investment in an eligible small business or any loan made from the investment authority to an eligible small business with a

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stated maturity at least one year after the date of issuance.

(11) (a) "High wage" means a wage that is at least 100% of the county average wage.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules that establish additional criteria to determine what constitutes a high wage.

(12) "Investment authority" means the minimum amount of investment a rural investment company must make in eligible small businesses in order for credit-eligible contributions to the rural investment company to qualify for a rural job creation tax credit under Section 59-7-621 or 59-10-1038.

(13) (a) "New annual jobs" means the difference between:

(i) (A) the monthly average of full-time employees that are paid a high wage at an eligible small business for the preceding calendar year; or

(B) if the preceding calendar year contains the initial growth investment, the monthly average of full-time employees that are paid a high wage at an eligible small business for the months including and after the initial growth investment and before the end of the preceding calendar year; and

(ii) the number of full-time employees that are paid a high wage at the eligible small business on the date of the initial growth investment.

(b) If the amount calculated in Subsection (2)(a) is less than zero, the new annual jobs amount is equal to zero.

(14) (a) "Principal business operations" means the location where at least 60% of a business's employees work or where employees that are paid at least 60% of a business's payroll work.

(b) For the purposes of this part, an out-of-state business that agrees to relocate employees to this state to establish the business's principal business operations in this state using the proceeds of a growth investment is considered to have the business's principal business operations in this state if the business satisfies the requirements of Subsection (14)(a) within 180 days after receiving the growth investment, unless the office agrees to a later date.

(15) "Program" means the provisions of this part applicable to a rural investment company.

(16) "Rural county" means any county in this state except Salt Lake, Utah, Davis,

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Weber, Washington, Cache, Tooele, and Summit counties.

(17) "Rural investment company" means a person approved by the office under Section 63N-4-303.

(18) (a) "State reimbursement amount" means the difference between:

(i) 50% of the rural investment company's credit-eligible capital contributions; and

(ii) the product of:

(A) the total sum of new annual jobs reported to the state in the rural investment company's exit report described in Section 63N-4-309; and

(B) \$20,000.

(b) If the amount calculated in Subsection (18)(a) is less than zero, the state reimbursement amount is equal to zero.

(19) "Tax credit" means a rural job creation tax credit created by Section 59-7-621 or 59-10-1038.

(20) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the person to which the office authorizes a tax credit;

(b) lists the person's taxpayer identification number;

(c) lists the amount of tax credit that the office authorizes the person to claim for the taxable year; and

(d) may include other information as determined by the office.

Section 8. Section 63N-4-309 is amended to read:

63N-4-309. Exit.

(1) On or after the seventh anniversary of the closing date, and on or before the ninth anniversary of the closing date, a rural investment company may apply to the office to exit the program and no longer be subject to this part.

(2) An application submitted under Subsection (1) shall be in a form and in accordance with procedures prescribed by the office and shall include a calculation of the state reimbursement amount.

(3) In evaluating the exit application, if no tax credit certificates have been revoked and the rural investment company has not received a notice of revocation that has remained uncorrected under Subsection 63N-4-305(3)(b), the rural investment company is eligible for exit.

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(4) (a) The office shall respond to the application within 30 days of receipt and include confirmation of the state reimbursement amount.

(b) The office shall not unreasonably deny an application submitted under this section.

(c) If the office denies the application, the office shall provide the reasons for the determination to the rural investment company.

(5) Within 60 days after the day on which the confirmation of the state reimbursement amount is received by the rural investment company, the rural investment company shall make a cash distribution to the state in an amount equal to the lesser of:

(a) the state reimbursement amount; and

(b) the excess return.

(6) The office shall notify the rural investment company once payments equal to the amount described in Subsection (4) have been received.

(7) Any amounts collected under this section shall be deposited into the General Fund.

Section 9. Section 63N-4-402 is amended to read:

63N-4-402. Definitions.

As used in this part:

(1) (a) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(b) "Business entity" does not include a business primarily engaged in the following:

(i) construction;

(ii) staffing;

(iii) retail trade; or

(iv) public utility activities.

~~[(2) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.]~~

~~[(3) "New full-time employee position" means a position that has been newly created in addition to the highest baseline count of employment positions that existed within a business entity during the previous taxable year and is filled by an employee working at least 30 hours per week.]~~

~~[(a) in a county of the fourth, fifth, or sixth class;]~~

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~~[(b) for a period of at least 12 consecutive months;]~~

~~[(c) in a position that does not primarily involve:]~~

~~[(i) construction;]~~

~~[(ii) retail trade; or]~~

~~[(iii) public utility activities;]~~

~~[(d) where the annual gross wage of the position, not including healthcare or other paid or unpaid benefits, is at least 125% of the average wage of the county in which the position exists; and]~~

~~[(e) who is not an immediate family member of an owner or officer of the business entity.]~~

~~[(4)]~~ (2) (a) "Owner or officer" means an individual who owns an ownership interest in an entity or holds a position where the person has authority to manage, direct, control, or make decisions for:

- (i) the entity or a portion of the entity; or
- (ii) an employee, agent, or independent contractor of the entity.

(b) "Owner or officer" includes:

- (i) a member of a board of directors or other governing body of an entity; or
- (ii) a partner in any type of partnership.

~~[(5)]~~ (3) "Rural employment expansion grant" means a grant available under this part.

~~Section {30. Section 67-19-15 is amended to read:~~

~~———— 67-19-15. Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions:~~

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

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

~~———— (b) schedule AB includes appointed executives and board or commission executives enumerated in Section 67-22-2;~~

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

~~———— (i) the office and at the residence of the governor;~~

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- ~~—— (ii) [the Utah Science Technology and Research Initiative (USTAR)] Innovate Utah;~~
- ~~—— (iii) the Public Lands Policy Coordinating Council;~~
- ~~—— (iv) the Office of the State Auditor; and~~
- ~~—— (v) the Office of the State Treasurer;~~
- ~~—— (d) schedule AD includes employees who:~~
 - ~~—— (i) are in a confidential relationship to an agency head or commissioner; and~~
 - ~~—— (ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent;~~
- ~~—— (e) schedule AE includes each employee of the State Board of Education that the State Board of Education designates as exempt from the career service provisions of this chapter;~~
- ~~—— (f) schedule AG includes employees in the Office of the Attorney General who are under their own career service pay plan under Sections 67-5-7 through 67-5-13;~~
- ~~—— (g) schedule AH includes:~~
 - ~~—— (i) teaching staff of all state institutions; and~~
 - ~~—— (ii) employees of the Utah Schools for the Deaf and the Blind who are:~~
 - ~~—— (A) educational interpreters as classified by the department; or~~
 - ~~—— (B) educators as defined by Section 53E-8-102;~~
- ~~—— (h) schedule AN includes employees of the Legislature;~~
- ~~—— (i) schedule AO includes employees of the judiciary;~~
- ~~—— (j) schedule AP includes all judges in the judiciary;~~
- ~~—— (k) schedule AQ includes:~~
 - ~~—— (i) members of state and local boards and councils appointed by the governor and governing bodies of agencies;~~
 - ~~—— (ii) a water commissioner appointed under Section 73-5-1;~~
 - ~~—— (iii) other local officials serving in an ex officio capacity; and~~
 - ~~—— (iv) officers, faculty, and other employees of state universities and other state institutions of higher education;~~
- ~~—— (l) schedule AR includes employees in positions that involve responsibility:~~
 - ~~—— (i) for determining policy;~~
 - ~~—— (ii) for determining the way in which a policy is carried out; or~~
 - ~~—— (iii) of a type not appropriate for career service, as determined by the agency head with~~

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~~the concurrence of the executive director;~~

~~—— (m) schedule AS includes any other employee:~~

~~—— (i) whose appointment is required by statute to be career service exempt;~~

~~—— (ii) whose agency is not subject to this chapter; or~~

~~—— (iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses for its employees;~~

~~—— (n) schedule AT includes employees of the Department of Technology Services, designated as executive/professional positions by the executive director of the Department of Technology Services with the concurrence of the executive director;~~

~~—— (o) schedule AU includes patients and inmates employed in state institutions;~~

~~—— (p) employees of the Department of Workforce Services, designated as schedule AW:~~

~~—— (i) who are temporary employees that are federally funded and are required to work under federally qualified merit principles as certified by the director; or~~

~~—— (ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay for performance program designed by the Department of Workforce Services with the concurrence of the executive director; and~~

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

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

~~—— (a) (i) Schedule A is the schedule consisting of positions under Subsection (1):~~

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

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

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

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

~~—— (3) (a) The executive director, after consultation with the heads of concerned executive~~

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~~branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.~~

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

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

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

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

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

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

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

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

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

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

~~—— **67-22-2. Compensation -- Other state officers:**~~

~~—— (1) As used in this section:~~

~~—— (a) "Appointed executive" means the:~~

~~—— (i) commissioner of the Department of Agriculture and Food;~~

~~—— (ii) commissioner of the Insurance Department;~~

~~—— (iii) commissioner of the Labor Commission;~~

~~—— (iv) director, Department of Alcoholic Beverage Control;~~

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- ~~—— (v) commissioner of the Department of Financial Institutions;~~
- ~~—— (vi) executive director, Department of Commerce;~~
- ~~—— (vii) executive director, Commission on Criminal and Juvenile Justice;~~
- ~~—— (viii) adjutant general;~~
- ~~—— (ix) executive director, Department of Heritage and Arts;~~
- ~~—— (x) executive director, Department of Corrections;~~
- ~~—— (xi) commissioner, Department of Public Safety;~~
- ~~—— (xii) executive director, Department of Natural Resources;~~
- ~~—— (xiii) executive director, Governor's Office of Management and Budget;~~
- ~~—— (xiv) executive director, Department of Administrative Services;~~
- ~~—— (xv) executive director, Department of Human Resource Management;~~
- ~~—— (xvi) executive director, Department of Environmental Quality;~~
- ~~—— (xvii) director, Governor's Office of Economic Development;~~
- ~~—— (xviii) executive director, [Utah Science Technology and Research Governing Authority] Innovate Utah;~~
- ~~—— (xix) executive director, Department of Workforce Services;~~
- ~~—— (xx) executive director, Department of Health, Nonphysician;~~
- ~~—— (xxi) executive director, Department of Human Services;~~
- ~~—— (xxii) executive director, Department of Transportation;~~
- ~~—— (xxiii) executive director, Department of Technology Services; and~~
- ~~—— (xxiv) executive director, Department of Veterans and Military Affairs.~~
- ~~—— (b) "Board or commission executive" means:~~
 - ~~—— (i) members, Board of Pardons and Parole;~~
 - ~~—— (ii) chair, State Tax Commission;~~
 - ~~—— (iii) commissioners, State Tax Commission;~~
 - ~~—— (iv) executive director, State Tax Commission;~~
 - ~~—— (v) chair, Public Service Commission; and~~
 - ~~—— (vi) commissioners, Public Service Commission.~~
- ~~—— (c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the Department of Human Resource Management.~~
- ~~—— (2) (a) The executive director of the Department of Human Resource Management~~

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shall:

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

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

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

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

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

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

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

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

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

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

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

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

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~~—— (b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions:~~

~~—— (c) The governor may develop standards and criteria for reviewing the appointed executives:~~

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

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

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

~~—— (ii) health insurance;~~

~~—— (iii) dental insurance;~~

~~—— (iv) basic life insurance;~~

~~—— (v) unemployment compensation;~~

~~—— (vi) workers' compensation;~~

~~—— (vii) required employer contribution to Social Security;~~

~~—— (viii) long-term disability income insurance;~~

~~—— (ix) the same additional state-paid life insurance available to other noncareer service employees;~~

~~—— (x) the same severance pay available to other noncareer service employees;~~

~~—— (xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:~~

~~—— (A) sick leave;~~

~~—— (B) converted sick leave if accrued prior to January 1, 2014;~~

~~—— (C) educational allowances;~~

~~—— (D) holidays; and~~

~~—— (E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;~~

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~~—— (xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;~~

~~—— (xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and~~

~~—— (xiv) professional memberships if being a member of the professional organization is a requirement of the position.~~

~~—— (b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.~~

~~—— (6) The Legislature fixes the following additional benefits:~~

~~—— (a) for the executive director of the State Tax Commission a vehicle for official and personal use;~~

~~—— (b) for the executive director of the Department of Transportation a vehicle for official and personal use;~~

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

~~—— (d) for the commissioner of Public Safety:~~

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

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

~~—— (e) for the executive director of the Department of Corrections:~~

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

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

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

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

†10. Repealer.

This bill repeals:

Section 59-7-614.8, Nonrefundable alternative energy manufacturing tax credit.

Section 59-10-1030, Nonrefundable alternative energy manufacturing tax credit.

Section 63N-2-701, Title.

Section 63N-2-702, Definitions.

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Section 63N-2-703, Tax credits.

Section 63N-2-704, Qualifications for tax credit -- Procedure.

Section 63N-2-705, Reporting.

Section 11. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2019.