

**HIGHER EDUCATION AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ann Millner**

House Sponsor: Brad R. Wilson

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**LONG TITLE**

**General Description:**

This bill amends and enacts provisions related to higher education governance.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ renames the State Board of Regents to the Utah Board of Higher Education;
- ▶ enacts provisions related to the Utah Board of Higher Education, including:
  - powers and duties;
  - membership;
  - compensation for members; and
  - committees;
- ▶ creates a nominating committee to nominate individuals to the governor to appoint to the Utah Board of Higher Education;
- ▶ repeals the Utah System of Technical Colleges Board of Trustees;
- ▶ transitions duties of the Utah System of Technical Colleges Board of Trustees to the Utah Board of Higher Education;
- ▶ provides that the Utah Board of Higher Education is the successor to the Utah System of Technical Colleges Board of Trustees;
- ▶ provides for the transition in the membership of the Utah Board of Higher Education from the membership of the State Board of Regents and the Utah System of Technical Colleges Board of Trustees;

- 29           ▶ creates the positions of associate commissioner for academic education and
- 30 associate commissioner for technical education;
- 31           ▶ repeals provisions related to the commissioner of technical education;
- 32           ▶ amends provisions related to the selection of institution of higher education
- 33 presidents;
- 34           ▶ amends requirements related to an institution of higher education's authority to
- 35 approve a new program of instruction;
- 36           ▶ changes the name of a governing board for a technical college from a technical
- 37 college board of directors to a technical college board of trustees;
- 38           ▶ amends provisions related to the Higher Education Strategic Planning Commission,
- 39 including extending the commission by one year;
- 40           ▶ amends other provisions related to higher education; and
- 41           ▶ makes technical and conforming changes.

**42 Money Appropriated in this Bill:**

43           This bill appropriates in fiscal year 2021:

- 44           ▶ to the Legislature - Office of Legislative Research and General Counsel as a
- 45 one-time appropriation:
  - 46           • from the General Fund \$1,200;
- 47           ▶ to the Legislature - Senate as a one-time appropriation:
  - 48           • from the General Fund \$4,000;
- 49           ▶ to the Legislature - House of Representatives as a one-time appropriation:
  - 50           • from the General Fund \$4,000;
- 51           ▶ to the State Board of Regents - Administration, as an ongoing appropriation:
  - 52           • from the Education Fund, \$4,742,600;
  - 53           • from Revenue Transfers, \$106,200;
  - 54           • from Beginning Nonlapsing Balances, \$380,800;
  - 55           • from Closing Nonlapsing Balances, (\$380,800);

- 56 ▶ to the State Board of Regents - Student Assistance, as an ongoing appropriation:
  - 57 • from the Education Fund, \$38,400;
- 58 ▶ to the State Board of Regents - Student Support, as an ongoing appropriation:
  - 59 • from the Education Fund, \$18,605,800;
  - 60 • from Beginning Nonlapsing Balances, \$459,900;
  - 61 • from Closing Nonlapsing Balances, (\$459,900);
- 62 ▶ to the State Board of Regents - Student Support, as a one-time appropriation:
  - 63 • from the Education Fund, One-time, \$862,100;
  - 64 • from Education Fund Restricted - Performance Funding Restricted Account,  
65 One-time, \$381,100;
- 66 ▶ to the State Board of Regents - Technology, as an ongoing appropriation:
  - 67 • from the Education Fund, (\$7,983,500);
  - 68 • from Beginning Nonlapsing Balances, (\$700);
  - 69 • from Closing Nonlapsing Balances, \$700;
- 70 ▶ to the State Board of Regents - Technology, as a one-time appropriation:
  - 71 • from the Education Fund, One-time, (\$862,100);
  - 72 • from Education Fund Restricted - Performance Funding Restricted Account,  
73 One-time, (\$143,700);
- 74 ▶ to the State Board of Regents - Economic Development, as an ongoing  
75 appropriation:
  - 76 • from the Education Fund, (\$5,386,400);
  - 77 • from Beginning Nonlapsing Balances, (\$127,400);
  - 78 • from Closing Nonlapsing Balances, \$127,400;
- 79 ▶ to the State Board of Regents - Education Excellence, as an ongoing appropriation:
  - 80 • from the Education Fund, (\$935,900);
  - 81 • from Education Fund Restricted - Performance Funding Restricted Account,  
82 (\$143,700);

- 83           • from Revenue Transfers, (\$106,200);
- 84           • from Beginning Nonlapsing Balances, (\$214,000);
- 85           • from Closing Nonlapsing Balances, \$214,000;
- 86           ▶ to the State Board of Regents - Education Excellence, as a one-time appropriation:
- 87           • from Education Fund Restricted - Performance Funding Restricted Account,
- 88 One-time, \$143,700;
- 89           ▶ to the State Board of Regents - Math Competency Initiative, as an ongoing
- 90 appropriation:
- 91           • from the Education Fund, (\$1,926,200);
- 92           • from Beginning Nonlapsing Balances, (\$485,400);
- 93           • from Closing Nonlapsing Balances, \$485,400; and
- 94           ▶ to the Utah System of Technical Colleges - Utah System of Technical Colleges
- 95 Administration:
- 96           • from the Education Fund, (\$7,154,800);
- 97           • from Education Fund Restricted - Performance Funding Restricted Account,
- 98 (\$237,400);
- 99           • from Beginning Nonlapsing Balances, (\$13,200);
- 100           • from Closing Nonlapsing Balances, \$13,200.

**Other Special Clauses:**

- 102           This bill provides a special effective date.
- 103           This bill provides coordination clauses.
- 104           This bill provides revisor instructions.

**Utah Code Sections Affected:**

**AMENDS:**

- 107           **7-22-101**, as last amended by Laws of Utah 2015, Chapter 284
- 108           **9-9-104.6**, as last amended by Laws of Utah 2019, Chapter 246
- 109           **9-22-103**, as renumbered and amended by Laws of Utah 2019, Chapter 487

- 110 [9-22-104](#), as renumbered and amended by Laws of Utah 2019, Chapter 487
- 111 [9-22-106](#), as renumbered and amended by Laws of Utah 2019, Chapter 487
- 112 [11-17-17](#), as last amended by Laws of Utah 1993, Chapters 4 and 67
- 113 [11-27-2](#), as last amended by Laws of Utah 2016, Chapter 350
- 114 [11-59-302](#), as enacted by Laws of Utah 2018, Chapter 388
- 115 [13-34a-104](#), as last amended by Laws of Utah 2017, Chapter 98
- 116 [19-3-320](#), as last amended by Laws of Utah 2016, Chapter 144
- 117 [20A-11-1202](#), as last amended by Laws of Utah 2019, Chapter 203
- 118 [35A-1-206](#), as last amended by Laws of Utah 2018, Chapter 39
- 119 [35A-5-103](#), as last amended by Laws of Utah 2016, Chapter 144
- 120 [35A-6-105](#), as enacted by Laws of Utah 2019, Chapter 224
- 121 [35A-8-2103](#), as renumbered and amended by Laws of Utah 2018, Chapter 182
- 122 [35A-13-603](#), as last amended by Laws of Utah 2019, Chapter 89
- 123 [35A-14-102](#), as last amended by Laws of Utah 2018, Chapter 341 and last amended by
- 124 Coordination Clause, Laws of Utah 2018, Chapter 315
- 125 [35A-14-203](#), as enacted by Laws of Utah 2017, Chapter 375
- 126 [35A-14-302](#), as enacted by Laws of Utah 2017, Chapter 375
- 127 [36-21-1](#), as last amended by Laws of Utah 2018, Chapter 25
- 128 [36-28-102](#), as last amended by Laws of Utah 2018, Chapter 39
- 129 [41-6a-2002](#), as last amended by Laws of Utah 2018, Chapter 25
- 130 [49-11-102](#), as last amended by Laws of Utah 2019, Chapter 31
- 131 [49-11-403](#), as last amended by Laws of Utah 2015, Chapter 243
- 132 [49-12-203](#), as last amended by Laws of Utah 2018, Chapter 10 and last amended by
- 133 Coordination Clause, Laws of Utah 2018, Chapter 315
- 134 [49-12-204](#), as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 135 [49-12-402](#), as last amended by Laws of Utah 2017, Chapter 141
- 136 [49-13-203](#), as last amended by Laws of Utah 2018, Chapter 10 and last amended by

- 137 Coordination Clause, Laws of Utah 2018, Chapter 315
- 138 **49-13-204**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 139 **49-13-402**, as last amended by Laws of Utah 2019, Chapter 31
- 140 **49-21-102**, as last amended by Laws of Utah 2018, Chapter 185
- 141 **49-22-203**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 142 **49-22-204**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 143 **51-7-4**, as last amended by Laws of Utah 2017, Chapter 363
- 144 **51-7-13**, as last amended by Laws of Utah 2018, Chapter 415
- 145 **51-8-303**, as enacted by Laws of Utah 2007, Chapter 59
- 146 **51-9-201**, as last amended by Laws of Utah 2014, Chapter 96
- 147 **53-2a-802**, as last amended by Laws of Utah 2017, Chapter 363
- 148 **53-7-204**, as last amended by Laws of Utah 2018, Chapter 152
- 149 **53B-1-101.5**, as last amended by Laws of Utah 2017, Chapter 382
- 150 **53B-1-102**, as last amended by Laws of Utah 2017, Chapter 382
- 151 **53B-1-109**, as last amended by Laws of Utah 2018, Chapter 415
- 152 **53B-1-114**, as last amended by Laws of Utah 2018, Chapter 415
- 153 **53B-1-301**, as enacted by Laws of Utah 2019, Chapter 324 and last amended by
- 154 Coordination Clause, Laws of Utah 2019, Chapter 444
- 155 **53B-2-102**, as last amended by Laws of Utah 2018, Chapter 382
- 156 **53B-2-103**, as last amended by Laws of Utah 2017, Chapter 382
- 157 **53B-2-104**, as last amended by Laws of Utah 2019, Chapter 357
- 158 **53B-2-106**, as last amended by Laws of Utah 2017, Chapter 382
- 159 **53B-2a-100.5**, as enacted by Laws of Utah 2017, Chapter 382
- 160 **53B-2a-101**, as last amended by Laws of Utah 2019, Chapter 482
- 161 **53B-2a-104**, as last amended by Laws of Utah 2018, Chapter 382
- 162 **53B-2a-105**, as last amended by Laws of Utah 2018, Chapter 382
- 163 **53B-2a-106**, as last amended by Laws of Utah 2018, Chapters 382 and 415

- 164 **53B-2a-107**, as last amended by Laws of Utah 2018, Chapter 382
- 165 **53B-2a-108**, as repealed and reenacted by Laws of Utah 2018, Chapter 382
- 166 **53B-2a-109**, as last amended by Laws of Utah 2018, Chapter 382
- 167 **53B-2a-110**, as last amended by Laws of Utah 2017, Chapter 382
- 168 **53B-2a-112**, as last amended by Laws of Utah 2018, Chapter 382
- 169 **53B-2a-113**, as last amended by Laws of Utah 2018, Chapter 382
- 170 **53B-2a-114**, as last amended by Laws of Utah 2018, Chapter 382
- 171 **53B-2a-115**, as enacted by Laws of Utah 2017, Chapter 382
- 172 **53B-2a-116**, as last amended by Laws of Utah 2019, Chapter 13
- 173 **53B-2a-117**, as enacted by Laws of Utah 2019, Chapter 482
- 174 **53B-6-104**, as last amended by Laws of Utah 2017, Chapter 43
- 175 **53B-6-105.5**, as last amended by Laws of Utah 2019, Chapter 444
- 176 **53B-6-105.9**, as last amended by Laws of Utah 2008, Chapter 382
- 177 **53B-6-106**, as last amended by Laws of Utah 2017, Chapter 382
- 178 **53B-7-101**, as last amended by Laws of Utah 2019, Chapters 324 and 482
- 179 **53B-7-104**, as last amended by Laws of Utah 1989, Chapter 277
- 180 **53B-7-702**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 181 **53B-7-703**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 182 **53B-7-705**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 183 **53B-7-706**, as last amended by Laws of Utah 2019, Chapter 324
- 184 **53B-7-707**, as last amended by Laws of Utah 2019, Chapter 324
- 185 **53B-8-101**, as last amended by Laws of Utah 2018, Chapters 281 and 382
- 186 **53B-8-103**, as last amended by Laws of Utah 2013, Chapters 10 and 23
- 187 **53B-8-104**, as last amended by Laws of Utah 2019, Chapter 324
- 188 **53B-8-106**, as enacted by Laws of Utah 2002, Chapter 230
- 189 **53B-8-107**, as last amended by Laws of Utah 2018, Chapter 39
- 190 **53B-8-201**, as last amended by Laws of Utah 2019, Chapter 444

- 191 **53B-8-301**, as enacted by Laws of Utah 2019, Chapter 444
- 192 **53B-8-303**, as enacted by Laws of Utah 2019, Chapter 444
- 193 **53B-8a-102.5**, as enacted by Laws of Utah 2017, Chapter 389
- 194 **53B-8a-204**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 195 **53B-8e-103**, as last amended by Laws of Utah 2018, Chapter 39
- 196 **53B-10-201**, as enacted by Laws of Utah 2018, Chapter 402
- 197 **53B-11-104**, as enacted by Laws of Utah 1998, Chapter 70
- 198 **53B-12-102**, as last amended by Laws of Utah 2011, Chapter 46
- 199 **53B-16-101**, as last amended by Laws of Utah 2017, Chapter 382
- 200 **53B-16-102**, as last amended by Laws of Utah 2017, Chapter 382
- 201 **53B-16-105**, as last amended by Laws of Utah 2019, Chapter 102
- 202 **53B-16-107**, as last amended by Laws of Utah 2019, Chapter 102
- 203 **53B-16-110**, as enacted by Laws of Utah 2019, Chapter 102
- 204 **53B-16-202**, as renumbered and amended by Laws of Utah 1987, Chapter 8
- 205 **53B-16-205**, as last amended by Laws of Utah 2009, Chapter 346
- 206 **53B-16-205.5**, as enacted by Laws of Utah 2014, Chapter 69
- 207 **53B-16-209**, as last amended by Laws of Utah 2017, Chapter 382
- 208 **53B-16-303**, as last amended by Laws of Utah 2008, Chapter 382
- 209 **53B-16-401**, as last amended by Laws of Utah 2017, Chapter 382
- 210 **53B-16-402**, as enacted by Laws of Utah 1996, Chapter 73
- 211 **53B-16-501**, as last amended by Laws of Utah 2015, Chapter 337
- 212 **53B-17-101**, as last amended by Laws of Utah 2014, Chapter 63
- 213 **53B-17-103**, as last amended by Laws of Utah 2006, Chapter 150
- 214 **53B-17-104**, as last amended by Laws of Utah 2014, Chapter 63
- 215 **53B-17-105**, as last amended by Laws of Utah 2017, Chapter 382
- 216 **53B-17-503**, as enacted by Laws of Utah 1987, Chapter 167
- 217 **53B-17-505**, as enacted by Laws of Utah 1987, Chapter 167



- 218           **53B-17-901**, as enacted by Laws of Utah 2013, Chapter 302
- 219           **53B-17-1203**, as last amended by Laws of Utah 2019, Chapter 186 and renumbered and
- 220 amended by Laws of Utah 2019, Chapter 446 and last amended by Coordination
- 221 Clause, Laws of Utah 2019, Chapter 446
- 222           **53B-17-1204**, as last amended by Laws of Utah 2019, Chapter 186 and renumbered and
- 223 amended by Laws of Utah 2019, Chapter 446 and last amended by Coordination
- 224 Clause, Laws of Utah 2019, Chapter 446
- 225           **53B-18-501**, as enacted by Laws of Utah 1988, Chapter 218
- 226           **53B-18-1301**, as enacted by Laws of Utah 2011, Chapter 249
- 227           **53B-21-104**, as enacted by Laws of Utah 1987, Chapter 167
- 228           **53B-21-105**, as last amended by Laws of Utah 2011, Chapter 342
- 229           **53B-21-113**, as enacted by Laws of Utah 1987, Chapter 167
- 230           **53B-22-201**, as enacted by Laws of Utah 2019, Chapter 482
- 231           **53B-23-104**, as enacted by Laws of Utah 2006, Chapter 301
- 232           **53B-23-106**, as enacted by Laws of Utah 2006, Chapter 301
- 233           **53B-26-103**, as last amended by Laws of Utah 2019, Chapters 324 and 357
- 234           **53B-26-202**, as last amended by Laws of Utah 2019, Chapter 324
- 235           **53B-27-301**, as enacted by Laws of Utah 2018, Chapter 325
- 236           **53B-27-303**, as enacted by Laws of Utah 2018, Chapter 325
- 237           **53B-28-401**, as enacted by Laws of Utah 2019, Chapter 476
- 238           **53E-1-201**, as last amended by Laws of Utah 2019, Chapter 324 and last amended by
- 239 Coordination Clause, Laws of Utah 2019, Chapters 41, 205, 223, 342, 446, and 476
- 240           **53E-1-203**, as enacted by Laws of Utah 2019, Chapter 324
- 241           **53E-2-302**, as last amended by Laws of Utah 2019, Chapter 186
- 242           **53E-3-502**, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 243           **53E-3-505**, as last amended by Laws of Utah 2019, Chapters 186 and 226
- 244           **53E-3-507**, as last amended by Laws of Utah 2019, Chapters 186, 324, and 357

- 245 **53E-4-206**, as last amended by Laws of Utah 2019, Chapter 186
- 246 **53E-4-308**, as last amended by Laws of Utah 2019, Chapters 186 and 342
- 247 **53E-6-201**, as last amended by Laws of Utah 2019, Chapter 186
- 248 **53E-10-301**, as last amended by Laws of Utah 2019, Chapters 120 and 147
- 249 **53E-10-302**, as last amended by Laws of Utah 2019, Chapters 120, 147, and 186
- 250 **53E-10-303**, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 251 **53E-10-304**, as last amended by Laws of Utah 2019, Chapter 186
- 252 **53E-10-305**, as last amended by Laws of Utah 2019, Chapters 120, 147, and 223
- 253 **53E-10-308**, as last amended by Laws of Utah 2019, Chapters 186 and 324
- 254 **53E-10-704**, as last amended by Laws of Utah 2019, Chapter 186
- 255 **53F-2-409**, as last amended by Laws of Utah 2019, Chapters 136 and 186
- 256 **53F-2-501**, as last amended by Laws of Utah 2019, Chapter 186
- 257 **53F-5-204**, as last amended by Laws of Utah 2019, Chapters 186 and 324
- 258 **53F-5-205**, as last amended by Laws of Utah 2019, Chapter 186
- 259 **53G-5-102**, as last amended by Laws of Utah 2019, Chapter 293
- 260 **53G-5-306**, as last amended by Laws of Utah 2019, Chapter 293
- 261 **53G-10-303**, as last amended by Laws of Utah 2019, Chapter 293
- 262 **54-8b-10**, as last amended by Laws of Utah 2019, Chapter 349
- 263 **58-22-302**, as last amended by Laws of Utah 2017, Chapter 382
- 264 **59-12-102**, as last amended by Laws of Utah 2019, Chapters 325, 481, and 486
- 265 **63A-3-103**, as last amended by Laws of Utah 2019, Chapter 370
- 266 **63A-3-110**, as last amended by Laws of Utah 2019, Chapter 211
- 267 **63A-4-103**, as last amended by Laws of Utah 2010, Chapter 324
- 268 **63A-5-104**, as last amended by Laws of Utah 2019, Chapters 468 and 482
- 269 **63A-5-303**, as enacted by Laws of Utah 1995, Chapter 113
- 270 **63A-5-305**, as last amended by Laws of Utah 2016, Chapter 240
- 271 **63A-5-501**, as renumbered and amended by Laws of Utah 2008, Chapter 382

- 272 [63C-19-102](#), as enacted by Laws of Utah 2018, Chapter 382
- 273 [63C-19-201](#), as enacted by Laws of Utah 2018, Chapter 382
- 274 [63C-19-202](#), as enacted by Laws of Utah 2018, Chapter 382
- 275 [63D-2-102](#), as last amended by Laws of Utah 2009, Chapter 356
- 276 [63F-1-102](#), as last amended by Laws of Utah 2019, Chapter 246
- 277 [63F-1-206](#), as last amended by Laws of Utah 2017, Chapter 238
- 278 [63F-1-303](#), as last amended by Laws of Utah 2019, Chapter 246
- 279 [63F-2-102](#), as last amended by Laws of Utah 2018, Chapter 81
- 280 [63G-2-103](#), as last amended by Laws of Utah 2019, Chapters 254 and 280
- 281 [63G-6a-103](#), as last amended by Laws of Utah 2019, Chapters 136, 170, 314, and 456
- 282 [63G-6a-202](#), as last amended by Laws of Utah 2016, Chapter 144
- 283 [63G-7-301](#), as last amended by Laws of Utah 2019, Chapters 229 and 248
- 284 [63G-10-102](#), as last amended by Laws of Utah 2016, Chapter 144
- 285 [63I-2-253](#), as last amended by Laws of Utah 2019, Chapters 41, 129, 136, 223, 324,
- 286 325, and 444
- 287 [63I-2-263](#), as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370,
- 288 and 483
- 289 [63I-5-102](#), as last amended by Laws of Utah 2016, Chapters 144 and 195
- 290 [63I-5-201](#), as last amended by Laws of Utah 2018, Chapter 25
- 291 [63J-1-210](#), as last amended by Laws of Utah 2011, Chapters 323 and 342
- 292 [63J-1-219](#), as last amended by Laws of Utah 2018, Chapter 39
- 293 [63J-1-602.2](#), as last amended by Laws of Utah 2019, Chapters 136, 326, 468, and 469
- 294 [63J-2-102](#), as last amended by Laws of Utah 2018, Chapter 469
- 295 [63J-3-103](#), as last amended by Laws of Utah 2017, Chapter 382
- 296 [63N-1-301](#), as last amended by Laws of Utah 2019, Chapter 487
- 297 [63N-12-503](#), as last amended by Laws of Utah 2019, Chapter 427
- 298 [63N-12-508](#), as enacted by Laws of Utah 2019, Chapter 487

- 299 **67-8-3**, as last amended by Laws of Utah 2018, Chapter 415
- 300 **67-19c-101**, as last amended by Laws of Utah 2012, Chapter 212
- 301 **67-21-3**, as last amended by Laws of Utah 2018, Chapter 178

302 ENACTS:

- 303 **53B-1-401**, Utah Code Annotated 1953
- 304 **53B-1-403**, Utah Code Annotated 1953
- 305 **53B-1-405**, Utah Code Annotated 1953
- 306 **53B-1-406**, Utah Code Annotated 1953
- 307 **53B-1-407**, Utah Code Annotated 1953
- 308 **53B-1-409**, Utah Code Annotated 1953
- 309 **53B-1-410**, Utah Code Annotated 1953
- 310 **53B-1-501**, Utah Code Annotated 1953
- 311 **53B-1-502**, Utah Code Annotated 1953
- 312 **53B-1-503**, Utah Code Annotated 1953

313 RENUMBERS AND AMENDS:

- 314 **53B-1-402**, (Renumbered from 53B-1-103, as last amended by Laws of Utah 2019,  
315 Chapter 357)
- 316 **53B-1-404**, (Renumbered from 53B-1-104, as last amended by Laws of Utah 2018,  
317 Chapter 382)
- 318 **53B-1-408**, (Renumbered from 53B-1-105, as last amended by Laws of Utah 2012,  
319 Chapter 78)

320 REPEALS:

- 321 **53B-1-101**, as last amended by Laws of Utah 2017, Chapter 382
- 322 **53B-1-106**, as last amended by Laws of Utah 2018, Chapter 325
- 323 **53B-1-107**, as last amended by Laws of Utah 2019, Chapter 324
- 324 **53B-2a-102**, as last amended by Laws of Utah 2018, Chapter 382
- 325 **53B-2a-111**, as last amended by Laws of Utah 2017, Chapter 382

326 **Utah Code Sections Affected by Coordination Clause:**

327 **53B-1-501**, Utah Code Annotated 1953

328 **63G-6a-103**, as last amended by Laws of Utah 2019, Chapters 136, 170, 314, and 456

329 **63N-12-507**, as enacted by Laws of Utah 2019, Chapter 427

330 **67-1-2**, as last amended by Laws of Utah 2008, Chapter 382

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

333 Section 1. Section **7-22-101** is amended to read:

334 **7-22-101. Definitions -- Exemptions.**

335 (1) As used in this chapter:

336 (a) "Escrow" means an agreement, express or implied, that provides for one or more  
337 parties to deliver or entrust money, a certificate of deposit, a security, a negotiable instrument, a  
338 deed, or other property or asset to another person to be held, paid, or delivered in accordance  
339 with terms and conditions prescribed in the agreement.

340 (b) "Escrow agent" means a person that provides or offers to provide escrow services  
341 to the public.

342 (c) "Nationwide database" means the Nationwide Mortgage Licensing System and  
343 Registry, authorized under 12 U.S.C. Sec. 5101 for federal licensing of mortgage loan  
344 originators.

345 (2) This chapter does not apply to:

346 (a) a trust company authorized to engage in the trust business in Utah in accordance  
347 with Chapter 5, Trust Business;

348 (b) a person other than an escrow agent regulated under this chapter that is exempted  
349 from the definition of trust business in Subsection **7-5-1(1)**;

350 (c) a depository institution chartered by a state or the federal government that is  
351 engaged in business as a depository institution in Utah;

352 (d) the [~~State Board of Regents~~] Utah Board of Higher Education, the Utah Higher

353 Education Assistance Authority, or the State Treasurer; and

354 (e) a person licensed under Title 31A, Insurance Code.

355 Section 2. Section 9-9-104.6 is amended to read:

356 **9-9-104.6. Participation of state agencies in meetings with tribal leaders --**

357 **Contact information.**

358 (1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the  
359 division shall coordinate with representatives of tribal governments and the entities listed in  
360 Subsection (2) to provide for the broadest participation possible in the joint meetings.

361 (2) The following may participate in all meetings described in Subsection (1):

362 (a) the chairs of the Native American Legislative Liaison Committee created in Section  
363 36-22-1;

364 (b) the governor or the governor's designee;

365 (c) (i) the American Indian-Alaskan Native Health Liaison appointed in accordance  
366 with Section 26-7-2.5; or

367 (ii) if the American Indian-Alaskan Native Health Liaison is not appointed, a  
368 representative of the Department of Health appointed by the executive director of the  
369 Department of Health;

370 (d) the American Indian-Alaskan Native Public Education Liaison appointed in  
371 accordance with Section 53F-5-604; and

372 (e) a representative appointed by the chief administrative officer of the following:

373 (i) the Department of Human Services;

374 (ii) the Department of Natural Resources;

375 (iii) the Department of Workforce Services;

376 (iv) the Governor's Office of Economic Development;

377 (v) the State Board of Education; and

378 (vi) the [~~State Board of Regents~~] Utah Board of Higher Education.

379 (3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:

380 (i) designate the name of a contact person for that agency that can assist in coordinating  
381 the efforts of state and tribal governments in meeting the needs of the Native Americans  
382 residing in the state; and

383 (ii) notify the division:

384 (A) who is the designated contact person described in Subsection (3)(a)(i); and

385 (B) of any change in who is the designated contact person described in Subsection  
386 (3)(a)(i).

387 (b) This Subsection (3) applies to:

388 (i) the Department of Agriculture and Food;

389 (ii) the Department of Heritage and Arts;

390 (iii) the Department of Corrections;

391 (iv) the Department of Environmental Quality;

392 (v) the Department of Public Safety;

393 (vi) the Department of Transportation;

394 (vii) the Office of the Attorney General;

395 (viii) the State Tax Commission; and

396 (ix) any agency described in Subsections (2)(c) through (e).

397 (c) At the request of the division, a contact person listed in Subsection (3)(b) may  
398 participate in a meeting described in Subsection (1).

399 (4) (a) A participant under this section who is not a legislator may not receive  
400 compensation or benefits for the participant's service, but may receive per diem and travel  
401 expenses as allowed in:

402 (i) Section [63A-3-106](#);

403 (ii) Section [63A-3-107](#); and

404 (iii) rules made by the Division of Finance according to Sections [63A-3-106](#) and  
405 [63A-3-107](#).

406 (b) Compensation and expenses of a participant who is a legislator are governed by

407 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

408 Section 3. Section 9-22-103 is amended to read:

409 **9-22-103. STEM Action Center Board creation -- Membership.**

410 (1) There is created the STEM Action Center Board, composed of the following  
411 members:

412 (a) six private sector members who represent business, appointed by the governor;

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

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

415 (d) one member appointed by the governor;

416 (e) a member of the State Board of Education, chosen by the chair of the State Board of  
417 Education;

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

419 [~~(g) the Utah System of Technical Colleges commissioner of technical education or the~~  
420 ~~commissioner's designee;~~]

421 [~~(h)~~] (g) the executive director of the Department of Workforce Services or the  
422 executive director's designee; and

423 [~~(i)~~] (h) one member who has a degree in engineering and experience working in a  
424 government military installation, appointed by the governor.

425 (2) (a) The private sector members appointed by the governor in Subsection (1)(a) shall  
426 represent a business or trade association whose primary focus is science, technology, or  
427 engineering.

428 (b) Except as required by Subsection (2)(c), members appointed by the governor shall  
429 be appointed to four-year terms.

430 (c) The length of terms of the members shall be staggered so that approximately half of  
431 the committee is appointed every two years.

432 (d) The members may not serve more than two full consecutive terms except where the  
433 governor determines that an additional term is in the best interest of the state.



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

436 (3) Attendance of a simple majority of the members constitutes a quorum for the  
437 transaction of official committee business.

438 (4) Formal action by the STEM board requires a majority vote of a quorum.

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

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

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

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

444 (6) The governor shall select the chair of the STEM board to serve a two-year term.

445 (7) The executive director of the department or the executive director's designee shall  
446 serve as the vice chair of the STEM board.

447 Section 4. Section 9-22-104 is amended to read:

448 **9-22-104. STEM Action Center Board -- Duties.**

449 (1) The STEM board shall:

450 (a) establish a STEM Action Center to:

451 (i) coordinate STEM activities in the state among the following stakeholders:

452 (A) the State Board of Education;

453 (B) school districts and charter schools;

454 (C) the [~~State Board of Regents~~] Utah Board of Higher Education;

455 (D) institutions of higher education;

456 (E) parents of home-schooled students;

457 (F) other state agencies; and

458 (G) business and industry representatives;

459 (ii) align public education STEM activities with higher education STEM activities; and

460 (iii) create and coordinate best practices among public education and higher education;

461 (b) with the consent of the Senate, appoint a director to oversee the administration of  
462 the STEM Action Center;

463 (c) select a physical location for the STEM Action Center;

464 (d) strategically engage industry and business entities to cooperate with the STEM  
465 board:

466 (i) to support high quality professional development and provide other assistance for  
467 educators and students; and

468 (ii) to provide private funding and support for the STEM Action Center;

469 (e) give direction to the STEM Action Center and the providers selected through a  
470 request for proposals process pursuant to this part; and

471 (f) work to meet the following expectations:

472 (i) that at least 50 educators are implementing best practice learning tools in  
473 classrooms;

474 (ii) performance change in student achievement in each classroom participating in a  
475 STEM Action Center project; and

476 (iii) that students from at least 50 schools in the state participate in the STEM  
477 competitions, fairs, and camps described in Subsection 9-22-106(2)(d).

478 (2) The STEM board may:

479 (a) enter into contracts for the purposes of this part;

480 (b) apply for, receive, and disburse funds, contributions, or grants from any source for  
481 the purposes set forth in this part;

482 (c) employ, compensate, and prescribe the duties and powers of individuals necessary  
483 to execute the duties and powers of the STEM board;

484 (d) prescribe the duties and powers of the STEM Action Center providers; and

485 (e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
486 make rules to administer this part.

487 (3) The STEM board may establish a foundation to assist in:

488 (a) the development and implementation of the programs authorized under this part to  
489 promote STEM education; and

490 (b) implementation of other STEM education objectives described in this part.

491 (4) A foundation established by the STEM board under Subsection (3):

492 (a) may solicit and receive contributions from a private organization for STEM  
493 education objectives described in this part;

494 (b) shall comply with the requirements described in Section 9-22-105;

495 (c) does not have power or authority to incur contractual obligations or liabilities that  
496 constitute a claim against public funds;

497 (d) may not exercise executive or administrative authority over the programs or other  
498 activities described in this part, except to the extent specifically authorized by the STEM board;

499 (e) shall provide the STEM board with information detailing transactions and balances  
500 associated with the foundation; and

501 (f) may not:

502 (i) engage in lobbying activities;

503 (ii) attempt to influence legislation; or

504 (iii) participate in any campaign activity for or against:

505 (A) a political candidate; or

506 (B) an initiative, referendum, proposed constitutional amendment, bond, or any other  
507 ballot proposition submitted to the voters.

508 Section 5. Section 9-22-106 is amended to read:

509 **9-22-106. STEM Action Center.**

510 (1) The STEM board shall:

511 (a) establish a STEM Action Center;

512 (b) ensure that the STEM Action Center:

513 (i) is accessible to the public; and

514 (ii) includes the components described in Subsection (2);

- 515 (c) work cooperatively with the State Board of Education to:
- 516 (i) further STEM education; and
- 517 (ii) ensure best practices are implemented as described in Sections 9-22-107 and
- 518 9-22-108;
- 519 (d) engage private entities to provide financial support or employee time for STEM
- 520 activities in schools in addition to what is currently provided by private entities; and
- 521 (e) work cooperatively with stakeholders to support and promote activities that align
- 522 STEM education and training activities with the employment needs of business and industry in
- 523 the state.
- 524 (2) As funding allows, the director of the STEM Action Center shall:
- 525 (a) support high quality professional development for educators regarding STEM
- 526 education;
- 527 (b) ensure that the STEM Action Center acts as a research and development center for
- 528 STEM education through a request for proposals process described in Section 9-22-107;
- 529 (c) review and acquire STEM education related materials and products for:
- 530 (i) high quality professional development;
- 531 (ii) assessment, data collection, analysis, and reporting; and
- 532 (iii) public school instruction;
- 533 (d) facilitate participation in interscholastic STEM related competitions, fairs, camps,
- 534 and STEM education activities;
- 535 (e) engage private industry in the development and maintenance of the STEM Action
- 536 Center and STEM Action Center projects;
- 537 (f) use resources to bring the latest STEM education learning tools into public
- 538 education classrooms;
- 539 (g) identify at least 10 best practice innovations used in Utah that have resulted in a
- 540 measurable improvement in student performance or outcomes in STEM areas;
- 541 (h) identify best practices being used outside the state and, as appropriate, develop and

542 implement selected practices through a pilot program;

543 (i) identify:

544 (i) learning tools for kindergarten through grade 6 identified as best practices; and

545 (ii) learning tools for grades 7 through 12 identified as best practices;

546 (j) collect data on Utah best practices, including best practices from public education,

547 higher education, the Utah Education and Telehealth Network, and other STEM related

548 entities;

549 (k) keep track of the following items related to best practices described in Subsection

550 (2)(j):

551 (i) how the best practices data are being used; and

552 (ii) how many individuals are using the data, including the demographics of the users,

553 if available;

554 (l) as appropriate, join and participate in a national STEM network;

555 (m) work cooperatively with the State Board of Education to designate schools as

556 STEM schools, where the schools have agreed to adopt a plan of STEM implementation in

557 alignment with criteria set by the State Board of Education and the board;

558 (n) support best methods of high quality professional development for STEM

559 education in kindergarten through grade 12, including methods of high quality professional

560 development that reduce cost and increase effectiveness, to help educators learn how to most

561 effectively implement best practice learning tools in classrooms;

562 (o) recognize achievement in the STEM competitions, fairs, and camps described in

563 Subsection (2)(d);

564 (p) send student results from STEM competitions, fairs, and camps described in

565 Subsection (2)(d) to media and ask the media to report on them;

566 (q) develop and distribute STEM information to parents of students in the state;

567 (r) support targeted high quality professional development for improved instruction in

568 STEM education, including:

569 (i) improved instructional materials that are dynamic and engaging for students;  
570 (ii) use of applied instruction; and  
571 (iii) introduction of other research-based methods that support student achievement in  
572 STEM areas; and

573 (s) ensure that an online college readiness assessment tool be accessible by:

574 (i) public education students; and

575 (ii) higher education students.

576 (3) The STEM board may prescribe other duties for the STEM Action Center in  
577 addition to the responsibilities described in this section.

578 (4) (a) The director shall work with an independent evaluator to track and compare the  
579 student performance of students participating in a STEM Action Center program to all other  
580 similarly situated students in the state, if appropriate, in the following activities:

581 (i) public education high school graduation rates;

582 (ii) the number of students taking a remedial mathematics course at an institution of  
583 higher education described in Section [53B-2-101](#);

584 (iii) the number of students who graduate from a Utah public school and begin a  
585 postsecondary education program; and

586 (iv) the number of students, as compared to all similarly situated students, who are  
587 performing at grade level in STEM classes.

588 (b) The State Board of Education and the [~~State Board of Regents~~] Utah Board of  
589 Higher Education shall provide information to the STEM board to assist the STEM board in  
590 complying with the requirements of Subsection (4)(a) if allowed under federal law.

591 Section 6. Section **11-17-17** is amended to read:

592 **11-17-17. State universities granted same powers as municipalities and counties --**  
593 **Authority to issue bonds.**

594 (1) The [~~State Board of Regents~~] Utah Board of Higher Education may, on behalf of  
595 the University of Utah and Utah State University exercise all powers granted to municipalities

596 and counties pursuant to this chapter, except as provided in Subsection (2).

597 (2) The [~~board~~] Utah Board of Higher Education may not issue bonds in excess of  
598 \$10,000,000 in any one fiscal year under this chapter on behalf of either institution as the  
599 borrower without prior approval from the Legislature.

600 (3) Refunding bonds are exempt from the requirements of Subsection (2) if:

601 (a) the bonds are issued to reduce debt service costs; and

602 (b) the refunding bonds mature during the same time frame as the original obligation.

603 Section 7. Section 11-27-2 is amended to read:

604 **11-27-2. Definitions.**

605 As used in this chapter:

606 (1) "Advance refunding bonds" means refunding bonds issued for the purpose of  
607 refunding outstanding bonds in advance of their maturity.

608 (2) "Assessments" means a special tax levied against property within a special  
609 improvement district to pay all or a portion of the costs of making improvements in the district.

610 (3) "Bond" means any revenue bond, general obligation bond, tax increment bond,  
611 special improvement bond, local building authority bond, or refunding bond.

612 (4) "General obligation bond" means any bond, note, warrant, certificate of  
613 indebtedness, or other obligation of a public body payable in whole or in part from revenues  
614 derived from ad valorem taxes and that constitutes an indebtedness within the meaning of any  
615 applicable constitutional or statutory debt limitation.

616 (5) "Governing body" means the council, commission, county legislative body, board  
617 of directors, board of trustees, board of education, [~~board of regents~~] board of higher education,  
618 or other legislative body of a public body designated in this chapter that is vested with the  
619 legislative powers of the public body, and, with respect to the state, the State Bonding  
620 Commission created by Section 63B-1-201.

621 (6) "Government obligations" means:

622 (a) direct obligations of the United States of America, or other securities, the principal

623 of and interest on which are unconditionally guaranteed by the United States of America; or

624 (b) obligations of any state, territory, or possession of the United States, or of any of  
625 the political subdivisions of any state, territory, or possession of the United States, or of the  
626 District of Columbia described in Section 103(a), Internal Revenue Code of 1986.

627 (7) "Issuer" means the public body issuing any bond or bonds.

628 (8) "Public body" means the state or any agency, authority, instrumentality, or  
629 institution of the state, or any municipal or quasi-municipal corporation, political subdivision,  
630 agency, school district, local district, special service district, or other governmental entity now  
631 or hereafter existing under the laws of the state.

632 (9) "Refunding bonds" means bonds issued under the authority of this chapter for the  
633 purpose of refunding outstanding bonds.

634 (10) "Resolution" means a resolution of the governing body of a public body taking  
635 formal action under this chapter.

636 (11) "Revenue bond" means any bond, note, warrant, certificate of indebtedness, or  
637 other obligation for the payment of money issued by a public body or any predecessor of any  
638 public body and that is payable from designated revenues not derived from ad valorem taxes or  
639 from a special fund composed of revenues not derived from ad valorem taxes, but excluding all  
640 of the following:

641 (a) any obligation constituting an indebtedness within the meaning of any applicable  
642 constitutional or statutory debt limitation;

643 (b) any obligation issued in anticipation of the collection of taxes, where the entire  
644 issue matures not later than one year from the date of the issue; and

645 (c) any special improvement bond.

646 (12) "Special improvement bond" means any bond, note, warrant, certificate of  
647 indebtedness, or other obligation of a public body or any predecessor of any public body that is  
648 payable from assessments levied on benefitted property and from any special improvement  
649 guaranty fund.



650 (13) "Special improvement guaranty fund" means any special improvement guaranty  
651 fund established under Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities;  
652 Title 11, Chapter 42, Assessment Area Act; or any predecessor or similar statute.

653 (14) "Tax increment bond" means any bond, note, warrant, certificate of indebtedness,  
654 or other obligation of a public body issued under authority of Title 17C, Limited Purpose Local  
655 Government Entities - Community Reinvestment Agency Act.

656 Section 8. Section **11-59-302** is amended to read:

657 **11-59-302. Number of board members -- Appointment -- Vacancies -- Chairs.**

658 (1) The board shall consist of 11 members as provided in Subsection (2).

659 (2) (a) The president of the Senate shall appoint two members of the Senate to serve as  
660 members of the board.

661 (b) The speaker of the House of Representatives shall appoint two members of the  
662 House of Representatives to serve as members of the board.

663 (c) The governor shall appoint four individuals to serve as members of the board:

664 (i) one of whom shall be a member of the board of or employed by the Governor's  
665 Office of Economic Development, created in Section [63N-1-201](#); and

666 (ii) one of whom shall be an employee of the Division of Facilities Construction and  
667 Management, created in Section [63A-5-201](#).

668 (d) The Salt Lake County mayor shall appoint one board member, who shall be an  
669 elected Salt Lake County government official.

670 (e) The mayor of Draper, or a member of the Draper city council that the mayor  
671 designates, shall serve as a board member.

672 (f) The commissioner of higher education, appointed under Section [~~53B-1-105~~]  
673 [53B-1-408](#), or the commissioner's designee, shall serve as a board member.

674 (3) (a) (i) Subject to Subsection (3)(a)(ii), a vacancy on the board shall be filled in the  
675 same manner under this section as the appointment of the member whose vacancy is being  
676 filled.

677 (ii) If the mayor of Draper or commissioner of higher education is removed as a board  
678 member under Subsection (5), the mayor of Draper or commissioner of higher education, as the  
679 case may be, shall designate an individual to serve as a member of the board, as provided in  
680 Subsection (2)(e) or (f), respectively.

681 (b) Each person appointed or designated to fill a vacancy shall serve the remaining  
682 unexpired term of the member whose vacancy the person is filling.

683 (4) A member of the board appointed by the governor, president of the Senate, or  
684 speaker of the House of Representatives serves at the pleasure of and may be removed and  
685 replaced at any time, with or without cause, by the governor, president of the Senate, or speaker  
686 of the House of Representatives, respectively.

687 (5) A member of the board may be removed by a vote of two-thirds of all members of  
688 the board.

689 (6) (a) The governor shall appoint one board member to serve as cochair of the board.

690 (b) The president of the Senate and speaker of the House of Representatives shall  
691 jointly appoint one legislative member of the board to serve as cochair of the board.

692 Section 9. Section **13-34a-104** is amended to read:

693 **13-34a-104. Authority to execute interstate reciprocity agreement -- Rulemaking.**

694 (1) The division may execute an interstate reciprocity agreement that:

695 (a) is for purposes of state authorization under 34 C.F.R. Sec. 600.9; and

696 (b) is for the benefit of:

697 (i) postsecondary schools in the state; or

698 (ii) (A) postsecondary schools in the state; and

699 (B) institutions that are part of the state system of higher education under Section

700 [53B-1-102](#).

701 (2) If the division executes an interstate reciprocity agreement described in Subsection

702 (1) or the [~~State Board of Regents~~] Utah Board of Higher Education executes an interstate

703 reciprocity agreement under Section [53B-16-109](#):

704 (a) except as provided by division rule, this chapter does not apply to a postsecondary  
705 school that obtains state authorization under the reciprocity agreement; and

706 (b) the division may, in accordance with Title 63G, Chapter 3, Utah Administrative  
707 Rulemaking Act, make rules relating to:

708 (i) the standards for granting a postsecondary school state authorization under a  
709 reciprocity agreement;

710 (ii) any filing, document, or fee required for a postsecondary school to obtain  
711 authorization under a reciprocity agreement; and

712 (iii) penalties if a postsecondary school fails to comply with the rules that the division  
713 makes under this Subsection (2).

714 (3) If the division executes an interstate reciprocity agreement described in Subsection  
715 (1) that includes institutions that are part of the state system of higher education under Section  
716 [53B-1-102](#), the [~~State Board of Regents~~] Utah Board of Higher Education may make rules that:

717 (a) implement the reciprocity agreement; and

718 (b) relate to institutions that are part of the state system of higher education under  
719 Section [53B-1-102](#).

720 Section 10. Section **19-3-320** is amended to read:

721 **19-3-320. Efforts to prevent siting of any nuclear waste facility to include**  
722 **economic development study regarding Native American reservation lands within the**  
723 **state.**

724 (1) It is the intent of the Legislature that the department, in its efforts to prevent the  
725 siting of a nuclear waste facility within the exterior borders of the state, include in its work the  
726 study under Subsection (2) and the report under Subsection (3).

727 (2) It is the intent of the Legislature that the Department of Environmental Quality, in  
728 coordination with the office of the governor, and in cooperation with the Departments of  
729 Heritage and Arts, Human Services, Health, Workforce Services, Agriculture and Food,  
730 Natural Resources, and Transportation, the State Board of Education, and the [~~Board of~~

731 ~~Regents]~~ Utah Board of Higher Education:

732 (a) study the needs and requirements for economic development on the Native  
733 American reservations within the state; and

734 (b) prepare, on or before November 30, 2001, a long-term strategic plan for economic  
735 development on the reservations.

736 (3) It is the intent of the Legislature that this plan, prepared under Subsection (2)(b),  
737 shall be distributed to the governor and the members of the Legislature on or before December  
738 31, 2001.

739 Section 11. Section **20A-11-1202** is amended to read:

740 **20A-11-1202. Definitions.**

741 As used in this part:

742 (1) "Applicable election officer" means:

743 (a) a county clerk, if the email relates only to a local election; or

744 (b) the lieutenant governor, if the email relates to an election other than a local  
745 election.

746 (2) "Ballot proposition" means constitutional amendments, initiatives, referenda,  
747 judicial retention questions, opinion questions, bond approvals, or other questions submitted to  
748 the voters for their approval or rejection.

749 (3) "Campaign contribution" means any of the following when done for a political  
750 purpose or to advocate for or against a ballot proposition:

751 (a) a gift, subscription, donation, loan, advance, deposit of money, or anything of value  
752 given to a filing entity;

753 (b) an express, legally enforceable contract, promise, or agreement to make a gift,  
754 subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything  
755 of value to a filing entity;

756 (c) any transfer of funds from another reporting entity to a filing entity;

757 (d) compensation paid by any person or reporting entity other than the filing entity for

758 personal services provided without charge to the filing entity;

759 (e) remuneration from:

760 (i) any organization or the organization's directly affiliated organization that has a

761 registered lobbyist; or

762 (ii) any agency or subdivision of the state, including a school district; or

763 (f) an in-kind contribution.

764 (4) (a) "Commercial interlocal cooperation agency" means an interlocal cooperation

765 agency that receives its revenues from conduct of its commercial operations.

766 (b) "Commercial interlocal cooperation agency" does not mean an interlocal

767 cooperation agency that receives some or all of its revenues from:

768 (i) government appropriations;

769 (ii) taxes;

770 (iii) government fees imposed for regulatory or revenue raising purposes; or

771 (iv) interest earned on public funds or other returns on investment of public funds.

772 (5) "Expenditure" means:

773 (a) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,

774 or anything of value;

775 (b) an express, legally enforceable contract, promise, or agreement to make any

776 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of

777 value;

778 (c) a transfer of funds between a public entity and a candidate's personal campaign

779 committee;

780 (d) a transfer of funds between a public entity and a political issues committee; or

781 (e) goods or services provided to or for the benefit of a candidate, a candidate's

782 personal campaign committee, or a political issues committee for political purposes at less than

783 fair market value.

784 (6) "Filing entity" means the same as that term is defined in Section [20A-11-101](#).

785 (7) "Governmental interlocal cooperation agency" means an interlocal cooperation  
786 agency that receives some or all of its revenues from:

787 (a) government appropriations;

788 (b) taxes;

789 (c) government fees imposed for regulatory or revenue raising purposes; or

790 (d) interest earned on public funds or other returns on investment of public funds.

791 (8) "Influence" means to campaign or advocate for or against a ballot proposition.

792 (9) "Interlocal cooperation agency" means an entity created by interlocal agreement  
793 under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.

794 (10) "Local district" means an entity under Title 17B, Limited Purpose Local  
795 Government Entities - Local Districts, and includes a special service district under Title 17D,  
796 Chapter 1, Special Service District Act.

797 (11) "Political purposes" means an act done with the intent or in a way to influence or  
798 intend to influence, directly or indirectly, any person to refrain from voting or to vote for or  
799 against any:

800 (a) candidate for public office at any caucus, political convention, primary, or election;

801 or

802 (b) judge standing for retention at any election.

803 (12) "Proposed initiative" means an initiative proposed in an application filed under  
804 Section [20A-7-202](#) or [20A-7-502](#).

805 (13) "Proposed referendum" means a referendum proposed in an application filed  
806 under Section [20A-7-302](#) or [20A-7-602](#).

807 (14) (a) "Public entity" includes the state, each state agency, each county, municipality,  
808 school district, local district, governmental interlocal cooperation agency, and each  
809 administrative subunit of each of them.

810 (b) "Public entity" does not include a commercial interlocal cooperation agency.

811 (c) "Public entity" includes local health departments created under Title 26, Chapter 1,

812 Department of Health Organization.

813 (15) (a) "Public funds" means any money received by a public entity from  
814 appropriations, taxes, fees, interest, or other returns on investment.

815 (b) "Public funds" does not include money donated to a public entity by a person or  
816 entity.

817 (16) (a) "Public official" means an elected or appointed member of government with  
818 authority to make or determine public policy.

819 (b) "Public official" includes the person or group that:

820 (i) has supervisory authority over the personnel and affairs of a public entity; and

821 (ii) approves the expenditure of funds for the public entity.

822 (17) "Reporting entity" means the same as that term is defined in Section [20A-11-101](#).

823 (18) (a) "State agency" means each department, commission, board, council, agency,  
824 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,  
825 unit, bureau, panel, or other administrative unit of the state.

826 (b) "State agency" includes the legislative branch, the [~~Board of Regents, the~~  
827 ~~institutional councils of each higher education institution~~] Utah Board of Higher Education,  
828 each institution of higher education board of trustees, and each higher education institution.

829 Section 12. Section [35A-1-206](#) is amended to read:

830 **35A-1-206. State Workforce Development Board -- Appointment -- Membership**  
831 **-- Terms of members -- Compensation.**

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

835 (2) The board shall consist of the following [~~39~~] 38 members:

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

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

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

839 House of Representatives;

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

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

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

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

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

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

848 ~~[(j)]~~ (i) the executive director of the Governor's Office of Economic Development or  
849 the executive director's designee;

850 ~~[(k)]~~ (j) the executive director of the Department of Veterans and Military Affairs or  
851 the executive director's designee; and

852 ~~[(l)]~~ (k) the following members appointed by the governor:

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

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

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

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

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

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

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

865 (C) may include one or more representatives from a community-based organization



866 that has demonstrated experience and expertise in addressing the employment, training, or  
867 educational needs of individuals with barriers to employment; and

868 (D) may include one or more representatives from an organization that has  
869 demonstrated experience and expertise in addressing the employment, training, or education  
870 needs of eligible youth, including organizations that serve out of school youth; and

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

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

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

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

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

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

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

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

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

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

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

892 (6) (a) A member of the board who is not a legislator may not receive compensation or

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

894 (i) Section 63A-3-106;

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

896 (iii) rules made by the Division of Finance according to Sections 63A-3-106 and  
897 63A-3-107.

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

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

902 (8) The board has the duties, responsibilities, and powers described in 29 U.S.C. Sec.  
903 3111, including:

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

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

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

911 (d) developing strategies for staff training;

912 (e) developing and improving employment centers; and

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

915 (i) the Legislature;

916 (ii) the governor; or

917 (iii) the executive director.

918 Section 13. Section 35A-5-103 is amended to read:

919 **35A-5-103. Roles of service providers.**

920 (1) Delivery of job training related services not administered by the department under  
921 this chapter shall be provided in accordance with Subsections (2) and (3).

922 (2) The State Board of Education and the ~~[Board of Regents]~~ Utah Board of Higher  
923 Education shall provide for basic education, remedial education, and applied technology  
924 training.

925 (3) The Office of Rehabilitation shall provide those services authorized under the  
926 Rehabilitation Act of 1973, as amended.

927 Section 14. Section **35A-6-105** is amended to read:

928 **35A-6-105. Commissioner of Apprenticeship Programs.**

929 (1) There is created the position of Commissioner of Apprenticeship Programs within  
930 the department.

931 (2) The commissioner shall be appointed by the executive director and chosen from  
932 one or more recommendations provided by a majority vote of the State Workforce  
933 Development Board.

934 (3) The commissioner may be terminated without cause by the executive director.

935 (4) The commissioner shall:

936 (a) promote and educate the public, including high school guidance counselors and  
937 potential participants in apprenticeship programs, about apprenticeship programs offered in the  
938 state, including apprenticeship programs offered by private sector businesses, trade groups,  
939 labor unions, partnerships with educational institutions, and other associations in the state;

940 (b) coordinate with the department and other stakeholders, including ~~[the Utah System~~  
941 ~~of Technical Colleges,]~~ union and nonunion apprenticeship programs, the Office of  
942 Apprenticeship, the State Board of Education, the Utah ~~[System of Higher Education]~~ system  
943 of higher education, the Department of Commerce, the Division of Occupational and  
944 Professional Licensing, and the Governor's Office of Economic Development to improve and  
945 promote apprenticeship opportunities in the state; and

946 (c) provide an annual written report to:

947 (i) the department for inclusion in the department's annual written report described in  
948 Section 35A-1-109;

949 (ii) the Business, Economic Development, and Labor Appropriations Subcommittee;  
950 and

951 (iii) the Higher Education Appropriations Subcommittee.

952 (5) The annual written report described in Subsection (4)(c) shall provide information  
953 concerning:

954 (a) the number of available apprenticeship programs in the state;

955 (b) the number of apprentices participating in each program;

956 (c) the completion rate of each program;

957 (d) the cost of state funding for each program; and

958 (e) recommendations for improving apprenticeship programs.

959 Section 15. Section 35A-8-2103 is amended to read:

960 **35A-8-2103. Private Activity Bond Review Board.**

961 (1) There is created within the department the Private Activity Bond Review Board,  
962 composed of the following 11 members:

963 (a) (i) the executive director of the department or the executive director's designee;

964 (ii) the executive director of the Governor's Office of Economic Development or the  
965 executive director's designee;

966 (iii) the state treasurer or the state treasurer's designee;

967 (iv) the chair of the ~~[Board of Regents]~~ Utah Board of Higher Education or the chair's  
968 designee; and

969 (v) the chair of the Utah Housing Corporation or the chair's designee; and

970 (b) six local government members who are:

971 (i) three elected or appointed county officials, nominated by the Utah Association of  
972 Counties and appointed by the governor with the consent of the Senate; and

973 (ii) three elected or appointed municipal officials, nominated by the Utah League of

974 Cities and Towns and appointed by the governor with the consent of the Senate.

975 (2) (a) Except as required by Subsection (2)(b), the terms of office for the local  
976 government members of the board of review shall be four-year terms.

977 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the  
978 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
979 board of review members are staggered so that approximately half of the board of review is  
980 appointed every two years.

981 (c) Members may be reappointed only once.

982 (3) (a) If a local government member ceases to be an elected or appointed official of  
983 the city or county the member is appointed to represent, that membership on the board of  
984 review terminates immediately and there shall be a vacancy in the membership.

985 (b) When a vacancy occurs in the membership for any reason, the replacement shall be  
986 appointed within 30 days in the manner of the regular appointment for the unexpired term.

987 (4) (a) The chair of the board of review is the executive director of the department or  
988 the executive director's designee.

989 (b) The chair is nonvoting except in the case of a tie vote.

990 (5) Six members of the board of review constitute a quorum.

991 (6) Formal action by the board of review requires a majority vote of a quorum.

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

994 (a) Section [63A-3-106](#);

995 (b) Section [63A-3-107](#); and

996 (c) rules made by the Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#).

997 (8) The chair of the board of review serves as the state official designated under state  
998 law to make certifications required to be made under Section 146 of the code including the  
999 certification required by Section 149(e)(2)(F) of the code.

1000 Section 16. Section **35A-13-603** is amended to read:

1001           **35A-13-603. Board.**

1002           (1) There is created to assist the director of the office the Interpreter Certification  
1003 Board consisting of the following 11 members:

1004           (a) a designee of the assistant director;

1005           (b) a designee of the [~~State Board of Regents~~] Utah Board of Higher Education;

1006           (c) a designee of the State Board of Education;

1007           (d) four professional interpreters, recommended by the assistant director; and

1008           (e) four individuals who are deaf or hard of hearing, recommended by the assistant  
1009 director.

1010           (2) (a) The director shall make all appointments to the board.

1011           (b) In making appointments under Subsections (1)(d) and (e), the director shall give  
1012 consideration to recommendations by certified interpreters and members of the deaf and hard  
1013 of hearing community.

1014           (3) (a) Board members shall serve three-year terms, except that for the initial terms of  
1015 board members, three shall serve one-year terms, four shall serve two-year terms, and four shall  
1016 serve three-year terms.

1017           (b) An individual may not serve more than two three-year consecutive terms.

1018           (c) If a vacancy occurs on the board for a reason other than the expiration of a term, the  
1019 director shall appoint a replacement for the remainder of the term in accordance with  
1020 Subsections (1) and (2).

1021           (4) The director may remove a board member for cause, which may include  
1022 misconduct, incompetence, or neglect of duty.

1023           (5) The board shall annually elect a chair and vice chair from among its members.

1024           (6) The board shall meet as often as necessary to accomplish the purposes of this part,  
1025 but not less than quarterly.

1026           (7) A member of the board may not receive compensation or benefits for the member's  
1027 service, but may receive travel expenses in accordance with:

1028 (a) Section 63A-3-107; and  
1029 (b) rules made by the Division of Finance in accordance with Section 63A-3-107.  
1030 Section 17. Section 35A-14-102 is amended to read:  
1031 **35A-14-102. Definitions.**  
1032 As used in this chapter:  
1033 (1) "Advisory board" means the Utah Data Research Advisory Board created in Section  
1034 35A-14-203.  
1035 (2) "Center" means the Utah Data Research Center.  
1036 (3) "Data" means any information about a person stored in a physical or electronic  
1037 record.  
1038 (4) "Data research program" means the data maintained by the center in accordance  
1039 with Section 35A-14-301.  
1040 (5) "De-identified data" means data about a person that cannot, without additional  
1041 information, identify the person to another person or machine.  
1042 (6) "Director" means the director of the Workforce Research and Analysis Division.  
1043 (7) "Participating entity" means:  
1044 (a) the State Board of Education, which includes the director as defined in Section  
1045 53E-10-701;  
1046 [~~(b) the State Board of Regents;~~]  
1047 [~~(c) the Utah System of Technical Colleges Board of Trustees;~~]  
1048 (b) the Utah Board of Higher Education;  
1049 [~~(d)~~] (c) the Department of Workforce Services; and  
1050 [~~(e)~~] (d) the Department of Health.  
1051 Section 18. Section 35A-14-203 is amended to read:  
1052 **35A-14-203. Utah Data Research Advisory Board -- Composition -- Appointment.**  
1053 (1) There is created the Utah Data Research Advisory Board in accordance with this  
1054 section.

- 1055 (2) The Utah Data Research Advisory Board is composed of the following members:
- 1056 (a) the state superintendent of the State Board of Education or the state superintendent's
- 1057 designee;
- 1058 (b) the commissioner of higher education or the commissioner of higher education's
- 1059 designee;
- 1060 [~~(c) the commissioner of technical education or the commissioner's designee;~~]
- 1061 [~~(d)~~] (c) the executive director of the Department of Workforce Services or the
- 1062 executive director's designee; and
- 1063 [~~(e)~~] (d) the director of the Department of Health or the director's designee.
- 1064 (3) The executive director shall serve as chair.
- 1065 (4) A member of the board:
- 1066 (a) except to the extent a member's service on the board is related to the member's
- 1067 duties outside of the board, may not receive compensation or benefits for the member's service;
- 1068 and
- 1069 (b) may receive per diem and travel expenses in accordance with:
- 1070 (i) Section 63A-3-106;
- 1071 (ii) Section 63A-3-107; and
- 1072 (iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- 1073 Section 19. Section 35A-14-302 is amended to read:
- 1074 **35A-14-302. Center duties -- Data studies.**
- 1075 (1) The center shall use data that the center maintains or that a participating entity
- 1076 contributes to the data research program under Section 35A-14-301 to conduct research for the
- 1077 purpose of developing public policy for the state.
- 1078 (2) The director, with consultation by the advisory board, shall create a prioritized list
- 1079 of data research for the center to conduct using the data research program each year.
- 1080 (3) (a) In developing the list described in Subsection (2), the center shall accept data
- 1081 research requests from:



- 1082 (i) a legislative committee or a legislative staff office;
- 1083 (ii) the governor or an executive branch agency;
- 1084 (iii) the State Board of Education; and
- 1085 [~~(iv) the State Board of Regents; and~~]
- 1086 [~~(v) the Utah College of Applied Technology.~~]
- 1087 (iv) the Utah Board of Higher Education.
- 1088 (b) The department shall begin accepting the data research requests described in
- 1089 Subsection (3)(a) on July 1, 2017.
- 1090 (c) The center shall report the list described in Subsection (2) to the Education Interim
- 1091 Committee before December 1 of each year.
- 1092 (4) In addition to conducting data research in accordance with the prioritized list
- 1093 described in Subsection (2), the center may use additional resources to prepare data research at
- 1094 the request of:
  - 1095 (a) a state government entity;
  - 1096 (b) a political subdivision of the state;
  - 1097 (c) a private entity; or
  - 1098 (d) a member of the public.
- 1099 (5) The director, with approval by the board, shall determine, for a data research
- 1100 request described in Subsection (4):
  - 1101 (a) whether the center has the resources to complete the data research request;
  - 1102 (b) the order in which the center shall complete the data research request, if at all; and
  - 1103 (c) a reasonable estimated cost for the request.
  - 1104 (6) The center, after evaluating a request under Subsection (5), shall:
    - 1105 (a) provide the person that requested the data research with a cost estimate; and
    - 1106 (b) require, before accepting a data research request, that the person that submitted the
    - 1107 data research request agree to pay, once the data research is complete, the full cost of
    - 1108 completing the data research request as determined by the center under Subsection (5).

1109 (7) The center shall make available to the public, on a website maintained by the  
1110 center, any data research request that the center completes under this section.

1111 (8) The center shall ensure that any data contained in a completed data research request  
1112 is de-identified.

1113 (9) The center shall:

1114 (a) establish, by rule made in accordance with Title 63G, Chapter 3, Utah  
1115 Administrative Rulemaking Act:

1116 (i) procedures for submitting a data research request under this section;

1117 (ii) criteria to determine how to prioritize data research requests; and

1118 (iii) minimum standards for information a person is required to include in a data  
1119 research request; and

1120 (b) create a fee schedule in accordance with Section [63J-1-504](#) for completing a data  
1121 research request.

1122 (10) In addition to submitting a data research request under Subsection (4), a  
1123 participating entity, executive branch agency, or legislative staff office may request, and the  
1124 center may release, a data set from the data research program if the data set is:

1125 (a) connected;

1126 (b) aggregated; and

1127 (c) de-identified.

1128 (11) (a) The center shall use any fee the center collects under this section to cover the  
1129 center's costs to administer this chapter.

1130 (b) The center shall deposit any fee the center collects under this section not used to  
1131 cover the center's costs into the General Fund.

1132 Section 20. Section **36-21-1** is amended to read:

1133 **36-21-1. Definition -- Deadline for state governmental entities filing legislation --**

1134 **Waiver.**

1135 (1) "Governmental entity" means:

1136 (a) the executive branch of the state, including all departments, institutions, boards,  
1137 divisions, bureaus, offices, commissions, committees, and elected officials;

1138 (b) the judicial branch of the state, including the courts, the Judicial Council, the  
1139 Administrative Office of the Courts, and similar administrative units in the judicial branch;

1140 (c) the State Board of Education, the [~~State Board of Regents~~] Utah Board of Higher  
1141 Education, and any state-funded institution of higher education or public education;

1142 (d) the National Guard;

1143 (e) all quasi independent entities created by statute; and

1144 (f) any political subdivision of the state, including any county, city, town, school  
1145 district, public transit district, redevelopment agency, special improvement or taxing district.

1146 (2) Legislation requested by a governmental entity may not be considered by the  
1147 Legislature during the annual general session unless:

1148 (a) at the time the request for legislation is made it has a legislative sponsor;

1149 (b) the request for legislation is filed with the Office of Legislative Research and  
1150 General Counsel by December 1st of the year immediately before the Legislature's annual  
1151 general session; and

1152 (c) at the time the request for legislation is filed, it includes the purpose of the measure  
1153 and all necessary drafting information.

1154 (3) The Legislature, by motion and with the approval of a majority vote in one house,  
1155 may waive this requirement.

1156 (4) It is the intent of the Legislature that these agency requests will not be given higher  
1157 priority than individual legislative requests filed at a later date.

1158 Section 21. Section **36-28-102** is amended to read:

1159 **36-28-102. Veterans and Military Affairs Commission -- Creation -- Membership**  
1160 **-- Chairs -- Terms -- Per diem and expenses.**

1161 (1) There is created the Veterans and Military Affairs Commission.

1162 (2) The commission membership is composed of 19 permanent members, but may not

1163 exceed 24 members, and is as follows:

1164 (a) five legislative members to be appointed as follows:

1165 (i) three members from the House of Representatives, appointed by the speaker of the  
1166 House of Representatives, no more than two of whom may be from the same political party;  
1167 and

1168 (ii) two members from the Senate, appointed by the president of the Senate, no more  
1169 than one of whom may be from the same political party;

1170 (b) the executive director of the Department of Veterans and Military Affairs or the  
1171 director's designee;

1172 (c) the chair of the Utah Veterans Advisory Council;

1173 (d) the executive director of the Department of Workforce Services or the director's  
1174 designee;

1175 (e) the executive director of the Department of Health or the director's designee;

1176 (f) the executive director of the Department of Human Services or the director's  
1177 designee;

1178 (g) the adjutant general of the Utah National Guard or the adjutant general's designee;

1179 (h) the Guard and Reserve Transition Assistance Advisor;

1180 (i) a member of the [~~Board of Regents~~] Utah Board of Higher Education or that  
1181 member's designee;

1182 (j) three representatives of veteran service organizations recommended by the Veterans  
1183 Advisory Council and confirmed by the commission;

1184 (k) one member of the Executive Committee of the Utah Defense Alliance;

1185 (l) one military affairs representative from a chamber of commerce member, appointed  
1186 by the Utah State Chamber of Commerce; and

1187 (m) a representative from the Veterans Health Administration.

1188 (3) The commission may appoint by majority vote of the entire commission up to five  
1189 pro tempore members, representing:

- 1190 (a) state or local government agencies;
- 1191 (b) interest groups concerned with veterans issues; or
- 1192 (c) the general public.
- 1193 (4) (a) The president of the Senate shall designate a member of the Senate appointed
- 1194 under Subsection (2)(a) as a cochair of the commission.
- 1195 (b) The speaker of the House of Representatives shall designate a member of the House
- 1196 of Representatives appointed under Subsection (2)(a) as a cochair of the commission.
- 1197 (5) A majority of the members of the commission shall constitute a quorum. The
- 1198 action of a majority of a quorum constitutes the action of the commission.
- 1199 (6) The term for each pro tempore member appointed in accordance with Subsection
- 1200 (3) shall be two years from July 1 of the year of appointment. A pro tempore member may not
- 1201 serve more than three terms.
- 1202 (7) If a member leaves office or is unable to serve, the vacancy shall be filled as it was
- 1203 originally appointed. A person appointed to fill a vacancy under Subsection (6) serves the
- 1204 remaining unexpired term of the member being replaced. If the remaining unexpired term is
- 1205 less than six months, the newly appointed member shall be reappointed on July 1. The time
- 1206 served until July 1 is not counted in the restriction set forth in Subsection (6).
- 1207 (8) A member may not receive compensation or benefits for the member's service but
- 1208 may receive per diem and travel expenses in accordance with:
- 1209 (a) Section [63A-3-106](#);
- 1210 (b) Section [63A-3-107](#); and
- 1211 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
- 1212 [63A-3-107](#).
- 1213 Section 22. Section **41-6a-2002** is amended to read:
- 1214 **41-6a-2002. Definitions.**
- 1215 As used in this section:
- 1216 (1) "Automatic license plate reader system" means a system of one or more mobile or

1217 fixed automated high-speed cameras used in combination with computer algorithms to convert  
1218 an image of a license plate into computer-readable data.

1219 (2) "Captured plate data" means the global positioning system coordinates, date and  
1220 time, photograph, license plate number, and any other data captured by or derived from an  
1221 automatic license plate reader system.

1222 (3) (a) "Governmental entity" means:

1223 (i) executive department agencies of the state;

1224 (ii) the offices of the governor, the lieutenant governor, the state auditor, the attorney  
1225 general, and the state treasurer;

1226 (iii) the Board of Pardons and Parole;

1227 (iv) the Board of Examiners;

1228 (v) the National Guard;

1229 (vi) the Career Service Review Office;

1230 (vii) the State Board of Education;

1231 (viii) the [~~State Board of Regents~~] Utah Board of Higher Education;

1232 (ix) the State Archives;

1233 (x) the Office of the Legislative Auditor General;

1234 (xi) the Office of the Legislative Fiscal Analyst;

1235 (xii) the Office of Legislative Research and General Counsel;

1236 (xiii) the Legislature;

1237 (xiv) legislative committees, except any political party, group, caucus, or rules or  
1238 sifting committee of the Legislature;

1239 (xv) courts, the Judicial Council, the Administrative Office of the Courts, and similar  
1240 administrative units in the judicial branch;

1241 (xvi) any state-funded institution of higher education or public education; or

1242 (xvii) any political subdivision of the state.

1243 (b) "Governmental entity" includes:

1244 (i) every office, agency, board, bureau, committee, department, advisory board, or  
1245 commission of an entity listed in Subsections (3)(a)(i) through (xvii) that is funded or  
1246 established by the government to carry out the public's business; or

1247 (ii) a person acting as an agent of a governmental entity or acting on behalf of a  
1248 governmental entity.

1249 (4) "Secured area" means an area, enclosed by clear boundaries, to which access is  
1250 limited and not open to the public and entry is only obtainable through specific access-control  
1251 points.

1252 Section 23. Section **49-11-102** is amended to read:

1253 **49-11-102. Definitions.**

1254 As used in this title:

1255 (1) (a) "Active member" means a member who:

1256 (i) is employed by a participating employer and accruing service credit; or

1257 (ii) within the previous 120 days:

1258 (A) has been employed by a participating employer; and

1259 (B) accrued service credit.

1260 (b) "Active member" does not include a retiree.

1261 (2) "Actuarial equivalent" means a benefit of equal value when computed upon the  
1262 basis of mortality tables as recommended by the actuary and adopted by the executive director,  
1263 including regular interest.

1264 (3) "Actuarial interest rate" means the interest rate as recommended by the actuary and  
1265 adopted by the board upon which the funding of system costs and benefits are computed.

1266 (4) (a) "Agency" means:

1267 (i) a department, division, agency, office, authority, commission, board, institution, or  
1268 hospital of the state;

1269 (ii) a county, municipality, school district, local district, or special service district;

1270 (iii) a state college or university; or

1271 (iv) any other participating employer.

1272 (b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a  
1273 subdivision of another entity listed under Subsection (4)(a).

1274 (5) "Allowance" or "retirement allowance" means the pension plus the annuity,  
1275 including any cost of living or other authorized adjustments to the pension and annuity.

1276 (6) "Alternate payee" means a member's former spouse or family member eligible to  
1277 receive payments under a Domestic Relations Order in compliance with Section [49-11-612](#).

1278 (7) "Amortization rate" means the board certified percent of salary required to amortize  
1279 the unfunded actuarial accrued liability in accordance with policies established by the board  
1280 upon the advice of the actuary.

1281 (8) "Annuity" means monthly payments derived from member contributions.

1282 (9) "Appointive officer" means an employee appointed to a position for a definite and  
1283 fixed term of office by official and duly recorded action of a participating employer whose  
1284 appointed position is designated in the participating employer's charter, creation document, or  
1285 similar document, and:

1286 (a) who earns \$500 or more per month, indexed as of January 1, 1990, as provided in  
1287 Section [49-12-407](#) for a Tier I appointive officer; and

1288 (b) whose appointive position is full-time as certified by the participating employer for  
1289 a Tier II appointive officer.

1290 (10) (a) "At-will employee" means a person who is employed by a participating  
1291 employer and:

1292 (i) who is not entitled to merit or civil service protection and is generally considered  
1293 exempt from a participating employer's merit or career service personnel systems;

1294 (ii) whose on-going employment status is entirely at the discretion of the person's  
1295 employer; or

1296 (iii) who may be terminated without cause by a designated supervisor, manager, or  
1297 director.



1298 (b) "At-will employee" does not include a career employee who has obtained a  
1299 reasonable expectation of continued employment based on inclusion in a participating  
1300 employer's merit system, civil service protection system, or career service personnel systems,  
1301 policies, or plans.

1302 (11) "Beneficiary" means any person entitled to receive a payment under this title  
1303 through a relationship with or designated by a member, participant, covered individual, or  
1304 alternate payee of a defined contribution plan.

1305 (12) "Board" means the Utah State Retirement Board established under Section  
1306 [49-11-202](#).

1307 (13) "Board member" means a person serving on the Utah State Retirement Board as  
1308 established under Section [49-11-202](#).

1309 [~~14) "Board of Regents" or "State Board of Regents" means the State Board of  
1310 Regents established in Section [53B-1-103](#).]~~

1311 (14) "Board of Higher Education" or "Utah Board of Higher Education" means the  
1312 Utah Board of Higher Education described in Section [53B-1-402](#).

1313 (15) "Certified contribution rate" means the board certified percent of salary paid on  
1314 behalf of an active member to the office to maintain the system on a financially and actuarially  
1315 sound basis.

1316 (16) "Contributions" means the total amount paid by the participating employer and the  
1317 member into a system or to the Utah Governors' and Legislators' Retirement Plan under  
1318 Chapter 19, Utah Governors' and Legislators' Retirement Act.

1319 (17) "Council member" means a person serving on the Membership Council  
1320 established under Section [49-11-205](#).

1321 (18) "Covered individual" means any individual covered under Chapter 20, Public  
1322 Employees' Benefit and Insurance Program Act.

1323 (19) "Current service" means covered service under:

1324 (a) Chapter 12, Public Employees' Contributory Retirement Act;

- 1325 (b) Chapter 13, Public Employees' Noncontributory Retirement Act;
- 1326 (c) Chapter 14, Public Safety Contributory Retirement Act;
- 1327 (d) Chapter 15, Public Safety Noncontributory Retirement Act;
- 1328 (e) Chapter 16, Firefighters' Retirement Act;
- 1329 (f) Chapter 17, Judges' Contributory Retirement Act;
- 1330 (g) Chapter 18, Judges' Noncontributory Retirement Act;
- 1331 (h) Chapter 19, Utah Governors' and Legislators' Retirement Act;
- 1332 (i) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or
- 1333 (j) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.
- 1334 (20) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a
- 1335 system or plan offered under this title to provide a specified allowance to a retiree or a retiree's
- 1336 spouse after retirement that is based on a set formula involving one or more of the following
- 1337 factors:
  - 1338 (a) years of service;
  - 1339 (b) final average monthly salary; or
  - 1340 (c) a retirement multiplier.
- 1341 (21) "Defined contribution" or "defined contribution plan" means any defined
- 1342 contribution plan or deferred compensation plan authorized under the Internal Revenue Code
- 1343 and administered by the board.
- 1344 (22) "Educational institution" means a political subdivision or instrumentality of the
- 1345 state or a combination thereof primarily engaged in educational activities or the administration
- 1346 or servicing of educational activities, including:
  - 1347 (a) the State Board of Education and its instrumentalities;
  - 1348 (b) any institution of higher education and its branches;
  - 1349 (c) any school district and its instrumentalities;
  - 1350 (d) any vocational and technical school; and
  - 1351 (e) any entity arising out of a consolidation agreement between entities described under

1352 this Subsection (22).

1353 (23) "Elected official":

1354 (a) means a person elected to a state office, county office, municipal office, school  
1355 board or school district office, local district office, or special service district office;

1356 (b) includes a person who is appointed to serve an unexpired term of office described  
1357 under Subsection (23)(a); and

1358 (c) does not include a judge or justice who is subject to a retention election under  
1359 Section [20A-12-201](#).

1360 (24) (a) "Employer" means any department, educational institution, or political  
1361 subdivision of the state eligible to participate in a government-sponsored retirement system  
1362 under federal law.

1363 (b) "Employer" may also include an agency financed in whole or in part by public  
1364 funds.

1365 (25) "Exempt employee" means an employee working for a participating employer:

1366 (a) who is not eligible for service credit under Section [49-12-203](#), [49-13-203](#),  
1367 [49-14-203](#), [49-15-203](#), or [49-16-203](#); and

1368 (b) for whom a participating employer is not required to pay contributions or  
1369 nonelective contributions.

1370 (26) "Final average monthly salary" means the amount computed by dividing the  
1371 compensation received during the final average salary period under each system by the number  
1372 of months in the final average salary period.

1373 (27) "Fund" means any fund created under this title for the purpose of paying benefits  
1374 or costs of administering a system, plan, or program.

1375 (28) (a) "Inactive member" means a member who has not been employed by a  
1376 participating employer for a period of at least 120 days.

1377 (b) "Inactive member" does not include retirees.

1378 (29) (a) "Initially entering" means hired, appointed, or elected for the first time, in

1379 current service as a member with any participating employer.

1380 (b) "Initially entering" does not include a person who has any prior service credit on  
1381 file with the office.

1382 (c) "Initially entering" includes an employee of a participating employer, except for an  
1383 employee that is not eligible under a system or plan under this title, who:

1384 (i) does not have any prior service credit on file with the office;

1385 (ii) is covered by a retirement plan other than a retirement plan created under this title;

1386 and

1387 (iii) moves to a position with a participating employer that is covered by this title.

1388 (30) "Institution of higher education" means an institution described in Section  
1389 [53B-1-102](#).

1390 (31) (a) "Member" means a person, except a retiree, with contributions on deposit with  
1391 a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah  
1392 Governors' and Legislators' Retirement Act, or with a terminated system.

1393 (b) "Member" also includes leased employees within the meaning of Section 414(n)(2)  
1394 of the Internal Revenue Code, if the employees have contributions on deposit with the office.  
1395 If leased employees constitute less than 20% of the participating employer's work force that is  
1396 not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code,  
1397 "member" does not include leased employees covered by a plan described in Section 414(n)(5)  
1398 of the federal Internal Revenue Code.

1399 (32) "Member contributions" means the sum of the contributions paid to a system or  
1400 the Utah Governors' and Legislators' Retirement Plan, including refund interest if allowed by a  
1401 system, and which are made by:

1402 (a) the member; and

1403 (b) the participating employer on the member's behalf under Section 414(h) of the  
1404 Internal Revenue Code.

1405 (33) "Nonelective contribution" means an amount contributed by a participating

1406 employer into a participant's defined contribution account.

1407 (34) "Normal cost rate":

1408 (a) means the percent of salary that is necessary for a retirement system that is fully  
1409 funded to maintain its fully funded status; and

1410 (b) is determined by the actuary based on the assumed rate of return established by the  
1411 board.

1412 (35) "Office" means the Utah State Retirement Office.

1413 (36) "Participant" means an individual with voluntary deferrals or nonelective  
1414 contributions on deposit with the defined contribution plans administered under this title.

1415 (37) "Participating employer" means a participating employer, as defined by Chapter  
1416 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'  
1417 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,  
1418 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'  
1419 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, and Chapter 18, Judges'  
1420 Noncontributory Retirement Act, or an agency financed in whole or in part by public funds  
1421 which is participating in a system or plan as of January 1, 2002.

1422 (38) "Part-time appointed board member" means a person:

1423 (a) who is appointed to serve as a member of a board, commission, council, committee,  
1424 or panel of a participating employer; and

1425 (b) whose service as a part-time appointed board member does not qualify as a regular  
1426 full-time employee as defined under Section [49-12-102](#), [49-13-102](#), or [49-22-102](#).

1427 (39) "Pension" means monthly payments derived from participating employer  
1428 contributions.

1429 (40) "Plan" means the Utah Governors' and Legislators' Retirement Plan created by  
1430 Chapter 19, Utah Governors' and Legislators' Retirement Act, the New Public Employees' Tier  
1431 II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution Plan,  
1432 the New Public Safety and Firefighter Tier II Defined Contribution Plan created by Chapter 23,

1433 Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created under  
1434 Section 49-11-801.

1435 (41) (a) "Political subdivision" means any local government entity, including cities,  
1436 towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally  
1437 separate and distinct from the state and only if its employees are not by virtue of their  
1438 relationship to the entity employees of the state.

1439 (b) "Political subdivision" includes local districts, special service districts, or  
1440 authorities created by the Legislature or by local governments, including the office.

1441 (c) "Political subdivision" does not include a project entity created under Title 11,  
1442 Chapter 13, Interlocal Cooperation Act, that was formed prior to July 1, 1987.

1443 (42) "Program" means the Public Employees' Insurance Program created under Chapter  
1444 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees'  
1445 Long-Term Disability program created under Chapter 21, Public Employees' Long-Term  
1446 Disability Act.

1447 (43) "Public funds" means those funds derived, either directly or indirectly, from public  
1448 taxes or public revenue, dues or contributions paid or donated by the membership of the  
1449 organization, used to finance an activity whose objective is to improve, on a nonprofit basis,  
1450 the governmental, educational, and social programs and systems of the state or its political  
1451 subdivisions.

1452 (44) "Qualified defined contribution plan" means a defined contribution plan that  
1453 meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

1454 (45) "Refund interest" means the amount accrued on member contributions at a rate  
1455 adopted by the board.

1456 (46) "Retiree" means an individual who has qualified for an allowance under this title.

1457 (47) "Retirement" means the status of an individual who has become eligible, applies  
1458 for, and is entitled to receive an allowance under this title.

1459 (48) "Retirement date" means the date selected by the member on which the member's

1460 retirement becomes effective with the office.

1461 (49) "Retirement related contribution":

1462 (a) means any employer payment to any type of retirement plan or program made on  
1463 behalf of an employee; and

1464 (b) does not include Social Security payments or Social Security substitute payments  
1465 made on behalf of an employee.

1466 (50) "Service credit" means:

1467 (a) the period during which an employee is employed and compensated by a  
1468 participating employer and meets the eligibility requirements for membership in a system or the  
1469 Utah Governors' and Legislators' Retirement Plan, provided that any required contributions are  
1470 paid to the office; and

1471 (b) periods of time otherwise purchasable under this title.

1472 (51) "Surviving spouse" means:

1473 (a) the lawful spouse who has been married to a member for at least six months  
1474 immediately before the death date of the member; or

1475 (b) a former lawful spouse of a member with a valid domestic relations order benefits  
1476 on file with the office before the member's death date in accordance with Section [49-11-612](#).

1477 (52) "System" means the individual retirement systems created by Chapter 12, Public  
1478 Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory  
1479 Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public  
1480 Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17,  
1481 Judges' Contributory Retirement Act, Chapter 18, Judges' Noncontributory Retirement Act, and  
1482 Chapter 19, Utah Governors' and Legislators' Retirement Act, the defined benefit portion of the  
1483 Tier II Hybrid Retirement System under Chapter 22, Part 3, Tier II Hybrid Retirement System,  
1484 and the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 23, Part  
1485 3, Tier II Hybrid Retirement System.

1486 (53) "Technical college" means the same as that term is defined in Section

1487 53B-1-101.5.

1488 (54) "Tier I" means a system or plan under this title for which:

1489 (a) an employee is eligible to participate if the employee initially enters regular  
1490 full-time employment before July 1, 2011; or

1491 (b) a governor or legislator who initially enters office before July 1, 2011.

1492 (55) (a) "Tier II" means a system or plan under this title provided in lieu of a Tier I  
1493 system or plan for an employee, governor, legislator, or full-time elected official who does not  
1494 have Tier I service credit in a system or plan under this title:

1495 (i) if the employee initially enters regular full-time employment on or after July 1,  
1496 2011; or

1497 (ii) if the governor, legislator, or full-time elected official initially enters office on or  
1498 after July 1, 2011.

1499 (b) "Tier II" includes:

1500 (i) the Tier II hybrid system established under:

1501 (A) Chapter 22, Part 3, Tier II Hybrid Retirement System; or

1502 (B) Chapter 23, Part 3, Tier II Hybrid Retirement System; and

1503 (ii) the Tier II Defined Contribution Plan (Tier II DC Plan) established under:

1504 (A) Chapter 22, Part 4, Tier II Defined Contribution Plan; or

1505 (B) Chapter 23, Part 4, Tier II Defined Contribution Plan.

1506 (56) "Unfunded actuarial accrued liability" or "UAAL":

1507 (a) is determined by the system's actuary; and

1508 (b) means the excess, if any, of the accrued liability of a retirement system over the  
1509 actuarial value of its assets.

1510 (57) "Voluntary deferrals" means an amount contributed by a participant into that  
1511 participant's defined contribution account.

1512 Section 24. Section **49-11-403** is amended to read:

1513 **49-11-403. Purchase of public service credit not otherwise qualifying for benefit.**



- 1514 (1) A member, a participating employer, or a member and a participating employer  
1515 jointly may purchase service credit equal to the period of the member's employment in the  
1516 following:
- 1517 (a) United States federal employment;
  - 1518 (b) employment in a private school based in the United States, if the member received  
1519 an employer paid retirement benefit for the employment;
  - 1520 (c) public employment in another state or territory of the United States which qualifies  
1521 the member for membership in the public plan or system covering the employment, but only if  
1522 the member does not qualify for any retirement benefits based on the employment;
  - 1523 (d) forfeited service credit in this state if the member does not qualify for an allowance  
1524 based on the service credit;
  - 1525 (e) full-time public service while on an approved leave of absence;
  - 1526 (f) the period of time for which disability benefits were paid if:
    - 1527 (i) the member was receiving:
      - 1528 (A) long-term disability benefits;
      - 1529 (B) short-term disability benefits; or
      - 1530 (C) worker's compensation disability benefits; and
    - 1531 (ii) the member's employer had not entered into a benefit protection contract under  
1532 Section [49-11-404](#) during the period the member had a disability due to sickness or accident;
  - 1533 (g) employment covered by a retirement plan offered by a public or private system,  
1534 organization, or company designated by the [~~State Board of Regents~~] Utah Board of Higher  
1535 Education, if the member forfeits any retirement benefit from that retirement plan for the  
1536 period of employment to be purchased under this Subsection (1)(g);
  - 1537 (h) employment in a charter school located within the state if the member forfeits any  
1538 retirement benefit under any other retirement system or plan for the period of employment to be  
1539 purchased under this Subsection (1)(h); or
  - 1540 (i) employment with a participating employer that is exempt from coverage under this

1541 title under a written request for exemption with the office, if the member forfeits any retirement  
1542 benefit under any other retirement system or plan for the period of employment to be purchased  
1543 under this Subsection (1)(i).

1544 (2) A member shall:

1545 (a) have at least four years of service credit before a purchase can be made under this  
1546 section; and

1547 (b) forfeit service credit and any defined contribution balance based on employer  
1548 contributions under any other retirement system or plan based on the period of employment for  
1549 which service credit is being purchased.

1550 (3) (a) To purchase credit under this section, the member, a participating employer, or a  
1551 member and a participating employer jointly shall make payment to the system under which the  
1552 member is currently covered.

1553 (b) The amount of the payment shall be determined by the office based on a formula  
1554 that is:

1555 (i) recommended by the actuary; and

1556 (ii) adopted by the board.

1557 (4) The purchase may be made through payroll deductions or through a lump sum  
1558 deposit based upon the present value of future payments.

1559 (5) Total payment must be completed prior to the member's effective date of retirement  
1560 or service credit will be prorated in accordance with the amount paid.

1561 (6) (a) For a purchase made before July 1, 2010, if any of the factors used to determine  
1562 the cost of a service credit purchase change at or before the member's retirement date, the cost  
1563 of the purchase shall be recalculated at the time of retirement.

1564 (b) For a purchase made before July 1, 2010, if the recalculated cost exceeds the  
1565 amount paid for the purchase, the member, a participating employer, or a member and a  
1566 participating employer jointly may:

1567 (i) pay the increased cost, plus interest, to receive the full amount of service credit; or

- 1568 (ii) not pay the increased cost and have the purchased service credit prorated.
- 1569 (c) For a purchase made on or after July 1, 2010:
- 1570 (i) the purchase shall be made in accordance with rules:
- 1571 (A) adopted by the board based on recommendations by the board's actuary; and
- 1572 (B) in effect at the time the purchase is completed; and
- 1573 (ii) the cost of the service credit purchase shall not be recalculated at the time of
- 1574 retirement.

1575 (7) If the recalculated cost under Subsection (6)(a) is less than the amount paid for the

1576 purchase, the office shall refund the excess payment to the member or participating employer

1577 who paid for the purchase.

1578 (8) (a) The board may adopt rules under which a member may make the necessary

1579 payments to the office for purchases under this title as permitted by federal law.

1580 (b) The office may reject any payments if the office determines the tax status of the

1581 system, plans, or programs would be jeopardized by allowing the payment.

1582 (9) An employee who elects to participate exclusively in the defined contribution plan

1583 under Chapter 22, Part 4, Tier II Defined Contribution Plan, or Chapter 23, Part 4, Tier II

1584 Defined Contribution Plan, may not purchase service credit for that period of employment.

1585 Section 25. Section **49-12-203** is amended to read:

1586 **49-12-203. Exclusions from membership in system.**

1587 (1) The following employees are not eligible for service credit in this system:

1588 (a) subject to the requirements of Subsection (2), an employee whose employment

1589 status is temporary in nature due to the nature or the type of work to be performed;

1590 (b) except as provided under Subsection (3)(a), an employee of an institution of higher

1591 education who participates in a retirement system with a public or private retirement system,

1592 organization, or company designated by the [~~State Board of Regents~~] Utah Board of Higher

1593 Education, or the [~~Board of Directors of each technical college~~] technical college board of

1594 trustees for an employee of each technical college, during any period in which required

1595 contributions based on compensation have been paid on behalf of the employee by the  
1596 employer;

1597 (c) an employee serving as an exchange employee from outside the state;

1598 (d) an executive department head of the state, a member of the State Tax Commission,  
1599 the Public Service Commission, and a member of a full-time or part-time board or commission  
1600 who files a formal request for exemption;

1601 (e) an employee of the Department of Workforce Services who is covered under  
1602 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

1603 (f) an employee who is employed on or after July 1, 2009, with an employer that has  
1604 elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection  
1605 [49-12-202\(2\)\(c\)](#);

1606 (g) an employee who is employed on or after July 1, 2014, with an employer that has  
1607 elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection  
1608 [49-12-202\(2\)\(d\)](#);

1609 (h) an employee who is employed with a withdrawing entity that has elected under  
1610 Section [49-11-623](#), prior to January 1, 2017, to exclude:

1611 (i) new employees from participation in this system under Subsection [49-11-623\(3\)\(a\)](#);  
1612 or

1613 (ii) all employees from participation in this system under Subsection [49-11-623\(3\)\(b\)](#);  
1614 or

1615 (i) an employee described in Subsection (1)(i)(i) or (ii) who is employed with a  
1616 withdrawing entity that has elected under Section [49-11-624](#), before January 1, 2018, to  
1617 exclude:

1618 (i) new employees from participation in this system under Subsection [49-11-624\(3\)\(a\)](#);  
1619 or

1620 (ii) all employees from participation in this system under Subsection [49-11-624\(3\)\(b\)](#).

1621 (2) If an employee whose status is temporary in nature due to the nature of type of

1622 work to be performed:

1623           (a) is employed for a term that exceeds six months and the employee otherwise  
1624 qualifies for service credit in this system, the participating employer shall report and certify to  
1625 the office that the employee is a regular full-time employee effective the beginning of the  
1626 seventh month of employment; or

1627           (b) was previously terminated prior to being eligible for service credit in this system  
1628 and is reemployed within three months of termination by the same participating employer, the  
1629 participating employer shall report and certify that the member is a regular full-time employee  
1630 when the total of the periods of employment equals six months and the employee otherwise  
1631 qualifies for service credits in this system.

1632           (3) (a) Upon cessation of the participating employer contributions, an employee under  
1633 Subsection (1)(b) is eligible for service credit in this system.

1634           (b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service  
1635 credit earned by an employee under this chapter before July 1, 2009 is not affected under  
1636 Subsection (1)(f).

1637           (c) Notwithstanding the provisions of Subsection (1)(g), any eligibility for service  
1638 credit earned by an employee under this chapter before July 1, 2014, is not affected under  
1639 Subsection (1)(g).

1640           (4) Upon filing a written request for exemption with the office, the following  
1641 employees shall be exempt from coverage under this system:

1642           (a) a full-time student or the spouse of a full-time student and individuals employed in  
1643 a trainee relationship;

1644           (b) an elected official;

1645           (c) an executive department head of the state, a member of the State Tax Commission,  
1646 a member of the Public Service Commission, and a member of a full-time or part-time board or  
1647 commission;

1648           (d) an employee of the Governor's Office of Management and Budget;

- 1649 (e) an employee of the Governor's Office of Economic Development;
- 1650 (f) an employee of the Commission on Criminal and Juvenile Justice;
- 1651 (g) an employee of the Governor's Office;
- 1652 (h) an employee of the State Auditor's Office;
- 1653 (i) an employee of the State Treasurer's Office;
- 1654 (j) any other member who is permitted to make an election under Section 49-11-406;
- 1655 (k) a person appointed as a city manager or chief city administrator or another person
- 1656 employed by a municipality, county, or other political subdivision, who is an at-will employee;
- 1657 and

1658 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,

1659 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through

1660 membership in a labor organization that provides retirement benefits to its members.

1661 (5) (a) Each participating employer shall prepare and maintain a list designating those

1662 positions eligible for exemption under Subsection (4).

1663 (b) An employee may not be exempted unless the employee is employed in an

1664 exempted position designated by the participating employer.

1665 (6) (a) In accordance with this section, Section 49-13-203, and Section 49-22-205, a

1666 municipality, county, or political subdivision may not exempt a total of more than 50 positions

1667 or a number equal to 10% of the eligible employees of the municipality, county, or political

1668 subdivision, whichever is less.

1669 (b) A municipality, county, or political subdivision may exempt at least one regular

1670 full-time employee.

1671 (7) Each participating employer shall:

1672 (a) maintain a list of employee exemptions; and

1673 (b) update the employee exemptions in the event of any change.

1674 (8) The office may make rules to implement this section.

1675 Section 26. Section 49-12-204 is amended to read:

1676           **49-12-204. Higher education employees' eligibility requirements -- Election**  
1677 **between different retirement plans -- Classification requirements -- Transfer between**  
1678 **systems -- One-time election window -- Rulemaking.**

1679           (1) (a) A regular full-time employee of an institution of higher education who is  
1680 eligible to participate in either this system or a public or private retirement system,  
1681 organization, or company, designated as described in Subsection (1)(c) or (d), shall, not later  
1682 than January 1, 1979, elect to participate exclusively in this system or in an annuity contract  
1683 allowed under this Subsection (1).

1684           (b) The election is final, and no right exists to make any further election.

1685           (c) Except as provided in Subsection (1)(d), [~~the Board of Regents~~] the Utah Board of  
1686 Higher Education shall designate the public or private retirement systems, organizations, or  
1687 companies that a regular full-time employee of an institution of higher education is eligible to  
1688 participate in under Subsection (1)(a).

1689           (d) The [~~Board of Directors~~] technical college board of trustees of each technical  
1690 college shall designate the public or private retirement systems, organizations, or companies  
1691 that a regular full-time employee of each technical college is eligible to participate in under  
1692 Subsection (1)(a).

1693           (2) (a) Except as provided under Subsection (2)(c), a regular full-time employee hired  
1694 by an institution of higher education after January 1, 1979, may participate only in the  
1695 retirement plan which attaches to the person's employment classification.

1696           (b) Each institution of higher education shall prepare or amend existing employment  
1697 classifications, under the direction of the [~~Board of Regents~~] Utah Board of Higher Education,  
1698 or the [~~Board of Directors~~] technical college board of trustees of each technical college for each  
1699 technical college, so that each classification is assigned with either:

1700           (i) this system; or

1701           (ii) a public or private system, organization, or company designated by:

1702           (A) except as provided in Subsection (2)(b)(ii)(B), the [~~Board of Regents~~] Utah Board

1703 of Higher Education; or

1704 (B) [~~the Board of Directors~~] the technical college board of trustees of each technical  
1705 college for regular full-time employees of each technical college.

1706 (c) Notwithstanding a person's employment classification assignment under Subsection  
1707 (2)(b), a regular full-time employee who begins employment with an institution of higher  
1708 education on or after May 11, 2010, has a one-time irrevocable election to continue  
1709 participation in this system, if the employee has service credit in this system before the date of  
1710 employment.

1711 (3) Notwithstanding an employment classification assignment change made under  
1712 Subsection (2)(b), a regular full-time employee hired by an institution of higher education after  
1713 January 1, 1979, whose employment classification requires participation in this system may  
1714 elect to continue participation in this system.

1715 (4) A regular full-time employee hired by an institution of higher education after  
1716 January 1, 1979, whose employment classification requires participation in this system shall  
1717 participate in this system.

1718 (5) (a) Notwithstanding any other provision of this section, a regular full-time  
1719 employee of an institution of higher education shall have a one-time irrevocable election to  
1720 participate in this system if the employee:

1721 (i) was hired after January 1, 1979;

1722 (ii) whose employment classification assignment under Subsection (2)(b) required  
1723 participation in a retirement program other than this system; and

1724 (iii) has service credit in a system under this title.

1725 (b) The election under Subsection (5)(a) shall be made before June 30, 2010.

1726 (c) All forms required by the office must be completed and received by the office no  
1727 later than June 30, 2010, for the election to participate in this system to be effective.

1728 (d) Beginning July 1, 2010, a regular full-time employee of an institution of higher  
1729 education who elects to be covered by this system under Subsection (5)(a) may begin to accrue



1730 service credit in this system.

1731 (6) A regular full-time employee of an institution of higher education who elects to be  
1732 covered by this system under Subsection (2)(c) or (5)(a), may purchase periods of employment  
1733 while covered under another retirement program sponsored by the institution of higher  
1734 education by complying with the requirements of Section 49-11-403.

1735 (7) The board shall make rules to implement this section.

1736 Section 27. Section 49-12-402 is amended to read:

1737 **49-12-402. Service retirement plans -- Calculation of retirement allowance.**

1738 (1) (a) Except as provided under Section 49-12-701, retirees of this system may choose  
1739 from the six retirement options described in this section.

1740 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One  
1741 calculation.

1742 (2) The Option One benefit is an annual allowance calculated as follows:

1743 (a) If the retiree is at least 65 years of age or has accrued at least 30 years of service  
1744 credit, the allowance is:

1745 (i) an amount equal to 1.25% of the retiree's final average monthly salary multiplied by  
1746 the number of years of service credit accrued prior to July 1, 1975; plus

1747 (ii) an amount equal to 2% of the retiree's final average monthly salary multiplied by  
1748 the number of years of service credit accrued on and after July 1, 1975.

1749 (b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for  
1750 each year of retirement from age 60 to age 65, unless the member has 30 or more years of  
1751 accrued credit in which event no reduction is made to the allowance.

1752 (c) (i) Years of service includes any fractions of years of service to which the retiree  
1753 may be entitled.

1754 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,  
1755 service credit is within 1/10 of one year of the total years of service credit required for  
1756 retirement, the retiree shall be considered to have the total years of service credit required for

1757 retirement.

1758 (d) An Option One allowance is only payable to the member during the member's  
1759 lifetime.

1760 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated  
1761 by reducing an Option One benefit based on actuarial computations to provide the following:

1762 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the  
1763 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's  
1764 member contributions, the remaining balance of the retiree's member contributions shall be  
1765 paid in accordance with Sections [49-11-609](#) and [49-11-610](#).

1766 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the  
1767 retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout  
1768 the lifetime of the retiree's lawful spouse at the time of retirement.

1769 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the  
1770 retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance paid  
1771 to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

1772 (d) Option Five is a modification of Option Three so that if the lawful spouse at the  
1773 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the  
1774 time of initial retirement under Option One shall be paid to the retiree for the remainder of the  
1775 retiree's life, beginning on the first day of the month following the month in which the:

1776 (i) spouse died, if notification and supporting documentation for the death are received  
1777 by the office within 90 days of the spouse's death; or

1778 (ii) notification and supporting documentation for the death are received by the office,  
1779 if the notification and supporting documentation are received by the office more than 90 days  
1780 after the spouse's death.

1781 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time  
1782 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time  
1783 of initial retirement under Option One shall be paid to the retiree for the remainder of the

1784 retiree's life, beginning on the first day of the month following the month in which the:

1785 (i) spouse died, if notification and supporting documentation for the death are received  
1786 by the office within 90 days of the spouse's death; or

1787 (ii) notification and supporting documentation for the death are received by the office,  
1788 if the notification and supporting documentation are received by the office more than 90 days  
1789 after the spouse's death.

1790 (4) (a) (i) The final average salary is limited in the computation of that part of an  
1791 allowance based on service rendered prior to July 1, 1967, during a period when the retiree  
1792 received employer contributions on a portion of compensation from an educational institution  
1793 toward the payment of the premium required on a retirement annuity contract with a public or  
1794 private system, organization, or company designated by the [~~State Board of Regents~~] Utah  
1795 Board of Higher Education to \$4,800.

1796 (ii) This limitation is not applicable to retirees who elected to continue in this system  
1797 by July 1, 1967.

1798 (b) Periods of employment which are exempt from this system under Subsection  
1799 [49-12-203\(1\)\(b\)](#), may be purchased by the member for the purpose of retirement only if all  
1800 benefits from a public or private system, organization, or company designated by the [~~State~~  
1801 ~~Board of Regents~~] Utah Board of Higher Education based on this period of employment are  
1802 forfeited.

1803 (5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement  
1804 date, the retirement is canceled and the death shall be considered as that of a member before  
1805 retirement.

1806 (b) Any payments made to the retiree shall be deducted from the amounts due to the  
1807 beneficiary.

1808 (6) (a) If a retiree retires under either Option Five or Six and subsequently divorces, the  
1809 retiree may elect to convert the benefit to a Option One benefit at the time of divorce, if there is  
1810 no court order filed in the matter.

1811 (b) A conversion to an Option One benefit under this Subsection (6) begins on the first  
1812 day of the month following the month in which the notification and supporting documentation  
1813 for the divorce are received by the office.

1814 Section 28. Section **49-13-203** is amended to read:

1815 **49-13-203. Exclusions from membership in system.**

1816 (1) The following employees are not eligible for service credit in this system:

1817 (a) subject to the requirements of Subsection (2), an employee whose employment  
1818 status is temporary in nature due to the nature or the type of work to be performed;

1819 (b) except as provided under Subsection (3)(a), an employee of an institution of higher  
1820 education who participates in a retirement system with a public or private retirement system,  
1821 organization, or company designated by the [~~State Board of Regents~~] Utah Board of Higher  
1822 Education, or the [~~Board of Directors~~] technical college board of trustees of each technical  
1823 college for an employee of each technical college, during any period in which required  
1824 contributions based on compensation have been paid on behalf of the employee by the  
1825 employer;

1826 (c) an employee serving as an exchange employee from outside the state;

1827 (d) an executive department head of the state or a legislative director, senior executive  
1828 employed by the governor's office, a member of the State Tax Commission, a member of the  
1829 Public Service Commission, and a member of a full-time or part-time board or commission  
1830 who files a formal request for exemption;

1831 (e) an employee of the Department of Workforce Services who is covered under  
1832 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

1833 (f) an employee who is employed with an employer that has elected to be excluded  
1834 from participation in this system under Subsection **49-13-202(5)**, effective on or after the date  
1835 of the employer's election under Subsection **49-13-202(5)**;

1836 (g) an employee who is employed with a withdrawing entity that has elected under  
1837 Section **49-11-623**, prior to January 1, 2017, to exclude:

1838 (i) new employees from participation in this system under Subsection 49-11-623(3)(a);

1839 or

1840 (ii) all employees from participation in this system under Subsection 49-11-623(3)(b);

1841 or

1842 (h) an employee described in Subsection (1)(h)(i) or (ii) who is employed with a  
1843 withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to  
1844 exclude:

1845 (i) new employees from participation in this system under Subsection 49-11-624(3)(a);

1846 or

1847 (ii) all employees from participation in this system under Subsection 49-11-624(3)(b).

1848 (2) If an employee whose status is temporary in nature due to the nature of type of  
1849 work to be performed:

1850 (a) is employed for a term that exceeds six months and the employee otherwise  
1851 qualifies for service credit in this system, the participating employer shall report and certify to  
1852 the office that the employee is a regular full-time employee effective the beginning of the  
1853 seventh month of employment; or

1854 (b) was previously terminated prior to being eligible for service credit in this system  
1855 and is reemployed within three months of termination by the same participating employer, the  
1856 participating employer shall report and certify that the member is a regular full-time employee  
1857 when the total of the periods of employment equals six months and the employee otherwise  
1858 qualifies for service credits in this system.

1859 (3) (a) Upon cessation of the participating employer contributions, an employee under  
1860 Subsection (1)(b) is eligible for service credit in this system.

1861 (b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service  
1862 credit earned by an employee under this chapter before the date of the election under  
1863 Subsection 49-13-202(5) is not affected under Subsection (1)(f).

1864 (4) Upon filing a written request for exemption with the office, the following

1865 employees shall be exempt from coverage under this system:

1866 (a) a full-time student or the spouse of a full-time student and individuals employed in  
1867 a trainee relationship;

1868 (b) an elected official;

1869 (c) an executive department head of the state, a member of the State Tax Commission,  
1870 a member of the Public Service Commission, and a member of a full-time or part-time board or  
1871 commission;

1872 (d) an employee of the Governor's Office of Management and Budget;

1873 (e) an employee of the Governor's Office of Economic Development;

1874 (f) an employee of the Commission on Criminal and Juvenile Justice;

1875 (g) an employee of the Governor's Office;

1876 (h) an employee of the State Auditor's Office;

1877 (i) an employee of the State Treasurer's Office;

1878 (j) any other member who is permitted to make an election under Section [49-11-406](#);

1879 (k) a person appointed as a city manager or chief city administrator or another person  
1880 employed by a municipality, county, or other political subdivision, who is an at-will employee;

1881 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,  
1882 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through  
1883 membership in a labor organization that provides retirement benefits to its members; and

1884 (m) an employee of the Utah Science Technology and Research Initiative created under  
1885 Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.

1886 (5) (a) Each participating employer shall prepare and maintain a list designating those  
1887 positions eligible for exemption under Subsection (4).

1888 (b) An employee may not be exempted unless the employee is employed in a position  
1889 designated by the participating employer.

1890 (6) (a) In accordance with this section, Section [49-12-203](#), and Section [49-22-205](#), a  
1891 municipality, county, or political subdivision may not exempt a total of more than 50 positions

1892 or a number equal to 10% of the eligible employees of the municipality, county, or political  
1893 subdivision, whichever is less.

1894 (b) A municipality, county, or political subdivision may exempt at least one regular  
1895 full-time employee.

1896 (7) Each participating employer shall:

1897 (a) maintain a list of employee exemptions; and

1898 (b) update the employee exemptions in the event of any change.

1899 (8) The office may make rules to implement this section.

1900 Section 29. Section **49-13-204** is amended to read:

1901 **49-13-204. Higher education employees' eligibility requirements -- Election**  
1902 **between different retirement plans -- Classification requirements -- Transfer between**  
1903 **systems -- One-time election window -- Rulemaking.**

1904 (1) (a) A regular full-time employee of an institution of higher education who is  
1905 eligible to participate in either this system or in a retirement system with a public or private  
1906 retirement system, organization, or company, designated as described in Subsection (1)(c) or  
1907 (d), shall, not later than January 1, 1979, elect to participate exclusively in this system or in an  
1908 annuity contract allowed under this Subsection (1)(a).

1909 (b) The election is final, and no right exists to make any further election.

1910 (c) Except as provided in Subsection (1)(d), the [~~Board of Regents~~] Utah Board of  
1911 Higher Education shall designate the public or private retirement systems, organizations, or  
1912 companies that a regular full-time employee of an institution of higher education is eligible to  
1913 participate in under Subsection (1)(a).

1914 (d) The [~~Board of Directors~~] technical college board of trustees of each technical  
1915 college shall designate the public or private retirement systems, organizations, or companies  
1916 that a regular full-time employee of each technical college is eligible to participate in under  
1917 Subsection (1)(a).

1918 (2) (a) Except as provided under Subsection (2)(c), a regular full-time employee hired

1919 by an institution of higher education after January 1, 1979, may participate only in the  
1920 retirement plan which attaches to the person's employment classification.

1921 (b) Each institution of higher education shall prepare or amend existing employment  
1922 classifications, under the direction of the [~~Board of Regents~~] Utah Board of Higher Education,  
1923 or the [~~Board of Directors~~] technical college board of trustees of each technical college for  
1924 regular full-time employees of each technical college, so that each classification is assigned  
1925 with either:

1926 (i) this system; or

1927 (ii) a public or private system, organization, or company designated by:

1928 (A) except as provided in Subsection (2)(b)(ii)(B), the [~~Board of Regents~~] Utah Board  
1929 of Higher Education; or

1930 (B) the [~~Board of Directors~~] technical college board of trustees of each technical  
1931 college for regular full-time employees of each technical college.

1932 (c) Notwithstanding a person's employment classification assignment under Subsection  
1933 (2)(b), a regular full-time employee who begins employment with an institution of higher  
1934 education on or after May 11, 2010, has a one-time irrevocable election to continue  
1935 participation in this system, if the employee has service credit in this system before the date of  
1936 employment.

1937 (3) Notwithstanding an employment classification assignment change made under  
1938 Subsection (2)(b), a regular full-time employee hired by an institution of higher education after  
1939 January 1, 1979, whose employment classification requires participation in this system may  
1940 elect to continue participation in this system.

1941 (4) A regular full-time employee hired by an institution of higher education after  
1942 January 1, 1979, whose employment classification requires participation in this system shall  
1943 participate in this system.

1944 (5) (a) Notwithstanding any other provision of this section, a regular full-time  
1945 employee of an institution of higher education whose employment classification assignment



1946 under Subsection (2)(b) required participation in a retirement program other than this system  
1947 shall have a one-time irrevocable election to participate in this system.

1948 (b) The election under Subsection (5)(a) shall be made before June 30, 2010.

1949 (c) All forms required by the office must be completed and received by the office no  
1950 later than June 30, 2010, for the election to participate in this system to be effective.

1951 (d) Beginning July 1, 2010, a regular full-time employee of an institution of higher  
1952 education who elects to be covered by this system under Subsection (5)(a) may begin to accrue  
1953 service credit in this system.

1954 (6) A regular full-time employee of an institution of higher education who elects to be  
1955 covered by this system under Subsection (2)(c) or (5)(a) may purchase periods of employment  
1956 while covered under another retirement program by complying with the requirements of  
1957 Section [49-11-403](#).

1958 (7) The board shall make rules to implement this section.

1959 Section 30. Section **49-13-402** is amended to read:

1960 **49-13-402. Service retirement plans -- Calculation of retirement allowance.**

1961 (1) (a) Except as provided under Subsection (7) or Section [49-13-701](#), retirees of this  
1962 system may choose from the six retirement options described in this section.

1963 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One  
1964 calculation.

1965 (2) The Option One benefit is an allowance calculated as follows:

1966 (a) If the retiree is at least 65 years of age or has accrued at least 30 years of service  
1967 credit, the allowance is an amount equal to 2% of the retiree's final average monthly salary  
1968 multiplied by the number of years of service credit accrued.

1969 (b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for  
1970 each year of retirement from age 60 to age 65, plus a full actuarial reduction for each year of  
1971 retirement prior to age 60, unless the member has 30 or more years of accrued credit, in which  
1972 event no reduction is made to the allowance.

1973 (c) (i) Years of service include any fractions of years of service to which the retiree  
1974 may be entitled.

1975 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,  
1976 service credit is within 1/10 of one year of the total years of service credit required for  
1977 retirement, the retiree shall be considered to have the total years of service credit required for  
1978 retirement.

1979 (d) An Option One allowance is only payable to the member during the member's  
1980 lifetime.

1981 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated  
1982 by reducing an Option One benefit based on actuarial computations to provide the following:

1983 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the  
1984 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's  
1985 member contributions, the remaining balance of the retiree's member contributions shall be  
1986 paid in accordance with Sections [49-11-609](#) and [49-11-610](#).

1987 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the  
1988 retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout  
1989 the lifetime of the retiree's lawful spouse at the time of retirement.

1990 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the  
1991 retiree, and upon the death of the retiree, an amount equal to one-half of the retiree's allowance  
1992 paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

1993 (d) Option Five is a modification of Option Three so that if the lawful spouse at the  
1994 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the  
1995 time of initial retirement under Option One shall be paid to the retiree for the remainder of the  
1996 retiree's life, beginning on the first day of the month following the month in which the:

1997 (i) spouse died, if notification and supporting documentation for the death are received  
1998 by the office within 90 days of the spouse's death; or

1999 (ii) notification and supporting documentation for the death are received by the office,

2000 if the notification and supporting documentation are received by the office more than 90 days  
2001 after the spouse's death.

2002 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time  
2003 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time  
2004 of initial retirement under Option One shall be paid to the retiree for the remainder of the  
2005 retiree's life, beginning on the first day of the month following the month in which the:

2006 (i) spouse died, if notification and supporting documentation for the death are received  
2007 by the office within 90 days of the spouse's death; or

2008 (ii) notification and supporting documentation for the death are received by the office,  
2009 if the notification and supporting documentation are received by the office more than 90 days  
2010 after the spouse's death.

2011 (4) (a) (i) The final average salary is limited in the computation of that part of an  
2012 allowance based on service rendered prior to July 1, 1967, during a period when the retiree  
2013 received employer contributions on a portion of compensation from an educational institution  
2014 toward the payment of the premium required on a retirement annuity contract with a public or  
2015 private system, organization, or company designated by the [~~State Board of Regents~~] Utah  
2016 Board of Higher Education to \$4,800.

2017 (ii) This limitation is not applicable to retirees who elected to continue in the Public  
2018 Employees' Contributory Retirement System by July 1, 1967.

2019 (b) Periods of employment which are exempt from this system as permitted under  
2020 Subsection [49-13-203\(1\)\(b\)](#) may be purchased by the member for the purpose of retirement  
2021 only if all benefits from a public or private system, organization, or company designated by the  
2022 [~~State Board of Regents~~] Utah Board of Higher Education based on this period of employment  
2023 are forfeited.

2024 (5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement  
2025 date, the retirement is canceled and the death shall be considered as that of a member before  
2026 retirement.

2027 (b) Any payments made to the retiree shall be deducted from the amounts due to the  
2028 beneficiary.

2029 (6) (a) If a retiree retires under either Option Five or Six and subsequently divorces, the  
2030 retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there  
2031 is no court order filed in the matter.

2032 (b) A conversion to an Option One benefit under this Subsection (6) begins on the first  
2033 day of the month following the month in which the notification and supporting documentation  
2034 for the divorce are received by the office.

2035 (7) A retiree may not choose payment of an allowance under a retirement option  
2036 described in this section that is not applicable to that retiree, including because the retiree did  
2037 not make member contributions or does not have a lawful spouse at the time of retirement.

2038 Section 31. Section **49-21-102** is amended to read:

2039 **49-21-102. Definitions.**

2040 As used in this chapter:

2041 (1) "Date of disability" means the date on which a period of total disability begins, and  
2042 may not begin on or before the last day of performing full-duty work in the eligible employee's  
2043 regular occupation.

2044 (2) (a) "Eligible employee" means the following employee whose employer provides  
2045 coverage under this chapter:

2046 (i) (A) any regular full-time employee as defined under Section [49-12-102](#), [49-13-102](#),  
2047 or [49-22-102](#);

2048 (B) any public safety service employee as defined under Section [49-14-102](#), [49-15-102](#),  
2049 or [49-23-102](#);

2050 (C) any firefighter service employee or volunteer firefighter as defined under Section  
2051 [49-23-102](#) who began firefighter service on or after July 1, 2011;

2052 (D) any judge as defined under Section [49-17-102](#) or [49-18-102](#); or

2053 (E) the governor of the state;

2054 (ii) an employee who is exempt from participating in a retirement system under  
2055 Subsection 49-12-203(4), 49-13-203(4), 49-14-203(1), or 49-15-203(1); and

2056 (iii) an employee who is covered by a retirement program offered by a public or private  
2057 system, organization, or company designated by the [~~State Board of Regents~~] Utah Board of  
2058 Higher Education.

2059 (b) "Eligible employee" does not include:

2060 (i) any employee that is exempt from coverage under Section 49-21-201; or

2061 (ii) a retiree.

2062 (3) "Elimination period" means the three months at the beginning of each continuous  
2063 period of total disability for which no benefit will be paid. The elimination period begins on  
2064 the nearest first day of the month from the date of disability. The elimination period may  
2065 include a one-time trial return to work period of less than 15 consecutive calendar days.

2066 (4) (a) "Gainful employment" means any occupation or employment position in the  
2067 state that:

2068 (i) contemplates continued employment during a fiscal or calendar year; and

2069 (ii) would pay an amount equal to or greater than 40 hours per week at the legally  
2070 required minimum wage, regardless of the number of hours worked.

2071 (b) "Gainful employment" does not mean that an occupation or employment position in  
2072 the state is:

2073 (i) available within any geographic boundaries of the state;

2074 (ii) offered at a certain level of wages;

2075 (iii) available at a particular number of hours per week; or

2076 (iv) currently available.

2077 (5) "Maximum benefit period" means the maximum period of time the monthly  
2078 disability income benefit will be paid under Section 49-21-403 for any continuous period of  
2079 total disability.

2080 (6) "Monthly disability benefit" means the monthly payments and accrual of service

2081 credit under Section 49-21-401.

2082 (7) "Objective medical impairment" means an impairment resulting from an injury or  
2083 illness which is diagnosed by a physician and which is based on accepted objective medical  
2084 tests or findings rather than subjective complaints.

2085 (8) (a) "Ongoing disability" means, after the elimination period and the first 24 months  
2086 of disability benefits, the complete inability, as determined under Subsection (8)(b), to engage  
2087 in any gainful employment which is reasonable, considering the eligible employee's education,  
2088 training, and experience.

2089 (b) For purposes of Subsection (8)(a), inability is determined:

2090 (i) based solely on physical objective medical impairment; and

2091 (ii) regardless of the existence or absence of any mental impairment.

2092 (9) "Own occupation disability" means the complete inability, due to objective medical  
2093 impairment, whether physical or mental, to engage in the eligible employee's regular  
2094 occupation during the elimination period and the first 24 months of disability benefits.

2095 (10) "Physician" means a licensed physician.

2096 (11) "Regular monthly salary" means the amount certified by the participating  
2097 employer as the monthly salary of the eligible employee, unless there is a discrepancy between  
2098 the certified amount and the amount actually paid, in which case the office shall determine the  
2099 regular monthly salary.

2100 (12) "Regular occupation" means either:

2101 (a) the primary duties performed by the eligible employee for the 12 months preceding  
2102 the date of disability; or

2103 (b) a permanent assignment of duty to the eligible employee, as long as the eligible  
2104 employee has actually performed all the required duties of the permanent assignment of duty.

2105 (13) "Rehabilitative employment" means any occupation or employment for wage or  
2106 profit, for which the eligible employee is reasonably qualified to perform based on education,  
2107 training, or experience.

2108 (14) "Total disability" means:  
2109 (a) own occupation disability; or  
2110 (b) ongoing disability.

2111 (15) (a) "Workers' compensation indemnity benefits" means benefits provided that are  
2112 designed to replace wages under Title 34A, Chapter 2, Part 4, Compensation and Benefits,  
2113 including wage replacement for a temporary disability, temporary partial disability, permanent  
2114 partial disability, or permanent total disability.

2115 (b) "Workers' compensation indemnity benefits" includes a settlement amount  
2116 following a claim for indemnity benefits.

2117 Section 32. Section **49-22-203** is amended to read:

2118 **49-22-203. Exclusions from membership in system.**

2119 (1) The following employees are not eligible for service credit in this system:

2120 (a) subject to the requirements of Subsection (2), an employee whose employment  
2121 status is temporary in nature due to the nature or the type of work to be performed;

2122 (b) except as provided under Subsection (3), an employee of an institution of higher  
2123 education who participates in a retirement system with a public or private retirement system,  
2124 organization, or company designated by the [~~State Board of Regents~~] Utah Board of Higher  
2125 Education, or the [~~Board of Directors~~] technical college board of trustees of each technical  
2126 college for an employee of each technical college, during any period in which required  
2127 contributions based on compensation have been paid on behalf of the employee by the  
2128 employer;

2129 (c) an employee serving as an exchange employee from outside the state;

2130 (d) an employee of the Department of Workforce Services who is covered under  
2131 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

2132 (e) an employee who is employed with a withdrawing entity that has elected under  
2133 Section [49-11-623](#), prior to January 1, 2017, to exclude:

2134 (i) new employees from participation in this system under Subsection [49-11-623\(3\)\(a\)](#);

2135 or

2136 (ii) all employees from participation in this system under Subsection 49-11-623(3)(b);

2137 (f) a person who files a written request for exemption with the office under Section

2138 49-22-205; or

2139 (g) an employee described in Subsection (1)(g)(i) or (ii) who is employed with a

2140 withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to

2141 exclude:

2142 (i) new employees from participation in this system under Subsection 49-11-624(3)(a);

2143 or

2144 (ii) all employees from participation in this system under Subsection 49-11-624(3)(b).

2145 (2) If an employee whose status is temporary in nature due to the nature of type of

2146 work to be performed:

2147 (a) is employed for a term that exceeds six months and the employee otherwise

2148 qualifies for service credit in this system, the participating employer shall report and certify to

2149 the office that the employee is a regular full-time employee effective the beginning of the

2150 seventh month of employment; or

2151 (b) was previously terminated prior to being eligible for service credit in this system

2152 and is reemployed within three months of termination by the same participating employer, the

2153 participating employer shall report and certify that the member is a regular full-time employee

2154 when the total of the periods of employment equals six months and the employee otherwise

2155 qualifies for service credits in this system.

2156 (3) Upon cessation of the participating employer contributions, an employee under

2157 Subsection (1)(b) is eligible for service credit in this system.

2158 Section 33. Section 49-22-204 is amended to read:

2159 **49-22-204. Higher education employees' eligibility requirements -- Election**

2160 **between different retirement plans -- Classification requirements -- Transfer between**

2161 **systems.**



2162 (1) (a) A regular full-time employee of an institution of higher education who is  
2163 eligible to participate in either this system or in a retirement annuity contract with a public or  
2164 private system, organization, or company, designated as described in Subsection (1)(c) or (d),  
2165 shall, not later than January 1, 1979, elect to participate exclusively in this system or in an  
2166 annuity contract allowed under this Subsection (1).

2167 (b) The election is final, and no right exists to make any further election.

2168 (c) Except as provided in Subsection (1)(d), the ~~[Board of Regents]~~ Utah Board of  
2169 Higher Education shall designate the public or private retirement systems, organizations, or  
2170 companies that a regular full-time employee of an institution of higher education is eligible to  
2171 participate in under Subsection (1)(a).

2172 (d) The ~~[Board of Directors]~~ technical college board of trustees of each technical  
2173 college shall designate the public or private retirement systems, organizations, or companies  
2174 that a regular full-time employee of each technical college is eligible to participate in under  
2175 Subsection (1)(a).

2176 (2) (a) A regular full-time employee hired by an institution of higher education after  
2177 January 1, 1979, may participate only in the retirement plan which attaches to the person's  
2178 employment classification.

2179 (b) Each institution of higher education shall prepare or amend existing employment  
2180 classifications, under the direction of the ~~[Board of Regents]~~ Utah Board of Higher Education,  
2181 or the ~~[Board of Directors]~~ technical college board of trustees of each technical college for each  
2182 technical college, so that each classification is assigned with either:

2183 (i) this system; or

2184 (ii) a public or private system, organization, or company designated by:

2185 (A) except as provided under Subsection (2)(b)(ii)(B), the ~~[Board of Regents]~~ Utah  
2186 Board of Higher Education; or

2187 (B) the ~~[Board of Directors]~~ technical college board of trustees of each technical  
2188 college for regular full-time employees of each technical college.

2189 (3) A regular full-time employee hired by an institution of higher education on or after  
2190 July 1, 2011, whose employment classification requires participation in this system may elect  
2191 to continue participation in this system upon change to an employment classification which  
2192 requires participation in a public or private system, organization, or company designated by:

2193 (a) except as provided in Subsection (3)(b), the [~~Board of Regents~~] Utah Board of  
2194 Higher Education; or

2195 (b) the [~~Board of Directors~~] technical college board of trustees of each technical  
2196 college for regular full-time employees of each technical college.

2197 (4) A regular full-time employee hired by an institution of higher education on or after  
2198 July 1, 2011, whose employment classification requires participation in this system shall  
2199 participate in this system.

2200 Section 34. Section **51-7-4** is amended to read:

2201 **51-7-4. Transfer of functions, powers, and duties relating to public funds to state**  
2202 **treasurer -- Exceptions -- Deposit of income from investment of state money.**

2203 (1) Unless otherwise required by the Utah Constitution or applicable federal law, the  
2204 functions, powers, and duties vested by law in each state officer, board, commission,  
2205 institution, department, division, agency, or other similar instrumentality relating to the deposit,  
2206 investment, or reinvestment of public funds, and the purchase, sale, or exchange of investments  
2207 or securities of, or for, funds or accounts under the control and management of each of these  
2208 instrumentalities, are transferred to and shall be exercised by the state treasurer, except:

2209 (a) funds assigned to the Utah State Retirement Board for investment under Section  
2210 [49-11-302](#);

2211 (b) funds of member institutions of the state system of higher education:

2212 (i) acquired by gift, devise, or bequest, or by federal or private contract or grant;

2213 (ii) derived from student fees or from income from operations of auxiliary enterprises,  
2214 which fees and income are pledged or otherwise dedicated to the payment of interest and  
2215 principal of bonds issued by an institution of higher education;

2216 (iii) subject to rules made by the council, under Section 51-7-18, deposited in a foreign  
 2217 depository institution as defined in Section 7-1-103; and

2218 (iv) other funds that are not included in the institution's work program as approved by  
 2219 the [~~State Board of Regents~~] Utah Board of Higher Education;

2220 (c) inmate funds as provided in Section 64-13-23 or in Title 64, Chapter 9b, Work  
 2221 Programs for Prisoners;

2222 (d) trust funds established by judicial order;

2223 (e) funds of the Utah Housing Corporation;

2224 (f) endowment funds of higher education institutions; and

2225 (g) the funds of the Utah Educational Savings Plan.

2226 (2) All public funds held or administered by the state or its boards, commissions,  
 2227 institutions, departments, divisions, agencies, or similar instrumentalities and not transferred to  
 2228 the state treasurer as provided by this section shall be:

2229 (a) deposited and invested by the custodian in accordance with this chapter, unless  
 2230 otherwise required by statute or by applicable federal law; and

2231 (b) reported to the state treasurer in a form prescribed by the state treasurer.

2232 (3) Unless otherwise provided by the constitution or laws of this state or by contractual  
 2233 obligation, the income derived from the investment of state money by the state treasurer shall  
 2234 be deposited [in] into and become part of the General Fund.

2235 Section 35. Section 51-7-13 is amended to read:

2236 **51-7-13. Funds of member institutions of state system of higher education and**  
 2237 **public education foundations -- Authorized deposits or investments.**

2238 (1) The provisions of this section apply to all funds of:

2239 (a) higher education institutions, other than endowment funds, that are not transferred  
 2240 to the state treasurer under Section 51-7-4; and

2241 (b) public education foundations established under Section 53E-3-403.

2242 (2) (a) Proceeds of general obligation bond issues and all funds pledged or otherwise

2243 dedicated to the payment of interest and principal of general obligation bonds issued by or for  
2244 the benefit of the institution shall be invested according to the requirements of:

2245 (i) Section 51-7-11 and the rules of the council; or

2246 (ii) the terms of the borrowing instruments applicable to those bonds and funds if those  
2247 terms are more restrictive than Section 51-7-11.

2248 (b) (i) The public treasurer shall invest the proceeds of bonds other than general  
2249 obligation bonds issued by or for the benefit of the institution and all funds pledged or  
2250 otherwise dedicated to the payment of interest and principal of bonds other than general  
2251 obligation bonds according to the terms of the borrowing instruments applicable to those  
2252 bonds.

2253 (ii) If no provisions governing investment of bond proceeds or pledged or dedicated  
2254 funds are contained in the borrowing instruments applicable to those bonds or funds, the public  
2255 treasurer shall comply with the requirements of Section 51-7-11 in investing those proceeds  
2256 and funds.

2257 (c) All other funds in the custody or control of any of those institutions or public  
2258 education foundations shall be invested as provided in Section 51-7-11 and the rules of the  
2259 council.

2260 (3) (a) Each institution shall make monthly reports detailing the deposit and investment  
2261 of funds in its custody or control to its institutional council and the [~~State Board of Regents~~]  
2262 Utah Board of Higher Education.

2263 (b) The state auditor may conduct or cause to be conducted an annual audit of the  
2264 investment program of each institution.

2265 (c) The [~~State Board of Regents~~] Utah Board of Higher Education shall:

2266 (i) require whatever internal controls and supervision are necessary to ensure the  
2267 appropriate safekeeping, investment, and accounting for all funds of these institutions; and

2268 (ii) submit annually to the governor and the Legislature a summary report of all  
2269 investments by institutions under its jurisdiction.

2270 Section 36. Section **51-8-303** is amended to read:

2271 **51-8-303. Requirements of member institutions of the state system of higher**  
2272 **education.**

2273 (1) The [~~State Board of Regents~~] Utah Board of Higher Education shall:

2274 (a) establish asset allocations for the institutional funds;

2275 (b) in consultation with the commissioner of higher education, establish guidelines for  
2276 investing the funds; and

2277 (c) establish a written policy governing conflicts of interest.

2278 (2) (a) A higher education institution may not invest its institutional funds in violation  
2279 of the [~~State Board of Regents~~] Utah Board of Higher Education's guidelines unless the [~~State~~  
2280 ~~Board of Regents~~] Utah Board of Higher Education approves an investment policy that has  
2281 been adopted by the higher education institution's board of trustees.

2282 (b) A higher education institution and its employees shall comply with the [~~State Board~~  
2283 ~~of Regents~~] Utah Board of Higher Education's conflict of interest requirements unless the  
2284 [~~State Board of Regents~~] Utah Board of Higher Education approves the conflict of interest  
2285 policy that has been adopted by the higher education institution's board of trustees.

2286 (3) (a) The board of trustees of a higher education institution may adopt:

2287 (i) an investment policy to govern the investment of the higher education institution's  
2288 institutional funds; and

2289 (ii) a conflict of interest policy.

2290 (b) The investment policy shall:

2291 (i) define the groups, and the responsibilities of those groups, that must be involved  
2292 with investing the institutional funds;

2293 (ii) ensure that the groups defined under Subsection (3)(b)(i) at least include the board  
2294 of trustees, an investment committee, institutional staff, and a custodian bank;

2295 (iii) create an investment committee that includes not more than two members of the  
2296 board of trustees and no less than two independent investment management professionals;

2297 (iv) determine an appropriate risk level for the institutional funds;  
2298 (v) establish allocation ranges for asset classes considered suitable for the institutional  
2299 funds;

2300 (vi) determine prudent diversification of the institutional funds; and

2301 (vii) establish performance objectives and a regular review process.

2302 (c) Each higher education institution that adopts an investment policy, a conflict of  
2303 interest policy, or both, shall submit the policy, and any subsequent amendments, to the [~~State~~  
2304 ~~Board of Regents~~] Utah Board of Higher Education for [its] approval.

2305 (4) Each higher education institution shall make monthly reports detailing the deposit  
2306 and investment of funds in [its] the institution's custody or control to:

2307 (a) [its] the institution of higher education board of trustees; and

2308 [~~(b) the State Board of Regents.~~]

2309 (b) the Utah Board of Higher Education.

2310 (5) The state auditor may conduct or cause to be conducted an annual audit of the  
2311 investment program of each higher education institution.

2312 (6) The [~~State Board of Regents~~] Utah Board of Higher Education shall submit an  
2313 annual report to the governor and the Legislature summarizing all investments by higher  
2314 education institutions under its jurisdiction.

2315 Section 37. Section **51-9-201** is amended to read:

2316 **51-9-201. Creation of Tobacco Settlement Restricted Account.**

2317 (1) There is created within the General Fund a restricted account known as the  
2318 "Tobacco Settlement Restricted Account."

2319 (2) The account shall earn interest.

2320 (3) The account shall consist of:

2321 (a) on and after July 1, 2007, 60% of all funds of every kind that are received by the  
2322 state that are related to the settlement agreement that the state entered into with leading tobacco  
2323 manufacturers on November 23, 1998; and

- 2324 (b) interest earned on the account.
- 2325 (4) To the extent that funds will be available for appropriation in a given fiscal year,  
2326 those funds shall be appropriated from the account in the following order:
- 2327 (a) \$66,600 to the Office of the Attorney General for ongoing enforcement and defense  
2328 of the Tobacco Settlement Agreement;
- 2329 (b) \$18,500 to the State Tax Commission for ongoing enforcement of business  
2330 compliance with the Tobacco Tax Settlement Agreement;
- 2331 (c) \$10,452,900 to the Department of Health for:
- 2332 (i) children in the Medicaid program created in Title 26, Chapter 18, Medical  
2333 Assistance Act, and the Children's Health Insurance Program created in Section 26-40-103; and  
2334 (ii) for restoration of dental benefits in the Children's Health Insurance Program;
- 2335 (d) \$3,847,100 to the Department of Health for alcohol, tobacco, and other drug  
2336 prevention, reduction, cessation, and control programs that promote unified messages and  
2337 make use of media outlets, including radio, newspaper, billboards, and television, and with a  
2338 preference in funding given to tobacco-related programs;
- 2339 (e) \$193,700 to the Administrative Office of the Courts and \$2,325,400 to the  
2340 Department of Human Services for the statewide expansion of the drug court program;
- 2341 (f) \$4,000,000 to the [~~State Board of Regents~~] Utah Board of Higher Education for the  
2342 University of Utah Health Sciences Center to benefit the health and well-being of Utah citizens  
2343 through in-state research, treatment, and educational activities; and
- 2344 (g) any remaining funds as directed by the Legislature through appropriation.
- 2345 Section 38. Section **53-2a-802** is amended to read:
- 2346 **53-2a-802. Definitions.**
- 2347 (1) (a) "Absent" means:
- 2348 (i) not physically present or not able to be communicated with for 48 hours; or  
2349 (ii) for local government officers, as defined by local ordinances.
- 2350 (b) "Absent" does not include a person who can be communicated with via telephone,

2351 radio, or telecommunications.

2352 (2) "Department" means the Department of Administrative Services, the Department of  
2353 Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of  
2354 Commerce, the Department of Heritage and Arts, the Department of Corrections, the  
2355 Department of Environmental Quality, the Department of Financial Institutions, the  
2356 Department of Health, the Department of Human Resource Management, the Department of  
2357 Workforce Services, the Labor Commission, the National Guard, the Department of Insurance,  
2358 the Department of Natural Resources, the Department of Public Safety, the Public Service  
2359 Commission, the Department of Human Services, the State Tax Commission, the Department  
2360 of Technology Services, the Department of Transportation, any other major administrative  
2361 subdivisions of state government, the State Board of Education, the [~~State Board of Regents~~]  
2362 Utah Board of Higher Education, the Utah Housing Corporation, the State Retirement Board,  
2363 and each institution of higher education within the system of higher education.

2364 (3) "Division" means the Division of Emergency Management established in Title 53,  
2365 Chapter 2a, Part 1, Emergency Management Act.

2366 (4) "Emergency interim successor" means a person designated by this part to exercise  
2367 the powers and discharge the duties of an office when the person legally exercising the powers  
2368 and duties of the office is unavailable.

2369 (5) "Executive director" means the person with ultimate responsibility for managing  
2370 and overseeing the operations of each department, however denominated.

2371 (6) (a) "Office" includes all state and local offices, the powers and duties of which are  
2372 defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

2373 (b) "Office" does not include the office of governor or the legislative or judicial offices.

2374 (7) "Place of governance" means the physical location where the powers of an office  
2375 are being exercised.

2376 (8) "Political subdivision" includes counties, cities, towns, metro townships, districts,  
2377 authorities, and other public corporations and entities whether organized and existing under



2378 charter or general law.

2379 (9) "Political subdivision officer" means a person holding an office in a political  
2380 subdivision.

2381 (10) "State officer" means the attorney general, the state treasurer, the state auditor, and  
2382 the executive director of each department.

2383 (11) "Unavailable" means:

2384 (a) absent from the place of governance during a disaster that seriously disrupts normal  
2385 governmental operations, whether or not that absence or inability would give rise to a vacancy  
2386 under existing constitutional or statutory provisions; or

2387 (b) as otherwise defined by local ordinance.

2388 Section 39. Section **53-7-204** is amended to read:

2389 **53-7-204. Duties of Utah Fire Prevention Board -- Unified Code Analysis Council**  
2390 **-- Local administrative duties.**

2391 (1) The board shall:

2392 (a) administer the state fire code as the standard in the state;

2393 (b) subject to the state fire code, make rules in accordance with Title 63G, Chapter 3,  
2394 Utah Administrative Rulemaking Act:

2395 (i) establishing standards for the prevention of fire and for the protection of life and  
2396 property against fire and panic in any:

2397 (A) publicly owned building, including all public and private schools, colleges, and  
2398 university buildings;

2399 (B) building or structure used or intended for use as an asylum, a mental hospital, a  
2400 hospital, a sanitarium, a home for the elderly, an assisted living facility, a children's home or  
2401 day care center, or any building or structure used for a similar purpose; or

2402 (C) place of assemblage where 50 or more persons may gather together in a building,  
2403 structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;

2404 (ii) establishing safety and other requirements for placement and discharge of display

- 2405 fireworks on the basis of:
- 2406       (A) the state fire code; and
- 2407       (B) relevant publications of the National Fire Protection Association;
- 2408       (iii) establishing safety standards for retail storage, handling, and sale of class C
- 2409 common state approved explosives;
- 2410       (iv) defining methods to establish proof of competence to place and discharge display
- 2411 fireworks, special effects fireworks, and flame effects;
- 2412       (v) subject to Subsection (2), creating a uniform statewide policy regarding a state,
- 2413 county, special district, and local government entity's safe seizure, storage, and repurposing,
- 2414 destruction, or disposal of a firework, class A explosive, or class B explosive that:
- 2415       (A) is illegal; or
- 2416       (B) a person uses or handles in an illegal manner;
- 2417       (vi) deputizing qualified persons to act as deputy fire marshals, and to secure special
- 2418 services in emergencies;
- 2419       (vii) implementing Section [15A-1-403](#);
- 2420       (viii) setting guidelines for use of funding;
- 2421       (ix) establishing criteria for training and safety equipment grants for fire departments
- 2422 enrolled in firefighter certification;
- 2423       (x) establishing ongoing training standards for hazardous materials emergency
- 2424 response agencies; and
- 2425       (xi) establishing criteria for the fire safety inspection of a food truck;
- 2426       (c) recommend to the commissioner a state fire marshal;
- 2427       (d) develop policies under which the state fire marshal and the state fire marshal's
- 2428 authorized representatives will perform;
- 2429       (e) provide for the employment of field assistants and other salaried personnel as
- 2430 required;
- 2431       (f) prescribe the duties of the state fire marshal and the state fire marshal's authorized

2432 representatives;

2433 (g) establish a statewide fire prevention, fire education, and fire service training  
2434 program in cooperation with the [~~Board of Regents~~] Utah Board of Higher Education;

2435 (h) establish a statewide fire statistics program for the purpose of gathering fire data  
2436 from all political subdivisions of the state;

2437 (i) establish a fire academy in accordance with Section [53-7-204.2](#);

2438 (j) coordinate the efforts of all people engaged in fire suppression in the state;

2439 (k) work aggressively with the local political subdivisions to reduce fire losses;

2440 (l) regulate the sale and servicing of portable fire extinguishers and automatic fire  
2441 suppression systems in the interest of safeguarding lives and property;

2442 (m) establish a certification program for persons who inspect and test automatic fire  
2443 sprinkler systems;

2444 (n) establish a certification program for persons who inspect and test fire alarm  
2445 systems;

2446 (o) establish a certification for persons who provide response services regarding  
2447 hazardous materials emergencies;

2448 (p) in accordance with Sections [15A-1-403](#) and [68-3-14](#), submit a written report to the  
2449 Business and Labor Interim Committee; and

2450 (q) jointly create the Unified Code Analysis Council with the Uniform Building Code  
2451 Commission in accordance with Section [15A-1-203](#).

2452 (2) (a) In the rules that the board makes under Subsection (1)(b)(v), the board shall  
2453 include a provision prohibiting a state, county, special district, or local government entity from  
2454 disposing of an item described in Subsection (1)(b)(v) by means of open burning, except under  
2455 circumstances described in the rule.

2456 (b) When making a rule under Subsection (1)(b)(v), the board shall:

2457 (i) review and include applicable references to:

2458 (A) requirements described in Title 15A, Chapter 5, State Fire Code Act; and

- 2459 (B) provisions of the International Fire Code; and
- 2460 (ii) consider the appropriate role of the following in relation to the rule:
- 2461 (A) the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives; and
- 2462 (B) a firework wholesaler or distributor.
- 2463 (3) The board may incorporate in its rules by reference, in whole or in part:
- 2464 (a) the state fire code; or
- 2465 (b) subject to the state fire code, a nationally recognized and readily available standard
- 2466 pertaining to the protection of life and property from fire, explosion, or panic.
- 2467 (4) The following functions shall be administered locally by a city, county, or fire
- 2468 protection district:
- 2469 (a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and
- 2470 19-2-114;
- 2471 (b) creating a local board of appeals in accordance with the state fire code; and
- 2472 (c) subject to the state fire code and the other provisions of this chapter, establishing,
- 2473 modifying, or deleting fire flow and water supply requirements.

2474 Section 40. Section **53B-1-101.5** is amended to read:

2475 **53B-1-101.5. Definitions.**

2476 As used in this title:

2477 (1) (a) "Academic education" means an educational program that is offered by a

2478 degree-granting institution.

2479 (b) "Academic education" does not include technical education.

2480 [(1)] (2) "Board" means the [~~State Board of Regents established~~] Utah Board of Higher

2481 Education described in Section [53B-1-103] 53B-1-402.

2482 [(2)] (3) "Career and technical education" means [~~organized educational programs~~

2483 ~~offering sequences of courses or skill sets directly related to preparing individuals for paid or~~

2484 ~~unpaid employment in current or emerging occupations that generally do not require a~~

2485 ~~baccalaureate or advanced degree.] an educational program that:~~

2486 (a) is designed to meet industry needs;  
 2487 (b) leads to:  
 2488 (i) a certificate; or  
 2489 (ii) a degree; and  
 2490 (c) may qualify for funding under the Carl D. Perkins Career and Technical Education  
 2491 Improvement Act of 2006, 20 U.S.C. 2301 et seq.  
 2492 ~~[(3)]~~ (4) "Commissioner" means the commissioner of higher education appointed in  
 2493 accordance with Section ~~[53B-1-105]~~ 53B-1-408.  
 2494 ~~[(4) "Technical college" means, except as provided in Section 53B-26-102, a member~~  
 2495 ~~college of the Utah System of Technical Colleges listed in Section 53B-2a-105.]~~  
 2496 (5) "Degree-granting institution of higher education" or "degree-granting institution"  
 2497 means an institution of higher education described in Subsection 53B-1-102(1)(a).  
 2498 (6) "Institution board of trustees" means:  
 2499 (a) an institution of higher education board of trustees described in Section 53B-2-103;  
 2500 or  
 2501 (b) a technical college board of trustees described in Section 53B-2a-108.  
 2502 (7) "Technical college" means an institution of higher education described in  
 2503 Subsection 53B-1-102(1)(b).  
 2504 (8) (a) "Technical education" means career and technical education that:  
 2505 (i) leads to an institutional certificate; or  
 2506 (ii) is short-term training.  
 2507 (b) "Technical education" does not include general education.  
 2508 Section 41. Section **53B-1-102** is amended to read:  
 2509 **53B-1-102. Utah system of higher education.**  
 2510 (1) The ~~[state]~~ Utah system of higher education consists of the following institutions:  
 2511 ~~[(a) the Utah System of Higher Education, which consists of the following~~  
 2512 ~~institutions:]~~

2513 ~~[(i) the State Board of Regents;]~~  
2514 (a) degree-granting institutions, which are:  
2515 ~~[(ii)]~~ (i) the University of Utah;  
2516 ~~[(iii)]~~ (ii) Utah State University;  
2517 ~~[(iv)]~~ (iii) Weber State University;  
2518 ~~[(v)]~~ (iv) Southern Utah University;  
2519 ~~[(vi)]~~ (v) Snow College;  
2520 ~~[(vii)]~~ (vi) Dixie State University;  
2521 ~~[(viii)]~~ (vii) Utah Valley University; and  
2522 ~~[(ix)]~~ (viii) Salt Lake Community College;  
2523 ~~[(b) the Utah System of Technical Colleges, which consists of the following~~  
2524 ~~institutions:]~~  
2525 ~~[(i) the Utah System of Technical Colleges Board of Trustees;]~~  
2526 (b) technical colleges, which are:  
2527 ~~[(ii)]~~ (i) Bridgerland Technical College;  
2528 ~~[(iii)]~~ (ii) Davis Technical College;  
2529 ~~[(iv)]~~ (iii) Dixie Technical College;  
2530 ~~[(v)]~~ (iv) Mountainland Technical College;  
2531 ~~[(vi)]~~ (v) Ogden-Weber Technical College;  
2532 ~~[(vii)]~~ (vi) Southwest Technical College;  
2533 ~~[(viii)]~~ (vii) Tooele Technical College; and  
2534 ~~[(ix)]~~ (viii) Uintah Basin Technical College; ~~[and]~~  
2535 (c) the Utah Board of Higher Education; and  
2536 ~~[(e)]~~ (d) other public post-high school educational institutions as the Legislature may  
2537 designate.  
2538 (2) A change in the name of an institution within the ~~[Utah System of Higher~~  
2539 ~~Education shall not be considered]~~ Utah system of higher education is not a change in the role

2540 or mission of the institution, unless otherwise authorized by the [~~State Board of Regents~~]  
2541 board.

2542 (3) It is not the intent of the Legislature to increase the number of research universities  
2543 in the state beyond the University of Utah and Utah State University.

2544 (4) An institution or board described in Subsection (1) is empowered to sue and be sued  
2545 and to contract and be contracted with.

2546 Section 42. Section **53B-1-109** is amended to read:

2547 **53B-1-109. Coordination of higher education and public education information**  
2548 **technology systems -- Use of unique student identifier.**

2549 (1) As used in this section, "unique student identifier" means the same as that term is  
2550 defined in Section [53E-4-308](#).

2551 (2) The [~~State Board of Regents~~] board and State Board of Education shall coordinate  
2552 public education and higher education information technology systems to allow individual  
2553 student academic achievement to be tracked through both education systems in accordance  
2554 with this section and Section [53E-4-308](#).

2555 (3) Information technology systems [~~utilized~~] used at an institution within the state  
2556 system of higher education shall [~~utilize~~] use the unique student identifier of all students who  
2557 have previously been assigned a unique student identifier.

2558 Section 43. Section **53B-1-114** is amended to read:

2559 **53B-1-114. Coordination for education.**

2560 (1) At least quarterly, in order to coordinate education services, the commissioner and  
2561 the state superintendent of public instruction shall convene a meeting of individuals who have  
2562 responsibilities related to Utah's education system [~~shall meet~~], including:

2563 (a) the state superintendent of public instruction [~~described in Section [53E-3-301](#)~~];

2564 (b) the commissioner;

2565 [~~(c) the commissioner of technical education described in Section [53B-2a-102](#)~~];

2566 [(~~d~~)] (c) the executive director of the Department of Workforce Services described in

2567 Section [35A-1-201](#);

2568 ~~[(e)]~~ (d) the executive director of the Governor's Office of Economic Development

2569 described in Section [63N-1-202](#);

2570 ~~[(f)]~~ (e) the chair of the State Board of Education;

2571 ~~[(g)]~~ (f) the chair of the ~~[State Board of Regents]~~ Utah Board of Higher Education;

2572 ~~[(h)]~~ the chair of the Utah System of Technical Colleges Board of Trustees described in

2573 Section ~~53B-2a-103~~; and]

2574 (g) a member of the governor's staff; and

2575 ~~[(i)]~~ (h) the chairs of the Education Interim Committee.

2576 (2) The coordinating group described in this section shall, for the State Board of

2577 Education and the Utah Board of Higher Education:

2578 (a) coordinate strategic planning efforts;

2579 (b) encourage alignment of strategic plans; and

2580 (c) report on the State Board of Education's strategic plan to the Utah Board of Higher

2581 Education and the Utah Board of Higher Education's strategic plan to the State Board of

2582 Education.

2583 ~~[(2)]~~ (3) A meeting described in ~~[this section]~~ Subsection (1) is not subject to Title 52,

2584 Chapter 4, Open and Public Meetings Act.

2585 Section 44. Section **53B-1-301** is amended to read:

2586 **53B-1-301. Reports to and actions of the Higher Education Appropriations**

2587 **Subcommittee.**

2588 (1) In accordance with applicable provisions and Section [68-3-14](#), the following

2589 recurring reports are due to the Higher Education Appropriations Subcommittee:

2590 (a) the reports described in Sections [34A-2-202.5](#), [53B-17-804](#), and [59-9-102.5](#) by the

2591 Rocky Mountain Center for Occupational and Environmental Health;

2592 (b) the report described in Section [53B-7-101](#) by the board on recommended

2593 appropriations for higher education institutions, including the report described in Section



- 2594 53B-8-104 by the board on the effects of offering nonresident partial tuition scholarships;
- 2595 (c) the report described in Section 53B-7-704 by the Department of Workforce
- 2596 Services and the Governor's Office of Economic Development on targeted jobs;
- 2597 (d) the reports described in Section 53B-7-705 by the board [~~and the Utah System of~~
- 2598 ~~Technical Colleges Board of Trustees, respectively,~~] on performance;
- 2599 (e) the report described in Section 53B-8-201 by the board on the Regents' Scholarship
- 2600 Program;
- 2601 (f) the report described in Section 53B-8-303 by the [~~State Board of Regents~~] board
- 2602 regarding Access Utah promise scholarships;
- 2603 (g) the report described in Section 53B-8d-104 by the Division of Child and Family
- 2604 Services on tuition waivers for wards of the state;
- 2605 (h) the report described in Section 53B-12-107 by the Utah Higher Education
- 2606 Assistance Authority;
- 2607 (i) the report described in Section 53B-13a-104 by the board on the Success Stipend
- 2608 Program;
- 2609 (j) the report described in Section 53B-17-201 by the University of Utah regarding the
- 2610 Miners' Hospital for Disabled Miners;
- 2611 (k) the report described in Section 53B-26-103 by the Governor's Office of Economic
- 2612 Development on high demand technical jobs projected to support economic growth;
- 2613 (l) the report described in Section 53B-26-202 by the Medical Education Council on
- 2614 projected demand for nursing professionals; and
- 2615 (m) the report described in Section 53E-10-308 by the State Board of Education and
- 2616 [~~State Board of Regents~~] board on student participation in the concurrent enrollment program.
- 2617 (2) In accordance with applicable provisions and Section 68-3-14, the following
- 2618 occasional reports are due to the Higher Education Appropriations Subcommittee:
- 2619 (a) upon request, the information described in Section 53B-8a-111 submitted by the
- 2620 Utah Educational Savings Plan;

2621 (b) as described in Section 53B-26-103, a proposal by an eligible partnership related to  
2622 workforce needs for technical jobs projected to support economic growth;

2623 (c) a proposal described in Section 53B-26-202 by an eligible program to respond to  
2624 projected demand for nursing professionals; and

2625 (d) the reports described in Section 63C-19-202 by the Higher Education Strategic  
2626 Planning Commission on the commission's progress.

2627 (3) In accordance with applicable provisions, the Higher Education Appropriations  
2628 Subcommittee shall complete the following:

2629 (a) as required by Section 53B-7-703, the review of performance funding described in  
2630 Section 53B-7-703;

2631 (b) the review described in Section 53B-7-705 of the implementation of performance  
2632 funding;

2633 (c) an appropriation recommendation described in Section 53B-26-103 to fund a  
2634 proposal responding to workforce needs of a strategic industry cluster;

2635 (d) an appropriation recommendation described in Section 53B-26-202 to fund a  
2636 proposal responding to projected demand for nursing professionals; and

2637 (e) review of the report described in Section 63B-10-301 by the University of Utah on  
2638 the status of a bond and bond payments specified in Section 63B-10-301.

2639 Section 45. Section 53B-1-401 is enacted to read:

2640 **Part 4. Utah Board of Higher Education**

2641 **53B-1-401. Definitions.**

2642 As used in this part:

2643 (1) "Board" means the Utah Board of Higher Education described in Section  
2644 53B-1-402.

2645 (2) "Institution of higher education" or "institution" means an institution of higher  
2646 education described in Section 53B-1-102.

2647 (3) "Nominating committee" means the committee described in Section 53B-1-406.

2648 Section 46. Section **53B-1-402**, which is renumbered from Section 53B-1-103 is  
2649 renumbered and amended to read:

2650 ~~[53B-1-103].~~ **53B-1-402. Establishment of board -- Powers, duties, and**  
2651 **authority -- Reports.**

2652 (1) There is established a State Board of Regents[-], which:  
2653 (a) beginning July 1, 2020, is renamed the Utah Board of Higher Education;  
2654 (b) is the governing board for the institutions of higher education;  
2655 (c) controls, manages, and supervises the Utah system of higher education; and  
2656 (d) is a body politic and corporate with perpetual succession and with all rights,  
2657 immunities, and franchises necessary to function as a body politic and corporate.

2658 [~~(2)(a) Except as provided in Subsection (2)(b), the board shall control, manage, and~~  
2659 ~~supervise the institutions of higher education designated in Section ~~53B-1-102~~ in a manner~~  
2660 ~~consistent with the policy and purpose of this title and the specific powers and responsibilities~~  
2661 ~~granted to the board.]~~

2662 [~~(b) The board may only exercise powers relating to the Utah System of Technical~~  
2663 ~~Colleges Board of Trustees, the Utah System of Technical Colleges, or a technical college that~~  
2664 ~~are specifically provided in this title.]~~

2665 [~~(3) The board shall, for the Utah System of Higher Education:]~~

2666 [~~(a) provide strategic leadership and link system capacity to the economy and~~  
2667 ~~workforce needs;]~~

2668 [~~(b) enhance the impact and efficiency of the system;]~~

2669 [~~(c) establish measurable goals and metrics and delineate the expected contributions of~~  
2670 ~~individual institutions of higher education toward these goals;]~~

2671 [~~(d) evaluate presidents based on institutional performance;]~~

2672 [~~(e) delegate to presidents the authority to manage the presidents' institutions of higher~~  
2673 ~~education;]~~

2674 [~~(f) administer statewide functions including system data collection and reporting;]~~

- 2675 ~~[(g) establish unified budget, finance, and capital funding priorities and practices; and]~~  
2676 ~~[(h) provide system leadership on issues that have a system-wide impact, including:]~~  
2677 ~~[(i) statewide college access and college preparedness initiatives;]~~  
2678 ~~[(ii) learning opportunities drawn from multiple campuses or online learning options;~~  
2679 ~~including new modes of delivery of content at multiple locations;]~~  
2680 ~~[(iii) degree program requirement guidelines including credit hour limits, articulation~~  
2681 ~~agreements, and transfer across institutions;]~~  
2682 ~~[(iv) alignment of general education requirements across institutions of higher~~  
2683 ~~education;]~~  
2684 ~~[(v) incorporation of evidence-based practices that increase college completion; and]~~  
2685 ~~[(vi) monitoring of workforce needs, with an emphasis on credentials that build upon~~  
2686 ~~one another.]]~~  
2687 ~~[(4) The board shall coordinate and support articulation agreements between the Utah~~  
2688 ~~System of Technical Colleges or a technical college and other institutions of higher education.]]~~  
2689 (2) The board shall:  
2690 (a) establish and promote a state-level vision and goals for higher education that  
2691 emphasize system priorities, including:  
2692 (i) quality;  
2693 (ii) affordability;  
2694 (iii) educational opportunity, access, equity, and completion;  
2695 (iv) workforce alignment and preparation for high-quality jobs; and  
2696 (v) economic growth;  
2697 (b) establish policies and practices that advance the vision and goals;  
2698 (c) establish metrics to demonstrate and monitor:  
2699 (i) performance related to the goals; and  
2700 (ii) performance on measures of operational efficiency;  
2701 (d) collect and analyze data including economic data, demographic data, and data

- 2702 related to the metrics;
- 2703 (e) coordinate data collection across institutions;
- 2704 (f) establish, approve, and oversee each institution's mission and role in accordance
- 2705 with Section 53B-16-101;
- 2706 (g) assess an institution's performance in accomplishing the institution's mission and
- 2707 role;
- 2708 (h) participate in the establishment and review of programs of instruction in accordance
- 2709 with Section 53B-16-102;
- 2710 (i) perform duties related to an institution of higher education president, including:
- 2711 (i) appointing an institution of higher education president in accordance with Sections
- 2712 53B-2-102 and 53B-2a-107;
- 2713 (ii) providing support and guidance to an institution of higher education president; and
- 2714 (iii) evaluating an institution of higher education president based on institution
- 2715 performance and progress toward systemwide priorities;
- 2716 (j) create and implement a strategic finance plan for higher education, including by:
- 2717 (i) establishing comprehensive budget and finance priorities for academic education
- 2718 and technical education;
- 2719 (ii) allocating statewide resources to institutions;
- 2720 (iii) setting tuition for each institution;
- 2721 (iv) administering state financial aid programs;
- 2722 (v) administering performance funding in accordance with Chapter 7, Part 7,
- 2723 Performance Funding; and
- 2724 (vi) developing a strategic capital facility plan and prioritization process in accordance
- 2725 with Chapter 22, Part 2, Capital Developments, and Sections 53B-2a-117 and 53B-2a-118;
- 2726 (k) create a seamless articulated education system for Utah students that responds to
- 2727 changing demographics and workforce, including by:
- 2728 (i) providing for statewide prior learning assessment, in accordance with Section

- 2729 [53B-16-110](#);
- 2730 (ii) establishing and maintaining clear pathways for articulation and transfer, in
- 2731 accordance with Section [53B-16-105](#);
- 2732 (iii) establishing degree program requirement guidelines, including credit hour limits;
- 2733 (iv) aligning general education requirements across degree-granting institutions;
- 2734 (v) coordinating and incentivizing collaboration and partnerships between institutions
- 2735 in delivering programs;
- 2736 (vi) coordinating distance delivery of programs; and
- 2737 (vii) coordinating work-based learning;
- 2738 (l) coordinate with the public education system:
- 2739 (i) regarding public education programs that provide postsecondary credit or
- 2740 certificates; and
- 2741 (ii) to ensure that an institution of higher education providing technical education
- 2742 serves secondary students in the public education system;
- 2743 (m) delegate to an institution board of trustees certain duties related to institution
- 2744 governance including:
- 2745 (i) guidance and support for the institution president;
- 2746 (ii) effective administration;
- 2747 (iii) the institution's responsibility for contributing to progress toward achieving
- 2748 systemwide goals; and
- 2749 (iv) other responsibilities determined by the board;
- 2750 (n) delegate to an institution of higher education president management of the
- 2751 institution of higher education;
- 2752 (o) maximize efficiency throughout the Utah system of higher education by identifying
- 2753 and establishing shared administrative services;
- 2754 (p) develop strategies for providing higher education, including career and technical
- 2755 education, in rural areas;

2756 (q) manage and facilitate a process for initiating, prioritizing, and implementing  
2757 education reform initiatives; and

2758 (r) provide ongoing quality review of institutions.

2759 (3) The board shall submit an annual report of the board's activities and performance  
2760 against the board's goals and metrics to:

2761 (a) the Education Interim Committee;

2762 (b) the Higher Education Appropriations Subcommittee;

2763 (c) the governor; and

2764 (d) each institution of higher education.

2765 ~~[(5)]~~ (4) The board shall prepare and submit an annual report detailing the board's  
2766 progress and recommendations on workforce related issues, including career and technical  
2767 education ~~[issues and addressing workforce needs]~~, to the governor and to the Legislature's  
2768 Education Interim Committee by October 31 of each year, ~~[which shall include]~~ including  
2769 information detailing:

2770 (a) how the career and technical education needs of secondary students are being met  
2771 by institutions of higher education ~~[described in Subsection 53B-1-102(1)(a), including the~~  
2772 ~~access secondary students have to programs offered by Salt Lake Community College's School~~  
2773 ~~of Applied Technology, Snow College, Utah State University Eastern, and Utah State~~  
2774 ~~University Blanding]~~;

2775 (b) how the emphasis on high demand, high wage, and high skill jobs in business and  
2776 industry is being provided;

2777 (c) performance outcomes, including:

2778 (i) entered employment;

2779 (ii) job retention; and

2780 (iii) earnings;

2781 (d) an analysis of workforce needs and efforts to meet workforce needs; and

2782 (e) student tuition and fees.

2783           ~~[(6)]~~ (5) The board may modify the name of an institution [~~described in Subsection~~  
2784 ~~53B-1-102(1)(a)]~~ of higher education to reflect the role and general course of study of the  
2785 institution.

2786           ~~[(7)]~~ (6) The board may not conduct a feasibility study or perform another act relating  
2787 to merging a technical college with another institution of higher education.

2788           ~~[(8)]~~ (7) This section does not affect the power and authority vested in the State Board  
2789 of Education to apply for, accept, and manage federal appropriations for the establishment and  
2790 maintenance of career and technical education.

2791           ~~[(9)]~~ (8) The board shall ensure that any training or certification that an employee of  
2792 the higher education system is required to complete under this title or by board rule complies  
2793 with Title 63G, Chapter 22, State Training and Certification Requirements.

2794           Section 47. Section **53B-1-403** is enacted to read:

2795           **53B-1-403. Committees.**

2796           (1) The board shall form:

2797           (a) a committee to focus on technical education; and

2798           (b) a committee to focus on academic education.

2799           (2) The board may form committees in addition to the committees described in  
2800 Subsection (1).

2801           Section 48. Section **53B-1-404**, which is renumbered from Section 53B-1-104 is  
2802 renumbered and amended to read:

2803           ~~[53B-1-104].~~           **53B-1-404. Membership of the board -- Student appointees --**  
2804 **Terms -- Oath -- Officers -- Committees -- Bylaws -- Meetings -- Quorum -- Vacancies --**  
2805 **Compensation -- Training.**

2806           (1) [~~Except as provided in Subsection (2), the~~] The board consists of [~~17~~] 18 residents  
2807 of the state appointed by the governor with the advice and consent of the Senate, as follows:

2808           ~~[(a) eight at-large members;]~~

2809           ~~[(b) eight members, each of whom is:]~~



2810           ~~[(i) selected from three nominees presented to the governor by a higher education~~  
2811 ~~institution board of trustees; and]~~

2812           ~~[(ii) a current or former member of the institution of higher education board of trustees~~  
2813 ~~that nominates the member; and]~~

2814           ~~[(c) one member, selected from three nominees presented to the governor by the~~  
2815 ~~student body presidents of the institutions of higher education, who:]~~

2816           ~~[(i) is a fully matriculated student enrolled in an institution of higher education; and]~~  
2817           ~~[(ii) is not serving as a student body president at the time of the nomination.]~~

2818           ~~[(2) (a) (i) An individual appointed to the board on or before May 8, 2017, may serve~~  
2819 ~~on the board, even if the individual does not fulfill a requirement for the composition of the~~  
2820 ~~board described in Subsection (1).]~~

2821           ~~[(ii) The governor may reappoint a member described in Subsection (2)(a)(i) when the~~  
2822 ~~member's term expires.]~~

2823           ~~[(b) An individual appointed to the board on or before May 8, 2017, who is a current or~~  
2824 ~~former member of an institution of higher education board of trustees is the board member for~~  
2825 ~~the institution of higher education described in Subsection (1)(b).]~~

2826           ~~[(c) (i) Subject to Subsection (2)(c)(ii), as positions on the board become vacant, the~~  
2827 ~~governor shall ensure that newly appointed members move the board toward the composition~~  
2828 ~~described in Subsection (1).]~~

2829           ~~[(ii) In appointing a new member to the board, the governor shall first appoint a~~  
2830 ~~member described in Subsection (1)(b) until the eight positions described in Subsection (1)(b)~~  
2831 ~~are filled.]~~

2832           (a) subject to Subsections (2)(a), (3), and (6)(b)(ii), 16 members appointed from among  
2833 candidates presented to the governor by a nominating committee; and

2834           (b) two student members appointed as described in Subsection (4).

2835           (2) (a) For an appointment of a member effective July 1, 2020, the governor shall  
2836 appoint the member in accordance with Section [53B-1-501](#).

2837 (b) Unless appointed by the governor as described in Section 53B-1-501, the term of  
2838 each individual who is a member of the State Board of Regents on May 12, 2020, expires on  
2839 June 30, 2020.

2840 (3) If the governor is not satisfied with a sufficient number of the candidates presented  
2841 by the nominating committee to make the required number of appointments, the governor may  
2842 request that the committee nominate additional candidates.

2843 (4) (a) For the appointments described in Subsection (1)(b), the governor shall appoint:

2844 (i) one individual who is enrolled in a certificate program at a technical college at the  
2845 time of the appointment; and

2846 (ii) one individual who:

2847 (A) is a fully matriculated student enrolled in a degree-granting institution; and

2848 (B) is not serving as a student body president at the time of the nomination.

2849 (b) The governor shall select:

2850 (i) an appointee described in Subsection (4)(a)(i) from among three nominees,  
2851 presented to the governor by a committee consisting of eight students, one from each technical  
2852 college, each of whom is recognized by the student's technical college; and

2853 (ii) an appointee described in Subsection (4)(a)(ii) from among three nominees  
2854 presented to the governor by the student body presidents of degree-granting institutions.

2855 ~~[(3)] (5) (a) All appointments to the board shall be made on a nonpartisan basis.~~

2856 ~~[(b) In making appointments to the board, the governor shall consider:]~~

2857 ~~[(i) geographic representation of members;]~~

2858 ~~[(ii) diversity;]~~

2859 ~~[(iii) experience in higher education governance;]~~

2860 ~~[(iv) experience in economic development; and]~~

2861 ~~[(v) exposure to institutions of higher education.]~~

2862 ~~[(e)] (b) An individual may not serve simultaneously on the [State Board of Regents]~~  
2863 board and an institution ~~[of higher education]~~ board of trustees.

2864           ~~[(4)]~~ (6) (a) (i) Except as provided in Subsection ~~[(4)(b), members of the board]~~  
2865 (6)(a)(ii) and Section [53B-1-501](#), members shall be appointed to six-year staggered terms,  
2866 each of which ~~[begin]~~ begins on July 1 of the year of appointment.

2867           ~~[(b) A student member]~~ (ii) A member described in Subsection (1)~~[(c)]~~(b) shall be  
2868 appointed to a one-year term.

2869           (b) (i) A member described in Subsection (1)(a) may serve up to two consecutive full  
2870 terms.

2871           (ii) The governor may appoint a member described in Subsection (1)(a) to a second  
2872 consecutive full term without a recommendation from the nominating committee.

2873           (iii) A member described in Subsection (1)(b) may not serve more than one full term.

2874           (c) (i) The governor may remove a member ~~[of the board]~~ for cause.

2875           (ii) The governor shall consult with the president of the Senate before removing a  
2876 member ~~[of the board]~~.

2877           ~~[(5)]~~ (7) (a) A member ~~[of the board]~~ shall take the official oath of office before  
2878 entering upon the duties of office.

2879           (b) The oath shall be filed with the Division of Archives and Records Services.

2880           ~~[(6)]~~ (8) The board shall elect a chair and vice chair from among the board's members  
2881 who shall serve terms of two years and until their successors are chosen and qualified.

2882           ~~[(7)]~~ (9) (a) The board shall appoint a secretary from the commissioner's staff ~~[of the~~  
2883 ~~board's chief executive]~~ to serve at the board's discretion.

2884           (b) The secretary is a full-time employee ~~[who receives a salary set by the board]~~.

2885           (c) The secretary shall record and maintain a record of all board meetings and perform  
2886 other duties as the board directs.

2887           ~~[(8)]~~ (10) (a) The board may establish advisory committees in addition to the advisory  
2888 council described in Section [53B-1-407](#).

2889           ~~[(b) The powers and authority of the board are nondelegable, except as specifically~~  
2890 ~~provided for in this title.]~~

2891 ~~[(e)]~~ (b) All matters requiring board determination shall be addressed in a properly  
2892 convened meeting of the board or the board's executive committee.

2893 ~~[(9)]~~ (11) (a) The board shall enact bylaws for the board's own government not  
2894 inconsistent with the constitution or the laws of this state.

2895 (b) The board shall provide for an executive committee in the bylaws that:

2896 (i) has the full authority of the board to act upon routine matters during the interim  
2897 between board meetings;

2898 (ii) may not act on nonroutine matters except under extraordinary and emergency  
2899 circumstances; and

2900 (iii) shall report to the board at the board's next meeting following an action undertaken  
2901 by the executive committee.

2902 ~~[(10)]~~ (12) (a) The board shall meet regularly upon the board's own determination.

2903 (b) The board may also meet, in full or executive session, at the request of the chair,  
2904 ~~[the executive officer, or]~~ the commissioner, or at least five members of the board.

2905 ~~[(11)]~~ (13) A quorum of the ~~[voting members of the]~~ board is required to conduct the  
2906 board's business and consists of ~~[nine]~~ 10 members.

2907 ~~[(12)]~~ (14) (a) A vacancy in the board occurring before the expiration of a ~~[voting]~~  
2908 member's full term shall be immediately filled ~~[by appointment by the governor with the~~  
2909 ~~consent of the Senate]~~ through the nomination process described in Section 53B-1-406 and this  
2910 section.

2911 (b) An individual appointed under Subsection ~~[(12)]~~ (14)(a) serves for the remainder of  
2912 the unexpired term.

2913 (15) (a) (i) Subject to Subsection (15)(a)(ii), a member shall receive a daily salary for  
2914 each calendar day that the member attends a board meeting that is the same as the daily salary  
2915 for a member of the Legislature described in Section 36-2-3.

2916 (ii) A member may receive a salary for up to 10 calendar days per calendar year.

2917 ~~[(13)]~~ A board member may not receive compensation or benefits for the member's

2918 service, but may] (b) A member may receive per diem and travel expenses in accordance with:

2919 [~~(a)~~] (i) Section 63A-3-106;

2920 [~~(b)~~] (ii) Section 63A-3-107; and

2921 [~~(c)~~] (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

2922 63A-3-107.

2923 (16) The commissioner shall provide to each member:

2924 (a) initial training when the member joins the board; and

2925 (b) ongoing annual training.

2926 Section 49. Section 53B-1-405 is enacted to read:

2927 **53B-1-405. Qualifications for board members.**

2928 (1) The board shall develop qualifications for the composition of the board to ensure

2929 that combined, the board members have:

2930 (a) a range of experience, including experience in industry;

2931 (b) varied areas of expertise; and

2932 (c) varied geographic representation.

2933 (2) In developing the qualifications, the board shall consider:

2934 (a) expertise in:

2935 (i) business or industry;

2936 (ii) technical education;

2937 (iii) general education; and

2938 (iv) advanced education and research;

2939 (b) geographic representation; and

2940 (c) knowledge or experience in a field including:

2941 (i) finance;

2942 (ii) accounting or auditing;

2943 (iii) law;

2944 (iv) facilities or real estate;

2945 (v) educational delivery models;  
2946 (vi) workforce development;  
2947 (vii) economic development;  
2948 (viii) kindergarten through grade 12 education; and  
2949 (ix) educational quality assessment.  
2950 (3) The board shall consult with the governor to develop the qualifications described in  
2951 this section.

2952 Section 50. Section **53B-1-406** is enacted to read:

2953 **53B-1-406. Nominating committee.**

2954 (1) Except as provided in Subsection (1)(b), a nominating committee shall be formed  
2955 to begin service:

2956 (a) by January 1, 2022; and

2957 (b) on January 1 of each even number year thereafter.

2958 (2) (a) A nominating committee shall include:

2959 (i) subject to Subsection (2)(b), one individual appointed by the president of the  
2960 Senate;

2961 (ii) subject to Subsection (2)(b), one individual appointed by the speaker of the House  
2962 of Representatives; and

2963 (iii) five individuals appointed by the governor, including:

2964 (A) one individual who is a member of the board of trustees of a degree-granting  
2965 institution;

2966 (B) one individual who is a member of a technical college board of trustees; and

2967 (C) three additional individuals.

2968 (b) An individual appointed under Subsection (2)(a)(i) or (ii) may not be serving as a  
2969 legislator at the time of appointment.

2970 (3) (a) Except as provided in Subsection (3)(b), a nominating committee member is  
2971 appointed to a two-year term.

2972 (b) If a nominating committee is formed due to a vacancy on the board occurring  
2973 before January 1, 2022, each nominating committee member shall be appointed to a term that  
2974 expires on December 31, 2023.

2975 (4) (a) The nominating committee shall elect one member to serve as the chair of the  
2976 nominating committee.

2977 (b) The chair, or another nominating committee member designated by the chair, shall  
2978 schedule and convene all nominating committee meetings.

2979 (c) (i) Four members of the nominating committee constitute a quorum.

2980 (ii) The action of a majority of a quorum constitutes the action of the nominating  
2981 committee.

2982 (5) The nominating committee shall submit to the governor at least three candidates for  
2983 each open position on the board.

2984 (6) The nominating committee shall identify a candidate for the board based on the  
2985 qualifications described in Section [53B-1-405](#).

2986 (7) The nominating committee shall nominate individuals to the governor on a  
2987 nonpartisan basis.

2988 (8) A nominating committee member may not receive compensation or benefits for the  
2989 member's service, but may receive per diem and travel expenses in accordance with:

2990 (a) Section [63A-3-106](#);

2991 (b) Section [63A-3-107](#); and

2992 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and  
2993 [63A-3-107](#).

2994 (9) The commissioner shall provide staff support to the nominating committee.

2995 Section 51. Section **53B-1-407** is enacted to read:

2996 **53B-1-407. Industry advisory council.**

2997 (1) The board shall establish an industry advisory council.

2998 (2) The board shall ensure that the industry advisory council includes representation

2999 from:

- 3000 (a) employers;
- 3001 (b) kindergarten through grade 12 representatives;
- 3002 (c) degree-granting institution faculty; and
- 3003 (d) technical college faculty.

3004 (3) The industry advisory council shall inform:

- 3005 (a) the committee for technical education;
- 3006 (b) the committee for academic education; and
- 3007 (c) the State Board of Education.

3008 Section 52. Section **53B-1-408**, which is renumbered from Section 53B-1-105 is  
3009 renumbered and amended to read:

3010 **[53B-1-105]. 53B-1-408. Appointment of commissioner of higher**  
3011 **education -- Qualifications -- Associate commissioners -- Duties.**

3012 (1) (a) [The] Subject to Section 53B-1-503, the board, upon approval from the  
3013 governor and with the advice and consent of the Senate [for each appointee nominated on or  
3014 after May 8, 2012], shall appoint a commissioner of higher education to serve at [its] the  
3015 board's pleasure as [its] the board's chief executive officer.

3016 (b) The commissioner may be terminated by:

- 3017 (i) the board; or
- 3018 (ii) the governor, after consultation with the board.

3019 (c) The board shall:

- 3020 (i) set the salary of the commissioner;
- 3021 (ii) subject to Subsection (3), prescribe the duties and functions of the commissioner;

3022 and

3023 (iii) select a commissioner on the basis of outstanding professional qualifications.

3024 (2) (a) The commissioner shall appoint, subject to approval by the board:

- 3025 (i) an associate commissioner for academic education; and



- 3026 (ii) an associate commissioner for technical education.
- 3027 (b) (i) The commissioner may appoint associate commissioners in addition to the
- 3028 associate commissioners described in Subsection (2)(a).
- 3029 (ii) An association commissioner described in Subsection (2)(b)(i) is not subject to the
- 3030 approval of the board.
- 3031 [~~(2)~~] (3) The commissioner is responsible to the board to:
- 3032 (a) ensure that the policies [~~and programs~~], programs, and strategic plan of the board
- 3033 are properly executed;
- 3034 (b) furnish information about the [~~state~~] Utah system of higher education and make
- 3035 recommendations regarding that information to the board;
- 3036 (c) provide state-level leadership in any activity affecting an institution [~~in the state~~
- 3037 system] of higher education; and
- 3038 (d) perform other duties assigned by the board in carrying out [~~its~~] the board's duties
- 3039 and responsibilities.

3040 Section 53. Section **53B-1-409** is enacted to read:

3041 **53B-1-409. Appointment and hiring of staff.**

- 3042 (1) The commissioner may appoint and hire a staff of professional, legal, and
- 3043 administrative personnel.
- 3044 (2) The commissioner shall determine salaries, retirement provisions, and other
- 3045 benefits for the staff described in this section.

3046 Section 54. Section **53B-1-410** is enacted to read:

3047 **53B-1-410. Utah Board of Higher Education successor to rights and duties.**

- 3048 (1) The board is the successor to the Utah System of Technical Colleges Board of
- 3049 Trustees.
- 3050 (2) For the Utah System of Technical Colleges Board of Trustees, the board:
- 3051 (a) is vested with all rights, titles, privileges, powers, obligations, liabilities,
- 3052 immunities, franchises, endowments, assets, property, and claims;

3053 (b) shall fulfill and perform all obligations, including obligations relating to  
3054 outstanding bonds and notes; and

3055 (c) may continue an administrative rule.

3056 Section 55. Section **53B-1-501** is enacted to read:

3057 **Part 5. Transition to Utah Board of Higher Education**

3058 **53B-1-501. Establishment of initial board membership.**

3059 (1) (a) The governor shall appoint, with the advice and consent of the Senate,  
3060 individuals to the board, to ensure that beginning July 1, 2020, the board consists of 18  
3061 members, including:

3062 (i) at least six individuals who were members of the State Board of Regents on May  
3063 12, 2020;

3064 (ii) at least six individuals who were members of the Utah System of Technical  
3065 Colleges Board of Trustees on May 12, 2020; and

3066 (iii) two student members appointed to the board in accordance with Section  
3067 53B-1-404.

3068 (b) Before making an appointment described in Subsection (1)(a), the governor shall  
3069 consult:

3070 (i) for an appointment described in Subsection (1)(a)(i), with State Board of Regents  
3071 leadership; and

3072 (ii) for an appointment described in Subsection (1)(a)(ii), with Utah System of  
3073 Technical Colleges Board of Trustees leadership.

3074 (2) (a) Except for an appointment described in Subsection (1)(a)(iii), the governor shall  
3075 appoint an individual to a two-year, four-year, or six-year term to ensure that one-third of the  
3076 members complete the members' terms on June 30 of each even number year.

3077 (b) The governor may appoint an individual described in Subsection (1)(a) to a second  
3078 term without the individual being considered by the nominating committee described in  
3079 Section 53B-1-406 if, at the time of the individual's initial appointment to the board, the

3080 individual:

3081 (i) is serving the individual's first full term on the State Board of Regents or the Utah  
3082 System of Technical Colleges Board of Trustees; or

3083 (ii) is not a member of the State Board of Regents or the Utah System of Technical  
3084 Colleges Board of Trustees.

3085 (c) An appointment described in Subsection (2)(b) is for a six-year term.

3086 (3) Following the appointments described in this section, a vacancy on the board shall  
3087 be filled in accordance with Section [53B-1-404](#).

3088 Section 56. Section **53B-1-502** is enacted to read:

3089 **53B-1-502. Transition of Utah System of Technical Colleges to Utah Board of**  
3090 **Higher Education -- Recommendations.**

3091 (1) Beginning July 1, 2020, the board shall assume all statutory and administrative  
3092 requirements that were requirements on the Utah System of Technical Colleges Board of  
3093 Trustees on June 30, 2020.

3094 (2) (a) Beginning July 1, 2020, an individual who was an employee of the Utah System  
3095 of Technical Colleges on June 30, 2020, is an employee of the Utah Board of Higher  
3096 Education.

3097 (b) Subsection (2)(a) does not apply to:

3098 (i) a technical college employee; or

3099 (ii) a technical college president.

3100 (3) The board shall review statutory and administrative requirements on the board,  
3101 including requirements related to academic education and technical education, and may  
3102 recommend amendments.

3103 (4) On or before November 1, 2020, the board shall report on any recommendations  
3104 described in Subsection (3) to the Higher Education Strategic Planning Commission.

3105 Section 57. Section **53B-1-503** is enacted to read:

3106 **53B-1-503. Commissioner beginning July 1, 2020.**

3107 (1) An individual serving as commissioner before July 1, 2020, may not continue to  
3108 serve as commissioner after August 1, 2020, unless the board appoints the individual:

3109 (a) in accordance with Section [53B-1-408](#); or

3110 (b) as an interim commissioner.

3111 (2) The State Board of Regents and the Utah System of Technical Colleges Board of  
3112 Trustees:

3113 (a) shall jointly:

3114 (i) develop and post a job description for the commissioner; and

3115 (ii) recruit candidates for the commissioner; and

3116 (b) may provide one or more candidates identified under Subsection (2)(a) for the  
3117 position of commissioner to the Utah Board of Higher Education.

3118 Section 58. Section **53B-2-102** is amended to read:

3119 **53B-2-102. Board to appoint president for each institution.**

3120 (1) As used in this section:

3121 (a) "Institution of higher education" means [~~an institution that is part of the Utah~~  
3122 ~~System of Higher Education described in Subsection [53B-1-102](#)(1)(a)] a degree-granting  
3123 institution.~~

3124 (b) "President" means the president of an institution of higher education.

3125 [~~(b)~~] (c) "Search committee" means a committee that selects finalists for a position as  
3126 an institution of higher education president.

3127 (2) The board shall appoint a president for each institution of higher education.

3128 (3) An institution of higher education president serves at the pleasure of the board.

3129 (4) (a) (i) [~~(b)~~] Except as provided in Subsection (4)(a)(ii), to appoint an institution of  
3130 higher education president, the board shall establish a search committee that includes  
3131 representatives of faculty, staff, students, the institution of higher education board of trustees,  
3132 alumni, the outgoing institution of higher education president's executive council or cabinet,  
3133 and the board.

3134 (ii) The board may delegate the authority to appoint the search committee described in  
3135 Subsection (4)(a)(i) to an institution of higher education board of trustees.

3136 (iii) The commissioner shall provide staff support to a search committee.

3137 (b) (i) [~~A~~] Except as provided in Subsection (4)(b)(ii), a search committee shall be  
3138 cochaired by a member of the board and a member of the institution of higher education board  
3139 of trustees.

3140 (ii) The board may delegate the authority to chair a search committee to the institution  
3141 of higher education board trustees.

3142 (c) A search committee described in Subsection (4)(a) shall forward three to five  
3143 finalists to the board to consider for a position as an institution of higher education president.

3144 (d) A search committee may not forward an individual to the board as a finalist unless  
3145 two-thirds of the search committee members, as verified by the commissioner, find the  
3146 individual to be qualified and likely to succeed as an institution of higher education president.

3147 (5) (a) The board shall select an institution of higher education president from among  
3148 the finalists presented by a search committee.

3149 (b) If the board is not satisfied with the finalists forwarded by a search committee, the  
3150 board may direct the search committee to resume the search process until the search committee  
3151 has forwarded three finalists with whom the board is satisfied.

3152 (6) The board, through the commissioner, shall create a comprehensive, active  
3153 recruiting plan to ensure a strong, diverse pool of potential candidates for institution of higher  
3154 education presidents.

3155 (7) (a) Except as provided in Subsection (7)(b), a record or information gathered or  
3156 generated during the search process, including a candidate's application and the search  
3157 committee's deliberations, is confidential and is a protected record under Section 63G-2-305.

3158 (b) Application materials for a publicly named finalist described in Subsection (5)(a)  
3159 are not protected records under Section 63G-2-305.

3160 Section 59. Section **53B-2-103** is amended to read:

3161 **53B-2-103. Boards of trustees for a degree-granting institution -- Powers and**  
3162 **duties.**

3163 (1) ~~[Each college or university has a]~~ A degree-granting institution has a board of  
3164 trustees that may act on behalf of the ~~[college or university]~~ institution in performing duties,  
3165 responsibilities, and functions as may be specifically authorized to the board of trustees by the  
3166 ~~[State Board of Regents]~~ board or by statute.

3167 (2) A board of trustees of a degree-granting institution has the following powers and  
3168 duties:

3169 (a) to facilitate communication between the institution and the community;

3170 (b) to assist in planning, implementing, and executing fund raising and development  
3171 projects aimed at supplementing institutional appropriations;

3172 (c) to perpetuate and strengthen alumni and community identification with the ~~[college~~  
3173 ~~or university's]~~ degree-granting institution's tradition and goals;

3174 (d) to select recipients of honorary degrees; and

3175 (e) to approve changes to the ~~[institution of higher education's]~~ degree-granting  
3176 institution's programs, in accordance with Section [53B-16-102](#).

3177 (3) A board of trustees of a degree-granting institution shall:

3178 (a) approve a strategic plan for the institution of higher education that is aligned with:

3179 (i) state attainment goals;

3180 (ii) workforce needs; and

3181 (iii) the institution of higher education's role, mission, and distinctiveness; and

3182 (b) monitor the institution of higher education's progress toward achieving the strategic  
3183 plan.

3184 Section 60. Section **53B-2-104** is amended to read:

3185 **53B-2-104. Board of trustees for a degree-granting institution -- Membership --**  
3186 **Terms -- Vacancies -- Oath -- Officers -- Bylaws -- Quorum -- Committees --**  
3187 **Compensation.**

3188 (1) (a) Except as provided in Subsection (10), the board of trustees of an institution of  
3189 higher education consists of the following:

3190 (i) except as provided in Subsection (1)(c), eight individuals appointed by the governor  
3191 with the advice and consent of the Senate; and

3192 (ii) two ex officio members who are the president of the institution's alumni  
3193 association, and the president of the associated students of the institution.

3194 (b) The appointed members of the boards of trustees for Utah Valley University and  
3195 Salt Lake Community College shall be representative of the interests of business, industry, and  
3196 labor.

3197 (c) (i) The board of trustees of Utah State University has nine individuals appointed by  
3198 the governor with the advice and consent of the Senate.

3199 (ii) One of the nine individuals described in Subsection (1)(c)(i) shall reside in the  
3200 Utah State University Eastern service region or the Utah State University Blanding service  
3201 region.

3202 (2) (a) The governor shall appoint four members of each board of trustees during each  
3203 odd-numbered year to four-year terms commencing on July 1 of the year of appointment.

3204 (b) Except as provided in Subsection (2)(d), a member appointed under Subsection  
3205 (1)(a)(i) or (1)(c)(i) holds office until a successor is appointed and qualified.

3206 (c) The ex officio members serve for the same period as they serve as presidents and  
3207 until their successors have qualified.

3208 (d) (i) The governor may remove a member appointed under Subsection (1)(a)(i) or  
3209 (1)(c)(i) for cause.

3210 (ii) The governor shall consult with the president of the Senate before removing a  
3211 member appointed under Subsection (1)(a)(i) or (1)(c)(i).

3212 (3) When a vacancy occurs in the membership of a board of trustees for any reason, the  
3213 replacement shall be appointed for the unexpired term.

3214 (4) (a) Each member of a board of trustees shall take the official oath of office prior to

3215 assuming the office.

3216 (b) The oath shall be filed with the Division of Archives and Records Services.

3217 (5) A board of trustees shall elect a chair and vice chair, who serve for two years and  
3218 until their successors are elected and qualified.

3219 (6) (a) A board of trustees may enact bylaws for the board of trustees' own government,  
3220 including provisions for regular meetings.

3221 (b) (i) A board of trustees may provide for an executive committee in the board of  
3222 trustees' bylaws.

3223 (ii) If established, an executive committee shall have full authority of the board of  
3224 trustees to act upon routine matters during the interim between board of trustees meetings.

3225 (iii) An executive committee may act on nonroutine matters only under extraordinary  
3226 and emergency circumstances.

3227 (iv) An executive committee shall report the executive committee's activities to the  
3228 board of trustees at the board of trustees' next regular meeting following the action.

3229 (c) Copies of a board of trustees' bylaws shall be filed with the board.

3230 (7) A quorum is required to conduct business and consists of six members.

3231 (8) A board of trustees may establish advisory committees.

3232 (9) A member may not receive compensation or benefits for the member's service, but  
3233 may receive per diem and travel expenses in accordance with:

3234 (a) Section [63A-3-106](#);

3235 (b) Section [63A-3-107](#); and

3236 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and  
3237 [63A-3-107](#).

3238 (10) This section does not apply to a technical college board of [~~directors~~] trustees  
3239 described in Section [53B-2a-108](#).

3240 Section 61. Section **53B-2-106** is amended to read:

3241 **53B-2-106. Duties and responsibilities of the president of an institution of higher**



3242 **education -- Approval by board of trustees -- Applicability to a technical college**  
3243 **president.**

3244 (1) (a) Except as provided in Subsection [~~(5)~~] (6), the president of each institution of  
3245 higher education described in Section 53B-2-101 may exercise grants of power and authority as  
3246 delegated by the board, as well as the necessary and proper exercise of powers and authority  
3247 not specifically denied to the institution of higher education or the institution of higher  
3248 education's administration, faculty, or students by the board or by law, to ensure the effective  
3249 and efficient administration and operation of the institution of higher education consistent with  
3250 the statewide master plan for higher education.

3251 (b) The president of each institution of higher education may, after consultation with  
3252 the institution of higher education's board of trustees, exercise powers relating to the institution  
3253 of higher education's employees, including faculty and persons under contract with the  
3254 institution of higher education, by implementing:

3255 (i) furloughs;  
3256 (ii) reductions in force;  
3257 (iii) benefit adjustments;  
3258 (iv) program reductions or discontinuance;  
3259 (v) early retirement incentives that provide cost savings to the institution of higher  
3260 education; or

3261 (vi) other measures that provide cost savings to the institution of higher education.

3262 (2) Except as provided by the board, the president of each institution of higher  
3263 education, with the approval of the institution of higher education's board of trustees, may:

3264 (a) (i) appoint a secretary, a treasurer, administrative officers, deans, faculty members,  
3265 and other professional personnel, prescribe their duties, and determine their salaries;

3266 (ii) appoint support personnel, prescribe their duties, and determine their salaries from  
3267 the institution of higher education's position classification plan, which may:

3268 (A) be based upon similarity of duties and responsibilities within the institution of

3269 higher education; and  
3270 (B) as funds permit, provide salary and benefits comparable with private enterprise;  
3271 (iii) adopt policies for:  
3272 (A) employee sick leave use and accrual; and  
3273 (B) service recognition for employees with more than 15 years of employment with the  
3274 institution of higher education; and  
3275 (iv) subject to the authority of, the policy established by, and the approval of the board,  
3276 and recognizing the status of the institutions within the state system of higher education as  
3277 bodies politic and corporate, appoint attorneys to provide legal advice to the institution of  
3278 higher education's administration and to coordinate legal affairs within the institution of higher  
3279 education. The board shall coordinate activities of attorneys at the institutions of higher  
3280 education. The institutions of higher education shall provide an annual report to the board on  
3281 the activities of appointed attorneys. These appointed attorneys may not conduct litigation,  
3282 settle claims covered by the State Risk Management Fund, or issue formal legal opinions, but  
3283 shall, in all respects, cooperate with the Office of the Attorney General in providing legal  
3284 representation to the institution of higher education;  
3285 (b) provide for the constitution, government, and organization of the faculty and  
3286 administration, and enact implementing rules, including the establishment of a prescribed  
3287 system of tenure;  
3288 (c) authorize the faculty to determine the general initiation and direction of instruction  
3289 and of the examination, admission, and classification of students. In recognition of the diverse  
3290 nature and traditions of the various institutions governed by the board, the systems of faculty  
3291 government need not be identical but should be designed to further faculty identification with  
3292 and involvement in the institution's pursuit of achievement and excellence and in fulfillment of  
3293 the institution's role as established in the statewide master plan for higher education; and  
3294 (d) enact rules for administration and operation of the institution which are consistent  
3295 with the prescribed role established by the board, rules enacted by the board, or the laws of the

3296 state. The rules may provide for administrative, faculty, student, and joint committees with  
 3297 jurisdiction over specified institutional matters, for student government and student affairs  
 3298 organization, for the establishment of institutional standards in furtherance of the ideals of  
 3299 higher education fostered and subscribed to by the institution of higher education, the  
 3300 institution of higher education's administration, faculty, and students, and for the holding of  
 3301 classes on legal holidays, other than Sunday.

3302 (3) An institution of higher education president shall manage the president's institution  
 3303 as a part of the Utah system of higher education.

3304 ~~[(3)]~~ (4) Compensation costs and related office expenses for appointed attorneys shall  
 3305 be funded within existing budgets.

3306 ~~[(4)]~~ (5) The ~~[State Board of Regents]~~ board shall establish guidelines relating to the  
 3307 roles and relationships between institutional presidents and boards of trustees, including those  
 3308 matters which must be approved by a board of trustees before implementation by the president.

3309 ~~[(5)]~~ (6) This section does not apply to a technical college president.

3310 Section 62. Section **53B-2a-100.5** is amended to read:

3311 **CHAPTER 2a. TECHNICAL COLLEGES**

3312 **53B-2a-100.5. Title.**

3313 This chapter is known as "~~[Utah System of]~~ Technical Colleges."

3314 Section 63. Section **53B-2a-101** is amended to read:

3315 **53B-2a-101. Definitions.**

3316 As used in this chapter:

3317 ~~[(1) "Board of trustees" means the UTech Board of Trustees.]~~

3318 ~~[(2)]~~ (1) "Capital developments" means the same as that term is defined in Section  
 3319 [63A-5-104](#).

3320 ~~[(3) "Commissioner of technical education" means the UTech commissioner of~~  
 3321 ~~technical education.]~~

3322 ~~[(4)]~~ (2) "Competency-based" means mastery of subject matter or skill level, as

3323 demonstrated through business and industry approved standards and assessments, achieved  
3324 through participation in a hands-on learning environment, and which is tied to observable,  
3325 measurable performance objectives.

3326 ~~[(5)]~~ (3) "Dedicated project" means a capital development project for which state funds  
3327 from the Technical Colleges Capital Projects Fund created in Section 53B-2a-118 are requested  
3328 or used.

3329 ~~[(6)]~~ (4) "Nondedicated project" means a capital development project for which state  
3330 funds from a source other than the Technical Colleges Capital Projects Fund created in Section  
3331 53B-2a-118 are requested or used.

3332 ~~[(7)]~~ (5) "Open-entry, open-exit" means:

3333 (a) a method of instructional delivery that allows for flexible scheduling in response to  
3334 individual student needs or requirements and demonstrated competency when knowledge and  
3335 skills have been mastered;

3336 (b) students have the flexibility to begin or end study at any time, progress through  
3337 course material at their own pace, and demonstrate competency when knowledge and skills  
3338 have been mastered; and

3339 (c) if competency is demonstrated in a program of study, a credential, certificate, or  
3340 diploma may be awarded.

3341 ~~[(8)]~~ (6) "State funds" means the same as that term is defined in Section 63A-5-104.

3342 ~~[(9)]~~ "UTech" means the Utah System of Technical Colleges described in Section  
3343 53B-1-102.]

3344 Section 64. Section 53B-2a-104 is amended to read:

3345 **53B-2a-104. Utah System of Technical Colleges Board of Trustees powers and**  
3346 **duties.**

3347 (1) ~~[The board of trustees]~~ Except as provided in Subsection (2), the Utah System of  
3348 Technical Colleges Board of Trustees is vested with the control, management, and supervision  
3349 of technical colleges in a manner consistent with the policy and purpose of this title and the

3350 specific powers and responsibilities granted to the board of trustees.

3351 (2) Beginning on July 1, 2020:

3352 (a) the Utah System of Technical Colleges Board of Trustees no longer has duties or  
3353 authorities; and

3354 (b) in accordance with Title 53B, Chapter 1, Part 5, Transition to Utah Board of Higher  
3355 Education, the Utah Board of Higher Education assumes all statutory powers, duties,  
3356 authorities, and budgetary authority of the Utah System of Technical Colleges Board of  
3357 Trustees.

3358 [~~(2) The board of trustees shall:~~]

3359 [~~(a) ensure that a technical college complies with the requirements in Section~~  
3360 ~~53B-2a-106;~~]

3361 [~~(b) appoint the commissioner of technical education in accordance with Section~~  
3362 ~~53B-2a-102;~~]

3363 [~~(c) advise the commissioner of technical education and the State Board of Regents on~~  
3364 ~~issues related to career and technical education, including articulation with institutions of~~  
3365 ~~higher education and public education;~~]

3366 [~~(d) ensure that a secondary student in the public education system has access to career~~  
3367 ~~and technical education through a technical college in the secondary student's service region;~~]

3368 [~~(e) in consultation with the State Board of Education, the State Board of Regents, and~~  
3369 ~~technical college presidents, develop strategies for providing career and technical education in~~  
3370 ~~rural areas, considering distances between rural career and technical education providers;~~]

3371 [~~(f) receive budget requests from each technical college, compile and prioritize the~~  
3372 ~~requests, and submit the request to:~~]

3373 [~~(i) the Legislature; and~~]

3374 [~~(ii) the Governor's Office of Management and Budget;~~]

3375 [~~(g) receive funding requests pertaining to capital facilities and land purchases from~~  
3376 ~~each technical college, ensure that the requests comply with Section 53B-2a-112, prioritize the~~

3377 requests, and submit the prioritized requests to the State Building Board;]  
3378        ~~[(h) comply with Chapter 7, Part 7, Performance Funding;]~~  
3379        ~~[(i) in conjunction with the commissioner of technical education, establish~~  
3380 ~~benchmarks, provide oversight, evaluate program performance, and obtain independent audits~~  
3381 ~~to ensure that a technical college follows the noncredit career and technical education mission~~  
3382 ~~described in this part;]~~  
3383        ~~[(j) approve programs for UTech;]~~  
3384        ~~[(k) approve the tuition rates for technical colleges;]~~  
3385        ~~[(l) prepare and submit an annual report detailing the board of trustees' progress and~~  
3386 ~~recommendations on career and technical education issues to the governor and to the~~  
3387 ~~Legislature's Education Interim Committee by October 31 of each year, which shall include~~  
3388 ~~information detailing:]~~  
3389            ~~[(i) how the career and technical education needs of secondary students are being met,~~  
3390 ~~including what access secondary students have to programs offered at technical colleges;]~~  
3391            ~~[(ii) how the emphasis on high demand, high wage, and high skill jobs in business and~~  
3392 ~~industry described in Section 53B-2a-106 is being provided;]~~  
3393            ~~[(iii) performance outcomes, including:]~~  
3394            ~~[(A) performance on the metrics described in Section 53B-7-707; and]~~  
3395            ~~[(B) earnings; and]~~  
3396            ~~[(iv) student tuition and fees; and]~~  
3397        ~~[(m) collaborate with the State Board of Regents, the State Board of Education, the~~  
3398 ~~Department of Workforce Services, and the Governor's Office of Economic Development on~~  
3399 ~~the delivery of career and technical education.]~~  
3400        ~~[(3) The board of trustees, the commissioner of technical education, or a technical~~  
3401 ~~college president or board of directors may not conduct a feasibility study or perform another~~  
3402 ~~act relating to offering a degree or awarding credit.]~~  
3403        Section 65. Section **53B-2a-105** is amended to read:

- 3404           **53B-2a-105. Technical colleges.**
- 3405           ~~[Utah is composed of the]~~ Utah has the following technical colleges:
- 3406           (1) Bridgerland Technical College, which serves the geographic area encompassing:
- 3407           (a) the Box Elder School District;
- 3408           (b) the Cache School District;
- 3409           (c) the Logan School District; and
- 3410           (d) the Rich School District;
- 3411           (2) Ogden-Weber Technical College, which serves the geographic area encompassing:
- 3412           (a) the Ogden City School District; and
- 3413           (b) the Weber School District;
- 3414           (3) Davis Technical College, which serves the geographic area encompassing:
- 3415           (a) the Davis School District; and
- 3416           (b) the Morgan School District;
- 3417           (4) Tooele Technical College, which serves the geographic area encompassing the
- 3418 Tooele County School District;
- 3419           (5) Mountainland Technical College, which serves the geographic area encompassing:
- 3420           (a) the Alpine School District;
- 3421           (b) the Nebo School District;
- 3422           (c) the Provo School District;
- 3423           (d) the South Summit School District;
- 3424           (e) the North Summit School District;
- 3425           (f) the Wasatch School District; and
- 3426           (g) the Park City School District;
- 3427           (6) Uintah Basin Technical College, which serves the geographic area encompassing:
- 3428           (a) the Daggett School District;
- 3429           (b) the Duchesne School District; and
- 3430           (c) the Uintah School District;

3431 (7) Southwest Technical College, which serves the geographic area encompassing:

3432 (a) the Beaver School District;

3433 (b) the Garfield School District;

3434 (c) the Iron School District; and

3435 (d) the Kane School District; and

3436 (8) Dixie Technical College, which serves the geographic area encompassing the

3437 Washington School District.

3438 Section 66. Section **53B-2a-106** is amended to read:

3439 **53B-2a-106. Technical colleges -- Duties.**

3440 (1) Each technical college shall, within the geographic area served by the technical

3441 college:

3442 (a) offer [~~a noncredit postsecondary and secondary career and~~] technical education

3443 [~~curriculum~~] programs;

3444 (b) offer [~~that curriculum~~] a program described in Subsection (1)(a) at:

3445 (i) low cost to adult students, as approved by the board [~~of trustees~~]; and

3446 (ii) no tuition to secondary students;

3447 [~~(c) provide career and technical education that will result in:~~]

3448 [~~(i) appropriate licensing, certification, or other evidence of completion of training;~~

3449 ~~and]~~

3450 [~~(ii) qualification for specific employment, with an emphasis on high demand, high~~

3451 ~~wage, and high skill jobs in business and industry;~~]

3452 [~~(d)~~] (c) develop cooperative agreements with school districts, charter schools, other

3453 higher education institutions, businesses, industries, and community and private agencies to

3454 maximize the availability of instructional facilities within the geographic area served by the

3455 technical college; and

3456 [~~(e)~~] (d) after consulting with school districts and charter schools within the geographic

3457 area served by the technical college:



3458 (i) ensure that secondary students in the public education system have access to [~~career~~  
3459 ~~and~~] technical education at the technical college; and

3460 (ii) prepare and submit an annual report to the board [~~of trustees~~] detailing:

3461 (A) how the [~~career and~~] technical education needs of secondary students within the  
3462 region are being met;

3463 (B) what access secondary students within the region have to programs offered at the  
3464 technical college;

3465 (C) how the [~~emphasis on~~] technical college emphasizes high demand, high wage, high  
3466 skill jobs in business and industry [~~described in Subsection (1)(c)(ii) is being provided~~]; and

3467 (D) student tuition and fees.

3468 (2) A technical college may offer:

3469 (a) a competency-based high school diploma approved by the State Board of Education  
3470 in accordance with Section [53E-3-501](#);

3471 (b) [~~noncredit,~~] basic instruction in areas such as reading, language arts, and  
3472 mathematics that are necessary for student success in a chosen [~~career and~~] technical education  
3473 or job-related program;

3474 (c) [~~noncredit~~] courses of interest when similar offerings to the community are limited  
3475 and courses are financially self-supporting; and

3476 (d) secondary school level courses through the Statewide Online Education Program in  
3477 accordance with Section [53F-4-504](#).

3478 (3) Except as provided in Subsection (2)(d), a technical college may not:

3479 (a) offer courses other than [~~noncredit career and~~] technical education or the  
3480 [~~noncredit,~~] basic instruction described in Subsections (2)(b) and (c);

3481 (b) offer a degree;

3482 (c) offer [~~career and~~] technical education or basic instruction outside the geographic  
3483 area served by the technical college without a cooperative agreement between an affected  
3484 institution of higher education, except as provided in Subsection [~~(6)~~] (5);

3485 (d) provide tenure or academic rank for its instructors; or

3486 (e) participate in intercollegiate athletics.

3487 (4) The mission of a technical college is limited to [~~noncredit career and~~] technical  
3488 education and may not expand to include [~~credit-based~~] academic programs [~~typically offered~~  
3489 ~~by community colleges or other institutions of higher education~~] that lead to a degree.

3490 [~~(5) A technical college shall be recognized as a member of UTech, and regional~~  
3491 ~~affiliation shall be retained and recognized through local designations such as "Bridgerland~~  
3492 ~~Technical College: A member technical college of the Utah System of Technical Colleges."~~]

3493 [(6)] (5) (a) A technical college may offer [~~career and~~] technical education or basic  
3494 instruction outside the geographic area served by the technical college without a cooperative  
3495 agreement, as required in Subsection (3)(c), if:

3496 (i) the [~~career and~~] technical education or basic instruction is specifically requested by:

3497 (A) an employer; or

3498 (B) a craft, trade, or apprenticeship program;

3499 (ii) the technical college notifies the affected institution about the request; and

3500 (iii) the affected institution is given an opportunity to make a proposal, prior to any  
3501 contract being finalized or training being initiated by the technical college, to the employer,  
3502 craft, trade, or apprenticeship program about offering the requested [~~career and~~] technical  
3503 education or basic instruction, provided that the proposal shall be presented no later than one  
3504 business week from the delivery of the notice described under Subsection [(6)] (5)(a)(ii).

3505 (b) The requirements under Subsection [(6)] (5)(a)(iii) do not apply if there is a prior  
3506 training relationship.

3507 Section 67. Section **53B-2a-107** is amended to read:

3508 **53B-2a-107. Technical college presidents -- Appointments -- Duties.**

3509 (1) (a) The board [~~of trustees~~] shall appoint a president for each technical college.

3510 (b) The board [~~of trustees~~] shall establish a policy for appointing a technical college  
3511 president that:

3512 (i) requires the board [~~of trustees~~] to create, or delegate to the technical college board  
3513 of trustees to create, a search committee that:

3514 (A) includes [~~an equal number of board of trustees~~] board members and at least as  
3515 many members from the technical college board of [~~directors~~] trustees as members from the  
3516 board; and

3517 (B) may include technical college faculty, students, or other individuals;

3518 (ii) requires the search committee to seek nominations, interview candidates, and  
3519 forward qualified candidates to the board [~~of trustees~~] for consideration;

3520 (iii) provides for at least two members of the technical college board of [~~directors~~]  
3521 trustees to participate in [~~board of trustees~~] the board's interviews of finalists; [~~and~~]

3522 (iv) provides for the board [~~of trustees~~] to vote to appoint a technical college president  
3523 in a meeting that complies with Title 52, Chapter 4, Open and Public Meetings Act[~~;~~]; and

3524 (v) provides for the commissioner to provide staff support for a search committee.

3525 (c) (i) Except as provided in Subsection (1)(c)(ii), a record or information gathered or  
3526 generated during the search process for a technical college president, including a candidate's  
3527 application and the search committee's deliberations, is confidential and is a protected record  
3528 under Section [63G-2-305](#).

3529 (ii) Application materials for a publicly named finalist are not protected records under  
3530 Section [63G-2-305](#).

3531 (2) (a) A technical college president shall serve as the chief executive officer of the  
3532 technical college.

3533 (b) A technical college president does not need to have a doctorate degree, but shall  
3534 have extensive experience in career and technical education.

3535 (c) A technical college president is subject to regular review and evaluation  
3536 administered by the board [~~of trustees~~], in consultation with the technical college board of  
3537 [~~directors~~] trustees, through a process approved by the board [~~of trustees~~].

3538 (d) A technical college president serves at the pleasure of the board [~~of trustees~~].

3539 (e) The board [~~of trustees~~], in consultation with a technical college board of [~~directors~~  
3540 trustees], shall set the compensation for the technical college president using market survey  
3541 information.

3542 (3) A technical college president shall:

3543 (a) serve as the executive officer of the technical college board of [~~directors~~] trustees;

3544 (b) administer the day-to-day operations of the technical college;

3545 (c) consult with the technical college board of [~~directors; and~~] trustees;

3546 (d) administer human resource policies and employee compensation plans in  
3547 accordance with the requirements of the board [~~of trustees~~]; and

3548 (e) manage the technical college president's institution as part of the Utah system of  
3549 higher education.

3550 Section 68. Section **53B-2a-108** is amended to read:

3551 **53B-2a-108. Technical college boards of trustees -- Membership -- Appointments.**

3552 (1) As used in this section:

3553 (a) "Higher education institution" means the same as that term is defined in Section  
3554 [53B-2a-112](#).

3555 (b) "Technical college service area" means the geographic area served by each  
3556 technical college as described in Section [53B-2a-105](#).

3557 (2) A technical college board of [~~directors~~] trustees consists of:

3558 (a) one member of the local school board for each school district in the technical  
3559 college service area, appointed by the local school board to which the member belongs;

3560 (b) except as provided in Subsection (3)(b), one individual who is a member of the  
3561 higher education institution board of trustees, appointed by the higher education institution  
3562 board of trustees; and

3563 (c) a number of individuals, appointed by the governor with the advice and consent of  
3564 the Senate, that is:

3565 (i) seven for:

- 3566 (A) Tooele Technical College;
- 3567 (B) Uintah Basin Technical College; and
- 3568 (C) Dixie Technical College;
- 3569 (ii) eight for:
- 3570 (A) Bridgerland Technical College;
- 3571 (B) Ogden-Weber Technical College;
- 3572 (C) Davis Technical College; and
- 3573 (D) Southwest Technical College; or
- 3574 (iii) nine for Mountainland Technical College.
- 3575 (3) (a) In appointing the members described in Subsection (2)(c), the governor shall
- 3576 appoint individuals who represent the interests of business, industry, or labor in the technical
- 3577 college service area.
- 3578 (b) If no member of the institution of higher education board of trustees lives within
- 3579 the technical college service area, the institution of higher education board of trustees may
- 3580 nominate an individual to be appointed by the governor with the advice and consent of the
- 3581 Senate instead of appointing a member described in Subsection (2)(b).
- 3582 (4) (a) The governor may remove a member appointed under Subsection (2)(c) or
- 3583 (3)(b) for cause.
- 3584 (b) The governor shall consult with the president of the Senate before removing a
- 3585 member appointed under Subsection (2)(c) or (3)(b).
- 3586 (5) (a) Notwithstanding Subsection (2) or [53B-2a-109\(2\)](#), an individual appointed to a
- 3587 technical college board of [~~directors~~] trustees on or before May 7, 2018, may continue to serve
- 3588 on the technical college board of [~~directors~~] trustees until the end of the individual's current
- 3589 term, even if the total number of members on the technical college board of [~~directors~~] trustees
- 3590 exceeds the number of members for the technical college board of [~~directors~~] trustees described
- 3591 in Subsection (2).
- 3592 (b) Notwithstanding Subsection (2), the governor may only make an appointment

3593 described in Subsection (2)(c) if the number of members on the technical college board of  
3594 [~~directors~~] trustees following the appointment will be less than or equal to the number of  
3595 members for the technical college board of [~~directors~~] trustees described in Subsection (2).

3596 Section 69. Section **53B-2a-109** is amended to read:

3597 **53B-2a-109. Technical college boards of trustees -- Terms -- Quorum -- Chair --**  
3598 **Compensation.**

3599 (1) (a) Except as provided in this Subsection (1), a member of a technical college board  
3600 of [~~directors~~] trustees is appointed to a four-year term.

3601 (b) The governor may appoint a member described in Subsection **53B-2a-108**(2)(c) to a  
3602 two-year term to ensure that the terms of approximately half of the members described in  
3603 Subsection **53B-2a-108**(2)(c) expire every other year.

3604 (c) When a vacancy occurs in the membership of a technical college board of  
3605 [~~directors~~] trustees, the appointing authority for the vacant position described in Section  
3606 **53B-2a-108** shall appoint a replacement for the remainder of the term.

3607 (d) An appointed member holds office until a successor is appointed in accordance  
3608 with Section **53B-2a-108**.

3609 (2) A member of a technical college board of [~~directors~~] trustees may not hold office  
3610 for more than two consecutive full terms.

3611 (3) A majority of a technical college board of [~~directors~~] trustees is a quorum.

3612 (4) A technical college board of [~~directors~~] trustees shall elect a chair from the technical  
3613 college board of [~~directors~~'] trustees' membership.

3614 (5) A member of a technical college board of [~~directors~~] trustees may not receive  
3615 compensation or benefits for the member of the technical college board of [~~director's~~] trustees'  
3616 service, but may receive per diem and travel expenses in accordance with:

3617 (a) Section **63A-3-106**;

3618 (b) Section **63A-3-107**; and

3619 (c) rules made by the Division of Finance pursuant to Sections **63A-3-106** and

3620 63A-3-107.

3621 (6) (a) A technical college board of [~~directors~~] trustees may enact bylaws for the  
3622 technical college board of [~~directors~~] trustees' own government, including provisions for  
3623 regular meetings, that are in accordance with the policies of the board [~~of trustees~~].

3624 (b) (i) A technical college board of [~~directors~~] trustees may provide for an executive  
3625 committee in the technical college board of [~~directors~~] trustees' bylaws.

3626 (ii) If established, an executive committee shall have the full authority of the technical  
3627 college board of [~~directors~~] trustees to act upon routine matters during the interim between  
3628 board of [~~directors~~] trustees' meetings.

3629 (iii) An executive committee may act on nonroutine matters only under extraordinary  
3630 and emergency circumstances.

3631 (iv) An executive committee shall report the executive committee's activities to the  
3632 technical college board of [~~directors~~] trustees at the technical college board of [~~directors~~]  
3633 trustees' next regular meeting following the activities.

3634 (7) A technical college board of [~~directors~~] trustees may establish advisory committees.

3635 Section 70. Section **53B-2a-110** is amended to read:

3636 **53B-2a-110. Technical college board of trustees' powers and duties.**

3637 (1) A technical college board of [~~directors~~] trustees shall:

3638 (a) assist the technical college president in preparing a budget request for the technical  
3639 college's annual operations to the board [~~of trustees~~];

3640 (b) after consulting with the board [~~of trustees~~], other higher education institutions,  
3641 school districts, and charter schools within the technical college's region, prepare a  
3642 comprehensive strategic plan for delivering [~~career and~~] technical education within the region;

3643 (c) consult with business, industry, the Department of Workforce Services, the  
3644 Governor's Office of Economic Development, and the Governor's Office of Management and  
3645 Budget on an ongoing basis to determine what workers and skills are needed for employment  
3646 in Utah businesses and industries;

- 3647 (d) in accordance with Section 53B-16-102, develop programs based upon the  
3648 information [~~gathered in accordance with~~] described in Subsection (1)(c), including expedited  
3649 program approval and termination procedures to meet market needs;
- 3650 (e) adopt an annual budget and fund balances;
- 3651 (f) develop policies for the operation of [~~career and~~] technical education facilities under  
3652 the technical college board of [~~directors'~~] trustees' jurisdiction;
- 3653 (g) establish human resources and compensation policies for all employees in  
3654 accordance with policies of the board [~~of trustees~~];
- 3655 (h) approve credentials for employees and assign employees to duties in accordance  
3656 with board [~~of trustees~~] policies and accreditation guidelines;
- 3657 (i) conduct annual program evaluations;
- 3658 (j) appoint program advisory committees and other advisory groups to provide counsel,  
3659 support, and recommendations for updating and improving the effectiveness of training  
3660 programs and services;
- 3661 (k) approve regulations, both regular and emergency, to be issued and executed by the  
3662 technical college president;
- 3663 (l) coordinate with local school boards, school districts, and charter schools to meet the  
3664 [~~career and~~] technical education needs of secondary students; [~~and~~]
- 3665 (m) develop policies and procedures for the admission, classification, instruction, and  
3666 examination of students in accordance with the policies and accreditation guidelines of the  
3667 board [~~of trustees~~] and the State Board of Education[~~;~~]; and
- 3668 (n) (i) approve a strategic plan for the technical college that is aligned with:  
3669 (A) state attainment goals;  
3670 (B) workforce needs; and  
3671 (C) the technical college's role, mission, and distinctiveness; and  
3672 (ii) monitor the technical college's progress toward achieving the strategic plan.
- 3673 (2) A policy described in Subsection (1)(g) does not apply to compensation for a



3674 technical college president.

3675 (3) A technical college board of [~~directors~~] trustees may not exercise jurisdiction over  
3676 career and technical education provided by a school district or charter school or provided by a  
3677 higher education institution independently of the technical college.

3678 (4) If a program advisory committee or other advisory group submits a printed  
3679 recommendation to a technical college board of [~~directors~~] trustees, the technical college board  
3680 of [~~directors~~] trustees shall acknowledge the recommendation with a printed response that  
3681 explains the technical college board of [~~directors~~] trustees' action regarding the  
3682 recommendation and the reasons for the action.

3683 Section 71. Section **53B-2a-112** is amended to read:

3684 **53B-2a-112. Technical colleges -- Relationships with other public and higher**  
3685 **education institutions -- Agreements -- Priorities -- New capital facilities.**

3686 (1) As used in this section, "higher education institution" means:

3687 (a) Utah State University for:

3688 (i) Bridgerland Technical College;

3689 (ii) Tooele Technical College; and

3690 (iii) Uintah Basin Technical College;

3691 (b) Weber State University for:

3692 (i) Ogden-Weber Technical College; and

3693 (ii) Davis Technical College;

3694 (c) Utah Valley University for Mountainland Technical College;

3695 (d) Southern Utah University for Southwest Technical College; and

3696 (e) Dixie State University for Dixie Technical College.

3697 ~~[(2) A technical college shall avoid any unnecessary duplication of career and technical~~  
3698 ~~education instructional facilities, programs, administration, and staff between the technical~~  
3699 ~~college and other public and higher education institutions.]~~

3700 [~~3~~] (2) A technical college may enter into agreements:

3701 (a) with other higher education institutions to cultivate cooperative relationships; or  
3702 (b) with other public and higher education institutions to enhance career and technical  
3703 education within the technical college's region[~~;~~or].  
3704 [~~(c) to comply with Subsection (2).~~]  
3705 [(4)] (3) Before a technical college develops new instructional facilities, the technical  
3706 college shall give priority to:  
3707 (a) maintaining the technical college's existing instructional facilities for both  
3708 secondary and adult students;  
3709 (b) coordinating with the president of the technical college's higher education  
3710 institution and entering into any necessary agreements to provide career and technical  
3711 education to secondary and adult students that:  
3712 (i) maintain and support existing higher education career and technical education  
3713 programs; and  
3714 (ii) maximize the use of existing higher education facilities; and  
3715 (c) developing cooperative agreements with school districts, charter schools, other  
3716 higher education institutions, businesses, industries, and community and private agencies to  
3717 maximize the availability of career and technical education instructional facilities for both  
3718 secondary and adult students.  
3719 [(5)] (4) (a) Before submitting a funding request pertaining to new capital facilities and  
3720 land purchases to the board [~~of trustees~~], a technical college shall:  
3721 (i) ensure that all available instructional facilities are maximized in accordance with  
3722 Subsections [(4)] (3)(a) through (c); and  
3723 (ii) coordinate the request with the president of the technical college's higher education  
3724 institution, if applicable.  
3725 (b) The State Building Board shall make a finding that the requirements of this section  
3726 are met before the State Building Board may consider a funding request from the board [~~of~~  
3727 ~~trustees~~] pertaining to new capital facilities and land purchases for a technical college.

3728 (c) A technical college may not construct, approve the construction of, plan for the  
 3729 design or construction of, or consent to the construction of a career and technical education  
 3730 facility without approval of the Legislature.

3731 ~~[(6)]~~ (5) Before acquiring new fiscal and administrative support structures, a technical  
 3732 college shall:

3733 (a) review the use of existing public or higher education administrative and accounting  
 3734 systems, financial record systems, and student and financial aid systems for the delivery of  
 3735 career and technical education in the region;

3736 (b) determine the feasibility of using existing systems; and

3737 (c) with the approval of the technical college board of ~~[directors]~~ trustees and the board  
 3738 ~~[of trustees]~~, use the existing systems.

3739 Section 72. Section **53B-2a-113** is amended to read:

3740 **53B-2a-113. Technical colleges -- Leasing authority -- Lease-purchase agreements**

3741 **-- Report.**

3742 (1) ~~[In accordance with Subsection 53B-2a-112(2), a]~~ A technical college may enter  
 3743 into a lease with other higher education institutions, school districts, charter schools, state  
 3744 agencies, or business and industry for a term of:

3745 (a) one year or less with the approval of the technical college board of ~~[directors]~~  
 3746 trustees; or

3747 (b) more than one year with the approval of the board ~~[of trustees and]~~ if:

3748 (i) ~~[the approval of]~~ the Legislature approves funding for the lease ~~[by the Legislature]~~  
 3749 prior to a technical college entering into the lease; or

3750 (ii) the lease agreement includes language that allows termination of the lease without  
 3751 penalty.

3752 (2) (a) ~~[In accordance with Subsection 53B-2a-112(2), a]~~ A technical college may enter  
 3753 into a lease-purchase agreement if:

3754 (i) there is a long-term benefit to the state;

3755 (ii) the project is included in [~~both~~] the technical college [~~and UTech master plans~~]  
3756 master plan;

3757 (iii) the lease-purchase agreement includes language that allows termination of the  
3758 lease;

3759 (iv) the lease-purchase agreement is approved by the technical college board of  
3760 [~~directors~~] trustees and the board [~~of trustees~~]; and

3761 (v) the lease-purchase agreement is:

3762 (A) reviewed by the Division of Facilities Construction and Management;

3763 (B) reviewed by the State Building Board; and

3764 (C) approved by the Legislature.

3765 (b) An approval under Subsection (2)(a) shall include a recognition of:

3766 (i) all parties, dates, and elements of the agreement;

3767 (ii) the equity or collateral component that creates the benefit; and

3768 (iii) the options dealing with the sale and division of equity.

3769 (3) (a) Each technical college shall provide an annual lease report to the board [~~of~~  
3770 trustees] that details each of the technical college's leases, annual costs, location, square  
3771 footage, and recommendations for lease continuation.

3772 (b) The board [~~of trustees~~] shall compile and distribute an annual combined lease  
3773 report for all technical colleges to the Division of Facilities Construction and Management and  
3774 to others upon request.

3775 (4) The board [~~of trustees~~] shall use the annual combined lease report in determining  
3776 planning, utilization, and budget requests.

3777 Section 73. Section **53B-2a-114** is amended to read:

3778 **53B-2a-114. Educational program on the use of information technology.**

3779 (1) [~~UTech~~] The board, through the technical colleges, shall offer an educational  
3780 program on the use of information technology as provided in this section.

3781 (2) An educational program on the use of information technology shall:

3782 (a) provide instruction on skills and competencies essential for the workplace and  
3783 requested by employers;

3784 (b) include the following components:

3785 (i) a curriculum;

3786 (ii) online access to the curriculum;

3787 (iii) instructional software for classroom and student use;

3788 (iv) certification of skills and competencies most frequently requested by employers;

3789 (v) professional development for faculty; and

3790 (vi) deployment and program support, including integration with existing curriculum  
3791 standards; and

3792 (c) be made available to students, faculty, and staff of technical colleges.

3793 Section 74. Section **53B-2a-115** is amended to read:

3794 **53B-2a-115. Utah System of Technical Colleges -- Institutional name changes.**

3795 (1) Beginning July 1, 2017:

3796 [~~(a)~~ the Utah College of Applied Technology shall be known as the Utah System of  
3797 Technical Colleges;]

3798 [~~(b)~~ (a) Bridgerland Applied Technology College shall be known as Bridgerland  
3799 Technical College;

3800 [~~(c)~~ (b) Ogden-Weber Applied Technology College shall be known as Ogden-Weber  
3801 Technical College;

3802 [~~(d)~~ (c) Davis Applied Technology College shall be known as Davis Technical  
3803 College;

3804 [~~(e)~~ (d) Tooele Applied Technology College shall be known as Tooele Technical  
3805 College;

3806 [~~(f)~~ (e) Mountainland Applied Technology College shall be known as Mountainland  
3807 Technical College;

3808 [~~(g)~~ (f) Uintah Basin Applied Technology College shall be known as Uintah Basin

3809 Technical College;

3810 ~~[(h)]~~ (g) Southwest Applied Technology College shall be known as Southwest

3811 Technical College; and

3812 ~~[(i)]~~ (h) Dixie Applied Technology College shall be known as Dixie Technical College.

3813 (2) (a) As described in Subsection (1), ~~[the Utah System of Technical Colleges is a~~  
3814 ~~continuation of the Utah College of Applied Technology and]~~ each technical college is a  
3815 continuation of the applied technology college that preceded the technical college.

3816 (b) An institution described in Subsection (1):

3817 (i) possess all rights, title, privileges, powers, immunities, franchises, endowments,  
3818 property, and claims of the institution that preceded the institution; and

3819 (ii) shall fulfill and perform all obligations of the institution that preceded the  
3820 institution, including obligations relating to outstanding bonds and notes.

3821 Section 75. Section **53B-2a-116** is amended to read:

3822 **53B-2a-116. Technical college scholarships.**

3823 (1) As used in this section:

3824 (a) "High demand program" means a program designated by the board ~~[of trustees]~~ in  
3825 accordance with Subsection (7).

3826 (b) "Institution of higher education" means an institution ~~[within the Utah System of~~  
3827 ~~Higher Education]~~ described in Subsection **53B-1-102**(1)(a).

3828 (c) "Membership hour" means 60 minutes of scheduled instruction provided by a  
3829 technical college to a student enrolled in the technical college.

3830 (d) "Scholarship" means a technical college scholarship described in this section.

3831 (e) "Technical college service area" means the same as that term is defined in Section  
3832 **53B-2a-108**.

3833 (2) (a) Subject to future budget constraints, the Legislature shall annually appropriate  
3834 money to the board ~~[of trustees]~~ to be distributed to technical colleges to award scholarships.

3835 (b) The board ~~[of trustees]~~ shall annually distribute:

3836 (i) 50% of the appropriation described in Subsection (2)(a) to each technical college in  
3837 an equal amount; and

3838 (ii) 50% of the appropriation described in Subsection (2)(a) to each technical college  
3839 based on the technical college's prior year share of secondary student membership hours  
3840 completed at all technical colleges.

3841 (3) In accordance with the rules described in Subsection (6), a technical college may  
3842 award a scholarship to an individual who:

3843 (a) graduates or will graduate from high school within the 12 months prior to the  
3844 individual receiving a scholarship;

3845 (b) is enrolled in, or intends to enroll in, a high demand program; and

3846 (c) while the individual is enrolled in a secondary school, makes satisfactory progress  
3847 in a career and technical education pathway offered by:

3848 (i) a technical college;

3849 (ii) an institution of higher education; or

3850 (iii) a school district or charter school.

3851 (4) Subject to Subsection (5), a technical college may award a scholarship for an  
3852 amount of money up to the total cost of tuition, program fees, and required textbooks for the  
3853 high demand program in which the scholarship recipient is enrolled or intends to enroll.

3854 (5) (a) Except as provided in Subsection (5)(b), a technical college may only apply a  
3855 scholarship toward a scholarship recipient's costs described in Subsection (4) from the day on  
3856 which the technical college awards the scholarship until 12 months after the day on which the  
3857 scholarship recipient graduates from high school.

3858 (b) (i) A technical college may defer a scholarship for up to three years after the day on  
3859 which the scholarship recipient graduates from high school.

3860 (ii) A technical college that defers a scholarship may apply the scholarship toward the  
3861 scholarship recipient's costs described in Subsection (4) for up to a total of 12 months.

3862 (c) A technical college may cancel a scholarship if the scholarship recipient does not:

3863 (i) maintain enrollment in the technical college on at least a half time basis, as  
3864 determined by the technical college; or  
3865 (ii) make satisfactory progress toward the completion of a certificate.  
3866 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3867 board [~~of trustees~~] shall make rules that establish:

3868 (a) requirements related to a technical college's administration of a scholarship  
3869 described in this section;

3870 (b) requirements related to eligibility for a scholarship, including requiring technical  
3871 colleges to prioritize scholarships for underserved populations;

3872 (c) a process for an individual to apply to a technical college to receive a scholarship;  
3873 and

3874 (d) how to determine satisfactory progress for purposes described in Subsections (3)(c)  
3875 and (5)(c)(ii).

3876 (7) Every other year, after consulting with the Department of Workforce Services, the  
3877 board [~~of trustees~~] shall designate, as a high demand program, a technical college program that  
3878 prepares an individual to work in a job that has, in Utah or in the technical college service area:

3879 (a) high employer demand and high median hourly wages; or  
3880 (b) significant industry importance.

3881 Section 76. Section **53B-2a-117** is amended to read:

3882 **53B-2a-117. Legislative approval -- Capital development projects --**  
3883 **Prioritization.**

3884 (1) As used in this section:

3885 (a) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers  
3886 as published by the Bureau of Labor Statistics of the United States Department of Labor.

3887 (b) "Fund" means the Technical Colleges Capital Projects Fund created in Section  
3888 [53B-2a-118](#).

3889 (2) In accordance with this section, a technical college is required to receive legislative



3890 approval in an appropriations act for a dedicated project or a nondedicated project.

3891 (3) In accordance with Section 53B-2a-112, a technical college shall submit to the  
3892 board [~~of trustees~~] a proposal for a funding request for each dedicated project or nondedicated  
3893 project for which the technical college seeks legislative approval.

3894 (4) The board [~~of trustees~~] shall:

3895 (a) review each proposal submitted under Subsection (3) to ensure that the proposal  
3896 complies with Section 53B-2a-112;

3897 (b) based on the results of the [~~board of trustees~~] board's review under Subsection  
3898 (4)(a), create:

3899 (i) a list of approved dedicated projects, prioritized in accordance with Subsection (6);  
3900 and

3901 (ii) a list of approved nondedicated projects, prioritized in accordance with Subsection  
3902 (6); and

3903 (c) submit the lists described in Subsection (4)(b) to:

3904 (i) the governor;

3905 (ii) the Infrastructure and General Government Appropriations Subcommittee;

3906 (iii) the Higher Education Appropriations Subcommittee; and

3907 (iv) the State Building Board for the State Building Board's:

3908 (A) recommendation, for the list described in Subsection (4)(b)(i); or

3909 (B) recommendation and prioritization, for the list described in Subsection (4)(b)(ii).

3910 (5) A dedicated project:

3911 (a) is subject to the State Building Board's recommendation as described in Section  
3912 63A-5-104; and

3913 (b) is not subject to the State Building Board's prioritization as described in Section  
3914 63A-5-104.

3915 (6) (a) Subject to Subsection (7), the board [~~of trustees~~] shall prioritize funding  
3916 requests for capital development projects described in this section based on:

3917 (i) growth and capacity;  
3918 (ii) effectiveness and support of critical programs;  
3919 (iii) cost effectiveness;  
3920 (iv) building deficiencies and life safety concerns; and  
3921 (v) alternative funding sources.

3922 (b) ~~[On or before August 1, 2019, the board of trustees]~~ The board shall establish:  
3923 (i) how the board ~~[of trustees]~~ will measure each factor described in Subsection (6)(a);  
3924 and  
3925 (ii) procedures for prioritizing funding requests for capital development projects  
3926 described in this section.

3927 (7) (a) Subject to Subsection (7)(b), and in accordance with Subsection (6), the board  
3928 ~~[of trustees]~~ may annually prioritize:  
3929 (i) up to three nondedicated projects if the ongoing appropriation to the fund is less  
3930 than \$7,000,000;  
3931 (ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least  
3932 \$7,000,000 but less than \$14,000,000; or  
3933 (iii) one nondedicated project if the ongoing appropriation to the fund is at least  
3934 \$14,000,000.

3935 (b) For each calendar year beginning on or after January 1, 2020, the dollar amounts  
3936 described in Subsection (7)(a) shall be adjusted by an amount equal to the percentage  
3937 difference between:  
3938 (i) the Consumer Price Index for the 2019 calendar year; and  
3939 (ii) the Consumer Price Index for the previous calendar year.

3940 (8) (a) A technical college may request operations and maintenance funds for a capital  
3941 development project approved under this section.

3942 (b) The Legislature shall consider a technical college's request described in Subsection  
3943 (8)(a).

3944 Section 77. Section **53B-6-104** is amended to read:

3945 **53B-6-104. Multi-University Consortium for Teacher Training in Sensory**  
3946 **Impairments -- Purposes -- Appropriation.**

3947 (1) (a) In conjunction with the [~~State Board of Regents~~'] board's master plan for higher  
3948 education, there is established a Multi-University Consortium for Teacher Training in Sensory  
3949 Impairments which is an outgrowth of a consortium established by the federal government.

3950 (b) The consortium shall include within its membership the University of Utah, Utah  
3951 State University, Brigham Young University, the Utah Schools for the Deaf and the Blind, the  
3952 Services for At-Risk Students section under the State Board of Education, and local school  
3953 districts.

3954 (2) The consortium, in collaboration with the [~~State Board of Regents~~] board and the  
3955 State Board of Education, shall develop and implement teacher preparation programs that  
3956 qualify and certify instructors to work with students who are visually impaired, deaf, or hard of  
3957 hearing, or both visually impaired and deaf or hard of hearing.

3958 [~~(3) (a) There is appropriated from the General Fund for fiscal year 1994-95, \$200,000~~  
3959 ~~to the State Board of Regents to fund the consortium's teacher preparation programs referred to~~  
3960 ~~in Subsection (2).]~~

3961 [~~(b) The appropriation is nonlapsing.]~~

3962 [~~(c)~~] (3) [~~The State Board of Regents~~] The board shall consider including within [~~its~~]  
3963 the board's annual budget recommendations a line item appropriation to provide ongoing  
3964 funding for the programs provided pursuant to this section.

3965 Section 78. Section **53B-6-105.5** is amended to read:

3966 **53B-6-105.5. Technology Initiative Advisory Board -- Composition -- Duties.**

3967 (1) There is created a Technology Initiative Advisory Board to assist and make  
3968 recommendations to the [~~State Board of Regents in its~~] board in the board's administration of  
3969 the Engineering and Computer Science Initiative established under Section **53B-6-105**.

3970 (2) (a) The advisory board shall consist of individuals appointed by the governor from

3971 business and industry who have expertise in the areas of engineering, computer science, and  
3972 related technologies.

3973 (b) The advisory board shall select a chair and cochair.

3974 (c) The advisory board shall meet at the call of the chair.

3975 (d) The [~~State Board of Regents~~] board, through the commissioner of higher education,  
3976 shall provide staff support for the advisory board.

3977 (3) A member of [~~an~~] the advisory board may not receive compensation or benefits for  
3978 the member's service, but may receive per diem and travel expenses in accordance with:

3979 (a) Section 63A-3-106;

3980 (b) Section 63A-3-107; and

3981 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
3982 63A-3-107.

3983 (4) The advisory board shall:

3984 (a) make recommendations to the [~~State Board of Regents~~] board on the allocation and  
3985 distribution of money appropriated to fund:

3986 (i) the faculty incentive program established in Section 53B-6-105.9; and

3987 (ii) equipment purchases required to improve the quality of instructional programs in  
3988 engineering, computer science, and related technology;

3989 (b) prepare a strategic plan that details actions required by the [~~State Board of Regents~~]  
3990 board to meet the intent of the Engineering and Technology Science Initiative;

3991 (c) review and assess engineering, computer science, and related technology programs  
3992 currently being offered at higher education institutions and their impact on the economic  
3993 prosperity of the state;

3994 (d) provide the [~~State Board of Regents~~] board with an assessment and reporting plan  
3995 that:

3996 (i) measures results against expectations under the initiative, including verification of  
3997 the matching requirements for institutions of higher education to receive money under Section

3998 53B-6-105.9; and

3999 (ii) includes an analysis of market demand for technical employment, program  
4000 articulation among higher education institutions in engineering, computer science, and related  
4001 technology, tracking of student placement, student admission to the initiative program by  
4002 region, transfer rates, and retention in and graduation rates from the initiative program; and

4003 (e) make an annual report of its activities to the [~~State Board of Regents~~] board.

4004 (5) The annual report of the Technology Initiative Advisory Board shall include the  
4005 summary report of the institutional matches described in Section 53B-6-105.9.

4006 Section 79. Section 53B-6-105.9 is amended to read:

4007 **53B-6-105.9. Incentive program for engineering, computer science, and related**  
4008 **technology faculty.**

4009 (1) The Legislature shall provide an annual appropriation to help fund the faculty  
4010 incentive component of the Engineering and Computer Science Initiative established under  
4011 Section 53B-6-105.

4012 (2) The appropriation shall be used to hire, recruit, and retain outstanding faculty in  
4013 engineering, computer science, and related technology fields under guidelines established by  
4014 the [~~State Board of Regents~~] board.

4015 (3) (a) State institutions of higher education shall match the appropriation on a  
4016 one-to-one basis in order to qualify for state money appropriated under Subsection (1).

4017 (b) (i) Qualifying institutions shall annually report their matching dollars to the board.

4018 (ii) The board shall make a summary report of the institutional matches.

4019 (iii) The annual report of the Technology Initiative Advisory Board required by Section  
4020 53B-6-105.5 shall include the summary report of the institutional matches.

4021 (4) The board shall make [~~a rule~~] rules in accordance with Title 63G, Chapter 3, Utah  
4022 Administrative Rulemaking Act, establishing policies and procedures to apply for and  
4023 distribute the state appropriation to qualifying institutions.

4024 Section 80. Section 53B-6-106 is amended to read:

4025 **53B-6-106. Jobs Now and economic development initiatives.**

4026 (1) The board shall develop, establish, and maintain:

4027 (a) [~~The Utah System of Technical Colleges Board of Trustees shall develop, establish,~~  
4028 ~~and maintain~~] a Jobs Now Initiative, to promote workforce preparation programs that meet  
4029 critical needs and shortages throughout the state[-]; and

4030 (b) [~~The State Board of Regents shall develop, establish, and maintain~~] economic  
4031 development initiatives within the Utah system of higher education.

4032 (2) The initiatives specified in Subsection (1) shall provide support for technical  
4033 training expansion that trains skilled potential employees within a period not to exceed 12  
4034 months for technical jobs in critical needs occupations and other innovative economic  
4035 development policy initiatives.

4036 (3) (a) Subject to future budget constraints, the Legislature shall provide an annual  
4037 appropriation to the [~~Utah System of Technical Colleges~~] board to fund the Jobs Now Initiative  
4038 established in Subsection (1)(a).

4039 (b) (i) The [~~Utah System of Technical Colleges Board of Trustees~~] board shall allocate  
4040 the appropriation for the Jobs Now Initiative to technical colleges.

4041 (ii) A technical college shall use money received under Subsection (3)(b)(i) for  
4042 technical training expansion referred to in Subsection (2).

4043 (c) Subject to future budget constraints, the Legislature shall provide an annual  
4044 appropriation to the [~~State Board of Regents~~] board to fund economic development initiatives  
4045 established pursuant Subsection (1)(b).

4046 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[-],  
4047 the board shall make rules to implement the initiatives described in Subsection (1).

4048 [~~(i) the Utah System of Technical Colleges Board of Trustees shall make rules to~~  
4049 ~~implement the Jobs Now Initiative; and]~~

4050 [~~(ii) the board shall make rules to implement economic development initiatives.~~]

4051 Section 81. Section **53B-7-101** is amended to read:

4052           **53B-7-101. Combined requests for appropriations -- Board review of operating**  
4053 **budgets -- Submission of budgets -- Recommendations -- Hearing request --**  
4054 **Appropriation formulas -- Allocations -- Dedicated credits -- Financial affairs.**

4055           (1) As used in this section:

4056           (a) [(†)] "Higher education institution" or "institution" means an institution of higher  
4057 education listed in Section [53B-1-102](#).

4058           ~~[(ii) "Higher education institution" or "institution" does not include:]~~

4059           ~~[(A) the Utah System of Technical Colleges Board of Trustees; or]~~

4060           ~~[(B) a technical college.]~~

4061           (b) "Research university" means the University of Utah or Utah State University.

4062           (2) (a) [~~The~~] Subject to Subsection (3), the board shall recommend a combined  
4063 appropriation for the operating budgets of higher education institutions for inclusion in a state  
4064 appropriations act.

4065           (b) The board's combined budget recommendation shall include:

4066           (i) employee compensation;

4067           (ii) mandatory costs, including building operations and maintenance, fuel, and power;

4068           (iii) performance funding described in Part 7, Performance Funding;

4069           (iv) statewide and institutional priorities, including scholarships, financial aid, and  
4070 technology infrastructure; and

4071           (v) enrollment growth.

4072           (c) The board's recommendations shall be available for presentation to the governor  
4073 and to the Legislature at least 30 days before the convening of the Legislature, and shall include  
4074 schedules showing the recommended amounts for each institution, including separately funded  
4075 programs or divisions.

4076           (d) The recommended appropriations shall be determined by the board only after [(†)  
4077 the board] has reviewed the proposed institutional operating budgets, and has consulted with the  
4078 various institutions and board staff in order to make appropriate adjustments.

4079           (3) In the combined request for appropriation, the board shall differentiate between  
4080 appropriations requested for academic education and appropriations requested for technical  
4081 education.

4082           ~~[(3)]~~ (4) (a) Institutional operating budgets shall be submitted to the board at least 90  
4083 days before the convening of the Legislature in accordance with procedures established by the  
4084 board.

4085           (b) Except as provided in ~~[Section]~~ Sections 53B-2a-117 and 53B-22-204, funding  
4086 requests pertaining to capital facilities and land purchases shall be submitted in accordance  
4087 with procedures prescribed by the State Building Board.

4088           ~~[(4)]~~ (5) (a) The budget recommendations of the board shall be accompanied by full  
4089 explanations and supporting data.

4090           (b) The appropriations recommended by the board shall be made with the dual  
4091 objective of:

4092           (i) justifying for higher education institutions appropriations consistent with their  
4093 needs, and consistent with the financial ability of the state; and

4094           (ii) determining an equitable distribution of funds among the respective institutions in  
4095 accordance with the aims and objectives of the statewide master plan for higher education.

4096           ~~[(5)]~~ (6) (a) The board shall request a hearing with the governor on the recommended  
4097 appropriations.

4098           (b) After the governor delivers his budget message to the Legislature, the board shall  
4099 request hearings on the recommended appropriations with the Higher Education  
4100 Appropriations Subcommittee.

4101           (c) If either the total amount of the state appropriations or its allocation among the  
4102 institutions as proposed by the Legislature or the Higher Education Appropriations  
4103 Subcommittee is substantially different from the recommendations of the board, the board may  
4104 request further hearings with the Legislature or the Higher Education Appropriations  
4105 Subcommittee to reconsider both the total amount and the allocation.



4106           ~~[(6)]~~ (7) The board may devise, establish, periodically review, and revise formulas for  
4107 the board's use and for the use of the governor and the Higher Education Appropriations  
4108 Subcommittee in making appropriation recommendations.

4109           ~~[(7)]~~ (8) (a) The board shall recommend to each session of the Legislature the  
4110 minimum tuitions, resident and nonresident, for each institution which it considers necessary to  
4111 implement the budget recommendations.

4112           (b) The board may fix the tuition, fees, and charges for each institution at levels the  
4113 board finds necessary to meet budget requirements.

4114           ~~[(8)]~~ (9) Money allocated to each institution by legislative appropriation may be  
4115 budgeted in accordance with institutional work programs approved by the board, provided that  
4116 the expenditures funded by appropriations for each institution are kept within the  
4117 appropriations for the applicable period.

4118           ~~[(9)]~~ (10) The dedicated credits, including revenues derived from tuitions, fees, federal  
4119 grants, and proceeds from sales received by the institutions are appropriated to the respective  
4120 institutions to be used in accordance with institutional work programs.

4121           ~~[(10)]~~ (11) An institution may do the institution's own purchasing, issue the institution's  
4122 own payrolls, and handle the institution's own financial affairs under the general supervision of  
4123 the board.

4124           ~~[(11)]~~ (12) If the Legislature appropriates money in accordance with this section, the  
4125 money shall be distributed to the board and higher education institutions to fund the items  
4126 described in Subsection (2)(b).

4127           Section 82. Section **53B-7-104** is amended to read:

4128           **53B-7-104. Retention of net reimbursed overhead revenues.**

4129           (1) For fiscal year 1990-91 and for each succeeding year, all budget documents for the  
4130 system of higher education shall reflect retention by the institutions within the system of their  
4131 net reimbursed overhead revenues for support of research and related programs under policies  
4132 established by the ~~[State Board of Regents]~~ board. These overhead revenues may not be

4133 considered a dedicated credit.

4134 (2) The board, in conjunction with institutions within the system, shall provide the  
4135 Legislature, through the Office of Legislative Fiscal Analyst, with a complete accounting of the  
4136 net reimbursed overhead revenues on an annual basis. This accounting shall include actual  
4137 expenditures for the prior fiscal year, budgeted expenditures for the current fiscal year, and  
4138 planned expenditures for the following fiscal year.

4139 Section 83. Section **53B-7-702** is amended to read:

4140 **53B-7-702. Definitions.**

4141 As used in this part:

4142 (1) "Account" means the Performance Funding Restricted Account created in Section  
4143 [53B-7-703](#).

4144 (2) "Estimated revenue growth from targeted jobs" means the estimated increase in  
4145 individual income tax revenue generated by individuals employed in targeted jobs, determined  
4146 by the Department of Workforce Services in accordance with Section [53B-7-704](#).

4147 (3) "Full new performance funding amount" means the maximum amount of new  
4148 performance funding that a ~~[higher education]~~ degree-granting institution or technical college  
4149 may qualify for in a fiscal year, determined by the Legislature in accordance with Section  
4150 [53B-7-705](#).

4151 (4) "Full-time" means the number of credit hours the board determines is full-time  
4152 enrollment for a student.

4153 (5) "GOED" means the Governor's Office of Economic Development created in  
4154 Section [63N-1-201](#).

4155 ~~[(6) "Higher education institution" means the same as that term is defined in Section~~  
4156 ~~[53B-7-101](#).]~~

4157 ~~[(7)]~~ (6) "Job" means an occupation determined by the Department of Workforce  
4158 Services.

4159 ~~[(8)]~~ (7) "Membership hour" means 60 minutes of scheduled instruction provided by a

4160 technical college to a student enrolled in the technical college.

4161 ~~[(9)]~~ (8) "New performance funding" means the difference between the total amount of  
 4162 money in the account and the amount of money appropriated from the account for performance  
 4163 funding in the current fiscal year.

4164 ~~[(10)]~~ (9) "Performance" means total performance across the metrics described in:

- 4165 (a) Section 53B-7-706 for a ~~[higher education]~~ degree-granting institution; or
- 4166 (b) Section 53B-7-707 for a technical college.

4167 ~~[(11)]~~ (10) "Research university" means the University of Utah or Utah State  
 4168 University.

4169 ~~[(12)]~~ (11) "Targeted job" means a job designated by the Department of Workforce  
 4170 Services or GOED in accordance with Section 53B-7-704.

4171 ~~[(13)]~~ (12) "Technical college graduate" means an individual who:

- 4172 (a) has earned a certificate from an accredited program at a technical college; and
- 4173 (b) is no longer enrolled in the technical college.

4174 ~~[(14) "Utah System of Technical Colleges" means the Utah System of Technical  
 4175 Colleges described in Chapter 2a, Utah System of Technical Colleges.]~~

4176 Section 84. Section 53B-7-703 is amended to read:

4177 **53B-7-703. Performance Funding Restricted Account -- Creation -- Deposits into**  
 4178 **account -- Legislative review.**

4179 (1) There is created within the Education Fund a restricted account known as the  
 4180 "Performance Funding Restricted Account."

4181 (2) Money in the account shall be:

4182 (a) used for performance funding for:

- 4183 (i) ~~[higher education]~~ degree-granting institutions; and
- 4184 (ii) technical colleges; and

4185 (b) appropriated by the Legislature in accordance with Section 53B-7-705.

4186 (3) (a) Money in the account shall earn interest.

4187 (b) All interest earned on account money shall be deposited into the account.  
4188 (4) (a) Except as provided in Subsection (4)(b)(ii), the Division of Finance shall  
4189 deposit into the account an amount equal to:  
4190 (i) 14% of the estimated revenue growth from targeted jobs upon appropriation by the  
4191 Legislature for the fiscal year beginning on July 1, 2018; and  
4192 (ii) 20% of the estimated revenue growth from targeted jobs upon appropriation by the  
4193 Legislature for a fiscal year beginning on or after July 1, 2019.  
4194 (b) (i) As used in this Subsection (4)(b), "total higher education appropriations" means,  
4195 for the current fiscal year, the total state funded appropriations to:  
4196 (A) the ~~[State Board of Regents]~~ board;  
4197 (B) ~~[higher education]~~ degree-granting institutions; and  
4198 ~~[(C) the Utah System of Technical Colleges; and]~~  
4199 ~~[(D)]~~ (C) technical colleges.  
4200 (ii) If a deposit described in Subsection (4)(a) would exceed 10% of total higher  
4201 education appropriations, upon appropriation by the Legislature, the Division of Finance shall  
4202 deposit into the account an amount equal to 10% of total higher education appropriations.  
4203 (c) The Legislature may appropriate money to the account.  
4204 (5) During the interim following a legislative general session in which an amount  
4205 described in Subsection (4)(b) is deposited into the account, the Higher Education  
4206 Appropriations Subcommittee shall review performance funding described in this part and  
4207 make recommendations to the Legislature about:  
4208 (a) the performance levels required for ~~[higher education]~~ degree-granting institutions  
4209 and technical colleges to receive performance funding as described in Section [53B-7-705](#);  
4210 (b) the performance metrics described in Sections [53B-7-706](#) and [53B-7-707](#); and  
4211 (c) the amount of individual income tax revenue dedicated to higher education  
4212 performance funding.  
4213 Section 85. Section **53B-7-705** is amended to read:

4214           **53B-7-705. Determination of full new performance funding amount -- Role of**  
4215 **appropriations subcommittee -- Program review.**

4216           (1) In accordance with this section, and based on money deposited into the account, the  
4217 Legislature shall, as part of the higher education appropriations budget process, annually  
4218 determine the full new performance funding amount for each:

4219           (a) [~~higher education~~] degree-granting institution; and

4220           (b) technical college.

4221           (2) The Legislature shall annually allocate:

4222           (a) 90% of the money in the account to [~~higher education~~] degree-granting institutions;

4223 and

4224           (b) 10% of the money in the account to technical colleges.

4225           (3) (a) The Legislature shall determine a [~~higher education~~] degree-granting

4226 institution's full new performance funding amount based on the [~~higher education~~]

4227 degree-granting institution's prior year share of:

4228           (i) full-time equivalent enrollment in all [~~higher education~~] degree-granting

4229 institutions; and

4230           (ii) the total state-funded appropriated budget for all [~~higher education~~] degree-granting

4231 institutions.

4232           (b) In determining a [~~higher education~~] degree-granting institution's full new

4233 performance funding amount, the Legislature shall give equal weight to the factors described in

4234 Subsections (3)(a)(i) and (ii).

4235           (4) (a) The Legislature shall determine a technical college's full new performance

4236 funding amount based on the technical college's prior year share of:

4237           (i) membership hours for all technical colleges; and

4238           (ii) the total state-funded appropriated budget for all technical colleges.

4239           (b) In determining a technical college's full new performance funding amount, the

4240 Legislature shall give equal weight to the factors described in Subsections (4)(a)(i) and (ii).

4241 (5) Annually, at least 30 days before the first day of the legislative general session[:  
4242 ~~(a)~~] the board shall submit a report to the Higher Education Appropriations Subcommittee on  
4243 each ~~[higher education]~~ degree-granting institution's ~~[performance, and]~~ and each technical  
4244 college's performance.

4245 ~~[(b) the Utah System of Technical Colleges Board of Trustees shall submit a report to~~  
4246 ~~the Higher Education Appropriations Subcommittee on each technical college's performance.]~~

4247 (6) (a) In accordance with this Subsection (6), and based on the ~~[reports]~~ report  
4248 described in Subsection (5), the Legislature shall determine for each ~~[higher education]~~  
4249 degree-granting institution and each technical college:

4250 (i) the portion of the full new performance funding amount earned; and

4251 (ii) the amount of new performance funding to recommend that the Legislature  
4252 appropriate, from the account, to the ~~[higher education]~~ degree-granting institution or technical  
4253 college.

4254 (b) (i) A ~~[higher education]~~ degree-granting institution earns the full new performance  
4255 funding amount if the ~~[higher education]~~ degree-granting institution has a positive change in  
4256 performance of at least 1% compared to the ~~[higher education]~~ degree-granting institution's  
4257 average performance over the previous five years.

4258 (ii) (A) Except as provided in Subsection (6)(b)(ii)(B), a technical college earns the full  
4259 new performance funding amount if the technical college has a positive change in the technical  
4260 college's performance of at least 5% compared to the technical college's average performance  
4261 over the previous five years.

4262 (B) A technical college's change in performance may be compared to the technical  
4263 college's average performance over fewer than five years in accordance with Subsection  
4264 [53B-7-707\(3\)\(b\)](#).

4265 (c) A ~~[higher education]~~ degree-granting institution or technical college that has a  
4266 positive change in performance that is less than a change described in Subsection (6)(b) is  
4267 eligible to receive a prorated amount of the full new performance funding amount.

4268 (d) A [~~higher education institution~~] degree-granting or technical college that has a  
4269 negative change, or no change, in performance over a time period described in Subsection  
4270 (6)(b) is not eligible to receive new performance funding.

4271 (7) An appropriation described in this section is ongoing.

4272 (8) Notwithstanding Section **53B-7-703** and Subsections (6) and (7), the Legislature  
4273 may, by majority vote, appropriate or refrain from appropriating money for performance  
4274 funding as circumstances require in a particular year.

4275 (9) On or before November 1, 2020, the Education Interim Committee, the Higher  
4276 Education Appropriations Subcommittee, and the governor shall review the implementation of  
4277 performance funding described in this part.

4278 Section 86. Section **53B-7-706** is amended to read:

4279 **53B-7-706. Performance metrics for degree-granting institutions --**

4280 **Determination of performance.**

4281 (1) (a) The board shall establish a model for determining a [~~higher education~~]  
4282 degree-granting institution's performance.

4283 (b) The board shall submit a draft of the model described in this section to the Higher  
4284 Education Appropriations Subcommittee and the governor for comments and  
4285 recommendations.

4286 (2) (a) The model described in Subsection (1) shall include metrics, including:

4287 (i) completion, measured by degrees and certificates awarded;

4288 (ii) completion by underserved students, measured by degrees and certificates awarded  
4289 to underserved students;

4290 (iii) responsiveness to workforce needs, measured by degrees and certificates awarded  
4291 in high market demand fields;

4292 (iv) institutional efficiency, measured by degrees and certificates awarded per full-time  
4293 equivalent student; and

4294 (v) for a research university, research, measured by total research expenditures.

4295 (b) Subject to Subsection (2)(c), the board shall determine the relative weights of the  
4296 metrics described in Subsection (2)(a).

4297 (c) The board shall assign the responsiveness to workforce needs metric described in  
4298 Subsection (2)(a)(iii) a weight of at least 25% when determining [~~an institution of higher~~  
4299 ~~education's~~] a degree-granting institution's performance.

4300 (3) For each [~~higher education~~] degree-granting institution, the board shall annually  
4301 determine the [~~higher education~~] degree-granting institution's:

4302 (a) performance; and

4303 (b) change in performance compared to the [~~higher education~~] degree-granting  
4304 institution's average performance over the previous five years.

4305 (4) The board shall use the model described in this section to make the report described  
4306 in Section **53B-7-705** for determining a [~~higher education~~] degree-granting institution's  
4307 performance funding for a fiscal year beginning on or after July 1, 2018.

4308 Section 87. Section **53B-7-707** is amended to read:

4309 **53B-7-707. Performance metrics for technical colleges -- Determination of**  
4310 **performance.**

4311 (1) (a) The [~~Utah System of Technical Colleges Board of Trustees~~] board shall  
4312 establish a model for determining a technical college's performance.

4313 (b) The [~~Utah System of Technical Colleges Board of Trustees~~] board shall submit a  
4314 draft of the model described in this section to the Higher Education Appropriations  
4315 Subcommittee and the governor for comments and recommendations.

4316 (2) (a) The model described in Subsection (1) shall include metrics, including:

4317 (i) completions, measured by certificates awarded;

4318 (ii) short-term occupational training, measured by completions of:

4319 (A) short-term occupational training that takes less than 60 hours to complete; and

4320 (B) short-term occupational training that takes at least 60 hours to complete;

4321 (iii) secondary completions, measured by:



4322 (A) completions of competencies sufficient to be recommended for high school credits;

4323 (B) certificates awarded to secondary students; and

4324 (C) retention of certificate-seeking high school graduates as certificate-seeking

4325 postsecondary students;

4326 (iv) placements, measured by:

4327 (A) total placements in related employment, military service, or continuing education;

4328 (B) placements for underserved students; and

4329 (C) placements from high impact programs; and

4330 (v) institutional efficiency, measured by the number of technical college graduates per

4331 900 membership hours.

4332 (b) The [~~Utah System of Technical Colleges Board of Trustees~~] board shall determine  
4333 the relative weights of the metrics described in Subsection (2)(a).

4334 (3) (a) For each technical college, the [~~Utah System of Technical Colleges Board of~~  
4335 ~~Trustees~~] board shall annually determine the technical college's:

4336 (i) performance; and

4337 (ii) except as provided in Subsection (3)(b), change in performance compared to the  
4338 technical college's average performance over the previous five years.

4339 (b) For performance during a fiscal year before fiscal year 2020, if comparable  
4340 performance data is not available for the previous five years, the [~~Utah System of Technical~~  
4341 ~~Colleges Board of Trustees~~] board may determine a technical college's change in performance  
4342 using the average performance over the previous three or four years.

4343 Section 88. Section **53B-8-101** is amended to read:

4344 **53B-8-101. Waiver of tuition.**

4345 (1) (a) The president of an institution of higher education described in Section  
4346 **53B-2-101** may waive all or part of the tuition on behalf of meritorious or impecunious resident  
4347 students to an amount not exceeding 10% of the total amount of tuition which, in the absence  
4348 of the waivers, would have been collected from all Utah resident students at the institution of

4349 higher education.

4350 (b) (i) Two and a half percent of the waivers designated in Subsection (1)(a) shall be  
4351 set aside for members of the Utah National Guard.

4352 (ii) A waiver described in Subsection (1)(b)(i) shall be preserved by the student at least  
4353 60 days before the beginning of an academic term.

4354 (2) (a) A president of an institution of higher education listed in Subsections  
4355 [53B-2-101](#)(1)(a) through (h) may waive all or part of the nonresident portion of tuition for a  
4356 meritorious nonresident undergraduate student.

4357 (b) In determining which students are meritorious for purposes of granting a tuition  
4358 waiver under Subsection (2)(a), a president shall consider students who are performing above  
4359 the average at the institution of higher education, including having an admissions index higher  
4360 than the average for the institution, if an admissions index is used.

4361 (c) A president of an institution of higher education may continue to waive the  
4362 nonresident portion of tuition for a student described in Subsection (2)(a) for as long as the  
4363 student is enrolled at the institution of higher education.

4364 (d) In addition to waiving the nonresident portion of tuition for a meritorious  
4365 nonresident student under Subsection (2)(a), a president of an institution of higher education  
4366 may waive the resident portion of tuition after the meritorious nonresident student completes a  
4367 year of full-time study at the institution of higher education.

4368 (3) To encourage students to enroll for instruction in occupations critical to the state for  
4369 which trained personnel are in short supply, a president of an institution of higher education  
4370 shall grant additional full or partial tuition waivers upon recommendation of~~[:]~~ the board.

4371 ~~[(a) the board, for an institution of higher education described in Subsections~~  
4372 ~~[53B-2-101](#)(1)(a) through (h), or]~~

4373 ~~[(b) the Utah System of Technical Colleges Board of Trustees, for a technical college.]~~

4374 (4) A president of an institution of higher education may waive all or part of the  
4375 difference between resident and nonresident tuition for:

4376 (a) meritorious graduate students; or  
 4377 (b) nonresident summer school students.  
 4378 (5) The board may establish policies that:  
 4379 (a) require an institution of higher education described in Subsections [53B-2-101](#)(1)(a)  
 4380 through (h) to regularly assess and report whether the institution of higher education's use of  
 4381 tuition waivers supports the goals established by the board in accordance with Section  
 4382 ~~[53B-1-103]~~ [53B-1-402](#) for the institution of higher education;  
 4383 (b) subject to the provisions of this section, establish the amount or percentage of  
 4384 tuition that an institution of higher education may waive;  
 4385 (c) define the terms "meritorious" and "impecunious," as the terms apply to tuition  
 4386 waivers for resident students described in Subsection (1)(a); and  
 4387 (d) establish limitations on an institution of higher education's allocation of waivers  
 4388 described in Subsection (1)(a) for resident students who are meritorious or resident students  
 4389 who are impecunious.  
 4390 (6) (a) The board shall submit an annual budget appropriation request for each  
 4391 institution of higher education described in ~~[Subsections [53B-2-101](#)(1)(a) through (h)]~~ Section  
 4392 [53B-2-101](#).  
 4393 ~~[(b) The Utah System of Technical Colleges Board of Trustees shall submit an annual~~  
 4394 ~~budget appropriation request for each technical college.]~~  
 4395 ~~[(c)]~~ (b) A request described in Subsection (6)(a) ~~[or (b)]~~ shall include requests for  
 4396 funds sufficient in amount to equal the estimated loss of dedicated credits that would be  
 4397 realized if all of the tuition waivers authorized by Subsection (2) were granted.  
 4398 Section 89. Section **53B-8-103** is amended to read:  
 4399 **53B-8-103. Waiver of nonresident differential in tuition rates -- Dixie State**  
 4400 **University good neighbor tuition waivers.**  
 4401 (1) Notwithstanding any other provision of law:  
 4402 (a) (i) The board may determine when to grant a full or partial waiver of the

4403 nonresident differential in tuition rates charged to undergraduate students pursuant to reciprocal  
4404 agreements with other states.

4405 (ii) In making the determination described under Subsection (1)(a)(i), the board shall  
4406 consider the potential of the waiver to:

4407 (A) enhance educational opportunities for Utah residents;

4408 (B) promote mutually beneficial cooperation and development of Utah communities  
4409 and nearby communities in neighboring states;

4410 (C) contribute to the quality of educational programs; and

4411 (D) assist in maintaining the cost effectiveness of auxiliary operations in Utah  
4412 institutions of higher education.

4413 (b) (i) Consistent with its determinations made pursuant to Subsection (1)(a), the board  
4414 may enter into agreements with other states to provide for a full or partial reciprocal waiver of  
4415 the nonresident tuition differential charged to undergraduate students.

4416 (ii) An agreement shall provide for the numbers and identifying criteria of  
4417 undergraduate students, and shall specify the institutions of higher education that will be  
4418 affected by the agreement.

4419 (c) The board shall establish policy guidelines for the administration by the affected  
4420 Utah institutions of any tuition waivers authorized under this section, for evaluating applicants  
4421 for such waivers, and for reporting the results of the reciprocal waiver programs authorized by  
4422 this section.

4423 (d) A report and financial analysis of any waivers of tuition authorized under this  
4424 section shall be submitted annually to the general session of the Legislature as part of the  
4425 budget recommendations of the board for the system of higher education.

4426 (2) (a) Dixie State University may offer a good neighbor full waiver of the nonresident  
4427 differential in tuition rates charged to undergraduate students:

4428 (i) pursuant to reciprocal agreements with other states; or

4429 (ii) to a resident of a county that has a portion of the county located within 70 miles of

4430 the main campus of Dixie State University.

4431 (b) (i) A student who attends Dixie State University under a good neighbor tuition  
4432 waiver shall pay a surcharge per credit hour in addition to the regular resident tuition and fees  
4433 of Dixie State University.

4434 (ii) The surcharge per credit hour shall be based on a percentage of the approved  
4435 resident tuition per credit hour each academic year.

4436 (iii) The percentage assessed as a surcharge per credit hour shall be set by the [~~State~~  
4437 ~~Board of Regents~~] board.

4438 (c) Dixie State University may restrict the number of good neighbor tuition waivers  
4439 awarded.

4440 (d) A student who attends Dixie State University on a good neighbor tuition waiver  
4441 may not count the time during which the waiver is received towards establishing resident  
4442 student status in Utah.

4443 Section 90. Section **53B-8-104** is amended to read:

4444 **53B-8-104. Nonresident partial tuition scholarships.**

4445 (1) The board may grant a scholarship for partial waiver of the nonresident portion of  
4446 total tuition charged by public institutions of higher education to nonresident undergraduate  
4447 students, subject to the limitations provided in this section, if the board determines that the  
4448 scholarship will:

4449 (a) promote mutually beneficial cooperation between Utah communities and nearby  
4450 communities in states adjacent to Utah;

4451 (b) contribute to the quality and desirable cultural diversity of educational programs in  
4452 Utah institutions;

4453 (c) assist in maintaining an adequate level of service and related cost-effectiveness of  
4454 auxiliary operations in Utah institutions of higher education; and

4455 (d) promote enrollment of nonresident students with high academic aptitudes.

4456 (2) The board shall establish policy guidelines for the administration by institutions of

4457 higher education of any partial tuition scholarships authorized under this section, for evaluating  
4458 applicants for those scholarships, and for reporting the results of the scholarship program  
4459 authorized by this section.

4460 (3) The policy guidelines promulgated by the board under Subsection (2) shall include  
4461 the following provisions:

4462 (a) the amount of the approved scholarship may not be more than 1/2 of the differential  
4463 tuition charged to nonresident students for an equal number of credit hours of instruction;

4464 (b) a nonresident partial tuition scholarship may be awarded initially only to a  
4465 nonresident undergraduate student who has not previously been enrolled in a college or  
4466 university in Utah and who has enrolled full time for 10 or more credit hours, whose legal  
4467 domicile is within approximately 100 highway miles of the Utah system of higher education  
4468 institution at which the recipient wishes to enroll or such distance that the ~~[regents]~~ board may  
4469 establish for any institution;

4470 (c) the total number of nonresident partial tuition scholarships granted may not exceed  
4471 a total of 600 such scholarships in effect at any one time; and

4472 (d) the board shall determine eligibility for nonresident partial tuition scholarships on  
4473 the basis of program availability at an institution and on a competitive basis, using quantifiable  
4474 measurements such as grade point averages and results of test scores.

4475 (4) The board shall submit an annual report and financial analysis of the effects of  
4476 offering nonresident partial tuition scholarships authorized under this section to the Higher  
4477 Education Appropriations Subcommittee as part of the board's budget recommendations for the  
4478 system of higher education.

4479 Section 91. Section **53B-8-106** is amended to read:

4480 **53B-8-106. Resident tuition -- Requirements -- Rules.**

4481 (1) If allowed under federal law, a student, other than a nonimmigrant alien within the  
4482 meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States  
4483 Code, shall be exempt from paying the nonresident portion of total tuition if the student:

- 4484 (a) attended high school in this state for three or more years;
- 4485 (b) graduated from a high school in this state or received the equivalent of a high
- 4486 school diploma in this state; and
- 4487 (c) registers as an entering student at an institution of higher education not earlier than
- 4488 the fall of the 2002-03 academic year.

4489 (2) In addition to the requirements under Subsection (1), a student without lawful  
4490 immigration status shall file an affidavit with the institution of higher education stating that the  
4491 student has filed an application to legalize his immigration status, or will file an application as  
4492 soon as he is eligible to do so.

4493 (3) The [~~State Board of Regents~~] board shall make rules for the implementation of this  
4494 section.

4495 (4) Nothing in this section limits the ability of institutions of higher education to assess  
4496 nonresident tuition on students who do not meet the requirements under this section.

4497 Section 92. Section **53B-8-107** is amended to read:

4498 **53B-8-107. Military member surviving dependents -- Tuition waiver.**

4499 (1) As used in this section:

4500 (a) "Federal active duty" means serving under orders in accordance with United States  
4501 Code, Title 10 or Title 32, at any time on or after September 11, 2001.

4502 (b) "Qualifying deceased military member" means a person who:

4503 (i) was killed while serving on state or federal active duty, under orders of competent  
4504 authority and not as a result of the member's own misconduct; or

4505 (ii) dies of wounds or injuries received while serving on state or federal active duty,  
4506 under orders of competent authority and not as a result of the member's own misconduct; and

4507 (iii) was a member of the armed forces of the United States and a Utah resident;

4508 (iv) was a member of the reserve component of the armed forces on or after September  
4509 11, 2001, and a Utah resident; or

4510 (v) was a member of the Utah National Guard on or after September 11, 2001.

4511 (c) "State active duty" means serving in the Utah National Guard in any duty status  
4512 authorized by the governor under Title 39, Militia and Armories.

4513 (2) This section shall be known as the Scott B. Lundell Military Survivors' tuition  
4514 waiver.

4515 (3) A state institution of higher education shall waive undergraduate tuition for a  
4516 dependent of a qualifying deceased military member under the following conditions:

4517 (a) the dependent has been accepted by the institution in accordance with the  
4518 institution's admissions guidelines;

4519 (b) except as provided in Subsection (4), the dependent is a resident student as  
4520 determined under Section [53B-8-102](#);

4521 (c) the dependent may not have already completed a course of studies leading to an  
4522 undergraduate degree;

4523 (d) the dependent may only utilize the waiver for courses that are applicable toward the  
4524 degree or certificate requirements of the program in which the dependent is enrolled; and

4525 (e) the dependent may not be excluded from the waiver if the dependent has previously  
4526 taken courses at or has been awarded credit by a state institution of higher education.

4527 (4) Notwithstanding Subsection (3)(b), a dependent of a qualifying deceased military  
4528 member that was a member of the Utah National Guard is not required to be a resident student  
4529 as determined under Section [53B-8-102](#).

4530 (5) The tuition waiver in this section is applicable for undergraduate study only.

4531 (6) The Department of Veterans and Military Affairs, after consultation with the  
4532 adjutant general if necessary, shall certify to the institution that the dependent is a surviving  
4533 dependent eligible for the tuition waiver in accordance with this section.

4534 (7) The waiver in this section does not apply to fees, books, or housing expenses.

4535 (8) The ~~[State Board of Regents]~~ board may request reimbursement from the  
4536 Legislature for costs incurred in providing the tuition waiver under this section.

4537 Section 93. Section **53B-8-201** is amended to read:



4538 **53B-8-201. Regents' Scholarship Program.**

4539 (1) As used in this section:

4540 (a) "Eligible institution" means an institution of higher education within the state  
4541 system of higher education described in Section 53B-1-102.

4542 (b) "Eligible student" means a student who:

4543 (i) applies to the board in accordance with the rules described in Subsection (6);

4544 (ii) is enrolled in an eligible institution; and

4545 (iii) meets the criteria established by the board in rules described in Subsection (6).

4546 (c) "Fee" means:

4547 (i) for an eligible institution that is [~~part of the Utah System of Higher Education~~] a  
4548 degree-granting institution, a fee approved by the board; or4549 (ii) for an eligible institution that is a technical college, a fee approved by the eligible  
4550 institution.

4551 (d) "Program" means the Regents' Scholarship Program described in this section.

4552 (2) (a) A student who graduates from high school after July 1, 2018:

4553 (i) may receive a Regents' scholarship in accordance with this section; and

4554 (ii) may not receive a scholarship in accordance with Sections 53B-8-202 through  
4555 53B-8-205.

4556 (b) A student who graduates from high school on or before July 1, 2018:

4557 (i) may receive a scholarship in accordance with Sections 53B-8-202 through

4558 53B-8-205; and

4559 (ii) may not receive a Regents' scholarship in accordance with this section.

4560 (3) (a) Subject to legislative appropriations, beginning with an appropriation for fiscal

4561 year 2019, the board shall annually distribute money for the Regents' Scholarship Program

4562 described in this section to each eligible institution to award as Regents' scholarships to eligible  
4563 students.

4564 (b) The board shall annually determine the amount of a Regents' scholarship based on:

4565 (i) the number of eligible students in the state; and

4566 (ii) money available for the program.

4567 (c) The board shall annually determine the total amount of money to distribute to an  
4568 eligible institution based on the eligible institution's share of all eligible students in the state.

4569 (4) (a) Except as provided in Subsection (4)(b) or (c), an eligible institution shall  
4570 provide to an eligible student a Regents' scholarship in the amount determined by the board  
4571 described in Subsection (3)(b).

4572 (b) For a Regents' scholarship for which an eligible student applies on or before July 1,  
4573 2019, an eligible institution may reduce the amount of the Regents' scholarship based on other  
4574 state aid awarded to the eligible student for tuition and fees.

4575 (c) For a Regents' scholarship for which an eligible student applies after July 1, 2019:

4576 (i) an eligible institution shall reduce the amount of the Regents' scholarship so that the  
4577 total amount of state aid awarded to the eligible student, including tuition or fee waivers and  
4578 the Regents' scholarship, does not exceed the cost of the eligible student's tuition and fees; and

4579 (ii) the eligible student may only use the Regents' scholarship for tuition and fees.

4580 (5) The board may:

4581 (a) audit an eligible institution's administration of Regents' scholarships; and

4582 (b) require an eligible institution to repay to the board money distributed to the eligible  
4583 institution under this section that is not provided to an eligible student as a Regents'  
4584 scholarship.

4585 (6) [~~(a)~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
4586 Act, the board shall make rules that establish:

4587 [~~(i)~~] (a) requirements related to an eligible institution's administration of Regents'  
4588 scholarships;

4589 [~~(ii)~~] (b) a process for a student to apply to the board to determine the student's  
4590 eligibility for a Regents' scholarship;

4591 [~~(iii)~~] (c) criteria to determine a student's eligibility for a Regents' scholarship,

4592 including:

- 4593           ~~[(A)]~~ (i) minimum secondary education academic performance standards;
- 4594           ~~[(B)]~~ (ii) the completion of secondary core curriculum and graduation requirements;
- 4595           ~~[(C)]~~ (iii) the completion of a Free Application for Federal Student Aid;
- 4596           ~~[(D)]~~ (iv) need-based measures that address college affordability and access; and
- 4597           ~~[(E)]~~ (v) minimum enrollment requirements in an eligible institution; and
- 4598           ~~[(iv)]~~ (d) a requirement for each eligible institution to annually report to the board on
- 4599 all Regents' scholarships awarded by the eligible institution.

4600           ~~[(b) In making rules described in Subsection (6)(a) that apply to a technical college, the~~  
 4601 ~~board shall consult with the Utah System of Technical Colleges Board of Trustees.]~~

4602           (7) The board shall annually report on the program to the Higher Education  
 4603 Appropriations Subcommittee.

4604           (8) (a) The State Board of Education, a school district, or a public high school shall  
 4605 cooperate with the board and eligible institutions to facilitate the program, including by  
 4606 exchanging relevant data where allowed by law.

4607           (b) The State Board of Education shall annually provide to the board a list of directory  
 4608 information, including name and address, for each grade 8 student in the state.

4609           (9) Notwithstanding the provisions in this section, a private, nonprofit college or  
 4610 university in the state that is accredited by the Northwest Commission on Colleges and  
 4611 Universities is an eligible institution for purposes of providing a Regents' scholarship to an  
 4612 eligible student who applies for a Regents' scholarship on or before July 1, 2019.

4613           (10) If money appropriated under this section is available after Regents' scholarships  
 4614 are awarded, the board shall use the money for the Access Utah Promise Scholarship Program  
 4615 created in Section [53B-8-302](#).

4616           Section 94. Section **53B-8-301** is amended to read:

4617           **53B-8-301. Definitions.**

4618           As used in this part:

4619 (1) "Access Utah promise scholarship" or "promise scholarship" means a scholarship  
4620 described in Section 53B-8-303.

4621 (2) "Eligible individual" means an individual who:

4622 (a) applies for a promise scholarship in accordance with Section 53B-8-303; and

4623 (b) meets the eligibility requirements described in Section 53B-8-303.

4624 (3) "Fee" means:

4625 (a) for an institution that is [~~part of the Utah System of Higher Education~~] a  
4626 degree-granting institution, a fee approved by the board; or

4627 (b) for an institution that is a technical college, a fee approved by the institution.

4628 (4) "Institution of higher education" or "institution" means an institution described in  
4629 Section 53B-1-102.

4630 (5) "Partner award" means a financial award described in Section 53B-8-304.

4631 (6) "Promise partner" means an employer that participates in the program described in  
4632 Section 53B-8-304.

4633 Section 95. Section 53B-8-303 is amended to read:

4634 **53B-8-303. Access Utah promise scholarships.**

4635 (1) An individual may apply for a promise scholarship in accordance with the rules  
4636 described in Subsection (8).

4637 (2) An individual is eligible to receive a promise scholarship if the individual:

4638 (a) (i) has a high school diploma or the equivalent; and

4639 (ii) does not have an associate or higher postsecondary degree;

4640 (b) demonstrates financial need, in accordance with the rules described in Subsection  
4641 (8);

4642 (c) is a Utah resident;

4643 (d) enrolls in an institution; and

4644 (e) accepts all other grants, tuition or fee waivers, and scholarships offered to the  
4645 individual to attend the institution in which the individual enrolls.

4646           (3) Subject to legislative appropriations, and in accordance with the rules described in  
4647 Subsection (8), the board shall annually distribute money for promise scholarships to each  
4648 institution.

4649           (4) (a) Except as provided in Subsection (4)(d), an institution shall award a promise  
4650 scholarship to an eligible individual.

4651           (b) For a promise scholarship recipient, an institution shall:

4652           (i) evaluate the recipient's knowledge, skills, and competencies acquired through  
4653 formal or informal education outside the traditional postsecondary academic environment; and

4654           (ii) award credit, as applicable, for the recipient's prior learning described in Subsection  
4655 (4)(b)(i).

4656           (c) An institution shall award a promise scholarship in an amount that is equal to the  
4657 difference between:

4658           (i) the total cost of tuition and fees for the program in which the recipient is enrolled;  
4659 and

4660           (ii) the total value of all other grants, tuition waivers, fee waivers, and scholarships  
4661 received by the recipient to attend the institution.

4662           (d) If an institution's distribution described in Subsection (3) is insufficient to award a  
4663 promise scholarship to each eligible individual in the amount described in Subsection (4)(c),  
4664 the institution:

4665           (i) shall, when possible, use other funding sources to fully fund the amount described  
4666 in Subsection (4)(c) for each eligible individual; and

4667           (ii) may prioritize promise scholarships based on financial need in accordance with the  
4668 rules described in Subsection (8).

4669           (e) An institution may use up to 3% of the institution's distribution described in  
4670 Subsection (3) for administration.

4671           (5) An institution shall continue to award a promise scholarship to a recipient who  
4672 meets the requirements established by the board in the rules described in Subsection (8) until

4673 the earliest of the following:

- 4674 (a) two years after the recipient initially receives a promise scholarship;
- 4675 (b) the recipient uses a promise scholarship to attend an institution for four semesters;
- 4676 (c) the recipient completes the requirements for an associate degree; or
- 4677 (d) if the recipient attends an institution that does not offer associate degrees, the
- 4678 recipient has 60 earned credit hours.

4679 (6) A recipient may only use a promise scholarship for tuition and fees.

4680 (7) A promise scholarship is transferable between institutions.

4681 (8) ~~[(a)]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
4682 Act, ~~[and Subsection (8)(b),]~~ the board shall make rules to establish:

4683 ~~[(i)]~~ (a) requirements related to whether an individual is eligible for a promise  
4684 scholarship, including:

4685 ~~[(A)]~~ (i) a process for an eligible individual to defer a promise scholarship;

4686 ~~[(B)]~~ (ii) how an individual demonstrates financial need for purposes of receiving a  
4687 promise scholarship; and

4688 ~~[(C)]~~ (iii) how to determine whether an individual is a Utah resident;

4689 ~~[(ii)]~~ (b) a process and requirements for an individual to apply for a promise  
4690 scholarship;

4691 ~~[(iii)]~~ (c) a formula to determine the distributions to each institution described in  
4692 Subsection (3) that takes into account:

4693 ~~[(A)]~~ (i) the cost of tuition and fees for programs offered by institutions; and

4694 ~~[(B)]~~ (ii) the number of eligible individuals who attend each institution;

4695 ~~[(iv)]~~ (d) how an institution may prioritize awarding scholarships based on the  
4696 financial needs of eligible individuals;

4697 ~~[(v)]~~ (e) conditions a recipient is required to meet to continue to receive a promise  
4698 scholarship, including requirements related to academic achievement and enrollment status;

4699 and

4700           ~~[(vi)]~~ (f) a requirement that in communicating about promise scholarships to recipients  
4701 and potential recipients, the board and institutions do not portray the Access Utah Promise  
4702 Scholarship Program as a program that is guaranteed to be in effect indefinitely.

4703           ~~[(b) In making the rules described in Subsection (8)(a), the board shall consult with the~~  
4704 ~~Utah System of Technical Colleges Board of Trustees.]~~

4705           (9) On or before November 1 each year, the board shall report to the Higher Education  
4706 Appropriations Subcommittee regarding promise scholarships, including:

4707           (a) the number of scholarships awarded; and

4708           (b) whether the promise scholarship program is effective in helping underserved  
4709 students access higher education.

4710           Section 96. Section **53B-8a-102.5** is amended to read:

4711           **53B-8a-102.5. Definitions for part.**

4712           As used in this part:

4713           (1) "Administrative fund" means the money used to administer the Utah Educational  
4714 Savings Plan.

4715           (2) "Board" means the board of directors of the Utah Educational Savings Plan, which  
4716 is the ~~[State Board of Regents]~~ Utah Board of Higher Education acting in the ~~[State Board of~~  
4717 ~~Regents']~~ Utah Board of Higher Education's capacity as the Utah Higher Education Assistance  
4718 Authority under Title 53B, Chapter 12, Higher Education Assistance Authority.

4719           (3) "Endowment fund" means the endowment fund established under Section  
4720 **53B-8a-107**, which is held as a separate fund within the Utah Educational Savings Plan.

4721           (4) "Executive director" means the administrator appointed to administer and manage  
4722 the Utah Educational Savings Plan.

4723           (5) "Federally insured depository institution" means an institution whose deposits and  
4724 accounts are to any extent insured by a federal deposit insurance agency, including the Federal  
4725 Deposit Insurance Corporation and the National Credit Union Administration.

4726           (6) "Grantor trust" means a trust, the income of which is for the benefit of the grantor

4727 under Section 677, Internal Revenue Code.

4728 (7) "Higher education costs" means qualified higher education expenses as defined in  
4729 Section 529(e)(3), Internal Revenue Code.

4730 (8) "Owner of the grantor trust" means one or more individuals who are treated as an  
4731 owner of a trust under Section 677, Internal Revenue Code, if that trust is a grantor trust.

4732 (9) "Program fund" means the program fund created under Section 53B-8a-107, which  
4733 is held as a separate fund within the Utah Educational Savings Plan.

4734 (10) "Qualified investment" means an amount invested in accordance with an account  
4735 agreement established under this part.

4736 (11) "Tuition and fees" means the quarterly or semester charges imposed to attend an  
4737 institution of higher education and required as a condition of enrollment.

4738 Section 97. Section 53B-8a-204 is amended to read:

4739 **53B-8a-204. Distribution of program money -- Application process --**

4740 **Prioritization -- Account agreements.**

4741 (1) The plan shall distribute money in the program by creating a 529 savings account  
4742 for an eligible individual identified by a community partner.

4743 (2) (a) (i) The plan shall carry out the responsibility described in Subsection (1) by  
4744 establishing a process in which a community partner may apply for an allocation of program  
4745 money to designate for eligible individuals.

4746 (ii) The [~~State Board of Regents~~] Utah Board of Higher Education shall establish the  
4747 application process for a community partner to apply for an allocation of program money.

4748 (iii) The application process described in Subsection (2)(a)(ii) shall include:

4749 (A) the criteria for a community partner to apply for an allocation of program money;

4750 (B) the criteria that the plan will use to prioritize applications if the dollar amounts  
4751 requested in the applications exceed the dollar amount available;

4752 (C) the requirements for establishing a 529 savings account in the name of an eligible  
4753 individual; and



4754 (D) the roles and responsibilities of a community partner that makes a successful  
4755 application for an allocation of program money.

4756 (b) (i) A community partner that receives an allocation of program money shall enter  
4757 into a contract with the plan.

4758 (ii) The contract described in Subsection (2)(b)(i) shall:

4759 (A) define the roles and responsibilities of the community partner and the plan with  
4760 regard to the community partner's allocation of program money; and

4761 (B) specify that the individual the community partner identifies to receive a portion of  
4762 the community partner's allocation is an eligible individual.

4763 (3) If the plan approves a community partner's application for an allocation of program  
4764 money, the plan may not promise or otherwise encumber the allocation to any other person  
4765 unless the allocation is forfeited under Subsection (5)(b)(ii).

4766 (4) (a) A community partner shall identify each eligible individual who will receive a  
4767 portion of the community partner's allocation of program money.

4768 (b) After a community partner identifies an eligible individual to receive a portion of  
4769 the community partner's allocation, the community partner shall notify the plan of:

4770 (i) the amount of the community partner's allocation that shall transfer to a 529 savings  
4771 account in the name of the identified eligible individual; and

4772 (ii) the amount, if any, that the community partner will be contributing in accordance  
4773 with Part 1, Utah Educational Savings Plan, to the 529 savings account on behalf of the  
4774 identified eligible individual.

4775 (5) (a) Upon receiving the information described in Subsection (4)(b), the plan shall  
4776 establish a 529 savings account for the identified eligible individual, with the community  
4777 partner as the account owner.

4778 (b) The community partner shall inform the beneficiary that:

4779 (i) within three years after the day on which the beneficiary graduates from high  
4780 school, the beneficiary shall enroll in:

4781 (A) a credit-granting institution of higher education within the state system of higher  
4782 education;

4783 (B) a private, nonprofit college or university in the state that is accredited by the  
4784 Northwestern Association of Schools and Colleges; or

4785 (C) a technical college; and

4786 (ii) if the beneficiary fails to enroll within three years after the day on which the  
4787 beneficiary graduates from high school, any money that remains in the 529 savings account  
4788 shall be returned to the program.

4789 (c) After entering into the account agreement described in Subsection (5)(a), the plan  
4790 shall deposit into the beneficiary's 529 savings account the amount of the allocation described  
4791 in Subsection (4)(b)(i).

4792 Section 98. Section **53B-8e-103** is amended to read:

4793 **53B-8e-103. Tuition waivers for Purple Heart recipients -- Qualifications --**  
4794 **Limitations.**

4795 (1) Beginning in the 2004-05 academic year, a state institution of higher education  
4796 shall waive undergraduate tuition for each Purple Heart recipient who:

4797 (a) is admitted as a full-time, part-time, or summer school student in an undergraduate  
4798 program of study leading to a degree or certificate;

4799 (b) is a resident student of the state as determined under Section [53B-8-102](#); and

4800 (c) submits verification as provided in Subsection (3) that the student is a Purple Heart  
4801 recipient.

4802 (2) (a) Beginning in the 2008-09 academic year, a state institution of higher education  
4803 shall waive graduate tuition as provided in this Subsection (2) for each Purple Heart recipient  
4804 who:

4805 (i) is admitted as a full-time, part-time, or summer school student in a graduate  
4806 program of study leading to a degree;

4807 (ii) is a resident student of the state as determined under Section [53B-8-102](#); and

4808 (iii) submits verification as provided in Subsection (3) that the student is a Purple Heart  
4809 recipient.

4810 (b) To qualify for a graduate tuition waiver, a Purple Heart recipient shall apply for a  
4811 graduate program no later than 10 years from the day on which the Purple Heart recipient  
4812 completes an undergraduate degree.

4813 (c) The total amount of all graduate tuition waived for a Purple Heart recipient may not  
4814 exceed \$10,000.

4815 (d) A Purple Heart recipient may receive a graduate tuition waiver for a period of time  
4816 that does not exceed the lesser of:

4817 (i) the time it takes for the Purple Heart recipient to complete a graduate degree; or

4818 (ii) five years after the day on which the Purple Heart recipient is accepted to a  
4819 graduate program.

4820 (3) A Purple Heart recipient seeking a tuition waiver shall request the Department of  
4821 Veterans and Military Affairs to provide the verification required by Subsection (1)(c). The  
4822 Department of Veterans and Military Affairs shall provide the verification upon obtaining  
4823 evidence satisfactory to the division that the student is a Purple Heart recipient.

4824 (4) The [~~State Board of Regents~~] board may request reimbursement from the  
4825 Legislature for costs incurred in providing the tuition waiver under this section.

4826 Section 99. Section **53B-10-201** is amended to read:

4827 **53B-10-201. Definitions.**

4828 As used in this part:

4829 (1) "Full-time" means the number of credit hours the board determines is full-time  
4830 enrollment for a student.

4831 (2) "GOED" means the Governor's Office of Economic Development created in  
4832 Section [63N-1-201](#).

4833 (3) "Incentive loan" means a loan described in Section [53B-10-202](#).

4834 (4) "Institution" means an institution of higher education [~~that is part of the Utah~~]

4835 ~~System of Higher Education]~~ described in Subsection 53B-1-102(1)(a).

4836 (5) "Program" means the Talent Development Incentive Loan Program created in  
4837 Section 53B-10-202.

4838 (6) "Qualifying degree" means an associate's or a bachelor's degree that qualifies an  
4839 individual to work in a qualifying job, as determined by GOED under Section 53B-10-203.

4840 (7) "Qualifying job" means a job:

4841 (a) described in Section 53B-10-203 for which an individual may receive an incentive  
4842 loan for the current two-year period; or

4843 (b) (i) that was selected in accordance with Section 53B-10-203 at the time a recipient  
4844 received an incentive loan; and

4845 (ii) (A) for which the recipient is pursuing a qualifying degree;

4846 (B) for which the recipient completed a qualifying degree; or

4847 (C) in which the recipient is working.

4848 (8) "Recipient" means an individual who receives an incentive loan.

4849 Section 100. Section 53B-11-104 is amended to read:

4850 **53B-11-104. Eligibility for student financial aid -- Filing of selective service**  
4851 **status.**

4852 (1) A male born after December 31, 1959, may not receive any state-supported loan,  
4853 grant, or scholarship for attendance at a postsecondary institution within the state unless he has  
4854 filed a statement of selective service status with the institution.

4855 (2) The statement shall certify one of the following:

4856 (a) that the male has registered with the selective service system in accordance with the  
4857 Military Selective Service Act, 50 U.S.C. Sec. 3802, as amended;

4858 (b) that the male is not required to register with the selective service system because he  
4859 is:

4860 (i) under 18 or over 26 years of age;

4861 (ii) on active duty with the armed forces of the United States other than for training in a

4862 reserve or national guard unit;

4863 (iii) a nonimmigrant alien lawfully in the United States in accordance with the  
4864 Immigration and Nationality Act, 8 U.S.C. Sec. 1101(a)(15); or

4865 (iv) not a citizen of the United States and is a permanent resident of the Trust Territory  
4866 of the Pacific Islands or the Northern Mariana Islands.

4867 (3) (a) The board [~~of regents~~], through the commissioner of higher education, shall  
4868 specify the form of statement to be filed under Subsection (2).

4869 (b) Each statement shall contain a section:

4870 (i) certifying registration with the selective service system and a space for the student  
4871 to record his selective service number; and

4872 (ii) for the certification of nonregistration and for an explanation of the reason for  
4873 exemption.

4874 (c) The board may require documentation for the certifications under Subsection (3)(b).

4875 (4) Postsecondary institutions within the state may not make or guarantee any loan,  
4876 grant, scholarship, or other state-supported financial assistance to a male student unless the  
4877 student has filed the statement required under Subsection (1).

4878 (5) (a) If a postsecondary institution within the state has received a statement certifying  
4879 that the individual is registered under Subsection (2)(a) or is exempt from registration for a  
4880 reason other than he is under 18 years of age, the individual is not required to file any further  
4881 statement with the institution under this section.

4882 (b) If the institution receives a statement of exemption because the individual is under  
4883 18 years of age, it shall require the filing of a new statement each time the individual seeks to  
4884 apply for financial assistance for educational expenses, until it receives a statement certifying  
4885 that the individual has registered with the selective service system or is exempt from  
4886 registration for a reason other than being under 18 years of age.

4887 Section 101. Section **53B-12-102** is amended to read:

4888 **53B-12-102. Separation of duties, responsibilities, funds, liabilities, and expenses**

4889 -- **Appointment of board of directors -- No state or local debt -- Minors eligible for loans.**

4890 (1) As used in this section, "fiduciary or commercial information" means information:

4891 (a) related to any subject if the disclosure of the information:

4892 (i) would conflict with fiduciary obligations; or

4893 (ii) is prohibited by insider trading provisions; or

4894 (b) of a commercial nature, including information related to:

4895 (i) account owners or borrowers;

4896 (ii) demographic data;

4897 (iii) contracts and related payments;

4898 (iv) negotiations;

4899 (v) proposals or bids;

4900 (vi) investments;

4901 (vii) the investment and management of funds;

4902 (viii) fees and charges;

4903 (ix) plan and program design;

4904 (x) investment options and underlying investments offered to account owners;

4905 (xi) marketing and outreach efforts;

4906 (xii) lending criteria;

4907 (xiii) the structure and terms of bonding;

4908 (xiv) financial plans; or

4909 (xv) reviews and audits, except the final report of the annual audit of financial

4910 statements required under Section [53B-8a-111](#).

4911 (2) The duties, responsibilities, funds, liabilities, and expenses of the board as the Utah  
4912 Higher Education Assistance Authority shall be maintained separate and apart from its other  
4913 duties, responsibilities, funds, liabilities, and expenses.

4914 (3) (a) In order to carry out the obligation of separation of functions required under  
4915 Subsection (2), the board may appoint a board of directors of the authority, and designate its

4916 chairman to govern and manage the authority.

4917 (b) The board of directors consists of not less than five persons, not more than  
4918 two-thirds of whom may be members of the [~~State Board of Regents~~] board.

4919 (c) The board of directors reports to and serves at the pleasure of the [~~State Board of~~  
4920 ~~Regents~~] board, and has all of the powers, duties, and responsibilities of the Utah Higher  
4921 Education Assistance Authority except for those expressly retained by the [~~State Board of~~  
4922 ~~Regents~~] board.

4923 (4) All meetings of the Utah Higher Education Assistance Authority and its appointed  
4924 board of directors shall be open to the public, except those meetings or portions of meetings  
4925 that are closed as authorized by Sections [52-4-204](#) and [52-4-205](#), including to discuss fiduciary  
4926 or commercial information.

4927 (5) An obligation incurred under this chapter does not constitute a debt of the state or  
4928 any of its political subdivisions.

4929 (6) (a) A person who would otherwise qualify for a loan guaranteed by the authority is  
4930 not disqualified because that person is a minor.

4931 (b) For the purpose of applying for, receiving, and repaying a loan, a minor has full  
4932 legal capacity to act and has all the rights, powers, privileges, and obligations of a person of  
4933 full age with respect to the loan.

4934 Section 102. Section **53B-16-101** is amended to read:

4935 **53B-16-101. Establishment of institutional roles and general courses of study.**

4936 (1) Except as institutional roles are specifically assigned by the Legislature, the board:

4937 (a) [~~may~~] shall establish and define the roles of the various institutions of higher  
4938 education [~~under the board's control and management~~]; and

4939 (b) shall, within each institution of higher education's primary role, prescribe the  
4940 general course of study to be offered at the institution of higher education, including for:

4941 (i) research universities, which provide undergraduate, graduate, and research programs  
4942 and include:

- 4943 (A) the University of Utah; and
- 4944 (B) Utah State University;
- 4945 (ii) regional universities, which provide career and technical education, undergraduate
- 4946 associate and baccalaureate programs, and select master's degree programs to fill regional
- 4947 demands and include:
- 4948 (A) Weber State University;
- 4949 (B) Southern Utah University;
- 4950 (C) Dixie State University; and
- 4951 (D) Utah Valley University; [~~and~~]
- 4952 (iii) comprehensive community colleges, which provide associate programs and
- 4953 include:
- 4954 (A) Salt Lake Community College; and
- 4955 (B) Snow College[-]; and
- 4956 (iv) technical colleges and degree-granting institutions that provide technical
- 4957 education, and include:
- 4958 (A) each technical college;
- 4959 (B) Salt Lake Community College's School of Applied Technology's technical
- 4960 education role described in Section 53B-16-209;
- 4961 (C) each Utah State University regional institution's technical education role described
- 4962 in Section 53B-16-207; and
- 4963 (D) Snow College's technical education role described in Section 53B-16-205.
- 4964 (2) (a) Except for the University of Utah, and subject to Subsection (2)(b), each
- 4965 institution of higher education described in [~~Subsection~~] Subsections (1)(b)(i) through (iii) has
- 4966 career and technical education included in the institution of higher education's primary role.
- 4967 (b) The board shall determine the extent to which an institution described in
- 4968 Subsection (2)(a) provides career and technical education within the institution's primary role.
- 4969 (3) The board [~~may~~] shall further clarify each institution of higher education's primary



4970 role[-] by clarifying:

4971 (a) the level of program that the institution of higher education generally offers;

4972 (b) broad fields that are within the institution of higher education's mission; and

4973 (c) any special characteristics of the institution of higher education, such as being a

4974 land grant university.

4975 (4) On or before November 1, 2020, the board shall report to the Higher Education

4976 Strategic Planning Commission on the board's activities related to defining and clarifying each

4977 institution's role.

4978 Section 103. Section **53B-16-102** is amended to read:

4979 **53B-16-102. Changes in curriculum -- Substantial alterations in institutional**

4980 **operations -- Program approval -- Periodic review of programs -- Career and technical**

4981 **education curriculum changes.**

4982 (1) As used in this section:

4983 (a) "Institution of higher education" means an institution described in [Subsection

4984 ~~53B-1-102~~(1)(a)] Section 53B-1-102.

4985 (b) "Program of instruction" means a program of curriculum that leads to the

4986 completion of a degree, diploma, certificate, or other credential.

4987 (2) Under procedures and policies approved by the board and developed in consultation

4988 with each institution of higher education, each institution of higher education may make such

4989 changes in the institution of higher education's curriculum as necessary to better effectuate the

4990 institution of higher education's primary role.

4991 ~~[(3) An institution of higher education shall notify the board of a proposed new~~

4992 ~~program of instruction.]~~

4993 (3) The board shall establish criteria for whether an institution of higher education may

4994 approve a new program of instruction, including criteria related to whether:

4995 (a) the program of instruction meets identified workforce needs;

4996 (b) the institution of higher education is maximizing collaboration with other

4997 institutions of higher education to provide for efficiency in offering the program of instruction;

4998 (c) the new program of instruction is within the institution of higher education's  
4999 mission and role; and

5000 (d) the new program of instruction meets other criteria determined by the board.

5001 (4) (a) ~~[Without]~~ Except as provided in Subsection (4)(b), without the approval of the  
5002 board, an institution of higher education may not:

5003 (i) establish a branch, extension center, college, or professional school; or

5004 (ii) establish a new program of instruction ~~[that is outside of the institution of higher~~  
5005 ~~education's primary role described in Section 53B-16-101].~~

5006 (b) An institution of higher education may, with the approval of the institution of  
5007 higher education's board of trustees, establish a new program of instruction that ~~[is within the~~  
5008 ~~institution of higher education's primary role described in Section 53B-16-101]~~ meets the  
5009 criteria described in Subsection (3).

5010 (5) (a) An institution of higher education shall notify the board of a proposed new  
5011 program of instruction, including how the proposed new program of instruction meets the  
5012 criteria described in Subsection (3).

5013 (b) The board shall establish procedures and guidelines for institutional boards of  
5014 trustees to consider an institutional proposal for a new program of instruction described in  
5015 Subsection (4)(b).

5016 ~~[(b) The guidelines described in Subsection (5)(a) shall provide that:]~~

5017 ~~[(i) prior to seeking approval from the institution of higher education's board of~~  
5018 ~~trustees, an institution of higher education that proposes a new program of instruction submit~~  
5019 ~~the proposal to the commissioner to conduct a peer review by other institutions of higher~~  
5020 ~~education;]~~

5021 ~~[(ii) the commissioner issue a report with the results of a peer review described in~~  
5022 ~~Subsection (5)(b)(i) to the board and the board of trustees of the institution of higher education~~  
5023 ~~proposing the new program of instruction; and]~~

5024           ~~[(iii) an institution of higher education that proposes a new program of instruction~~  
5025 ~~include:]~~

5026           ~~[(A) a fiscal analysis of the new program of instruction's initial and ongoing costs; and]~~

5027           ~~[(B) the institution of higher education's source of funding for the new program of~~  
5028 ~~instruction.]~~

5029           (6) (a) The board shall conduct a periodic review of all new programs of instruction,  
5030 including those funded by gifts, grants, and contracts, no later than two years after the first  
5031 cohort to begin the program of instruction completes the program of instruction.

5032           (b) The board may conduct a periodic review of any program of instruction at an  
5033 institution of higher education, including a program of instruction funded by a gift, grant, or  
5034 contract.

5035           (c) Following a review described in this Subsection (6), the board may recommend that  
5036 the institution of higher education modify or terminate the program of instruction.

5037           (7) Prior to requiring modification or termination of a program, the board shall give the  
5038 institution of higher education adequate opportunity for a hearing before the board.

5039           (8) In making decisions related to career and technical education curriculum changes,  
5040 the board shall coordinate on behalf of the boards of trustees of higher education institutions a  
5041 review of the proposed changes by the State Board of Education ~~[and the Utah System of~~  
5042 ~~Technical Colleges Board of Trustees]~~ to ensure an orderly and systematic career and technical  
5043 education curriculum that eliminates overlap and duplication of course work with high schools  
5044 and technical colleges.

5045           Section 104. Section **53B-16-105** is amended to read:

5046           **53B-16-105. Common course numbering -- Transferability of credits --**  
5047 **Agreement with competency-based general education provider -- Policies.**

5048           (1) As used in this section:

5049           (a) "Articulation agreement" means an agreement between the board and a provider  
5050 that allows a student to transfer credit awarded by the provider for a general education course

5051 to any institution of higher education.

5052 (b) "Competency-based" means a system where a student advances to higher levels of  
5053 learning when the student demonstrates competency of concepts and skills regardless of time,  
5054 place, or pace.

5055 (c) "Competency-based general education provider" or "provider" means a private  
5056 institution that:

5057 (i) offers a postsecondary competency-based general education course online or in  
5058 person;

5059 (ii) awards academic credit; and

5060 (iii) does not award degrees, including associates degrees or baccalaureate degrees.

5061 (d) "Credit for prior learning" means the same as that term is defined in Section  
5062 [53B-16-110](#).

5063 (e) "Institution of higher education" means an institution [~~within the Utah System of~~  
5064 ~~Higher Education~~] described in Section [53B-1-102](#).

5065 (f) "Regionally accredited institution" means an institution that:

5066 (i) offers a competency-based postsecondary general education course online or in  
5067 person; and

5068 (ii) is accredited by a regional accrediting body recognized by the United States  
5069 Department of Education.

5070 [~~(g) "Utah System of Higher Education" means the institutions described in Subsection~~  
5071 ~~[53B-1-102\(1\)\(a\)](#).~~]

5072 (2) The board shall:

5073 (a) facilitate articulation and the seamless transfer of courses, programs, and credit for  
5074 prior learning within the Utah [~~System of Higher Education~~] system of higher education;

5075 (b) provide for the efficient and effective progression and transfer of students within  
5076 the Utah [~~System of Higher Education~~] system of higher education;

5077 (c) avoid the unnecessary duplication of courses;

- 5078 (d) communicate ways in which a student may earn credit for prior learning; and  
5079 (e) allow a student to proceed toward the student's educational objectives as rapidly as  
5080 the student's circumstances permit.
- 5081 (3) The board shall develop, coordinate, and maintain a transfer and articulation system  
5082 [~~within the Utah System of Higher Education~~] that:
- 5083 (a) maintains a course numbering system that assigns common numbers to specified  
5084 courses of similar level with similar curricular content, rigor, and standards;
- 5085 (b) allows a student to track courses that transfer among institutions of higher  
5086 education to meet requirements for general education and lower division courses that transfer  
5087 to baccalaureate majors;
- 5088 (c) allows a student to transfer courses from a provider with which the board has an  
5089 articulation agreement to any institution of higher education;
- 5090 (d) allows a student to transfer competency-based general education courses from a  
5091 regionally accredited institution to an institution of higher education;
- 5092 (e) improves program planning;
- 5093 (f) increases communication and coordination between institutions of higher education;
- 5094 (g) facilitates student acceleration and the transfer of students and credits between  
5095 institutions of higher education; and
- 5096 (h) if the system includes a software or data tool:
- 5097 (i) provides predictive analysis that models probabilities of student success; and  
5098 (ii) develops tailored strategies to best support students.
- 5099 (4) (a) The board shall identify general education courses in the humanities, social  
5100 sciences, arts, physical sciences, and life sciences with uniform prefixes and common course  
5101 numbers.
- 5102 (b) [~~An institution of higher education~~] A degree-granting institution shall annually  
5103 identify institution courses that satisfy requirements of courses described in Subsection (4)(a).
- 5104 (c) [~~An institution of higher education~~] A degree-granting institution shall accept a

5105 course described in Subsection (3)(c), (3)(d), or (4)(a) toward filling specific area requirements  
5106 for general education or lower division courses that transfer to baccalaureate majors.

5107 (5) (a) The board shall identify common prerequisite courses and course substitutions  
5108 for degree programs across [~~institutions of higher education~~] degree-granting institutions.

5109 (b) The commissioner shall appoint committees of faculty members from the  
5110 [~~institutions of higher education~~] degree-granting institutions to recommend appropriate  
5111 courses of similar content and numbering that will satisfy requirements for lower division  
5112 courses that transfer to baccalaureate majors.

5113 (c) [~~An institution of higher education~~] A degree-granting institution shall annually  
5114 identify institution courses that satisfy requirements of courses described in Subsection (5)(a).

5115 (d) [~~An institution of higher education~~] A degree-granting institution shall accept a  
5116 course described in Subsection (3)(c), (3)(d), or (5)(a) toward filling graduation requirements.

5117 (6) (a) (i) The board shall seek proposals from providers to enter into articulation  
5118 agreements.

5119 (ii) A proposal described in Subsection (6)(a)(i) shall include the general education  
5120 courses that the provider intends to include in an articulation agreement.

5121 (b) The board shall:

5122 (i) evaluate each general education course included in a proposal described in  
5123 Subsection (6)(a) to determine whether the course is equally rigorous and includes the same  
5124 subject matter as the equivalent course offered by any institution of higher education; and

5125 (ii) if the board determines that a course included in a provider's proposal is equally  
5126 rigorous and includes the same subject matter as the equivalent course offered by any  
5127 institution of higher education, enter into an articulation agreement with the provider.

5128 (7) The board shall establish policies to administer the policies and requirements  
5129 described in this section.

5130 (8) The board shall include information demonstrating that institutions of higher  
5131 education are complying with the provisions of this section and the policies established in

5132 accordance with Subsection (7) in the annual report described in Section [53B-1-107]  
5133 53B-1-402.

5134 Section 105. Section **53B-16-107** is amended to read:

5135 **53B-16-107. Credit for military service and training -- Notification --**  
5136 **Transferability -- Reporting.**

5137 (1) As used in this section, "credit" includes proof of equivalent noncredit course  
5138 completion awarded by a technical college.

5139 (2) An institution of higher education listed in Section **53B-2-101** shall provide written  
5140 notification to each student applying for admission that the student is required to meet with a  
5141 college counselor in order to receive credit for military service and training as recommended by  
5142 a postsecondary accreditation agency or association designated by the board [~~or the Utah~~  
5143 ~~System of Technical Colleges Board of Trustees~~] if:

5144 (a) credit for military service and training is requested by the student; and

5145 (b) the student has met with an advisor at an institution of higher education listed in  
5146 Section **53B-2-101** at which the student intends to enroll to discuss applicability of credit to  
5147 program requirements, possible financial aid implications, and other factors that may impact  
5148 attainment of the student's educational goals.

5149 (3) Upon transfer within the state system of higher education, a student may present a  
5150 transcript to the receiving institution of higher education for evaluation and to determine the  
5151 applicability of credit to the student's program of study, and the receiving institution of higher  
5152 education shall evaluate the credit to be transferred in accordance with Subsection (2) and the  
5153 policies described in Section **53B-16-110**.

5154 (4) The board [~~and the Utah System of Technical Colleges Board of Trustees~~] shall  
5155 annually report the number of credits awarded under this section by each institution of higher  
5156 education to the Department of Veterans and Military Affairs.

5157 Section 106. Section **53B-16-110** is amended to read:

5158 **53B-16-110. Credit for prior learning -- Board plan and policies -- Reporting.**

5159 (1) As used in this section:

5160 (a) "Credit for prior learning" means credit awarded by an institution to a student who  
5161 demonstrates, through a prior learning assessment, that the student's prior learning meets  
5162 college-level competencies.

5163 (b) "Institution" means an institution of higher education [~~that is within the Utah~~  
5164 ~~System of Higher Education~~] described in Section 53B-1-102.

5165 (c) "Prior learning" means knowledge, skills, or competencies acquired through formal  
5166 or informal education outside the traditional postsecondary academic environment.

5167 (d) "Prior learning assessment" means a method of evaluating or assessing an  
5168 individual's prior learning.

5169 [~~(e) "Utah System of Higher Education" means the institutions described in Subsection~~  
5170 ~~53B-1-102(1)(a).~~]

5171 (2) [~~On or before November 1, 2019, the~~] The board shall develop a [~~systemwide~~] plan  
5172 for advising and communicating with students and the public about credit for prior learning [~~in~~  
5173 ~~the Utah System of Higher Education~~].

5174 (3) (a) [~~On or before November 1, 2019, the~~] The board shall establish policies that  
5175 provide minimum standards for all institutions regarding:

5176 (i) accepted forms of prior learning assessments;

5177 (ii) awarding credit for prior learning;

5178 (iii) transferability of credit for prior learning between institutions;

5179 (iv) transcription of credit for prior learning;

5180 (v) institutional procedures for maintaining transparency and consistency in awarding  
5181 credit for prior learning;

5182 (vi) communication to faculty, advisors, current students, and prospective students  
5183 regarding standards and cost related to credit for prior learning and prior learning assessments;

5184 (vii) required training of faculty and advisors on prior learning assessment standards  
5185 and processes; and



- 5186 (viii) portfolio-specific prior learning assessments.
- 5187 (b) The board shall ensure that accepted forms of prior learning assessments described
- 5188 in Subsection (3)(a) include at least the following:
- 5189 (i) program evaluations, completed by an institution, of noncollegiate programs or
- 5190 training courses to recognize proficiencies;
- 5191 (ii) nationally recognized, standardized examinations, including:
- 5192 (A) Advanced Placement examinations;
- 5193 (B) College Level Exam Program general examinations;
- 5194 (C) College Level Exam Program subject examinations; and
- 5195 (D) DANTES Subject Standardized Tests;
- 5196 (iii) customized examinations offered by an institution to verify an individual's learning
- 5197 achievement that may include course final examinations or other examinations that assess
- 5198 general disciplinary knowledge or skill;
- 5199 (iv) evaluations of corporate or military training; and
- 5200 (v) assessments of individuals' portfolios.
- 5201 (4) (a) The board shall establish minimum scores and maximum credit for each
- 5202 standardized examination described in Subsection (3)(b)(ii).
- 5203 (b) An institution shall award credit to a student who demonstrates competency by
- 5204 passing a standardized examination described in Subsection (3)(b)(ii) unless the award of credit
- 5205 duplicates credit already awarded.
- 5206 (5) The board shall:
- 5207 (a) create and maintain a website that provides [~~systemwide and institutional~~] statewide
- 5208 information on prior learning assessments and credit for prior learning; and
- 5209 (b) identify a software or data tool that will support the board in:
- 5210 (i) implementing the plan described in Subsection (2); and
- 5211 (ii) fulfilling the board's requirements described in Section [53B-16-105](#).
- 5212 (6) On or before the November 2019 interim meeting, the board shall report to the

5213 Education Interim Committee on:

5214 (a) the plan described in Subsection (2);

5215 (b) the policies described in Subsection (3); and

5216 (c) the software or data tool described in Subsection (5).

5217 (7) On or before May 1, 2020, an institution shall report to the board:

5218 (a) steps the institution will take to:

5219 (i) implement the plan described in Subsection (2) and the policies described in

5220 Subsection (3); and

5221 (ii) communicate to students about credit for prior learning, including about the

5222 policies described in Subsection (3);

5223 (b) a timeline for the steps described in Subsection (7)(a); and

5224 (c) each form of prior learning assessment for which the institution provides credit for  
5225 prior learning that is not described in Subsection (3)(b).

5226 (8) An institution shall annually report to the board on:

5227 (a) each form of prior learning assessment for which the institution provides credit for  
5228 prior learning; and

5229 (b) the total amount of credit for prior learning the institution provides to students.

5230 Section 107. Section **53B-16-202** is amended to read:

5231 **53B-16-202. Curricula at the community colleges.**

5232 The curricula at the colleges shall include [~~vocational~~] career and technical education,  
5233 courses of a general nature which can be transferred to other higher education institutions, adult  
5234 and continuing education, and developmental education. The colleges also provide needed  
5235 community service. [~~Vocational~~] Career and technical education continues as the highest  
5236 priority role of the colleges; and to ensure [~~its~~] continued emphasis of career and technical  
5237 education, the [~~Board of Regents~~] board shall develop specific funding mechanisms which will  
5238 maintain the high priority treatment of these programs and address the fact that many  
5239 vocational programs are more costly than general education/transfer programs.

5240 Section 108. Section **53B-16-205** is amended to read:

5241 **53B-16-205. Establishment of Snow College Richfield campus -- Supervision and**  
5242 **administration -- Transition -- Institutional mission.**

5243 (1) There is established a branch campus of Snow College in Richfield, Utah, hereafter  
5244 referred to as the Snow College Richfield campus.

5245 (2) Snow College shall administer the branch campus under the general control and  
5246 supervision of the [~~State Board of Regents~~] board as an integrated part of Snow College's  
5247 mission, programs, and curriculum.

5248 (3) Snow College shall:

5249 (a) maintain a strong curriculum in career and technical education courses at the Snow  
5250 College Richfield campus and within the region served by Snow College which can be  
5251 transferred to other institutions within the higher education system, together with lower  
5252 division courses and courses required for associate degrees in science, arts, applied science, and  
5253 career and technical education;

5254 (b) work with school districts and charter schools in developing an aggressive  
5255 concurrent enrollment program in cooperation with Snow College Richfield campus; and

5256 (c) provide, through the Snow College Richfield Campus, for open-entry, open-exit  
5257 competency-based career and technical education programs, at a low cost tuition rate for adults  
5258 and at no tuition cost to secondary students, that emphasize short-term job training or retraining  
5259 for immediate placement in the job market and serve the geographic area encompassing:

5260 (i) the Juab School District;

5261 (ii) the Millard School District;

5262 (iii) the Tintic School District;

5263 (iv) the North Sanpete School District;

5264 (v) the South Sanpete School District;

5265 (vi) the Wayne School District;

5266 (vii) the Piute School District; and

5267 (viii) the Sevier School District.

5268 (4) Snow College may not exercise any jurisdiction over career and technical education  
5269 provided by a school district or charter school independently of Snow College.

5270 (5) Snow College shall report to the [~~State Board of Regents~~] board annually on:

5271 (a) the status of and maintenance of the effort for career and technical education in the  
5272 region served by Snow College, including access to open-entry, open-exit competency-based  
5273 career and technical education programs; and

5274 (b) student tuition and fees.

5275 (6) Legislative appropriations to Snow College's career and technical education shall  
5276 be made as line items that are separate from other appropriations for Snow College.

5277 Section 109. Section **53B-16-205.5** is amended to read:

5278 **53B-16-205.5. Snow College Concurrent Education Program.**

5279 (1) As used in this section:

5280 (a) "Interactive video conferencing" means two-way, real-time transmission of audio  
5281 and video signals between devices or computers at two or more locations.

5282 (b) "Program" means the Snow College Concurrent Education Program.

5283 (2) Consistent with policies established by the [~~State Board of Regents~~] board, Snow  
5284 College shall establish and administer, subject to legislative appropriations, the Snow College  
5285 Concurrent Education Program to provide:

5286 (a) a consistent two-year schedule of concurrent enrollment courses delivered through  
5287 interactive video conferencing to secondary school students;

5288 (b) a pathway for a secondary school student to earn college credits that:

5289 (i) apply toward earning an Associate of Science or Associate of Arts degree; or

5290 (ii) satisfy scholarship requirements or other objectives that best meet the needs of an  
5291 individual student; and

5292 (c) advisory support to secondary school students who participate in the program and  
5293 the secondary school students' school counselors to ensure that students' concurrent enrollment

5294 courses align with the students' academic and career goals.

5295 Section 110. Section **53B-16-209** is amended to read:

5296 **53B-16-209. Salt Lake Community College -- School of Applied Technology --**  
5297 **Career and technical education -- Supervision and administration -- Institutional mission.**

5298 (1) (a) There is hereby established a School of Applied Technology at Salt Lake  
5299 Community College.

5300 (b) Beginning on July 1, 2009, the Salt Lake Skills Center and the Salt Lake County  
5301 portion of the Salt Lake/Tooele Applied Technology College shall be established as Salt Lake  
5302 Community College's School of Applied Technology.

5303 (2) Salt Lake Community College's School of Applied Technology is a continuation of  
5304 the Salt Lake Skills Center and the Salt Lake County portion of the Salt Lake/Tooele Applied  
5305 Technology College and shall:

5306 (a) possess all rights, title, privileges, powers, immunities, franchises, endowments,  
5307 property, and claims of the Salt Lake Skills Center and the Salt Lake County portion of the Salt  
5308 Lake/Tooele Applied Technology College; and

5309 (b) fulfill and perform all obligations of the Salt Lake Skills Center and the Salt Lake  
5310 County portion of the Salt Lake/Tooele Applied Technology College.

5311 (3) Salt Lake Community College shall administer the School of Applied Technology.

5312 (4) Salt Lake Community College's School of Applied Technology shall:

5313 (a) provide non-credit career and technical education for both secondary and adult  
5314 students, with an emphasis primarily on open-entry, open-exit programs;

5315 (b) ensure that economically disadvantaged, educationally disadvantaged, or other  
5316 at-risk students have access to non-credit career and technical education;

5317 (c) maintain a strong curriculum in non-credit career and technical education courses  
5318 which can be articulated with credit career and technical education courses within the  
5319 institution and within the state system of higher education;

5320 (d) offer noncredit, basic instruction in areas such as reading, language arts, and

5321 mathematics that are necessary for student success in a chosen career and technical education  
5322 or job-related program;

5323 (e) offer the curriculum at:

5324 (i) low cost to adult students, consistent with legislative appropriations to the School of  
5325 Applied Technology; and

5326 (ii) no tuition cost to secondary students;

5327 (f) provide noncredit career and technical education that will result in:

5328 (i) appropriate licensing, certification, or other evidence of completion of training; and

5329 (ii) qualification for specific employment, with an emphasis on high demand, high  
5330 wage, and high skill jobs in business and industry;

5331 (g) develop cooperative agreements within the geographic area served by the School of  
5332 Applied Technology with school districts, charter schools, and other higher education  
5333 institutions, businesses, industries, and community and private agencies to maximize the  
5334 availability of instructional facilities; and

5335 (h) after consulting with school districts and charter schools within the geographic area  
5336 served:

5337 (i) ensure that secondary students in the public education system have access to  
5338 non-credit career and technical education at each School of Applied Technology location; and

5339 (ii) prepare and submit an annual report to the [~~State Board of Regents~~] board  
5340 detailing:

5341 (A) how the non-credit career and technical education needs of secondary students  
5342 within the region are being met;

5343 (B) what access secondary students within the region have to programs offered at  
5344 School of Applied Technology locations;

5345 (C) how the emphasis on high demand, high wage, and high skill jobs in business and  
5346 industry is being provided; and

5347 (D) student tuition and fees.

5348 (5) Salt Lake Community College or Salt Lake Community College's School of  
5349 Applied Technology may not exercise any jurisdiction over career and technical education  
5350 provided by a school district or charter school independently of Salt Lake Community College  
5351 or Salt Lake Community College's School of Applied Technology.

5352 (6) Legislative appropriations to Salt Lake Community College's School of Applied  
5353 Technology shall be made as a line item that separates it from other appropriations for Salt  
5354 Lake Community College.

5355 Section 111. Section **53B-16-303** is amended to read:

5356 **53B-16-303. Access to restricted records.**

5357 Notwithstanding any other provision of Title 63G, Chapter 2, Government Records  
5358 Access and Management Act, access to records restricted by this part shall only be permitted  
5359 upon:

5360 (1) written consent of the public institution of higher education originating, receiving,  
5361 or maintaining such records; or

5362 (2) a finding by the State Records Committee or a court that the record has not been  
5363 properly classified as restricted under Section [63G-2-302](#), provided that the review of a  
5364 restricted classification of a record shall not include considerations of weighing public and  
5365 private interests regarding access to a properly classified record as contained in Subsection  
5366 [63G-2-403\(11\)\(b\)](#) or [63G-2-404\(7\)](#) or Section [63G-2-309](#). Nothing in this Subsection (2) shall  
5367 be construed to limit the authority of the [~~State Board of Regents~~] board to reclassify and  
5368 disclose a record of a public institution of higher education.

5369 Section 112. Section **53B-16-401** is amended to read:

5370 **53B-16-401. Definitions.**

5371 As used in this part:

5372 (1) "Cooperating employer" means a public or private entity which, as part of a work  
5373 experience and career exploration program offered through an institution of higher education,  
5374 provides interns with training and work experience in activities related to the entity's ongoing

5375 business activities.

5376 (2) "Institution of higher education" means any component of the state system of higher  
5377 education as defined under Section 53B-1-102 that is authorized by the board [~~or the Utah~~  
5378 ~~System of Technical Colleges Board of Trustees~~] to offer internship programs, and any private  
5379 institution of higher education which offers internship programs under this part.

5380 (3) "Intern" means a student enrolled in a work experience and career exploration  
5381 program under Section 53B-16-402 that is sponsored by an institution of higher education,  
5382 involving both classroom instruction and work experience with a cooperating employer, for  
5383 which the student receives no compensation.

5384 (4) "Internship" means the work experience segment of an intern's work experience and  
5385 career exploration program sponsored by an institution of higher education, performed under  
5386 the direct supervision of a cooperating employer.

5387 Section 113. Section 53B-16-402 is amended to read:

5388 **53B-16-402. Higher education internships.**

5389 An institution of higher education may offer internships in connection with work  
5390 experience and career exploration programs operated in accordance with rules of the [~~State~~  
5391 ~~Board of Regents~~] board.

5392 Section 114. Section 53B-16-501 is amended to read:

5393 **53B-16-501. Nonprofit corporations or foundations -- Purpose.**

5394 (1) Dixie State University may form a nonprofit corporation or foundation controlled  
5395 by the president of the university and the [~~Board of Regents~~] board to aid and assist the  
5396 university in attaining its charitable, communications, and other related educational objectives,  
5397 including support for media innovation, film festivals, film production, print media,  
5398 broadcasting, television, and digital media.

5399 (2) The nonprofit corporation or foundation may receive and administer legislative  
5400 appropriations, government grants, contracts, and private gifts to carry out its public purposes.

5401 Section 115. Section 53B-17-101 is amended to read:



5402           **53B-17-101. Legislative findings on public broadcasting and telecommunications**  
5403 **for education.**

5404           The Legislature finds and determines the following:

5405           (1) The University of Utah's Dolores Dore' Eccles Broadcast Center is the statewide  
5406 public broadcasting and telecommunications facility for education in Utah.

5407           (2) The center shall provide services to citizens of the state in cooperation with higher  
5408 and public education, state and local government, and private industry.

5409           (3) Distribution services provided through the center shall include KUED - TV, KUER  
5410 - FM, and KUEN - TV.

5411           (4) KUED - TV and KUER - FM are licensed to the University of Utah.

5412           (5) The Utah Education and Telehealth Network's broadcast entity, KUEN - TV, is  
5413 licensed to the [~~Utah State Board of Regents~~] Utah Board of Higher Education and, together  
5414 with UETN, is operated on behalf of the state's systems of public and higher education.

5415           (6) All the entities referred to in Subsection (3) are under the administrative  
5416 supervision of the University of Utah, subject to the authority and governance of the [~~State~~  
5417 ~~Board of Regents~~] Utah Board of Higher Education.

5418           (7) This section neither regulates nor restricts a privately owned company in the  
5419 distribution or dissemination of educational programs.

5420           Section 116. Section **53B-17-103** is amended to read:

5421           **53B-17-103. General powers of University of Utah related to public broadcasting**  
5422 **and telecommunication for education.**

5423           (1) Subject to applicable rules of the Federal Communications Commission and the  
5424 [~~State Board of Regents~~] Utah Board of Higher Education, the University of Utah shall:

5425           (a) serve as the state's provider of public television services, with programming from  
5426 the Public Broadcasting Service and other syndicated and locally produced programs;

5427           (b) serve as the state's primary provider of public radio services, with programming  
5428 from National Public Radio and other syndicated and locally produced programs; and

5429 (c) subject to Section 53B-7-103, accept and use gifts and apply for and receive funds  
5430 from federal and other sources to carry out the purposes of this part.

5431 (2) Subject to future budget constraints, the Legislature shall provide an annual  
5432 appropriation to operate KUED - TV.

5433 (3) This section neither regulates nor restricts a privately owned company in the  
5434 distribution or dissemination of educational programs.

5435 Section 117. Section 53B-17-104 is amended to read:

5436 **53B-17-104. Responsibilities of the Utah Board of Higher Education, the State**  
5437 **Board of Education, the University of Utah, KUED - TV, KUER - FM, and UETN related**  
5438 **to public broadcasting and telecommunication for education and government.**

5439 (1) Subject to applicable rules of the Federal Communications Commission and  
5440 Section 53B-17-105, the [~~State Board of Regents~~] Utah Board of Higher Education, the State  
5441 Board of Education, the University of Utah, KUED - TV, KUER - FM, and UETN shall:

5442 (a) coordinate statewide services of public radio and television;

5443 (b) develop, maintain, and operate statewide distribution systems for KUED - TV,  
5444 KUER - FM, and KUEN, the statewide distance learning service, the educational data network,  
5445 connections to the Internet, and other telecommunications services appropriate for providing  
5446 video, audio, and data telecommunication services in support of public and higher education,  
5447 state government, and public libraries;

5448 (c) support the delivery of these services to as many communities as may be  
5449 economically and technically feasible and lawfully permissible under the various operating  
5450 licenses;

5451 (d) cooperate with state and local governmental and educational agencies and provide  
5452 leadership and consulting service for telecommunication for education;

5453 (e) represent the state with privately owned telecommunications systems to gain access  
5454 to their networks for the delivery of programs and services sponsored or produced by public  
5455 and higher education;

5456 (f) acquire, produce, coordinate, and distribute a variety of programs and services of an  
5457 educational, cultural, informative, and entertaining nature designed to promote the public  
5458 interest and welfare of the state;

5459 (g) coordinate with the state system of higher education to acquire, produce, and  
5460 distribute broadcast and nonbroadcast college credit telecourses, teleconferences, and other  
5461 instructional and training services;

5462 (h) coordinate with school districts and public schools to acquire, produce, and  
5463 distribute broadcast and nonbroadcast telecourses, teleconferences, and other instructional and  
5464 training services to the public schools;

5465 (i) coordinate the development of a clearing house for the materials, courses,  
5466 publications, media, software, and other applicable information related to the items addressed  
5467 in Subsections (1)(g) and (h);

5468 (j) coordinate the provision of the following services to public schools:

5469 (i) broadcast, during school hours, of educational and administrative programs  
5470 recommended by the State Board of Education;

5471 (ii) digitization of programs for broadcast purposes; and

5472 (iii) program previewing;

5473 (k) share responsibility for Instructional Television (ITV) awareness and utilization;

5474 and

5475 (l) provide teleconference and training services for state and local governmental  
5476 agencies.

5477 (2) This section neither regulates nor restricts a privately owned company in the  
5478 distribution or dissemination of education programs.

5479 Section 118. Section **53B-17-105** is amended to read:

5480 **53B-17-105. Utah Education and Telehealth Network.**

5481 (1) There is created the Utah Education and Telehealth Network, or UETN.

5482 (2) UETN shall:

5483 (a) coordinate and support the telecommunications needs of public and higher  
5484 education, public libraries, and entities affiliated with the state systems of public and higher  
5485 education as approved by the Utah Education and Telehealth Network Board, including the  
5486 statewide development and implementation of a network for education, which utilizes satellite,  
5487 microwave, fiber-optic, broadcast, and other transmission media;

5488 (b) coordinate the various telecommunications technology initiatives of public and  
5489 higher education;

5490 (c) provide high-quality, cost-effective Internet access and appropriate interface  
5491 equipment for schools and school systems;

5492 (d) procure, install, and maintain telecommunication services and equipment on behalf  
5493 of public and higher education;

5494 (e) develop or implement other programs or services for the delivery of distance  
5495 learning and telehealth services as directed by law;

5496 (f) apply for state and federal funding on behalf of:

5497 (i) public and higher education; and

5498 (ii) telehealth services;

5499 (g) in consultation with health care providers from a variety of health care systems,  
5500 explore and encourage the development of telehealth services as a means of reducing health  
5501 care costs and increasing health care quality and access, with emphasis on assisting rural health  
5502 care providers and special populations; and

5503 (h) in consultation with the Utah Department of Health, advise the governor and the  
5504 Legislature on:

5505 (i) the role of telehealth in the state;

5506 (ii) the policy issues related to telehealth;

5507 (iii) the changing telehealth needs and resources in the state; and

5508 (iv) state budgetary matters related to telehealth.

5509 (3) In performing the duties under Subsection (2), UETN shall:

- 5510 (a) provide services to schools, school districts, and the public and higher education  
5511 systems through an open and competitive bidding process;
- 5512 (b) work with the private sector to deliver high-quality, cost-effective services;
- 5513 (c) avoid duplicating facilities, equipment, or services of private providers or public  
5514 telecommunications service, as defined under Section 54-8b-2;
- 5515 (d) utilize statewide economic development criteria in the design and implementation  
5516 of the educational telecommunications infrastructure; and
- 5517 (e) assure that public service entities, such as educators, public service providers, and  
5518 public broadcasters, are provided access to the telecommunications infrastructure developed in  
5519 the state.
- 5520 (4) The University of Utah shall provide administrative support for UETN.
- 5521 (5) (a) The Utah Education and Telehealth Network Board, which is the governing  
5522 board for UETN, is created.
- 5523 (b) The Utah Education and Telehealth Network Board shall have 13 members as  
5524 follows:
- 5525 (i) ~~four~~ five members representing the state system of higher education, of which at  
5526 least one member represents technical colleges, appointed by the commissioner of higher  
5527 education;
- 5528 (ii) four members representing the state system of public education appointed by the  
5529 State Board of Education;
- 5530 ~~[(iii) one member representing technical colleges appointed by the Utah System of~~  
5531 ~~Technical Colleges commissioner of technical education;]~~
- 5532 ~~[(iv)]~~ (iii) one member representing the state library appointed by the state librarian;
- 5533 ~~[(v)]~~ (iv) two members representing hospitals as follows:
- 5534 (A) the members may not be employed by the same hospital system;
- 5535 (B) one member shall represent a rural hospital;
- 5536 (C) one member shall represent an urban hospital; and

5537 (D) the chief administrator or the administrator's designee for each hospital licensed in  
5538 this state shall select the two hospital representatives; and

5539 [~~(vi)~~] (v) one member representing the office of the governor, appointed by the  
5540 governor.

5541 (c) When a vacancy occurs in the membership for any reason, the replacement shall be  
5542 appointed for the unexpired term.

5543 (d) (i) The board shall elect a chair.

5544 (ii) The chair shall set the agenda for the board meetings.

5545 (6) A member of the board may not receive compensation or benefits for the member's  
5546 service, but may receive per diem and travel expenses in accordance with:

5547 (a) Section 63A-3-106;

5548 (b) Section 63A-3-107; and

5549 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
5550 63A-3-107.

5551 (7) The board:

5552 (a) shall hire an executive director for UETN who may hire staff for UETN as  
5553 permitted by the budget;

5554 (b) may terminate the executive director's employment or assignment;

5555 (c) shall determine the executive director's salary;

5556 (d) shall annually conduct a performance evaluation of the executive director;

5557 (e) shall establish policies the board determines are necessary for the operation of  
5558 UETN and the administration of UETN's duties; and

5559 (f) shall advise UETN in:

5560 (i) the development and operation of a coordinated, statewide, multi-option  
5561 telecommunications system to assist in the delivery of educational services and telehealth  
5562 services throughout the state; and

5563 (ii) acquiring, producing, and distributing instructional content.

5564 (8) The executive director of UETN shall be an at-will employee.

5565 (9) UETN shall locate and maintain educational and telehealth telecommunication  
5566 infrastructure throughout the state.

5567 (10) Educational institutions shall manage site operations under policy established by  
5568 UETN.

5569 (11) Subject to future budget constraints, the Legislature shall provide an annual  
5570 appropriation to operate UETN.

5571 (12) If the network operated by the Department of Technology Services is not  
5572 available, UETN may provide network connections to the central administration of counties  
5573 and municipalities for the sole purpose of transferring data to a secure facility for backup and  
5574 disaster recovery.

5575 Section 119. Section **53B-17-503** is amended to read:

5576 **53B-17-503. Administration through nonprofit corporations or foundations --**  
5577 **Control -- Authority of corporations or foundations -- Personnel considered employees of**  
5578 **university.**

5579 (1) The University of Utah may establish, develop, and administer through nonprofit  
5580 corporations or foundations controlled by the president and the [~~State Board of Regents~~] board  
5581 a research park upon the land acquired by the university under the patent.

5582 (2) The nonprofit corporations or foundations may receive and administer legislative  
5583 appropriations, government grants, contracts, and private gifts to carry out their public  
5584 purposes.

5585 (3) All salaried employees, agents, officers, faculty, and staff of the nonprofit  
5586 corporation or foundation are for the purpose of employee benefits, employees, agents, officers,  
5587 faculty, and staff of the University of Utah.

5588 Section 120. Section **53B-17-505** is amended to read:

5589 **53B-17-505. City to provide services and facilities to research park -- Fees and**  
5590 **charges -- Disallowance of special improvement district or special taxes.**

5591 (1) The Salt Lake City Council shall provide police and fire protection and furnish,  
5592 install, and maintain customary municipal services and facilities for street lighting, traffic  
5593 control, sidewalks, curb, gutter, drainage, sewage disposal, and water supply to all areas of the  
5594 research park established upon lands conveyed to the University of Utah under the patent.

5595 (2) The services and facilities are to be furnished and provided as needed and  
5596 determined by the [~~State Board of Regents~~] board subject to connection fees, use charges, and  
5597 other service fees customarily assessed against similar persons, companies, or properties within  
5598 the territorial limits of Salt Lake City.

5599 (3) No special improvement district may be created or special taxes imposed with  
5600 respect to the services and facilities provided under this section.

5601 Section 121. Section **53B-17-901** is amended to read:

5602 **53B-17-901. Admissions -- Increase authorized.**

5603 (1) Beginning with the 2013-14 school year and subject to Subsection (2), the  
5604 University of Utah School of Medicine may increase the number of students admitted by 40  
5605 students for a total of 122 students admitted annually.

5606 (2) Beginning with the 2013-14 school year, no fewer than 82% of the students  
5607 admitted annually shall:

5608 (a) meet the qualifications of a resident student for the purpose of tuition in accordance  
5609 with:

5610 (i) Section [53B-8-102](#);

5611 (ii) [~~State Board of Regents~~] board policy on determining resident status; and

5612 (iii) University of Utah policy on determining resident status;

5613 (b) have graduated from a public or private college or university located in Utah; or

5614 (c) have graduated from a public or private high school located in Utah.

5615 Section 122. Section **53B-17-1203** is amended to read:

5616 **53B-17-1203. SafeUT and School Safety Commission established -- Members.**

5617 (1) There is created the SafeUT and School Safety Commission composed of the



5618 following members:

5619 (a) one member who represents the Office of the Attorney General, appointed by the  
5620 attorney general;

5621 (b) one member who represents the Utah public education system, appointed by the  
5622 State Board of Education;

5623 (c) one member who represents the [~~Utah System of Higher Education~~] Utah system of  
5624 higher education, appointed by the [~~State Board of Regents~~] board;

5625 (d) one member who represents the Utah Department of Health, appointed by the  
5626 executive director of the Department of Health;

5627 (e) one member of the House of Representatives, appointed by the speaker of the  
5628 House of Representatives;

5629 (f) one member of the Senate, appointed by the president of the Senate;

5630 (g) one member who represents the University Neuropsychiatric Institute, appointed by  
5631 the chair of the commission;

5632 (h) one member who represents law enforcement who has extensive experience in  
5633 emergency response, appointed by the chair of the commission;

5634 (i) one member who represents the Utah Department of Human Services who has  
5635 experience in youth services or treatment services, appointed by the executive director of the  
5636 Department of Human Services; and

5637 (j) two members of the public, appointed by the chair of the commission.

5638 (2) (a) Except as provided in Subsection (2)(b), members of the commission shall be  
5639 appointed to four-year terms.

5640 (b) The length of the terms of the members shall be staggered so that approximately  
5641 half of the committee is appointed every two years.

5642 (c) When a vacancy occurs in the membership of the commission, the replacement  
5643 shall be appointed for the unexpired term.

5644 (3) (a) The attorney general's designee shall serve as chair of the commission.

- 5645 (b) The chair shall set the agenda for commission meetings.
- 5646 (4) Attendance of a simple majority of the members constitutes a quorum for the  
5647 transaction of official commission business.
- 5648 (5) Formal action by the commission requires a majority vote of a quorum.
- 5649 (6) (a) Except as provided in Subsection (6)(b), a member may not receive  
5650 compensation, benefits, per diem, or travel expenses for the member's service.
- 5651 (b) Compensation and expenses of a member who is a legislator are governed by  
5652 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- 5653 (7) The Office of the Attorney General shall provide staff support to the commission.  
5654 Section 123. Section 53B-17-1204 is amended to read:
- 5655 **53B-17-1204. SafeUT and School Safety Commission duties -- LEA governing**  
5656 **board duties -- Fees.**
- 5657 (1) As used in this section:
- 5658 (a) "LEA governing board" means:
- 5659 (i) for a school district, the local school board;
- 5660 (ii) for a charter school, the charter school governing board; or
- 5661 (iii) for the Utah Schools for the Deaf and the Blind, the State Board of Education.
- 5662 (b) "Local education agency" or "LEA" means:
- 5663 (i) a school district;
- 5664 (ii) a charter school; or
- 5665 (iii) the Utah Schools for the Deaf and the Blind.
- 5666 (2) The commission shall coordinate:
- 5667 (a) statewide efforts related to the SafeUT Crisis Line; and
- 5668 (b) with the State Board of Education and the [~~State Board of Regents~~] board to  
5669 promote awareness of the services available through the SafeUT Crisis Line.
- 5670 (3) An LEA governing board shall inform students, parents, and school personnel  
5671 about the SafeUT Crisis Line.

5672 (4) (a) Except as provided in Subsection (4)(b), the University Neuropsychiatric  
5673 Institute may charge a fee to an institution of higher education or other entity for the use of the  
5674 SafeUT Crisis Line in accordance with the method described in Subsection (4)(c).

5675 (b) The University Neuropsychiatric Institute may not charge a fee to the State Board  
5676 of Education or a local education agency for the use of the SafeUT Crisis Line.

5677 (c) The commission shall establish a standard method for charging a fee described in  
5678 Subsection (4)(a).

5679 Section 124. Section **53B-18-501** is amended to read:

5680 **53B-18-501. Nonprofit corporations or foundations -- Purpose.**

5681 (1) In addition to any other powers which it now has, Utah State University may form  
5682 nonprofit corporations or foundations controlled by the president of the university and the  
5683 [~~State Board of Regents~~] board to aid and assist the university in attaining its charitable,  
5684 scientific, literary, research, and educational objectives.

5685 (2) The nonprofit corporations or foundations may receive and administer legislative  
5686 appropriations, government grants, contracts, and private gifts to carry out their public  
5687 purposes.

5688 Section 125. Section **53B-18-1301** is amended to read:

5689 **53B-18-1301. Veterinary education program -- Partnership agreement.**

5690 (1) With the approval of the [~~State Board of Regents~~] board, Utah State University may  
5691 enter into a partnership agreement with Washington State University to establish a veterinary  
5692 education program.

5693 (2) The partnership agreement may provide that:

5694 (a) (i) initially, up to 20 Utah resident students and 10 nonresident students may be  
5695 accepted each year into a four-year program leading to a doctorate in veterinary medicine; and

5696 (ii) if resources become available to expand the doctoral program in veterinary  
5697 medicine, additional Utah resident students and nonresident students may be accepted into the  
5698 program; and

5699 (b) students accepted into the doctoral program in veterinary medicine pursuant to  
5700 Subsection (2)(a) complete the first and second years of study at Utah State University and the  
5701 third and fourth years of study at Washington State University.

5702 (3) Subject to future budget constraints, the Legislature shall annually provide an  
5703 appropriation to pay for the nonresident portion of tuition for Utah students enrolled at  
5704 Washington State University under a partnership agreement authorized by this section for the  
5705 third and fourth years of a doctoral program in veterinary medicine.

5706 Section 126. Section **53B-21-104** is amended to read:

5707 **53B-21-104. Deposit of bond proceeds -- State Building Board responsibilities --**  
5708 **Approval of Division of Facilities Construction and Management.**

5709 (1) The [~~State Board of Regents~~] board treasurer or other fiscal officer, with the  
5710 approval of the state treasurer, deposits the proceeds from the sale of bonds under this chapter  
5711 into a special Construction Trust Fund Account established in compliance with the State  
5712 Money Management Act of 1974.

5713 (2) The proceeds are credited to the board on behalf of the institution of higher  
5714 education for which the bonds were issued.

5715 (3) The proceeds are kept in a separate fund and used solely for the purpose for which  
5716 they were authorized by the board.

5717 (4) The State Building Board makes all contracts and executes all instruments which it  
5718 considers necessary to provide for the projects referred to in Section **53B-21-101**.

5719 (5) The proceeds in the special Construction Trust Fund Account shall be disbursed  
5720 only upon receipt of written statements supported by itemized estimates and claims presented  
5721 to the Division of Facilities Construction and Management as provided in the resolution  
5722 authorizing the issuance of the bonds.

5723 Section 127. Section **53B-21-105** is amended to read:

5724 **53B-21-105. Disposition and use of income from operation of buildings --**  
5725 **Payment of principal and interest on bonds.**

5726 (1) Except for the revenues paid directly to a trustee under Subsection  
5727 53B-21-102(3)(f), all income and revenues from the operation of the buildings under this  
5728 chapter are deposited as collected in a fund established in compliance with the State Money  
5729 Management Act.

5730 (2) (a) This money is for the payment of the principal and interest on the bonds  
5731 authorized under this chapter.

5732 (b) The money shall also be used, to the extent provided in the resolution authorizing  
5733 the bonds, to pay for the cost of maintaining and operating the building and to establish  
5734 reserves for that purpose.

5735 (3) The [~~State Board of Regents~~] board treasurer or other designated fiscal officer shall,  
5736 not less than 15 days prior to the date interest and principal payments are due, transmit to the  
5737 paying agent sufficient money from the fund to pay the obligation.

5738 Section 128. Section 53B-21-113 is amended to read:

5739 **53B-21-113. Limitation on issuance of bonds.**

5740 No bonds may be authorized or issued by the [~~State Board of Regents~~] board or the  
5741 board of any institution under this chapter without the prior approval of the Legislature.

5742 Section 129. Section 53B-22-201 is amended to read:

5743 **53B-22-201. Definitions.**

5744 As used in this part:

5745 (1) "Capital developments" means the same as that term is defined in Section  
5746 63A-5-104.

5747 (2) "Consumer Price Index" means the Consumer Price Index for All Urban  
5748 Consumers as published by the Bureau of Labor Statistics of the United States Department of  
5749 Labor.

5750 (3) "Dedicated project" means a capital development project for which state funds from  
5751 an institution's allocation are requested or used.

5752 (4) "Fund" means the Higher Education Capital Projects Fund created in Section

5753 53B-22-202.

5754 (5) "Institution" means [~~a college or university that is part of the Utah System of~~  
5755 ~~Higher Education described in Section 53B-1-102~~] a degree-granting institution.

5756 (6) "Institution's allocation" means the total amount of money in the fund that an  
5757 institution has been allocated in accordance with Section 53B-22-203.

5758 (7) "Nondedicated project" means a capital development project for which state funds  
5759 from a source other than an institution's allocation are requested or used.

5760 (8) "State funds" means the same as that term is defined in Section 63A-5-104.  
5761 Section 130. Section 53B-23-104 is amended to read:

5762 **53B-23-104. Centers for processing requests for electronic versions of**  
5763 **instructional materials.**

5764 (1) The [~~State Board of Regents~~] board may establish one or more centers to process  
5765 requests for electronic versions of instructional materials pursuant to this chapter.

5766 (2) The institutions designated as within the jurisdiction of a center shall submit  
5767 requests for instructional material to the center, which shall transmit the request to the  
5768 publisher or manufacturer.

5769 (3) If there is more than one center, each center shall make every effort to coordinate  
5770 requests.

5771 (4) The publisher or manufacturer of instructional material shall be required to honor  
5772 and respond to only those requests submitted through a designated center.

5773 (5) If a publisher or manufacturer has responded to a request for instructional materials  
5774 by a center, all subsequent requests for those instructional materials shall be satisfied by the  
5775 center to which the request is made.

5776 Section 131. Section 53B-23-106 is amended to read:

5777 **53B-23-106. Board to make rules.**

5778 [~~The State Board of Regents shall adopt~~] In accordance with Title 63G, Chapter 3, Utah  
5779 Administrative Rulemaking Act, the board shall make rules consistent with this section for its

5780 implementation and administration, including rules addressing:

5781 (1) the designation of materials considered "required or essential to student success";

5782 (2) the determination of the availability of technology for the conversion of nonprinted

5783 materials pursuant to Section 53B-23-103 and the conversion of mathematics and science

5784 materials pursuant to Section 53B-23-102; and

5785 (3) the procedures and standards relating to distribution of files and materials pursuant

5786 to Section 53B-23-103.

5787 Section 132. Section 53B-26-103 is amended to read:

5788 **53B-26-103. GOED reporting requirement -- Proposals -- Funding.**

5789 (1) Every other year, the Governor's Office of Economic Development shall report to

5790 the Higher Education Appropriations Subcommittee~~], the board, and the Utah System of~~

5791 ~~Technical Colleges Board of Trustees]~~ and the board on the high demand technical jobs

5792 projected to support economic growth in the following high need strategic industry clusters:

5793 (a) aerospace and defense;

5794 (b) energy and natural resources;

5795 (c) financial services;

5796 (d) life sciences;

5797 (e) outdoor products;

5798 (f) software development and information technology; and

5799 (g) any other strategic industry cluster designated by the Governor's Office of

5800 Economic Development.

5801 (2) To receive funding under this section, an eligible partnership shall submit a

5802 proposal containing the elements described in Subsection (3) to the Higher Education

5803 Appropriations Subcommittee on or before January 5 for fiscal year 2018 and any succeeding

5804 fiscal year.

5805 (3) A proposal described in Subsection (2) shall include:

5806 (a) a program of instruction that:

- 5807 (i) is responsive to the workforce needs of a strategic industry cluster described in  
5808 Subsection (1):
- 5809 (A) in one CTE region, for a proposal submitted by a regional partnership; or  
5810 (B) in at least two CTE regions, for a proposal submitted by a statewide partnership;
- 5811 (ii) leads to the attainment of a stackable sequence of credentials; and  
5812 (iii) includes a non-duplicative progression of courses that include both academic and  
5813 CTE content;
- 5814 (b) expected student enrollment, attainment rates, and job placement rates;  
5815 (c) evidence of input and support for the proposal from an industry advisory group;  
5816 (d) a description of any financial or in-kind contributions for the program from an  
5817 industry advisory group;
- 5818 (e) a description of the job opportunities available at each exit point in the stackable  
5819 sequence of credentials;
- 5820 (f) evidence of an official action in support of the proposal from[:] the board;  
5821 ~~[(i) the Utah System of Technical Colleges Board of Trustees, if the eligible~~  
5822 ~~partnership includes a technical college described in Subsection 53B-26-102(10)(a); or]~~  
5823 ~~[(ii) the board, if the eligible partnership includes:]~~  
5824 ~~[(A) an institution of higher education; or]~~  
5825 ~~[(B) a college described in Subsections 53B-26-102(10)(b) through (e);]~~
- 5826 (g) if the program of instruction described in Subsection (3)(a) requires board approval  
5827 under Section 53B-16-102, evidence of board approval of the program of instruction; and  
5828 (h) a funding request, including justification for the request.
- 5829 (4) The Higher Education Appropriations Subcommittee shall:
- 5830 (a) review a proposal submitted under this section using the following criteria:  
5831 (i) the proposal contains the elements described in Subsection (3);  
5832 (ii) for a proposal from a regional partnership, support for the proposal is widespread  
5833 within the CTE region; and



5834 (iii) the proposal expands the capacity to meet state or regional workforce needs;  
5835 (b) determine the extent to which to fund the proposal; and  
5836 (c) make a recommendation to the Legislature for funding the proposal through the  
5837 appropriations process.

5838 (5) An eligible partnership that receives funding under this section:  
5839 (a) shall use the money to deliver the program of instruction described in the eligible  
5840 partnership's proposal; and  
5841 (b) may not use the money for administration.

5842 Section 133. Section **53B-26-202** is amended to read:

5843 **53B-26-202. Nursing initiative -- Medical Education Council reporting**  
5844 **requirement -- Proposals -- Funding.**

5845 (1) Every even-numbered year, the Medical Education Council created in Section  
5846 [53B-24-302](#) shall:

5847 (a) project the demand, by license classification, for individuals to enter a nursing  
5848 profession in each region;

5849 (b) receive input from at least one medical association in developing the projections  
5850 described in Subsection (1)(a); and

5851 (c) report the projections described in Subsection (1)(a) to:

5852 [~~(i) the State Board of Regents;~~]

5853 [~~(ii) the Utah System of Technical Colleges Board of Trustees; and~~]

5854 (i) the board; and

5855 [~~(iii)~~] (ii) the Higher Education Appropriations Subcommittee.

5856 (2) To receive funding under this section, on or before January 5, an eligible program  
5857 shall submit to the Higher Education Appropriations Subcommittee, through the budget  
5858 process for the [~~State Board of Regents or the Utah System of Technical Colleges~~] board, as  
5859 applicable, a proposal that describes:

5860 (a) a program of instruction offered by the eligible program that is responsive to a

5861 projection described in Subsection (1)(a);  
5862 (b) the following information about the eligible program:  
5863 (i) expected student enrollment;  
5864 (ii) attainment rates;  
5865 (iii) job placement rates; and  
5866 (iv) passage rates for exams required for licensure for a nursing profession;  
5867 (c) the instructional cost per full-time equivalent student enrolled in the eligible  
5868 program;  
5869 (d) financial or in-kind contributions to the eligible program from:  
5870 (i) the health care industry; or  
5871 (ii) an institution; and  
5872 (e) a funding request, including justification for the request.  
5873 (3) The Higher Education Appropriations Subcommittee shall:  
5874 (a) review a proposal submitted under this section using the following criteria:  
5875 (i) the proposal:  
5876 (A) contains the elements described in Subsection (2);  
5877 (B) expands the capacity to meet the projected demand described in Subsection (1)(a);  
5878 and  
5879 (C) has health care industry or institution support; and  
5880 (ii) the program of instruction described in the proposal:  
5881 (A) is cost effective;  
5882 (B) has support from the health care industry or an institution; and  
5883 (C) has high passage rates on exams required for licensure for a nursing profession;  
5884 (b) determine the extent to which to fund the proposal; and  
5885 (c) make an appropriation recommendation to the Legislature on the amount of money  
5886 determined under Subsection (3)(b) to the eligible program's institution.  
5887 (4) An institution that receives funding under this section shall use the funding to

5888 increase the number of students enrolled in the eligible program for which the institution  
5889 receives funding.

5890 (5) On or before November 1, 2020, and annually thereafter, the board shall report to  
5891 the Higher Education Appropriations Subcommittee on the elements described in Subsection  
5892 (2) for each eligible program funded under this section.

5893 Section 134. Section **53B-27-301** is amended to read:

5894 **53B-27-301. Definitions.**

5895 As used in this part:

5896 (1) "Civil liberty" means a civil liberty enumerated in the United States Constitution or  
5897 the Utah Constitution.

5898 [~~(2) "Governing board" means:~~]

5899 [~~(a) for an institution described in Subsections **53B-2-101**(1)(a) through (h), the board;~~  
5900 or]

5901 [~~(b) for a technical college, the Utah System of Technical Colleges Board of Trustees.]~~

5902 [~~(3)~~] (2) "Initiate rulemaking proceedings" means the same as that term is defined in  
5903 Section **63G-3-601**.

5904 Section 135. Section **53B-27-303** is amended to read:

5905 **53B-27-303. Complaint process -- Reporting.**

5906 (1) Before August 1, 2019, [~~each governing~~] the board shall make rules in accordance  
5907 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing a procedure  
5908 whereby a student enrolled in an institution may submit a complaint to the [~~institution's~~  
5909 ~~governing~~] board alleging a policy of the institution directly affects one or more of the student's  
5910 civil liberties.

5911 (2) (a) When a student submits a complaint in accordance with the rules adopted under  
5912 Subsection (1), the [~~governing~~] board shall:

5913 (i) examine the complaint and, within 30 days after the day on which the [~~governing~~]  
5914 board receives the complaint, determine whether the complaint is made in good faith; and

5915 (ii) (A) if the [governing] board determines that the complaint is made in good faith,  
5916 direct the institution against which the complaint is made to initiate rulemaking proceedings for  
5917 the challenged policy; or

5918 (B) if the [governing] board determines that the complaint is made in bad faith, dismiss  
5919 the complaint.

5920 (b) Before November 30 of each year, [~~each governing~~] the board shall submit a report  
5921 to the Administrative Rules Review Committee detailing:

5922 (i) the number of complaints the [governing] board received during the preceding year;

5923 (ii) the number of complaints the [governing] board found to be made in good faith  
5924 during the preceding year; and

5925 (iii) each policy that is the subject of a good-faith complaint that the [governing] board  
5926 received during the preceding year.

5927 (3) If [~~a governing~~] the board directs an institution to initiate rulemaking proceedings  
5928 for a challenged policy in accordance with this section, the institution shall initiate rulemaking  
5929 proceedings for the policy within 60 days after the day on which the [governing] board directs  
5930 the institution.

5931 Section 136. Section **53B-28-401** is amended to read:

5932 **53B-28-401. Campus safety plans and training -- Institution duties -- Governing**  
5933 **board duties.**

5934 (1) As used in this section:

5935 (a) "Covered offense" means:

5936 (i) sexual assault;

5937 (ii) domestic violence;

5938 (iii) dating violence; or

5939 (iv) stalking.

5940 [~~(b) "Governing board" means:]~~

5941 [~~(i) for a college or university that is part of the Utah System of Higher Education~~

5942 described in Section ~~53B-1-102~~, the board; or]

5943 [~~(ii) for a technical college, the Utah System of Technical Colleges Board of Trustees;~~]

5944 [~~(e)~~] (b) "Institution" means an institution of higher education described in Section

5945 ~~53B-1-102~~.

5946 [~~(d)~~] (c) "Student organization" means a club, group, sports team, fraternity or sorority,

5947 or other organization:

5948 (i) of which the majority of members is composed of students enrolled in an institution;

5949 and

5950 (ii) (A) that is officially recognized by the institution; or

5951 (B) seeks to be officially recognized by the institution.

5952 (2) An institution shall develop a campus safety plan that addresses:

5953 (a) where an individual can locate the institution's policies and publications related to a

5954 covered offense;

5955 (b) institution and community resources for a victim of a covered offense;

5956 (c) the rights of a victim of a covered offense, including the measures the institution

5957 takes to ensure, unless otherwise provided by law, victim confidentiality throughout all steps in

5958 the reporting and response to a covered offense;

5959 (d) how the institution informs the campus community of a crime that presents a threat

5960 to the campus community;

5961 (e) availability, locations, and methods for requesting assistance of security personnel

5962 on the institution's campus;

5963 (f) guidance on how a student may contact law enforcement for incidents that occur off

5964 campus;

5965 (g) institution efforts related to increasing campus safety, including efforts related to

5966 the institution's increased response in providing services to victims of a covered offense, that:

5967 (i) the institution made in the preceding 18 months; and

5968 (ii) the institution expects to make in the upcoming 24 months;

5969 (h) coordination and communication between institution resources and organizations,  
5970 including campus law enforcement;

5971 (i) institution coordination with local law enforcement or community resources,  
5972 including coordination related to a student's safety at an off-campus location; and

5973 (j) how the institution requires a student organization to provide the campus safety  
5974 training as described in Subsection (5).

5975 (3) An institution shall:

5976 (a) prominently post the institution's campus safety plan on the institution's website and  
5977 each of the institution's campuses; and

5978 (b) annually update the institution's campus safety plan.

5979 (4) An institution shall develop a campus safety training curriculum that addresses:

5980 (a) awareness and prevention of covered offenses, including information on institution  
5981 and community resources for a victim of a covered offense;

5982 (b) bystander intervention; and

5983 (c) sexual consent.

5984 (5) An institution shall require a student organization, in order for the student  
5985 organization to receive or maintain official recognition by the institution, to annually provide  
5986 campus safety training, using the curriculum described in Subsection (4), to the student  
5987 organization's members.

5988 (6) ~~[Each governing]~~ The board shall:

5989 (a) on or before July 1, 2019, establish minimum requirements for an institution's  
5990 campus safety plan described in Subsection (2);

5991 (b) identify resources an institution may use to develop a campus safety training  
5992 curriculum as described in Subsection (4); and

5993 (c) report annually to the Education Interim Committee and the Law Enforcement and  
5994 Criminal Justice Interim Committee, at or before the committees' November meetings, on the  
5995 implementation of the requirements described in this section.

- 5996 Section 137. Section **53E-1-201** is amended to read:
- 5997 **53E-1-201. Reports to and action required of the Education Interim Committee.**
- 5998 (1) In accordance with applicable provisions and Section **68-3-14**, the following
- 5999 recurring reports are due to the Education Interim Committee:
- 6000 (a) the prioritized list of data research described in Section **35A-14-302** and the report
- 6001 on research described in Section **35A-14-304** by the Utah Data Research Center;
- 6002 (b) the report described in Section **35A-15-303** by the State Board of Education on
- 6003 preschool programs;
- 6004 (c) the report described in Section ~~[53B-1-103]~~ **53B-1-402** by the ~~[State Board of~~
- 6005 ~~Regents]~~ Utah Board of Higher Education on career and technical education issues and
- 6006 addressing workforce needs;
- 6007 ~~[(d) the report described in Section 53B-1-107 by the State Board of Regents on the~~
- 6008 ~~activities of the State Board of Regents;]~~
- 6009 ~~[(e) the report described in Section 53B-2a-104 by the Utah System of Technical~~
- 6010 ~~Colleges Board of Trustees on career and technical education issues;]~~
- 6011 (d) the annual report of the Utah Board of Higher Education described in Section
- 6012 53B-1-402;
- 6013 ~~[(f)]~~ (e) the reports described in Section **53B-28-401** by the ~~[State Board of Regents~~
- 6014 ~~and the Utah System of Technical Colleges Board of Trustees]~~ Utah Board of Higher
- 6015 Education regarding activities related to campus safety;
- 6016 ~~[(g)]~~ (f) the State Superintendent's Annual Report by the state board described in
- 6017 Section **53E-1-203**;
- 6018 ~~[(h)]~~ (g) the annual report described in Section **53E-2-202** by the state board on the
- 6019 strategic plan to improve student outcomes;
- 6020 ~~[(i)]~~ (h) the report described in Section **53E-8-204** by the state board on the Utah
- 6021 Schools for the Deaf and the Blind;
- 6022 ~~[(j)]~~ (i) the report described in Section **53E-10-703** by the Utah Leading through

6023 Effective, Actionable, and Dynamic Education director on research and other activities;

6024 ~~[(k)]~~ (j) the report described in Section 53F-4-203 by the state board and the

6025 independent evaluator on an evaluation of early interactive reading software;

6026 ~~[(h)]~~ (k) the report described in Section 53F-4-407 by the state board on UPSTART;

6027 ~~[(m)]~~ (l) the report described in Section 53F-5-405 by an independent evaluator of a

6028 partnership that receives a grant to improve educational outcomes for students who are low

6029 income; and

6030 ~~[(n)]~~ (m) the report described in Section 63N-12-208 by the STEM Action Center

6031 Board, including the information described in Section 63N-12-213 on the status of the

6032 computer science initiative and Section 63N-12-214 on the Computing Partnerships Grants

6033 Program.

6034 (2) In accordance with applicable provisions and Section 68-3-14, the following  
6035 occasional reports are due to the Education Interim Committee:

6036 (a) the report described in Section 35A-15-303 by the School Readiness Board by  
6037 November 30, 2020, on benchmarks for certain preschool programs;

6038 (b) the report described in Section 53E-3-519 by the state board regarding counseling  
6039 services in schools;

6040 (c) the reports described in Section 53E-3-520 by the state board regarding cost centers  
6041 and implementing activity based costing;

6042 (d) if required, the report described in Section 53E-4-309 by the state board explaining  
6043 the reasons for changing the grade level specification for the administration of specific  
6044 assessments;

6045 (e) if required, the report described in Section 53E-5-210 by the state board of an  
6046 adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

6047 (f) the report described in Section 53E-10-702 by Utah Leading through Effective,  
6048 Actionable, and Dynamic Education;

6049 (g) the report described in Section 53F-2-502 by the state board on the program



6050 evaluation of the dual language immersion program;

6051 (h) if required, the report described in Section 53F-2-513 by the state board evaluating

6052 the effects of salary bonuses on the recruitment and retention of effective teachers in high

6053 poverty schools;

6054 (i) upon request, the report described in Section 53F-5-207 by the state board on the

6055 Intergenerational Poverty Intervention Grants Program;

6056 (j) the report described in Section 53F-5-210 by the state board on the Educational

6057 Improvement Opportunities Outside of the Regular School Day Grant Program;

6058 (k) the reports described in Section 53G-11-304 by the state board regarding proposed

6059 rules and results related to educator exit surveys;

6060 (l) upon request, the report described in Section 53G-11-505 by the state board on

6061 progress in implementing employee evaluations;

6062 (m) the report described in Section 62A-15-117 by the Division of Substance Abuse

6063 and Mental Health, the State Board of Education, and the Department of Health regarding

6064 recommendations related to Medicaid reimbursement for school-based health services; and

6065 (n) the reports described in Section 63C-19-202 by the Higher Education Strategic

6066 Planning Commission.

6067 (3) In accordance with Section 53B-7-705, the Education Interim Committee shall

6068 complete the review of the implementation of performance funding.

6069 Section 138. Section 53E-1-203 is amended to read:

6070 **53E-1-203. State Superintendent's Annual Report.**

6071 (1) The state board shall prepare and submit to the governor, the Education Interim

6072 Committee, and the Public Education Appropriations Subcommittee, by January 15 of each

6073 year, an annual written report known as the State Superintendent's Annual Report that includes:

6074 (a) the operations, activities, programs, and services of the state board;

6075 (b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and

6076 (c) data on the general condition of the schools with recommendations considered

- 6077 desirable for specific programs, including:
- 6078       (i) a complete statement of fund balances;
- 6079       (ii) a complete statement of revenues by fund and source;
- 6080       (iii) a complete statement of adjusted expenditures by fund, the status of bonded
- 6081 indebtedness, the cost of new school plants, and school levies;
- 6082       (iv) a complete statement of state funds allocated to each school district and charter
- 6083 school by source, including supplemental appropriations, and a complete statement of
- 6084 expenditures by each school district and charter school, including supplemental appropriations,
- 6085 by function and object as outlined in the United States Department of Education publication
- 6086 "Financial Accounting for Local and State School Systems";
- 6087       (v) a statement that includes data on:
- 6088           (A) fall enrollments;
- 6089           (B) average membership;
- 6090           (C) high school graduates;
- 6091           (D) licensed and classified employees, including data reported by school districts on
- 6092 educator ratings described in Section [53G-11-511](#);
- 6093           (E) pupil-teacher ratios;
- 6094           (F) average class sizes;
- 6095           (G) average salaries;
- 6096           (H) applicable private school data; and
- 6097           (I) data from statewide assessments described in Section [53E-4-301](#) for each school
- 6098 and school district;
- 6099       (vi) statistical information regarding incidents of delinquent activity in the schools or at
- 6100 school-related activities; and
- 6101       (vii) other statistical and financial information about the school system that the state
- 6102 superintendent considers pertinent.
- 6103       (2) (a) For the purposes of Subsection (1)(c)(v):

6104 (i) the pupil-teacher ratio for a school shall be calculated by dividing the number of  
6105 students enrolled in a school by the number of full-time equivalent teachers assigned to the  
6106 school, including regular classroom teachers, school-based specialists, and special education  
6107 teachers;

6108 (ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of  
6109 the schools within a school district;

6110 (iii) the pupil-teacher ratio for charter schools aggregated shall be the median  
6111 pupil-teacher ratio of charter schools in the state; and

6112 (iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median  
6113 pupil-teacher ratio of public schools in the state.

6114 (b) The report shall:

6115 (i) include the pupil-teacher ratio for:

6116 (A) each school district;

6117 (B) the charter schools aggregated; and

6118 (C) the state's public schools aggregated; and

6119 (ii) identify a website where pupil-teacher ratios for each school in the state may be  
6120 accessed.

6121 (3) For each operation, activity, program, or service provided by the state board, the  
6122 annual report shall include:

6123 (a) a description of the operation, activity, program, or service;

6124 (b) data and metrics:

6125 (i) selected and used by the state board to measure progress, performance,  
6126 effectiveness, and scope of the operation, activity, program, or service, including summary  
6127 data; and

6128 (ii) that are consistent and comparable for each state operation, activity, program, or  
6129 service;

6130 (c) budget data, including the amount and source of funding, expenses, and allocation

6131 of full-time employees for the operation, activity, program, or service;

6132 (d) historical data from previous years for comparison with data reported under

6133 Subsections (3)(b) and (c);

6134 (e) goals, challenges, and achievements related to the operation, activity, program, or

6135 service;

6136 (f) relevant federal and state statutory references and requirements;

6137 (g) contact information of officials knowledgeable and responsible for each operation,

6138 activity, program, or service; and

6139 (h) other information determined by the state board that:

6140 (i) may be needed, useful, or of historical significance; or

6141 (ii) promotes accountability and transparency for each operation, activity, program, or

6142 service with the public and elected officials.

6143 (4) (a) Except as provided in Subsection (4)(b), the annual report shall also include:

6144 (i) the report described in Section 53E-3-507 by the state board on career and technical

6145 education needs and program access;

6146 (ii) through October 1, 2022, the report described in Section 53E-3-515 by the state

6147 board on the Hospitality and Tourism Management Career and Technical Education Pilot

6148 Program;

6149 (iii) beginning on July 1, 2020, the report described in Section 53E-3-516 by the state

6150 board on certain incidents that occur on school grounds;

6151 (iv) the report described in Section 53E-4-202 by the state board on the development

6152 and implementation of the core standards for Utah public schools;

6153 (v) the report described in Section 53E-5-310 by the state board on school turnaround

6154 and leadership development;

6155 (vi) the report described in Section 53E-10-308 by the state board and [~~State Board of~~

6156 ~~Regents~~] Utah Board of Higher Education on student participation in the concurrent enrollment

6157 program;

6158 (vii) the report described in Section 53F-2-503 by the state board on early literacy;  
6159 (viii) the report described in Section 53F-5-506 by the state board on information  
6160 related to competency-based education;

6161 (ix) the report described in Section 53G-9-802 by the state board on dropout prevention  
6162 and recovery services; and

6163 (x) the report described in Section 53G-10-204 by the state board on methods used, and  
6164 the results being achieved, to instruct and prepare students to become informed and responsible  
6165 citizens.

6166 (b) The Education Interim Committee or the Public Education Appropriations  
6167 Subcommittee may request a report described in Subsection (4)(a) to be reported separately  
6168 from the State Superintendent's Annual Report.

6169 (5) The annual report shall be designed to provide clear, accurate, and accessible  
6170 information to the public, the governor, and the Legislature.

6171 (6) The state board shall:

6172 (a) submit the annual report in accordance with Section 68-3-14; and  
6173 (b) make the annual report, and previous annual reports, accessible to the public by  
6174 placing a link to the reports on the state board's website.

6175 (7) (a) Upon request of the Education Interim Committee or Public Education  
6176 Appropriations Subcommittee, the state board shall present the State Superintendent's Annual  
6177 Report to either committee.

6178 (b) After submitting the State Superintendent's Annual Report in accordance with this  
6179 section, the state board may supplement the report at a later time with updated data,  
6180 information, or other materials as necessary or upon request by the governor, the Education  
6181 Interim Committee, or the Public Education Appropriations Subcommittee.

6182 Section 139. Section 53E-2-302 is amended to read:  
6183 **53E-2-302. Characteristics of public education system.**  
6184 The Legislature shall assist in maintaining a public education system that has the

6185 following characteristics:

6186 (1) assumes that all students have the ability to learn and that each student departing  
6187 the system will be prepared to achieve success in productive employment, further education, or  
6188 both;

6189 (2) provides a personalized education plan or personalized education occupation plan  
6190 for each student, which involves the student, the student's parent, and school personnel in  
6191 establishing the plan;

6192 (3) provides students with the knowledge and skills to take responsibility for their  
6193 decisions and to make appropriate choices;

6194 (4) provides opportunities for students to exhibit the capacity to learn, think, reason,  
6195 and work effectively, individually and in groups;

6196 (5) offers world-class core standards that enable students to successfully compete in a  
6197 global society, and to succeed as citizens of a constitutional republic;

6198 (6) incorporates an information retrieval system that provides students, parents, and  
6199 educators with reliable, useful, and timely data on the progress of each student;

6200 (7) attracts, prepares, inducts, and retains excellent teachers for every classroom in  
6201 large part through collaborative efforts among the state board, the [~~State Board of Regents~~]  
6202 Utah Board of Higher Education, and school districts, provides effective ongoing professional  
6203 development opportunities for teachers to improve their teaching skills, and provides  
6204 recognition, rewards, and compensation for their excellence;

6205 (8) empowers each school district and public school to create its own vision and plan  
6206 to achieve results consistent with the objectives outlined in this part;

6207 (9) uses technology to improve teaching and learning processes and for the delivery of  
6208 educational services;

6209 (10) promotes ongoing research and development projects at the district and the school  
6210 level that are directed at improving or enhancing public education;

6211 (11) offers a public school choice program, which gives students and their parents

6212 options to best meet the student's personalized education needs;

6213 (12) emphasizes the involvement of educators, parents, business partnerships, and the  
6214 community at large in the educational process by allowing them to be involved in establishing  
6215 and implementing educational goals and participating in decision-making at the school site;  
6216 and

6217 (13) emphasizes competency-based standards and progress-based assessments,  
6218 including tracking and measurement systems.

6219 Section 140. Section **53E-3-502** is amended to read:

6220 **53E-3-502. State Board of Education assistance to districts and schools.**

6221 In order to assist school districts and individual schools in acquiring and maintaining  
6222 the characteristics set forth in Section [53E-2-302](#), the State Board of Education shall:

6223 (1) provide the framework for an education system, including core competency  
6224 standards and their assessment, in which school districts and public schools permit students to  
6225 advance by demonstrating competency in subject matter and mastery of skills;

6226 (2) conduct a statewide public awareness program on competency-based educational  
6227 systems;

6228 (3) compile and publish, for the state as a whole, a set of educational performance  
6229 indicators describing trends in student performance;

6230 (4) promote a public education climate of high expectations and academic excellence;

6231 (5) disseminate successful site-based decision-making models to districts and schools  
6232 and provide teacher professional development opportunities and evaluation programs for  
6233 site-based plans consistent with Subsections [53E-2-302\(7\)](#) and [53E-6-103\(2\)\(a\)](#) and (b);

6234 (6) provide a mechanism for widespread dissemination of information about strategic  
6235 planning for public education, including involvement of business and industry in the education  
6236 process, in order to ensure the understanding and support of all the individuals and groups  
6237 concerned with the mission of public education as outlined in Section [53E-2-301](#);

6238 (7) provide for a research and development clearing house at the state level to receive

6239 and share with school districts and public schools information on effective and innovative  
6240 practices and programs in education;

6241 (8) help school districts develop and implement guidelines, strategies, and professional  
6242 development programs for administrators and teachers consistent with Subsections  
6243 [53E-2-302](#)(7) and [53E-6-103](#)(2)(a) and (b) focused on improving interaction with parents and  
6244 promoting greater parental involvement in the public schools; and

6245 (9) in concert with the [~~State Board of Regents~~] Utah Board of Higher Education and  
6246 the state's colleges of education review and revise teacher licensing requirements to be  
6247 consistent with teacher preparation for participation in personalized education programs within  
6248 the public schools.

6249 Section 141. Section **53E-3-505** is amended to read:

6250 **53E-3-505. Financial and economic literacy education.**

6251 (1) As used in this section:

6252 (a) "Financial and economic activities" include activities related to the topics listed in  
6253 Subsection (1)(b).

6254 (b) "Financial and economic literacy concepts" include concepts related to the  
6255 following topics:

6256 (i) basic budgeting;

6257 (ii) saving and financial investments;

6258 (iii) banking and financial services, including balancing a checkbook or a bank account  
6259 and online banking services;

6260 (iv) career management, including earning an income;

6261 (v) rights and responsibilities of renting or buying a home;

6262 (vi) retirement planning;

6263 (vii) loans and borrowing money, including interest, credit card debt, predatory  
6264 lending, and payday loans;

6265 (viii) insurance;



- 6266 (ix) federal, state, and local taxes;
- 6267 (x) charitable giving;
- 6268 (xi) identity fraud and theft;
- 6269 (xii) negative financial consequences of gambling;
- 6270 (xiii) bankruptcy;
- 6271 (xiv) economic systems, including a description of:
- 6272 (A) a command system such as socialism or communism, a market system such as
- 6273 capitalism, and a mixed system; and
- 6274 (B) historic and current examples of the effects of each economic system on economic
- 6275 growth;
- 6276 (xv) supply and demand;
- 6277 (xvi) monetary and fiscal policy;
- 6278 (xvii) effective business plan creation, including using economic analysis in creating a
- 6279 plan;
- 6280 (xviii) scarcity and choices;
- 6281 (xix) opportunity cost and tradeoffs;
- 6282 (xx) productivity;
- 6283 (xxi) entrepreneurship; and
- 6284 (xxii) economic reasoning.
- 6285 (c) "General financial literacy course" means the course of instruction administered by
- 6286 the state board under Subsection (3).
- 6287 (2) The state board shall:
- 6288 (a) more fully integrate existing and new financial and economic literacy education into
- 6289 instruction in kindergarten through grade 12 by:
- 6290 (i) coordinating financial and economic literacy instruction with existing instruction in
- 6291 other areas of the core standards for Utah public schools, such as mathematics and social
- 6292 studies;

- 6293           (ii) using curriculum mapping;
- 6294           (iii) creating training materials and staff development programs that:
- 6295           (A) highlight areas of potential coordination between financial and economic literacy
- 6296 education and other core standards for Utah public schools concepts; and
- 6297           (B) demonstrate specific examples of financial and economic literacy concepts as a
- 6298 way of teaching other core standards for Utah public schools concepts; and
- 6299           (iv) using appropriate financial and economic literacy assessments to improve financial
- 6300 and economic literacy education and, if necessary, developing assessments;
- 6301           (b) work with interested public, private, and nonprofit entities to:
- 6302           (i) identify, and make available to teachers, online resources for financial and
- 6303 economic literacy education, including modules with interactive activities and turnkey
- 6304 instructor resources;
- 6305           (ii) coordinate school use of existing financial and economic literacy education
- 6306 resources;
- 6307           (iii) develop simple, clear, and consistent messaging to reinforce and link existing
- 6308 financial literacy resources;
- 6309           (iv) coordinate the efforts of school, work, private, nonprofit, and other financial
- 6310 education providers in implementing methods of appropriately communicating to teachers,
- 6311 students, and parents key financial and economic literacy messages; and
- 6312           (v) encourage parents and students to establish higher education savings, including a
- 6313 Utah Educational Savings Plan account;
- 6314           (c) make rules to develop guidelines and methods for school districts and charter
- 6315 schools to more fully integrate financial and economic literacy education into other core
- 6316 standards for Utah public schools courses; and
- 6317           (d) in cooperation with school districts, charter schools, and interested private and
- 6318 nonprofit entities, provide opportunities for professional development in financial and
- 6319 economic literacy concepts to teachers, including:

- 6320 (i) a statewide learning community for financial and economic literacy;
- 6321 (ii) summer workshops; and
- 6322 (iii) online videos of experts in the field of financial and economic literacy education.
- 6323 (3) The state board shall:
- 6324 (a) administer a general financial literacy course in the same manner that the state
- 6325 board administers other core standards for Utah public school courses for grades 9 through 12;
- 6326 (b) adopt standards and objectives for the general financial literacy course that address:
- 6327 (i) financial and economic literacy concepts;
- 6328 (ii) the costs of going to college, student loans, scholarships, and the Free Application
- 6329 for Federal Student Aid;
- 6330 (iii) financial benefits of pursuing concurrent enrollment as defined in Section
- 6331 [53E-10-301](#); and
- 6332 (iv) technology that relates to banking, savings, and financial products; and
- 6333 (c) (i) contract with a provider, through a request for proposals process, to develop an
- 6334 online, end-of-course assessment for the general financial literacy course;
- 6335 (ii) require a school district or charter school to administer an online, end-of-course
- 6336 assessment to a student who takes the general financial literacy course; and
- 6337 (iii) develop a plan, through the state superintendent, to analyze the results of an
- 6338 online, end-of-course assessment in general financial literacy that includes:
- 6339 (A) an analysis of assessment results by standard; and
- 6340 (B) average scores statewide and by school district and school.
- 6341 (4) (a) The state board shall establish a task force to study and make recommendations
- 6342 to the state board on how to improve financial and economic literacy education in the public
- 6343 school system.
- 6344 (b) The task force membership shall include representatives of:
- 6345 (i) the state board;
- 6346 (ii) school districts and charter schools;

6347 (iii) the [~~State Board of Regents~~] Utah Board of Higher Education; and  
6348 (iv) private or public entities that teach financial education and share a commitment to  
6349 empower individuals and families to achieve economic stability, opportunity, and upward  
6350 mobility.

6351 (c) The state board shall convene the task force at least once every three years to  
6352 review and recommend adjustments to the standards and objectives of the general financial  
6353 literacy course.

6354 Section 142. Section **53E-3-507** is amended to read:

6355 **53E-3-507. Powers of the state board.**

6356 The state board:

6357 (1) shall establish minimum standards for career and technical education programs in  
6358 the public education system;

6359 (2) may apply for, receive, administer, and distribute funds made available through  
6360 programs of federal and state governments to promote and aid career and technical education;

6361 (3) shall cooperate with federal and state governments to administer programs that  
6362 promote and maintain career and technical education;

6363 (4) shall cooperate with the Utah [~~System of Technical Colleges Board of Trustees~~]  
6364 Board of Higher Education, technical colleges, Salt Lake Community College's School of  
6365 Applied Technology, Snow College, Utah State University Eastern, and Utah State University  
6366 Blanding to ensure that students in the public education system have access to career and  
6367 technical education at [~~Utah System of Technical Colleges~~] technical colleges, Salt Lake  
6368 Community College's School of Applied Technology, Snow College, Utah State University  
6369 Eastern, and Utah State University Blanding;

6370 (5) shall require that before a minor student may participate in clinical experiences as  
6371 part of a health care occupation program at a high school or other institution to which the  
6372 student has been referred, the student's parent has:

6373 (a) been first given written notice through appropriate disclosure when registering and

6374 prior to participation that the program contains a clinical experience segment in which the  
6375 student will observe and perform specific health care procedures that may include personal  
6376 care, patient bathing, and bathroom assistance; and

6377 (b) provided specific written consent for the student's participation in the program and  
6378 clinical experience; and

6379 (6) shall, after consulting with school districts, charter schools, the Utah [~~System of~~  
6380 ~~Technical Colleges Board of Trustees~~] Board of Higher Education, technical colleges, Salt  
6381 Lake Community College's School of Applied Technology, Snow College, Utah State  
6382 University Eastern, and Utah State University Blanding, prepare and submit an annual report in  
6383 accordance with Section 53E-1-203 detailing:

6384 (a) how the career and technical education needs of secondary students are being met;  
6385 and

6386 (b) the access secondary students have to programs offered:

6387 (i) at technical colleges; and

6388 (ii) within the regions served by Salt Lake Community College's School of Applied  
6389 Technology, Snow College, Utah State University Eastern, and Utah State University Blanding.

6390 Section 143. Section **53E-4-206** is amended to read:

6391 **53E-4-206. Career and college readiness mathematics competency standards.**

6392 (1) As used in this section, "qualifying score" means a score established as described in  
6393 Subsection (4), that, if met by a student, qualifies the student to receive college credit for a  
6394 mathematics course that satisfies the state system of higher education quantitative literacy  
6395 requirement.

6396 (2) The state board shall make rules that:

6397 (a) (i) establish the mathematics competency standards described in Subsection (3) as a  
6398 graduation requirement beginning with the 2016-17 school year; and

6399 (ii) include the qualifying scores described in Subsection (4); and

6400 (b) establish systematic reporting of college and career ready mathematics

6401 achievement.

6402 (3) In addition to other graduation requirements established by the state board, a  
6403 student shall fulfill one of the following requirements to demonstrate mathematics competency  
6404 that supports the student's future college and career goals as outlined in the student's college  
6405 and career plan:

6406 (a) for a student pursuing a college degree after graduation:

6407 (i) receive a score that at least meets the qualifying score for:

6408 (A) an Advanced Placement calculus or statistics exam;

6409 (B) an International Baccalaureate higher level mathematics exam;

6410 (C) a college-level math placement test described in Subsection (5);

6411 (D) a College Level Examination Program precalculus or calculus exam; or

6412 (E) the ACT Mathematics Test; or

6413 (ii) receive at least a "C" grade in a concurrent enrollment mathematics course that  
6414 satisfies the state system of higher education quantitative literacy requirement;

6415 (b) for a non college degree-seeking student, the student shall complete appropriate  
6416 math competencies for the student's career goals as described in the student's college and career  
6417 plan;

6418 (c) for a student with an individualized education program prepared in accordance with  
6419 the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., the student shall  
6420 meet the mathematics standards described in the student's individualized education program; or

6421 (d) for a senior student with special circumstances as described in state board rule, the  
6422 student shall fulfill a requirement associated with the student's special circumstances, as  
6423 established in state board rule.

6424 (4) The [~~State Board of Regents~~] Utah Board of Higher Education shall, in consultation  
6425 with the state board, determine qualifying scores for the tests and exams described in  
6426 Subsection (3)(a)(i).

6427 (5) The [~~State Board of Regents, established in Section 53B-1-103;~~] Utah Board of

6428 Higher Education shall make a policy to select at least two tests for college-level math  
6429 placement.

6430 (6) The [~~State Board of Regents~~] Utah Board of Higher Education shall, in consultation  
6431 with the state board, make policies to:

6432 (a) develop mechanisms for a student who completes a math competency requirement  
6433 described in Subsection (3)(a) to:

6434 (i) receive college credit; and

6435 (ii) satisfy the state system of higher education quantitative literacy requirement;

6436 (b) allow a student, upon completion of required high school mathematics courses with  
6437 at least a "C" grade, entry into a mathematics concurrent enrollment course;

6438 (c) increase access to a range of mathematics concurrent enrollment courses;

6439 (d) establish a consistent concurrent enrollment course approval process; and

6440 (e) establish a consistent process to qualify high school teachers with an upper level  
6441 mathematics endorsement to teach entry level mathematics concurrent enrollment courses.

6442 Section 144. Section **53E-4-308** is amended to read:

6443 **53E-4-308. Unique student identifier -- Coordination of higher education and**  
6444 **public education information technology systems -- Coordination of preschool and public**  
6445 **education information technology systems.**

6446 (1) As used in this section, "unique student identifier" means an alphanumeric code  
6447 assigned to each public education student for identification purposes, which:

6448 (a) is not assigned to any former or current student; and

6449 (b) does not incorporate personal information, including a birth date or Social Security  
6450 number.

6451 (2) The state board, through the state superintendent, shall assign each public education  
6452 student a unique student identifier, which shall be used to track individual student performance  
6453 on achievement tests administered under this part.

6454 (3) The state board and the [~~State Board of Regents~~] Utah Board of Higher Education

6455 shall coordinate public education and higher education information technology systems to  
6456 allow individual student academic achievement to be tracked through both education systems  
6457 in accordance with this section and Section 53B-1-109.

6458 (4) The state board and the [~~State Board of Regents~~] Utah Board of Higher Education  
6459 shall coordinate access to the unique student identifier of a public education student who later  
6460 attends an institution within the state system of higher education.

6461 (5) (a) The state board and the Department of Workforce Services shall coordinate  
6462 assignment of a unique student identifier to each student enrolled in a program described in  
6463 Title 35A, Chapter 15, Preschool Programs.

6464 (b) A unique student identifier assigned to a student under Subsection (5)(a) shall  
6465 remain the student's unique student identifier used by the state board when the student enrolls  
6466 in a public school in kindergarten or a later grade.

6467 (c) The state board, the Department of Workforce Services, and a contractor as defined  
6468 in Section 53F-4-401, shall coordinate access to the unique student identifier of a preschool  
6469 student who later attends an LEA.

6470 Section 145. Section 53E-6-201 is amended to read:

6471 **53E-6-201. State board licensure.**

6472 (1) To be fully implemented by July 1, 2020, and, if technology and funds are  
6473 available, the state board shall establish in rule a system for educator licensing that includes:

6474 (a) an associate educator license that permits an individual to provide educational  
6475 services in a public school while working to meet the requirements of a professional educator  
6476 license;

6477 (b) a professional educator license that permits an individual to provide educational  
6478 services in a public school after demonstrating that the individual meets licensure requirements  
6479 established in state board rule; and

6480 (c) an LEA-specific educator license issued by the state board at the request of an  
6481 LEA's governing body that is valid for an individual to provide educational services in the



6482 requesting LEA's schools.

6483 (2) An individual employed in a position that requires licensure by the state board shall  
6484 hold the license that is appropriate to the position.

6485 (3) (a) The state board may by rule rank, endorse, or otherwise classify licenses and  
6486 establish the criteria for obtaining, retaining, and reinstating licenses.

6487 (b) An educator who is enrolling in a course of study at an institution within the state  
6488 system of higher education to satisfy the state board requirements for retaining a license is  
6489 exempt from tuition, except for a semester registration fee established by the [~~State Board of~~  
6490 ~~Regents~~] Utah Board of Higher Education, if:

6491 (i) the educator is enrolled on the basis of surplus space in the class after regularly  
6492 enrolled students have been assigned and admitted to the class in accordance with regular  
6493 procedures, normal teaching loads, and the institution's approved budget; and

6494 (ii) enrollments are determined by each institution under rules and guidelines  
6495 established by the [~~State Board of Regents~~] Utah Board of Higher Education in accordance  
6496 with findings of fact that space is available for the educator's enrollment.

6497 Section 146. Section **53E-10-301** is amended to read:

6498 **53E-10-301. Definitions.**

6499 As used in this part:

6500 (1) "Career and technical education course" means a concurrent enrollment course in  
6501 career and technical education, as determined by the policy established by the [~~State Board of~~  
6502 ~~Regents~~] Utah Board of Higher Education under Section [53E-10-302](#).

6503 (2) "Concurrent enrollment" means enrollment in a course offered through the  
6504 concurrent enrollment program described in Section [53E-10-302](#).

6505 (3) "Educator" means the same as that term is defined in Section [53E-6-102](#).

6506 (4) "Eligible instructor" means an instructor who meets the requirements described in  
6507 Subsection [53E-10-302\(5\)](#).

6508 (5) "Eligible student" means a student who:

6509 (a) is enrolled in, and counted in average daily membership in, a public school within  
6510 the state;

6511 (b) has on file a plan for college and career readiness as described in Section  
6512 [53E-2-304](#); and

6513 (c) is in grade 9, 10, 11, or 12.

6514 (6) "Institution of higher education" means an institution [~~that is part of the Utah~~  
6515 ~~System of Higher Education~~] described in Subsection [53B-1-102\(1\)\(a\)](#).

6516 (7) "License" means the same as that term is defined in Section [53E-6-102](#).

6517 (8) "Local education agency" or "LEA" means a school district or charter school.

6518 (9) "Qualifying experience" means an LEA employee's experience in an academic field  
6519 that:

6520 (a) qualifies the LEA employee to teach a concurrent enrollment course in the  
6521 academic field; and

6522 (b) may include the LEA employee's:

6523 (i) number of years teaching in the academic field;

6524 (ii) holding a higher level secondary teaching credential issued by the state board;

6525 (iii) research, publications, or other scholarly work in the academic field;

6526 (iv) continuing professional education in the academic field;

6527 (v) portfolio of work related to the academic field; or

6528 (vi) professional work experience or certifications in the academic field.

6529 (10) "Value of the weighted pupil unit" means the amount established each year in the  
6530 enacted public education budget that is multiplied by the number of weighted pupil units to  
6531 yield the funding level for the basic state-supported school program.

6532 Section 147. Section **53E-10-302** is amended to read:

6533 **53E-10-302. Concurrent enrollment program.**

6534 (1) The state board and the [~~State Board of Regents~~] Utah Board of Higher Education  
6535 shall establish and maintain a concurrent enrollment program that:

- 6536 (a) provides an eligible student the opportunity to enroll in a course that allows the  
6537 eligible student to earn credit concurrently:
- 6538 (i) toward high school graduation; and
  - 6539 (ii) at an institution of higher education;
- 6540 (b) includes only a course that:
- 6541 (i) leads to a degree or certificate offered by an institution of higher education; and
  - 6542 (ii) is one of the following:
    - 6543 (A) a general education course;
    - 6544 (B) a career and technical education course;
    - 6545 (C) a pre-major college level course; or
    - 6546 (D) a foreign language concurrent enrollment course described in Section 53E-10-307;
  - 6547 (c) requires that the instructor of a concurrent enrollment course is an eligible  
6548 instructor; and
  - 6549 (d) is designed and implemented to take full advantage of the most current available  
6550 education technology.
- 6551 (2) The state board and the [~~State Board of Regents~~] Utah Board of Higher Education  
6552 shall coordinate to:
- 6553 (a) establish a concurrent enrollment course approval process that ensures:
    - 6554 (i) credit awarded for concurrent enrollment is consistent and transferable to all  
6555 institutions of higher education; and
    - 6556 (ii) learning outcomes for a concurrent enrollment course align with:
      - 6557 (A) core standards for Utah public schools adopted by the state board; and
      - 6558 (B) except for a foreign language concurrent enrollment course described in Section  
6559 53E-10-307, an institution of higher education lower division course numbered at or above the  
6560 1000 level; and
  - 6561 (b) provide advising to an eligible student, including information on:
    - 6562 (i) general education requirements at institutions of higher education; and

6563 (ii) how to choose concurrent enrollment courses to avoid duplication or excess credit  
6564 hours.

6565 (3) After consultation with institution of higher education concurrent enrollment  
6566 directors, the [~~State Board of Regents~~] Utah Board of Higher Education shall:

6567 (a) provide guidelines to an institution of higher education for establishing qualifying  
6568 academic criteria for an eligible student to enroll in a concurrent enrollment course; and

6569 (b) on or before July 1, 2019, establish a policy that:

6570 (i) determines which concurrent enrollment courses are career and technical education  
6571 courses; and

6572 (ii) creates a process for:

6573 (A) an LEA to appeal an institution of higher education's decision under Subsection (6)  
6574 if the institution of higher education does not approve an LEA employee as an eligible  
6575 instructor; and

6576 (B) an LEA or institution of higher education to determine whether an eligible  
6577 instructor who previously taught a concurrent enrollment course is no longer qualified to teach  
6578 the concurrent enrollment course.

6579 (4) To qualify for funds under Section [53F-2-409](#), an LEA and an institution of higher  
6580 education shall:

6581 (a) enter into a contract, in accordance with Section [53E-10-303](#), to provide one or  
6582 more concurrent enrollment courses that are approved under the course approval process  
6583 described in Subsection (2);

6584 (b) ensure that an instructor who teaches a concurrent enrollment course is an eligible  
6585 instructor;

6586 (c) establish qualifying academic criteria for an eligible student to enroll in a  
6587 concurrent enrollment course, in accordance with the guidelines described in Subsection (3)(a);

6588 (d) ensure that a student who enrolls in a concurrent enrollment course is an eligible  
6589 student; and

- 6590 (e) coordinate advising to eligible students.
- 6591 (5) (a) An institution of higher education faculty member is an eligible instructor.
- 6592 (b) An LEA employee is an eligible instructor if the LEA employee:
  - 6593 (i) is licensed under Chapter 6, Education Professional Licensure;
  - 6594 (ii) is supervised by an institution of higher education; and
  - 6595 (iii) (A) as described in Subsection (6), is approved as an eligible instructor by the
  - 6596 institution of higher education that provides the concurrent enrollment course taught by the
  - 6597 LEA employee;
  - 6598 (B) has an upper level mathematics credential issued by the state board;
  - 6599 (C) is approved as adjunct faculty by the institution of higher education that provides
  - 6600 the concurrent enrollment course taught by the LEA employee; or
  - 6601 (D) teaches a concurrent enrollment course that the LEA employee taught during the
  - 6602 2018-19 or 2019-20 school year.
- 6603 (6) An institution of higher education shall approve an LEA employee as an eligible
- 6604 instructor:
  - 6605 (a) for a career and technical education concurrent enrollment course, if the LEA
  - 6606 employee has:
    - 6607 (i) a degree, certificate, or industry certification in the concurrent enrollment course's
    - 6608 academic field; or
    - 6609 (ii) qualifying experience, as determined by the institution of higher education; or
  - 6610 (b) for a concurrent enrollment course other than a career and technical education
  - 6611 course, if the LEA employee has:
    - 6612 (i) a master's degree or higher in the concurrent enrollment course's academic field;
    - 6613 (ii) (A) a master's degree or higher in any academic field; and
    - 6614 (B) at least 18 completed credit hours of graduate course work in an academic field
    - 6615 that is relevant to the concurrent enrollment course; or
    - 6616 (iii) qualifying experience, as determined by the institution of higher education.

6617 (7) An institution of higher education shall accept credits earned by a student who  
6618 completes a concurrent enrollment course on the same basis as credits earned by a full-time or  
6619 part-time student enrolled at the institution of higher education.

6620 Section 148. Section **53E-10-303** is amended to read:

6621 **53E-10-303. Designated institution of higher education -- Concurrent enrollment**  
6622 **course right of first refusal.**

6623 (1) As used in this section, "designated institution of higher education" means an  
6624 institution of higher education that is designated by the [~~State Board of Regents~~] Utah Board of  
6625 Higher Education to provide a course or program of study within a specific geographic region.

6626 (2) To offer a concurrent enrollment course, an LEA shall contact the LEA's designated  
6627 institution of higher education to request that the designated institution of higher education  
6628 contract with the LEA to provide the concurrent enrollment course.

6629 (3) If the LEA's designated institution of higher education chooses to offer the  
6630 concurrent enrollment course, the LEA shall contract with the LEA's designated institution of  
6631 higher education to provide the concurrent enrollment course.

6632 (4) An LEA may contract with an institution of higher education that is not the LEA's  
6633 designated institution of higher education to provide a concurrent enrollment course if the  
6634 LEA's designated institution of higher education:

- 6635 (a) chooses not to offer the concurrent enrollment course proposed by the LEA; or  
6636 (b) fails to respond to the LEA's request under Subsection (2) within 30 days after the  
6637 day on which the LEA contacts the designated institution of higher education.

6638 Section 149. Section **53E-10-304** is amended to read:

6639 **53E-10-304. Concurrent enrollment participation form -- Parental permission.**

6640 (1) The [~~State Board of Regents~~] Utah Board of Higher Education shall create a higher  
6641 education concurrent enrollment participation form that includes a parental permission form.

6642 (2) Before allowing an eligible student to participate in concurrent enrollment, an LEA  
6643 and an institution of higher education shall ensure that the eligible student has, for the current

6644 school year:

6645 (a) submitted the participation form described in Subsection (1);

6646 (b) signed an acknowledgment of program participation requirements; and

6647 (c) obtained parental permission as indicated by the signature of a student's parent on  
6648 the parental permission form.

6649 Section 150. Section **53E-10-305** is amended to read:

6650 **53E-10-305. Tuition and fees.**

6651 (1) Except as provided in this section, the [~~State Board of Regents~~] Utah Board of  
6652 Higher Education or an institution of higher education may not charge tuition or fees for a  
6653 concurrent enrollment course.

6654 (2) (a) The [~~State Board of Regents~~] Utah Board of Higher Education may charge a  
6655 one-time fee for a student to participate in the concurrent enrollment program.

6656 (b) A student who pays a fee described in Subsection (2)(a) does not satisfy a general  
6657 admission application fee requirement for a full-time or part-time student at an institution of  
6658 higher education.

6659 (3) (a) An institution of higher education may charge a one-time admission application  
6660 fee for concurrent enrollment course credit offered by the institution of higher education.

6661 (b) Payment of the fee described in Subsection (3)(a) satisfies the general admission  
6662 application fee requirement for a full-time or part-time student at an institution of higher  
6663 education.

6664 (4) (a) Except as provided in Subsection (4)(b), an institution of higher education may  
6665 charge partial tuition of no more than \$30 per credit hour for a concurrent enrollment course  
6666 for which a student earns college credit.

6667 (b) An institution of higher education may not charge more than:

6668 (i) \$5 per credit hour for an eligible student who qualifies for free or reduced price  
6669 school lunch;

6670 (ii) \$10 per credit hour for a concurrent enrollment course that is taught at an LEA by

6671 an eligible instructor described in Subsection 53E-10-302(5)(b); or

6672 (iii) \$15 per credit hour for a concurrent enrollment course that is taught through video  
6673 conferencing.

6674 (5) In accordance with Section 53G-7-603, an LEA may charge a fee for a textbook, as  
6675 defined in Section 53G-7-601, that is required for a concurrent enrollment course.

6676 Section 151. Section 53E-10-308 is amended to read:

6677 **53E-10-308. Reporting.**

6678 The state board and the [~~State Board of Regents~~] Utah Board of Higher Education shall  
6679 submit an annual written report to the Higher Education Appropriations Subcommittee and in  
6680 accordance with Section 53E-1-203 on student participation in the concurrent enrollment  
6681 program, including:

6682 (1) data on the higher education tuition not charged due to the hours of higher  
6683 education credit granted through concurrent enrollment;

6684 (2) tuition or fees charged under Section 53E-10-305;

6685 (3) an accounting of the money appropriated for concurrent enrollment; and

6686 (4) a justification of the distribution method described in Subsections 53F-2-409(3)(d)  
6687 and (e).

6688 Section 152. Section 53E-10-704 is amended to read:

6689 **53E-10-704. Director Selection Committee -- Membership -- Powers and duties --**  
6690 **Compensation.**

6691 (1) There is created the Director Selection Committee to appoint the director.

6692 (2) The selection committee shall consist of the following nine members each  
6693 appointed for two-year staggered terms, with the initial terms of the members described in  
6694 Subsections (2)(a), (b), and (c) to be three years:

6695 (a) one member of the office of the governor, who is the chair of the selection  
6696 committee and appointed by the governor;

6697 (b) one member of the House of Representatives, appointed by the speaker of the



6698 House of Representatives;

6699 (c) one member of the Senate, appointed by the president of the Senate;

6700 (d) one member of the state board, appointed by the chair of the state board;

6701 (e) one member of the ~~[Board of Regents]~~ Utah Board of Higher Education, appointed

6702 by the chair of the ~~[Board of Regents]~~ Utah Board of Higher Education;

6703 (f) one member appointed by the state superintendent;

6704 (g) one member of the State Charter School Board, appointed by the chair of the State

6705 Charter School Board;

6706 (h) one member of the Utah School Boards Association recognized in Section

6707 [53G-4-502](#), appointed by the association executive director; and

6708 (i) one member of a state association that represents school superintendents, appointed

6709 by the association executive director.

6710 (3) (a) A member of the selection committee may be appointed for more than one term.

6711 (b) If a midterm vacancy occurs on the selection committee, the appointing individual,

6712 as described in Subsection (2), for the vacant position shall appoint an individual for the

6713 remainder of the term.

6714 (4) A majority of the members shall constitute a quorum for the transaction of selection

6715 committee business.

6716 (5) (a) The selection committee shall select and appoint a director for a four-year term.

6717 (b) The director may be appointed for more than one term.

6718 (6) (a) In a year in which the director is appointed, the selection committee shall:

6719 (i) solicit applications for the director position to be submitted no later than June 1;

6720 (ii) hold at least two meetings to discuss candidates for the open director position; and

6721 (iii) select and appoint by majority vote a candidate to fill the director position to begin

6722 employment no later than August 1.

6723 (b) Notwithstanding Subsection (6)(a), if a midterm vacancy in the director position

6724 occurs, the selection committee shall:

6725 (i) no later than 25 business days after the day on which the position is vacated, solicit  
6726 applications for the director position;

6727 (ii) hold at least two meetings to discuss candidates for the vacant position; and

6728 (iii) no later than 60 business days after the day on which the position is vacated, select  
6729 a candidate to fill the director position for the remainder of the term.

6730 (7) (a) The selection committee:

6731 (i) may remove a director before the completion of the director's term only by a  
6732 majority vote of the selection committee; and

6733 (ii) is the only person empowered to remove the director.

6734 (b) The chair shall hold a meeting to consider removing the director upon request of  
6735 two or more selection committee members.

6736 (8) A member of the selection committee may not receive compensation except a  
6737 member who is a legislator shall receive compensation for travel and other expense  
6738 reimbursements in accordance with Section 36-2-2.

6739 (9) The selection committee shall:

6740 (a) establish criteria for evaluation of the ULEAD program, including the degree of  
6741 participation by participating institutions and practitioners; and

6742 (b) evaluate the effectiveness of ULEAD every four years for purposes of continuing  
6743 the program.

6744 (10) The selection committee shall hold a meeting described in this section in  
6745 accordance with Title 52, Chapter 4, Open and Public Meetings Act.

6746 Section 153. Section 53F-2-409 is amended to read:

6747 **53F-2-409. Concurrent enrollment funding.**

6748 (1) The terms defined in Section 53E-10-301 apply to this section.

6749 (2) The state board shall allocate money appropriated for concurrent enrollment in  
6750 accordance with this section.

6751 (3) (a) The state board shall allocate money appropriated for concurrent enrollment in

6752 proportion to the number of credit hours earned for courses taken where:

6753 (i) an LEA primarily bears the cost of instruction; and

6754 (ii) an institution of higher education primarily bears the cost of instruction.

6755 (b) From the money allocated under Subsection (3)(a)(i), the state board shall  
6756 distribute:

6757 (i) 60% of the money to LEAs; and

6758 (ii) 40% of the money to the [~~State Board of Regents~~] Utah Board of Higher Education.

6759 (c) From the money allocated under Subsection (3)(a)(ii), the state board shall  
6760 distribute:

6761 (i) 40% of the money to LEAs; and

6762 (ii) 60% of the money to the [~~State Board of Regents~~] Utah Board of Higher Education.

6763 (d) The state board shall make rules providing for the distribution of the money to  
6764 LEAs under Subsections (3)(b)(i) and (3)(c)(i).

6765 (e) The [~~State Board of Regents~~] Utah Board of Higher Education shall make rules  
6766 providing for the distribution of the money allocated to institutions of higher education under  
6767 Subsections (3)(b)(ii) and (3)(c)(ii).

6768 (4) Subject to budget constraints, the Legislature shall annually increase the money  
6769 appropriated for concurrent enrollment in proportion to the percentage increase over the  
6770 previous school year in:

6771 (a) kindergarten through grade 12 student enrollment; and

6772 (b) the value of the weighted pupil unit.

6773 (5) If an LEA receives an allocation of less than \$10,000 under this section, the LEA  
6774 may use the allocation as described in Section [53F-2-206](#).

6775 Section 154. Section **53F-2-501** is amended to read:

6776 **53F-2-501. Early graduation incentives -- Incentive to school district -- Partial**  
6777 **tuition scholarship for student -- Payments.**

6778 (1) A secondary public school student who has completed all required courses or

6779 demonstrated mastery of required skills and competencies may graduate at any time with the  
6780 approval of:

6781 (a) the student;

6782 (b) the student's parent; and

6783 (c) a local school official who is authorized by the school's principal or director to  
6784 approve early graduation.

6785 (2) The state board shall make a payment to a public high school in an amount equal to  
6786 1/2 of the scholarship awarded to each student under this section who graduates from the  
6787 school at or before the conclusion of grade 11, or a proportionately lesser amount for a student  
6788 who graduates after the conclusion of grade 11 but before the conclusion of grade 12.

6789 (3) (a) The state board shall award to each student who graduates from high school at  
6790 or before the conclusion of grade 11 a centennial scholarship in the amount of the greater of  
6791 30% of the previous year's value of the weighted pupil unit or \$1,000, subject to this  
6792 Subsection (3) through Subsection (6).

6793 (b) A student who is awarded a centennial scholarship may use the scholarship for full  
6794 time enrollment at:

6795 (i) a Utah public college, university, or community college;

6796 (ii) a technical college described in Section [53B-2a-105](#); or

6797 (iii) any other institution in the state of Utah that:

6798 (A) is accredited by an accrediting organization recognized by the [~~State Board of~~  
6799 ~~Regents~~] Utah Board of Higher Education; and

6800 (B) offers postsecondary courses of the student's choice.

6801 (c) Before making a payment of a centennial scholarship, the state board shall verify  
6802 that the student has registered at an institution described in Subsection (3)(b):

6803 (i) during the fiscal year following the student's graduation from high school; or

6804 (ii) at the end of the student's deferral period, in accordance with Subsection (4).

6805 (d) If a student graduates after the conclusion of grade 11 but before the conclusion of

6806 grade 12, the state board shall award the student a centennial scholarship of a proportionately  
6807 lesser amount than the scholarship amount described in Subsection (3)(a).

6808 (4) (a) A student who is eligible for a centennial scholarship under Subsection (3) may  
6809 make a request to the state board that the state board defer consideration of the student for the  
6810 scholarship for a set period of time.

6811 (b) A student who makes a request under Subsection (4)(a) shall state in the request the  
6812 reason for which the student wishes not to be considered for the scholarship until the end of the  
6813 deferral period, which may include:

6814 (i) health reasons;

6815 (ii) religious reasons;

6816 (iii) military service; or

6817 (iv) humanitarian service.

6818 (c) If a student makes a request under Subsection (4)(a), the state board shall:

6819 (i) (A) review the student's request; and

6820 (B) approve or reject the student's request; and

6821 (ii) if the state board approves the student's request, in consultation with the student, set  
6822 the length of the deferral period, ensuring that the deferral period is sufficient to meet the  
6823 student's needs under Subsection (4)(b).

6824 (d) At the end of the deferral period, and upon request of the student, the state board  
6825 shall:

6826 (i) determine a student to be eligible for the scholarship if the student was eligible at  
6827 the time of the student's request for deferral; and

6828 (ii) if found eligible, make a payment to the student in an amount equal to the amount  
6829 described in Subsection (4)(e).

6830 (e) The amount of a student's deferred scholarship payment shall be determined by the  
6831 state board based on the amount of the scholarship the student would have been entitled to as  
6832 described in Subsection (3) and based on the fiscal year prior to the student's request for

6833 deferral.

6834 (5) Except as provided in Subsection (4)(b), the state board:

6835 (a) shall make the payments authorized in Subsections (2) and (3)(a) during the fiscal  
6836 year that follows the student's graduation; and

6837 (b) may make the payments authorized in Subsection (3)(b) during the fiscal year:

6838 (i) in which the student graduates; or

6839 (ii) following the student's graduation.

6840 (6) Subject to future budget constraints, the Legislature shall adjust the appropriation  
6841 for the Centennial Scholarship Program based on:

6842 (a) the anticipated increase of students awarded a centennial scholarship; and

6843 (b) the percent increase of the prior year's weighted pupil unit value, as provided in  
6844 Subsection (3).

6845 Section 155. Section **53F-5-204** is amended to read:

6846 **53F-5-204. Initiative to strengthen college and career readiness.**

6847 (1) As used in this section:

6848 (a) "College and career counseling" means:

6849 (i) nurturing college and career aspirations;

6850 (ii) assisting students in planning an academic program that connects to college and  
6851 career goals;

6852 (iii) providing early and ongoing exposure to information necessary to make informed  
6853 decisions when selecting a college and career;

6854 (iv) promoting participation in college and career assessments;

6855 (v) providing financial aid information; and

6856 (vi) increasing understanding about college admission processes.

6857 (b) "LEA" or "local education agency" means a school district or charter school.

6858 (2) There is created the Strengthening College and Career Readiness Program, a grant  
6859 program for LEAs, to improve students' college and career readiness through enhancing the

6860 skill level of school counselors to provide college and career counseling.

6861 (3) The state board shall:

6862 (a) on or before August 1, 2015, collaborate with the [~~State Board of Regents~~] Utah  
6863 Board of Higher Education, and business, community, and education stakeholders to develop a  
6864 certificate for school counselors that:

6865 (i) certifies that a school counselor is highly skilled at providing college and career  
6866 counseling; and

6867 (ii) is aligned with the Utah Comprehensive Counseling and Guidance Program as  
6868 defined in rules established by the state board;

6869 (b) subject to legislative appropriations, award grants to LEAs, on a competitive basis,  
6870 for payment of course fees for courses required to earn the certificate developed by the state  
6871 board under Subsection (3)(a); and

6872 (c) make rules specifying:

6873 (i) procedures for applying for and awarding grants under this section;

6874 (ii) criteria for awarding grants; and

6875 (iii) reporting requirements for grantees.

6876 (4) An LEA that receives a grant under this section shall use the grant for payment of  
6877 course fees for courses required to attain the certificate as determined by the state board under  
6878 Subsection (3)(a).

6879 Section 156. Section **53F-5-205** is amended to read:

6880 **53F-5-205. Paraeducator to Teacher Scholarship Program -- Grants for math**  
6881 **teacher training programs.**

6882 (1) (a) The terms defined in Section **53E-6-102** apply to this section.

6883 (b) As used in this section, "paraeducator" means a school employee who:

6884 (i) delivers instruction under the direct supervision of a teacher; and

6885 (ii) works in an area where there is a shortage of qualified teachers, such as special  
6886 education, Title I, ESL, reading remediation, math, or science.

6887 (2) The Paraeducator to Teacher Scholarship Program is created to award scholarships  
6888 to paraeducators for education and training to become licensed teachers.

6889 (3) The state board shall use money appropriated for the Paraeducator to Teacher  
6890 Scholarship Program to award scholarships of up to \$5,000 to paraeducators employed by  
6891 school districts and charter schools who are pursuing an associate's degree or bachelor's degree  
6892 program to become a licensed teacher.

6893 (4) A paraeducator is eligible to receive a scholarship if:

6894 (a) the paraeducator is employed by a school district or charter school;

6895 (b) is admitted to, or has made an application to, an associate's degree program or  
6896 bachelor's degree program that will prepare the paraeducator for teacher licensure; and

6897 (c) the principal at the school where the paraeducator is employed has nominated the  
6898 paraeducator for a scholarship.

6899 (5) (a) The state board shall establish a committee to select scholarship recipients from  
6900 nominations submitted by school principals.

6901 (b) The committee shall include representatives of the state board, [~~State Board of~~  
6902 ~~Regents~~] the Utah Board of Higher Education, and the general public, excluding school district  
6903 and charter school employees.

6904 (c) A member may not receive compensation or benefits for the member's service, but  
6905 may receive per diem and travel expenses in accordance with:

6906 (i) Section 63A-3-106;

6907 (ii) Section 63A-3-107; and

6908 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
6909 63A-3-107.

6910 (d) The committee shall select scholarship recipients based on the following criteria:

6911 (i) test scores, grades, or other evidence demonstrating the applicant's ability to  
6912 successfully complete a teacher education program; and

6913 (ii) the applicant's record of success as a paraeducator.



- 6914 (6) The maximum scholarship amount is \$5,000.
- 6915 (7) Scholarship money may only be used to pay for tuition costs:
- 6916 (a) of:
- 6917 (i) an associate's degree program that fulfills credit requirements for the first two years
- 6918 of a bachelor's degree program leading to teacher licensure; or
- 6919 (ii) the first two years of a bachelor's degree program leading to teacher licensure; and
- 6920 (b) at a higher education institution:
- 6921 (i) located in Utah; and
- 6922 (ii) accredited by the Northwest Commission on Colleges and Universities.
- 6923 (8) A scholarship recipient must be continuously employed as a paraeducator by a
- 6924 school district or charter school while pursuing a degree using scholarship money.
- 6925 (9) The state board shall make rules in accordance with this section to administer the
- 6926 Paraeducator to Teacher Scholarship Program, including rules establishing:
- 6927 (a) scholarship application procedures;
- 6928 (b) the number of, and qualifications for, committee members who select scholarship
- 6929 recipients; and
- 6930 (c) procedures for distributing scholarship money.
- 6931 (10) If the state obtains matching funds of equal sums from private contributors, the
- 6932 state board may award grants to institutions of higher education or nonprofit educational
- 6933 organizations for programs that provide:
- 6934 (a) mentoring and training leading to a secondary education license with a certificate in
- 6935 mathematics for an individual who:
- 6936 (i) is not a teacher in a public or private school;
- 6937 (ii) does not have a teaching license;
- 6938 (iii) has a bachelor's degree or higher; and
- 6939 (iv) demonstrates a high level of mathematics competency by:
- 6940 (A) successfully completing substantial course work in mathematics; and

6941 (B) passing a mathematics content exam; or  
6942 (b) a stipend, professional development, and leadership opportunities to an experienced  
6943 mathematics teacher who demonstrates high content knowledge and exemplary teaching and  
6944 leadership skills to assist the teacher in becoming a teacher leader.

6945 (11) (a) The state board shall make rules that establish criteria for awarding grants  
6946 under this section.

6947 (b) In awarding grants, the state board shall consider the amount or percent of matching  
6948 funds provided by the grant recipient.

6949 Section 157. Section **53G-5-102** is amended to read:

6950 **53G-5-102. Definitions.**

6951 As used in this chapter:

6952 (1) "Asset" means property of all kinds, real and personal, tangible and intangible, and  
6953 includes:

- 6954 (a) cash;
- 6955 (b) stock or other investments;
- 6956 (c) real property;
- 6957 (d) equipment and supplies;
- 6958 (e) an ownership interest;
- 6959 (f) a license;
- 6960 (g) a cause of action; and
- 6961 (h) any similar property.

6962 (2) "Board of trustees of a higher education institution" or "board of trustees" means:

- 6963 (a) the board of trustees of:
  - 6964 (i) the University of Utah;
  - 6965 (ii) Utah State University;
  - 6966 (iii) Weber State University;
  - 6967 (iv) Southern Utah University;

6968 (v) Snow College;  
6969 (vi) Dixie State University;  
6970 (vii) Utah Valley University; or  
6971 (viii) Salt Lake Community College; or  
6972 (b) [~~the board of directors of~~] a technical college board of trustees described in Section  
6973 [53B-2a-108](#).

6974 (3) "Charter school authorizer" or "authorizer" means an entity listed in Section  
6975 [53G-5-205](#) that authorizes a charter school.

6976 Section 158. Section **53G-5-306** is amended to read:

6977 **53G-5-306. Charter schools authorized by a board of trustees of a higher**  
6978 **education institution -- Application process -- Board of trustees responsibilities.**

6979 (1) Except as provided in Subsection (6), an applicant identified in Section [53G-5-302](#)  
6980 may enter into an agreement with a board of trustees of a higher education institution  
6981 authorizing the applicant to establish and operate a charter school.

6982 (2) (a) An applicant applying for authorization from a board of trustees to establish and  
6983 operate a charter school shall provide a copy of the application to the State Charter School  
6984 Board and the local school board of the school district in which the proposed charter school  
6985 will be located either before or at the same time the applicant files the application with the  
6986 board of trustees.

6987 (b) The State Charter School Board and the local school board may review the  
6988 application and offer suggestions or recommendations to the applicant or the board of trustees  
6989 before acting on the application.

6990 (c) The board of trustees shall give due consideration to suggestions or  
6991 recommendations made by the State Charter School Board or the local school board under  
6992 Subsection (2)(b).

6993 (3) The state board shall make a rule providing a timeline for the opening of a charter  
6994 school following the approval of a charter school application by a board of trustees.

6995 (4) After approval of a charter school application, the applicant and the board of  
6996 trustees shall set forth the terms and conditions for the operation of the charter school in a  
6997 written charter agreement.

6998 (5) (a) The school's charter agreement may include a provision that the charter school  
6999 pay an annual fee for the board of trustees' costs in providing oversight of, and technical  
7000 support to, the charter school in accordance with Section 53G-5-205.

7001 (b) In the first two years that a charter school is in operation, an annual fee described in  
7002 Subsection (5)(a) may not exceed the product of 3% of the revenue the charter school receives  
7003 from the state in the current fiscal year.

7004 (c) Beginning with the third year that a charter school is in operation, an annual fee  
7005 described in Subsection (5)(a) may not exceed the product of 1% of the revenue a charter  
7006 school receives from the state in the current fiscal year.

7007 (d) An annual fee described in Subsection (5)(a) shall be:

- 7008 (i) paid to the board of trustees' higher education institution; and
- 7009 (ii) expended as directed by the board of trustees.

7010 (6) (a) In addition to complying with the requirements of this section, a technical  
7011 college board of [~~directors~~] trustees described in Section 53B-2a-108 shall obtain the approval  
7012 of the [~~Utah System of Technical Colleges Board of Trustees~~] Utah Board of Higher Education  
7013 before entering into an agreement to establish and operate a charter school.

7014 (b) If a technical college board of [~~directors~~] trustees approves an application to  
7015 establish and operate a charter school, the technical college board of [~~directors~~] trustees shall  
7016 submit the application to the [~~Utah System of Technical Colleges Board of Trustees~~] Utah  
7017 Board of Higher Education.

7018 (c) The [~~Utah System of Technical Colleges Board of Trustees~~] Utah Board of Higher  
7019 Education shall, by majority vote, within 60 days of receipt of an application described in  
7020 Subsection (6)(b), approve or deny the application.

7021 (d) The [~~Utah System of Technical Colleges Board of Trustees~~] Utah Board of Higher

7022 Education may deny an application approved by a technical college board of [~~directors~~] trustees  
7023 if the proposed charter school does not accomplish a purpose of charter schools as provided in  
7024 Section [53G-5-104](#).

7025 (e) A charter school application may not be denied on the basis that the establishment  
7026 of the charter school will have any or all of the following impacts on a public school, including  
7027 another charter school:

- 7028 (i) an enrollment decline;
- 7029 (ii) a decrease in funding; or
- 7030 (iii) a modification of programs or services.

7031 (7) (a) Subject to the requirements of this chapter and other related provisions, a  
7032 technical college board of [~~directors~~] trustees may establish:

- 7033 (i) procedures for submitting applications to establish and operate a charter school; or
- 7034 (ii) criteria for approval of an application to establish and operate a charter school.

7035 (b) The [~~Utah System of Technical Colleges Board of Trustees~~] Utah Board of Higher  
7036 Education may not establish policy governing the procedures or criteria described in  
7037 Subsection (7)(a).

7038 (8) Before a technical college board of [~~directors~~] trustees accepts a charter school  
7039 application, the technical college board of [~~directors~~] trustees shall, in accordance with state  
7040 board rules, establish and make public:

- 7041 (a) application requirements, in accordance with Section [53G-5-302](#);
- 7042 (b) the application process, including timelines, in accordance with this section; and
- 7043 (c) minimum academic, financial, and enrollment standards.

7044 Section 159. Section **53G-10-303** is amended to read:

7045 **53G-10-303. Teaching of American sign language.**

7046 (1) The Legislature recognizes that American sign language is a fully developed,  
7047 autonomous, natural language with distinct grammar, syntax, and art forms.

7048 (2) American sign language shall be accorded equal status with other linguistic systems

7049 in the state's public and higher education systems.

7050 (3) The state board, in consultation with the state's school districts and members of the  
7051 deaf and hard of hearing community, shall develop and implement policies and procedures for  
7052 the teaching of American sign language in the state's public education system at least at the  
7053 middle school or high school level.

7054 (4) A student may count credit received for completion of a course in American sign  
7055 language at the middle school or high school level toward the satisfaction of a foreign language  
7056 requirement in the public education system under rules made by the state board.

7057 (5) The [~~State Board of Regents~~] Utah Board of Higher Education, in consultation with  
7058 the state's public institutions of higher education and members of the state's deaf and hard of  
7059 hearing community, shall develop and implement policies and procedures for offering  
7060 instruction in American sign language in the state's system of higher education.

7061 (6) The Joint Liaison Committee, in consultation with members of the state's deaf and  
7062 hard of hearing community, shall review any policies and procedures developed under this  
7063 section and make recommendations to either or both boards regarding the policies.

7064 Section 160. Section **54-8b-10** is amended to read:

7065 **54-8b-10. Imposing a surcharge to provide deaf, hard of hearing, and speech**  
7066 **impaired individuals with telecommunication devices -- Definitions -- Procedures for**  
7067 **establishing program -- Surcharge -- Administration and disposition of surcharge money.**

7068 (1) As used in this section:

7069 (a) "Certified deaf, hard of hearing, or severely speech impaired individual" means any  
7070 state resident who:

7071 (i) is so certified by:

7072 (A) a licensed physician;

7073 (B) a licensed physician assistant;

7074 (C) an otolaryngologist;

7075 (D) a speech language pathologist;

7076 (E) an audiologist; or  
7077 (F) a qualified state agency; and  
7078 (ii) qualifies for assistance under any low income public assistance program  
7079 administered by a state agency.

7080 (b) "Certified interpreter" means a person who is a certified interpreter under Title  
7081 35A, Chapter 13, Part 6, Interpreter Services for the Deaf and Hard of Hearing Act.

7082 (c) (i) "Telecommunication device" means any mechanical adaptation device that  
7083 enables a deaf, hard of hearing, or severely speech impaired individual to use the telephone.

7084 (ii) "Telecommunication device" includes:  
7085 (A) telecommunication devices for the deaf (TDD);  
7086 (B) telephone amplifiers;  
7087 (C) telephone signal devices;  
7088 (D) artificial larynxes; and  
7089 (E) adaptive equipment for TDD keyboard access.

7090 (2) The commission shall establish a program whereby a certified deaf, hard of hearing,  
7091 or severely speech impaired customer of a telecommunications corporation that provides  
7092 service through a local exchange or of a wireless telecommunications provider may obtain a  
7093 telecommunication device capable of serving the customer at no charge to the customer beyond  
7094 the rate for basic service.

7095 (3) (a) The program described in Subsection (2) shall provide a dual party relay system  
7096 using third party intervention to connect a certified deaf, hard of hearing, or severely speech  
7097 impaired individual with a normal hearing individual by way of telecommunication devices  
7098 designed for that purpose.

7099 (b) The commission may, by rule, establish the type of telecommunications device to  
7100 be provided to ensure functional equivalence.

7101 (4) The commission shall cover the costs of the program described in this section from  
7102 the Universal Public Telecommunications Service Support Fund created in Section [54-8b-15](#).

7103 (5) In administering the program described in this section, the commission may use  
7104 funds from the Universal Public Telecommunications Service Support Fund:

7105 (a) for the purchase, maintenance, repair, and distribution of telecommunication  
7106 devices;

7107 (b) for the acquisition, operation, maintenance, and repair of a dual party relay system;

7108 (c) for the general administration of the program;

7109 (d) to train individuals in the use of telecommunications devices; and

7110 (e) to contract, in compliance with Title 63G, Chapter 6a, Utah Procurement Code,

7111 with:

7112 (i) an institution within the state system of higher education listed in Section  
7113 [53B-1-102](#) for a program approved by the [~~Board of Regents~~] Utah Board of Higher Education  
7114 that trains persons to qualify as certified interpreters; or

7115 (ii) the Utah State Office of Rehabilitation created in Section [35A-1-202](#) for a program  
7116 that trains persons to qualify as certified interpreters.

7117 (6) The commission may create disbursement criteria and procedures by rule made  
7118 under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for administering funds  
7119 under Subsection (5).

7120 (7) The commission shall solicit advice, counsel, and physical assistance from deaf,  
7121 hard of hearing, or severely speech impaired individuals and the organizations serving deaf,  
7122 hard of hearing, or severely speech impaired individuals in the design and implementation of  
7123 the program.

7124 Section 161. Section **58-22-302** is amended to read:

7125 **58-22-302. Qualifications for licensure.**

7126 (1) Each applicant for licensure as a professional engineer shall:

7127 (a) submit an application in a form prescribed by the division;

7128 (b) pay a fee determined by the department under Section [63J-1-504](#);

7129 (c) provide satisfactory evidence of good moral character;



7130 (d) (i) have graduated and received a bachelors or masters degree from an engineering  
7131 program meeting criteria established by rule by the division in collaboration with the board; or

7132 (ii) have completed the Transportation Engineering Technology and Fundamental  
7133 Engineering College Program before July 1, 1998, under the direction of the Utah Department  
7134 of Transportation and as certified by the Utah Department of Transportation;

7135 (e) have successfully completed a program of qualifying experience established by rule  
7136 by the division in collaboration with the board;

7137 (f) have successfully passed examinations established by rule by the division in  
7138 collaboration with the board; and

7139 (g) meet with the board or representative of the division upon request for the purpose  
7140 of evaluating the applicant's qualification for licensure.

7141 (2) Each applicant for licensure as a professional structural engineer shall:

7142 (a) submit an application in a form prescribed by the division;

7143 (b) pay a fee determined by the department under Section [63J-1-504](#);

7144 (c) provide satisfactory evidence of good moral character;

7145 (d) have graduated and received an earned bachelors or masters degree from an  
7146 engineering program meeting criteria established by rule by the division in collaboration with  
7147 the board;

7148 (e) have successfully completed three years of licensed professional engineering  
7149 experience established by rule by the division in collaboration with the board, except that prior  
7150 to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form  
7151 prescribed by the division stating that the applicant is currently engaged in the practice of  
7152 structural engineering;

7153 (f) have successfully passed examinations established by rule by the division in  
7154 collaboration with the board, except that prior to January 1, 2009, an applicant for licensure  
7155 may submit a signed affidavit in a form prescribed by the division stating that the applicant is  
7156 currently engaged in the practice of structural engineering; and

7157 (g) meet with the board or representative of the division upon request for the purpose  
7158 of evaluating the applicant's qualification for licensure.

7159 (3) Each applicant for licensure as a professional land surveyor shall:

7160 (a) submit an application in a form prescribed by the division;

7161 (b) pay a fee determined by the department under Section 63J-1-504;

7162 (c) provide satisfactory evidence of good moral character;

7163 (d) (i) have graduated and received an associates, bachelors, or masters degree from a  
7164 land surveying program, or an equivalent land surveying program, such as a program offered by  
7165 a technical college described in Section 53B-2a-105, as approved by the [~~State Board of~~  
7166 Regents] Utah Board of Higher Education, established by rule by the division in collaboration  
7167 with the board, and have successfully completed a program of qualifying experience in land  
7168 surveying established by rule by the division in collaboration with the board; or

7169 (ii) have successfully completed a program of qualifying experience in land surveying  
7170 prior to January 1, 2007, in accordance with rules established by the division in collaboration  
7171 with the board;

7172 (e) have successfully passed examinations established by rule by the division in  
7173 collaboration with the board; and

7174 (f) meet with the board or representative of the division upon request for the purpose of  
7175 evaluating the applicant's qualification for licensure.

7176 (4) Each applicant for licensure by endorsement shall:

7177 (a) submit an application in a form prescribed by the division;

7178 (b) pay a fee determined by the department under Section 63J-1-504;

7179 (c) provide satisfactory evidence of good moral character;

7180 (d) submit satisfactory evidence of:

7181 (i) current licensure in good standing in a jurisdiction recognized by rule by the  
7182 division in collaboration with the board;

7183 (ii) having successfully passed an examination established by rule by the division in

7184 collaboration with the board; and  
7185 (iii) full-time employment as a principal for at least five of the last seven years  
7186 immediately preceding the date of the application as a:  
7187 (A) licensed professional engineer for licensure as a professional engineer;  
7188 (B) licensed professional structural engineer for licensure as a structural engineer; or  
7189 (C) licensed professional land surveyor for licensure as a professional land surveyor;  
7190 and  
7191 (e) meet with the board or representative of the division upon request for the purpose  
7192 of evaluating the applicant's qualifications for license.  
7193 (5) The rules made to implement this section shall be in accordance with Title 63G,  
7194 Chapter 3, Utah Administrative Rulemaking Act.  
7195 Section 162. Section **59-12-102** is amended to read:  
7196 **59-12-102. Definitions.**  
7197 As used in this chapter:  
7198 (1) "800 service" means a telecommunications service that:  
7199 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and  
7200 (b) is typically marketed:  
7201 (i) under the name 800 toll-free calling;  
7202 (ii) under the name 855 toll-free calling;  
7203 (iii) under the name 866 toll-free calling;  
7204 (iv) under the name 877 toll-free calling;  
7205 (v) under the name 888 toll-free calling; or  
7206 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the  
7207 Federal Communications Commission.  
7208 (2) (a) "900 service" means an inbound toll telecommunications service that:  
7209 (i) a subscriber purchases;  
7210 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to

- 7211 the subscriber's:
- 7212 (A) prerecorded announcement; or
- 7213 (B) live service; and
- 7214 (iii) is typically marketed:
- 7215 (A) under the name 900 service; or
- 7216 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 7217 Communications Commission.
- 7218 (b) "900 service" does not include a charge for:
- 7219 (i) a collection service a seller of a telecommunications service provides to a
- 7220 subscriber; or
- 7221 (ii) the following a subscriber sells to the subscriber's customer:
- 7222 (A) a product; or
- 7223 (B) a service.
- 7224 (3) (a) "Admission or user fees" includes season passes.
- 7225 (b) "Admission or user fees" does not include annual membership dues to private
- 7226 organizations.
- 7227 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
- 7228 person:
- 7229 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
- 7230 person; or
- 7231 (b) is related to the other person because a third person, or a group of third persons who
- 7232 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
- 7233 whether direct or indirect, in the related persons.
- 7234 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 7235 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 7236 Agreement after November 12, 2002.
- 7237 (6) "Agreement combined tax rate" means the sum of the tax rates:

- 7238 (a) listed under Subsection (7); and
- 7239 (b) that are imposed within a local taxing jurisdiction.
- 7240 (7) "Agreement sales and use tax" means a tax imposed under:
- 7241 (a) Subsection 59-12-103(2)(a)(i)(A);
- 7242 (b) Subsection 59-12-103(2)(b)(i);
- 7243 (c) Subsection 59-12-103(2)(c)(i);
- 7244 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 7245 (e) Section 59-12-204;
- 7246 (f) Section 59-12-401;
- 7247 (g) Section 59-12-402;
- 7248 (h) Section 59-12-402.1;
- 7249 (i) Section 59-12-703;
- 7250 (j) Section 59-12-802;
- 7251 (k) Section 59-12-804;
- 7252 (l) Section 59-12-1102;
- 7253 (m) Section 59-12-1302;
- 7254 (n) Section 59-12-1402;
- 7255 (o) Section 59-12-1802;
- 7256 (p) Section 59-12-2003;
- 7257 (q) Section 59-12-2103;
- 7258 (r) Section 59-12-2213;
- 7259 (s) Section 59-12-2214;
- 7260 (t) Section 59-12-2215;
- 7261 (u) Section 59-12-2216;
- 7262 (v) Section 59-12-2217;
- 7263 (w) Section 59-12-2218;
- 7264 (x) Section 59-12-2219; or

- 7265 (y) Section 59-12-2220.
- 7266 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 7267 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 7268 (a) except for:
- 7269 (i) an airline as defined in Section 59-2-102; or
- 7270 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 7271 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 7272 state, of an airline; and
- 7273 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 7274 whether the business entity performs the following in this state:
- 7275 (i) check, diagnose, overhaul, and repair:
- 7276 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 7277 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 7278 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 7279 engine;
- 7280 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 7281 aircraft:
- 7282 (A) an inspection;
- 7283 (B) a repair, including a structural repair or modification;
- 7284 (C) changing landing gear; and
- 7285 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 7286 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 7287 completely apply new paint to the fixed wing turbine powered aircraft; and
- 7288 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 7289 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 7290 authority that certifies the fixed wing turbine powered aircraft.
- 7291 (10) "Alcoholic beverage" means a beverage that:

- 7292 (a) is suitable for human consumption; and
- 7293 (b) contains .5% or more alcohol by volume.
- 7294 (11) "Alternative energy" means:
- 7295 (a) biomass energy;
- 7296 (b) geothermal energy;
- 7297 (c) hydroelectric energy;
- 7298 (d) solar energy;
- 7299 (e) wind energy; or
- 7300 (f) energy that is derived from:
- 7301 (i) coal-to-liquids;
- 7302 (ii) nuclear fuel;
- 7303 (iii) oil-impregnated diatomaceous earth;
- 7304 (iv) oil sands;
- 7305 (v) oil shale;
- 7306 (vi) petroleum coke; or
- 7307 (vii) waste heat from:
- 7308 (A) an industrial facility; or
- 7309 (B) a power station in which an electric generator is driven through a process in which
- 7310 water is heated, turns into steam, and spins a steam turbine.
- 7311 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
- 7312 facility" means a facility that:
- 7313 (i) uses alternative energy to produce electricity; and
- 7314 (ii) has a production capacity of two megawatts or greater.
- 7315 (b) A facility is an alternative energy electricity production facility regardless of
- 7316 whether the facility is:
- 7317 (i) connected to an electric grid; or
- 7318 (ii) located on the premises of an electricity consumer.

7319 (13) (a) "Ancillary service" means a service associated with, or incidental to, the  
7320 provision of telecommunications service.

7321 (b) "Ancillary service" includes:

7322 (i) a conference bridging service;

7323 (ii) a detailed communications billing service;

7324 (iii) directory assistance;

7325 (iv) a vertical service; or

7326 (v) a voice mail service.

7327 (14) "Area agency on aging" means the same as that term is defined in Section

7328 [62A-3-101](#).

7329 (15) "Assisted amusement device" means an amusement device, skill device, or ride  
7330 device that is started and stopped by an individual:

7331 (a) who is not the purchaser or renter of the right to use or operate the amusement  
7332 device, skill device, or ride device; and

7333 (b) at the direction of the seller of the right to use the amusement device, skill device,  
7334 or ride device.

7335 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or  
7336 washing of tangible personal property if the cleaning or washing labor is primarily performed  
7337 by an individual:

7338 (a) who is not the purchaser of the cleaning or washing of the tangible personal  
7339 property; and

7340 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
7341 property.

7342 (17) "Authorized carrier" means:

7343 (a) in the case of vehicles operated over public highways, the holder of credentials  
7344 indicating that the vehicle is or will be operated pursuant to both the International Registration  
7345 Plan and the International Fuel Tax Agreement;



7346 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating  
7347 certificate or air carrier's operating certificate; or

7348 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling  
7349 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling  
7350 stock in more than one state.

7351 (18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the  
7352 following that is used as the primary source of energy to produce fuel or electricity:

7353 (i) material from a plant or tree; or

7354 (ii) other organic matter that is available on a renewable basis, including:

7355 (A) slash and brush from forests and woodlands;

7356 (B) animal waste;

7357 (C) waste vegetable oil;

7358 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of  
7359 wastewater residuals, or through the conversion of a waste material through a nonincineration,  
7360 thermal conversion process;

7361 (E) aquatic plants; and

7362 (F) agricultural products.

7363 (b) "Biomass energy" does not include:

7364 (i) black liquor; or

7365 (ii) treated woods.

7366 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal  
7367 property, products, or services if the tangible personal property, products, or services are:

7368 (i) distinct and identifiable; and

7369 (ii) sold for one nonitemized price.

7370 (b) "Bundled transaction" does not include:

7371 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on

7372 the basis of the selection by the purchaser of the items of tangible personal property included in

- 7373 the transaction;
- 7374 (ii) the sale of real property;
- 7375 (iii) the sale of services to real property;
- 7376 (iv) the retail sale of tangible personal property and a service if:
- 7377 (A) the tangible personal property:
- 7378 (I) is essential to the use of the service; and
- 7379 (II) is provided exclusively in connection with the service; and
- 7380 (B) the service is the true object of the transaction;
- 7381 (v) the retail sale of two services if:
- 7382 (A) one service is provided that is essential to the use or receipt of a second service;
- 7383 (B) the first service is provided exclusively in connection with the second service; and
- 7384 (C) the second service is the true object of the transaction;
- 7385 (vi) a transaction that includes tangible personal property or a product subject to
- 7386 taxation under this chapter and tangible personal property or a product that is not subject to
- 7387 taxation under this chapter if the:
- 7388 (A) seller's purchase price of the tangible personal property or product subject to
- 7389 taxation under this chapter is de minimis; or
- 7390 (B) seller's sales price of the tangible personal property or product subject to taxation
- 7391 under this chapter is de minimis; and
- 7392 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 7393 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 7394 (A) that retail sale includes:
- 7395 (I) food and food ingredients;
- 7396 (II) a drug;
- 7397 (III) durable medical equipment;
- 7398 (IV) mobility enhancing equipment;
- 7399 (V) an over-the-counter drug;

- 7400 (VI) a prosthetic device; or
- 7401 (VII) a medical supply; and
- 7402 (B) subject to Subsection (19)(f):
- 7403 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 7404 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 7405 (II) the seller's sales price of the tangible personal property subject to taxation under
- 7406 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 7407 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a
- 7408 service that is distinct and identifiable does not include:
- 7409 (A) packaging that:
- 7410 (I) accompanies the sale of the tangible personal property, product, or service; and
- 7411 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
- 7412 service;
- 7413 (B) tangible personal property, a product, or a service provided free of charge with the
- 7414 purchase of another item of tangible personal property, a product, or a service; or
- 7415 (C) an item of tangible personal property, a product, or a service included in the
- 7416 definition of "purchase price."
- 7417 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a
- 7418 product, or a service is provided free of charge with the purchase of another item of tangible
- 7419 personal property, a product, or a service if the sales price of the purchased item of tangible
- 7420 personal property, product, or service does not vary depending on the inclusion of the tangible
- 7421 personal property, product, or service provided free of charge.
- 7422 (d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price
- 7423 does not include a price that is separately identified by tangible personal property, product, or
- 7424 service on the following, regardless of whether the following is in paper format or electronic
- 7425 format:
- 7426 (A) a binding sales document; or

- 7427 (B) another supporting sales-related document that is available to a purchaser.
- 7428 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another
- 7429 supporting sales-related document that is available to a purchaser includes:
- 7430 (A) a bill of sale;
- 7431 (B) a contract;
- 7432 (C) an invoice;
- 7433 (D) a lease agreement;
- 7434 (E) a periodic notice of rates and services;
- 7435 (F) a price list;
- 7436 (G) a rate card;
- 7437 (H) a receipt; or
- 7438 (I) a service agreement.
- 7439 (e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal
- 7440 property or a product subject to taxation under this chapter is de minimis if:
- 7441 (A) the seller's purchase price of the tangible personal property or product is 10% or
- 7442 less of the seller's total purchase price of the bundled transaction; or
- 7443 (B) the seller's sales price of the tangible personal property or product is 10% or less of
- 7444 the seller's total sales price of the bundled transaction.
- 7445 (ii) For purposes of Subsection (19)(b)(vi), a seller:
- 7446 (A) shall use the seller's purchase price or the seller's sales price to determine if the
- 7447 purchase price or sales price of the tangible personal property or product subject to taxation
- 7448 under this chapter is de minimis; and
- 7449 (B) may not use a combination of the seller's purchase price and the seller's sales price
- 7450 to determine if the purchase price or sales price of the tangible personal property or product
- 7451 subject to taxation under this chapter is de minimis.
- 7452 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service
- 7453 contract to determine if the sales price of tangible personal property or a product is de minimis.

7454 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of  
7455 the seller's purchase price and the seller's sales price to determine if tangible personal property  
7456 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales  
7457 price of that retail sale.

7458 (20) "Certified automated system" means software certified by the governing board of  
7459 the agreement that:

7460 (a) calculates the agreement sales and use tax imposed within a local taxing  
7461 jurisdiction:

7462 (i) on a transaction; and

7463 (ii) in the states that are members of the agreement;

7464 (b) determines the amount of agreement sales and use tax to remit to a state that is a  
7465 member of the agreement; and

7466 (c) maintains a record of the transaction described in Subsection (20)(a)(i).

7467 (21) "Certified service provider" means an agent certified:

7468 (a) by the governing board of the agreement; and

7469 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,  
7470 as outlined in the contract between the governing board of the agreement and the certified  
7471 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the  
7472 seller's own purchases.

7473 (22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel  
7474 suitable for general use.

7475 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
7476 commission shall make rules:

7477 (i) listing the items that constitute "clothing"; and

7478 (ii) that are consistent with the list of items that constitute "clothing" under the  
7479 agreement.

7480 (23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

7481 (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
7482 fuels that does not constitute industrial use under Subsection (57) or residential use under  
7483 Subsection (111).

7484 (25) (a) "Common carrier" means a person engaged in or transacting the business of  
7485 transporting passengers, freight, merchandise, or other property for hire within this state.

7486 (b) (i) "Common carrier" does not include a person that, at the time the person is  
7487 traveling to or from that person's place of employment, transports a passenger to or from the  
7488 passenger's place of employment.

7489 (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3,  
7490 Utah Administrative Rulemaking Act, the commission may make rules defining what  
7491 constitutes a person's place of employment.

7492 (c) "Common carrier" does not include a person that provides transportation network  
7493 services, as defined in Section [13-51-102](#).

7494 (26) "Component part" includes:

7495 (a) poultry, dairy, and other livestock feed, and their components;

7496 (b) baling ties and twine used in the baling of hay and straw;

7497 (c) fuel used for providing temperature control of orchards and commercial  
7498 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
7499 off-highway type farm machinery; and

7500 (d) feed, seeds, and seedlings.

7501 (27) "Computer" means an electronic device that accepts information:

7502 (a) (i) in digital form; or

7503 (ii) in a form similar to digital form; and

7504 (b) manipulates that information for a result based on a sequence of instructions.

7505 (28) "Computer software" means a set of coded instructions designed to cause:

7506 (a) a computer to perform a task; or

7507 (b) automatic data processing equipment to perform a task.

7508           (29) "Computer software maintenance contract" means a contract that obligates a seller  
7509 of computer software to provide a customer with:

- 7510           (a) future updates or upgrades to computer software;
- 7511           (b) support services with respect to computer software; or
- 7512           (c) a combination of Subsections (29)(a) and (b).

7513           (30) (a) "Conference bridging service" means an ancillary service that links two or  
7514 more participants of an audio conference call or video conference call.

7515           (b) "Conference bridging service" may include providing a telephone number as part of  
7516 the ancillary service described in Subsection (30)(a).

7517           (c) "Conference bridging service" does not include a telecommunications service used  
7518 to reach the ancillary service described in Subsection (30)(a).

7519           (31) "Construction materials" means any tangible personal property that will be  
7520 converted into real property.

7521           (32) "Delivered electronically" means delivered to a purchaser by means other than  
7522 tangible storage media.

7523           (33) (a) "Delivery charge" means a charge:

- 7524           (i) by a seller of:
  - 7525           (A) tangible personal property;
  - 7526           (B) a product transferred electronically; or
  - 7527           (C) a service; and

7528           (ii) for preparation and delivery of the tangible personal property, product transferred  
7529 electronically, or services described in Subsection (33)(a)(i) to a location designated by the  
7530 purchaser.

7531           (b) "Delivery charge" includes a charge for the following:

- 7532           (i) transportation;
- 7533           (ii) shipping;
- 7534           (iii) postage;

7535 (iv) handling;

7536 (v) crating; or

7537 (vi) packing.

7538 (34) "Detailed telecommunications billing service" means an ancillary service of  
7539 separately stating information pertaining to individual calls on a customer's billing statement.

7540 (35) "Dietary supplement" means a product, other than tobacco, that:

7541 (a) is intended to supplement the diet;

7542 (b) contains one or more of the following dietary ingredients:

7543 (i) a vitamin;

7544 (ii) a mineral;

7545 (iii) an herb or other botanical;

7546 (iv) an amino acid;

7547 (v) a dietary substance for use by humans to supplement the diet by increasing the total  
7548 dietary intake; or

7549 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient  
7550 described in Subsections (35)(b)(i) through (v);

7551 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:

7552 (A) tablet form;

7553 (B) capsule form;

7554 (C) powder form;

7555 (D) softgel form;

7556 (E) gelcap form; or

7557 (F) liquid form; or

7558 (ii) if the product is not intended for ingestion in a form described in Subsections  
7559 (35)(c)(i)(A) through (F), is not represented:

7560 (A) as conventional food; and

7561 (B) for use as a sole item of:



- 7562 (I) a meal; or  
7563 (II) the diet; and  
7564 (d) is required to be labeled as a dietary supplement:  
7565 (i) identifiable by the "Supplemental Facts" box found on the label; and  
7566 (ii) as required by 21 C.F.R. Sec. 101.36.  
7567 (36) (a) "Digital audio work" means a work that results from the fixation of a series of  
7568 musical, spoken, or other sounds.  
7569 (b) "Digital audio work" includes a ringtone.  
7570 (37) "Digital audio-visual work" means a series of related images which, when shown  
7571 in succession, imparts an impression of motion, together with accompanying sounds, if any.  
7572 (38) "Digital book" means a work that is generally recognized in the ordinary and usual  
7573 sense as a book.  
7574 (39) (a) "Direct mail" means printed material delivered or distributed by United States  
7575 mail or other delivery service:  
7576 (i) to:  
7577 (A) a mass audience; or  
7578 (B) addressees on a mailing list provided:  
7579 (I) by a purchaser of the mailing list; or  
7580 (II) at the discretion of the purchaser of the mailing list; and  
7581 (ii) if the cost of the printed material is not billed directly to the recipients.  
7582 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a  
7583 purchaser to a seller of direct mail for inclusion in a package containing the printed material.  
7584 (c) "Direct mail" does not include multiple items of printed material delivered to a  
7585 single address.  
7586 (40) "Directory assistance" means an ancillary service of providing:  
7587 (a) address information; or  
7588 (b) telephone number information.

7589 (41) (a) "Disposable home medical equipment or supplies" means medical equipment  
7590 or supplies that:

- 7591 (i) cannot withstand repeated use; and
- 7592 (ii) are purchased by, for, or on behalf of a person other than:
  - 7593 (A) a health care facility as defined in Section 26-21-2;
  - 7594 (B) a health care provider as defined in Section 78B-3-403;
  - 7595 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or
  - 7596 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

7597 (b) "Disposable home medical equipment or supplies" does not include:

- 7598 (i) a drug;
- 7599 (ii) durable medical equipment;
- 7600 (iii) a hearing aid;
- 7601 (iv) a hearing aid accessory;
- 7602 (v) mobility enhancing equipment; or
- 7603 (vi) tangible personal property used to correct impaired vision, including:
  - 7604 (A) eyeglasses; or
  - 7605 (B) contact lenses.

7606 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
7607 commission may by rule define what constitutes medical equipment or supplies.

7608 (42) "Drilling equipment manufacturer" means a facility:

- 7609 (a) located in the state;
- 7610 (b) with respect to which 51% or more of the manufacturing activities of the facility  
7611 consist of manufacturing component parts of drilling equipment;

7612 (c) that uses pressure of 800,000 or more pounds per square inch as part of the  
7613 manufacturing process; and

7614 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the  
7615 manufacturing process.

7616 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a  
7617 compound, substance, or preparation that is:

7618 (i) recognized in:

7619 (A) the official United States Pharmacopoeia;

7620 (B) the official Homeopathic Pharmacopoeia of the United States;

7621 (C) the official National Formulary; or

7622 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

7623 (ii) intended for use in the:

7624 (A) diagnosis of disease;

7625 (B) cure of disease;

7626 (C) mitigation of disease;

7627 (D) treatment of disease; or

7628 (E) prevention of disease; or

7629 (iii) intended to affect:

7630 (A) the structure of the body; or

7631 (B) any function of the body.

7632 (b) "Drug" does not include:

7633 (i) food and food ingredients;

7634 (ii) a dietary supplement;

7635 (iii) an alcoholic beverage; or

7636 (iv) a prosthetic device.

7637 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means  
7638 equipment that:

7639 (i) can withstand repeated use;

7640 (ii) is primarily and customarily used to serve a medical purpose;

7641 (iii) generally is not useful to a person in the absence of illness or injury; and

7642 (iv) is not worn in or on the body.

7643 (b) "Durable medical equipment" includes parts used in the repair or replacement of the  
7644 equipment described in Subsection (44)(a).

7645 (c) "Durable medical equipment" does not include mobility enhancing equipment.

7646 (45) "Electronic" means:

7647 (a) relating to technology; and

7648 (b) having:

7649 (i) electrical capabilities;

7650 (ii) digital capabilities;

7651 (iii) magnetic capabilities;

7652 (iv) wireless capabilities;

7653 (v) optical capabilities;

7654 (vi) electromagnetic capabilities; or

7655 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).

7656 (46) "Electronic financial payment service" means an establishment:

7657 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and  
7658 Clearinghouse Activities, of the 2012 North American Industry Classification System of the  
7659 federal Executive Office of the President, Office of Management and Budget; and

7660 (b) that performs electronic financial payment services.

7661 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).

7662 (48) "Fixed guideway" means a public transit facility that uses and occupies:

7663 (a) rail for the use of public transit; or

7664 (b) a separate right-of-way for the use of public transit.

7665 (49) "Fixed wing turbine powered aircraft" means an aircraft that:

7666 (a) is powered by turbine engines;

7667 (b) operates on jet fuel; and

7668 (c) has wings that are permanently attached to the fuselage of the aircraft.

7669 (50) "Fixed wireless service" means a telecommunications service that provides radio

- 7670 communication between fixed points.
- 7671 (51) (a) "Food and food ingredients" means substances:
- 7672 (i) regardless of whether the substances are in:
- 7673 (A) liquid form;
- 7674 (B) concentrated form;
- 7675 (C) solid form;
- 7676 (D) frozen form;
- 7677 (E) dried form; or
- 7678 (F) dehydrated form; and
- 7679 (ii) that are:
- 7680 (A) sold for:
- 7681 (I) ingestion by humans; or
- 7682 (II) chewing by humans; and
- 7683 (B) consumed for the substance's:
- 7684 (I) taste; or
- 7685 (II) nutritional value.
- 7686 (b) "Food and food ingredients" includes an item described in Subsection (95)(b)(iii).
- 7687 (c) "Food and food ingredients" does not include:
- 7688 (i) an alcoholic beverage;
- 7689 (ii) tobacco; or
- 7690 (iii) prepared food.
- 7691 (52) (a) "Fundraising sales" means sales:
- 7692 (i) (A) made by a school; or
- 7693 (B) made by a school student;
- 7694 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 7695 materials, or provide transportation; and
- 7696 (iii) that are part of an officially sanctioned school activity.

7697 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"  
7698 means a school activity:

7699 (i) that is conducted in accordance with a formal policy adopted by the school or school  
7700 district governing the authorization and supervision of fundraising activities;

7701 (ii) that does not directly or indirectly compensate an individual teacher or other  
7702 educational personnel by direct payment, commissions, or payment in kind; and

7703 (iii) the net or gross revenues from which are deposited in a dedicated account  
7704 controlled by the school or school district.

7705 (53) "Geothermal energy" means energy contained in heat that continuously flows  
7706 outward from the earth that is used as the sole source of energy to produce electricity.

7707 (54) "Governing board of the agreement" means the governing board of the agreement  
7708 that is:

7709 (a) authorized to administer the agreement; and

7710 (b) established in accordance with the agreement.

7711 (55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

7712 (i) the executive branch of the state, including all departments, institutions, boards,  
7713 divisions, bureaus, offices, commissions, and committees;

7714 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
7715 Administrative Office of the Courts, and similar administrative units in the judicial branch;

7716 (iii) the legislative branch of the state, including the House of Representatives, the  
7717 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
7718 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
7719 Analyst;

7720 (iv) the National Guard;

7721 (v) an independent entity as defined in Section 63E-1-102; or

7722 (vi) a political subdivision as defined in Section 17B-1-102.

7723 (b) "Governmental entity" does not include the state systems of public and higher

7724 education, including:

7725       (i) a school;

7726       (ii) the State Board of Education;

7727       (iii) the [~~State Board of Regents~~] Utah Board of Higher Education; or

7728       (iv) an institution of higher education described in Section [53B-1-102](#).

7729       (56) "Hydroelectric energy" means water used as the sole source of energy to produce

7730 electricity.

7731       (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or

7732 other fuels:

7733       (a) in mining or extraction of minerals;

7734       (b) in agricultural operations to produce an agricultural product up to the time of

7735 harvest or placing the agricultural product into a storage facility, including:

7736       (i) commercial greenhouses;

7737       (ii) irrigation pumps;

7738       (iii) farm machinery;

7739       (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered

7740 under Title 41, Chapter 1a, Part 2, Registration; and

7741       (v) other farming activities;

7742       (c) in manufacturing tangible personal property at an establishment described in:

7743       (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of

7744 the federal Executive Office of the President, Office of Management and Budget; or

7745       (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North

7746 American Industry Classification System of the federal Executive Office of the President,

7747 Office of Management and Budget;

7748       (d) by a scrap recycler if:

7749       (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

7750 one or more of the following items into prepared grades of processed materials for use in new

- 7751 products:
- 7752 (A) iron;
  - 7753 (B) steel;
  - 7754 (C) nonferrous metal;
  - 7755 (D) paper;
  - 7756 (E) glass;
  - 7757 (F) plastic;
  - 7758 (G) textile; or
  - 7759 (H) rubber; and
  - 7760 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with
  - 7761 nonrecycled materials; or
  - 7762 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
  - 7763 cogeneration facility as defined in Section 54-2-1.
  - 7764 (58) (a) Except as provided in Subsection (58)(b), "installation charge" means a charge
  - 7765 for installing:
    - 7766 (i) tangible personal property; or
    - 7767 (ii) a product transferred electronically.
    - 7768 (b) "Installation charge" does not include a charge for:
      - 7769 (i) repairs or renovations of:
        - 7770 (A) tangible personal property; or
        - 7771 (B) a product transferred electronically; or
        - 7772 (ii) attaching tangible personal property or a product transferred electronically:
          - 7773 (A) to other tangible personal property; and
          - 7774 (B) as part of a manufacturing or fabrication process.
      - 7775 (59) "Institution of higher education" means an institution of higher education listed in
      - 7776 Section 53B-2-101.
      - 7777 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible



7778 personal property or a product transferred electronically for:  
7779       (i) (A) a fixed term; or  
7780       (B) an indeterminate term; and  
7781       (ii) consideration.  
7782       (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the  
7783 amount of consideration may be increased or decreased by reference to the amount realized  
7784 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue  
7785 Code.  
7786       (c) "Lease" or "rental" does not include:  
7787       (i) a transfer of possession or control of property under a security agreement or  
7788 deferred payment plan that requires the transfer of title upon completion of the required  
7789 payments;  
7790       (ii) a transfer of possession or control of property under an agreement that requires the  
7791 transfer of title:  
7792       (A) upon completion of required payments; and  
7793       (B) if the payment of an option price does not exceed the greater of:  
7794       (I) \$100; or  
7795       (II) 1% of the total required payments; or  
7796       (iii) providing tangible personal property along with an operator for a fixed period of  
7797 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
7798 designed.  
7799       (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to  
7800 perform as designed if the operator's duties exceed the:  
7801       (i) set-up of tangible personal property;  
7802       (ii) maintenance of tangible personal property; or  
7803       (iii) inspection of tangible personal property.  
7804       (61) "Life science establishment" means an establishment in this state that is classified

7805 under the following NAICS codes of the 2007 North American Industry Classification System  
7806 of the federal Executive Office of the President, Office of Management and Budget:

7807 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

7808 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus  
7809 Manufacturing; or

7810 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

7811 (62) "Life science research and development facility" means a facility owned, leased,  
7812 or rented by a life science establishment if research and development is performed in 51% or  
7813 more of the total area of the facility.

7814 (63) "Load and leave" means delivery to a purchaser by use of a tangible storage media  
7815 if the tangible storage media is not physically transferred to the purchaser.

7816 (64) "Local taxing jurisdiction" means a:

7817 (a) county that is authorized to impose an agreement sales and use tax;

7818 (b) city that is authorized to impose an agreement sales and use tax; or

7819 (c) town that is authorized to impose an agreement sales and use tax.

7820 (65) "Manufactured home" means the same as that term is defined in Section  
7821 [15A-1-302](#).

7822 (66) "Manufacturing facility" means:

7823 (a) an establishment described in:

7824 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
7825 the federal Executive Office of the President, Office of Management and Budget; or

7826 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
7827 American Industry Classification System of the federal Executive Office of the President,  
7828 Office of Management and Budget;

7829 (b) a scrap recycler if:

7830 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
7831 one or more of the following items into prepared grades of processed materials for use in new

7832 products:

7833 (A) iron;

7834 (B) steel;

7835 (C) nonferrous metal;

7836 (D) paper;

7837 (E) glass;

7838 (F) plastic;

7839 (G) textile; or

7840 (H) rubber; and

7841 (ii) the new products under Subsection (66)(b)(i) would otherwise be made with

7842 nonrecycled materials; or

7843 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is  
7844 placed in service on or after May 1, 2006.

7845 (67) (a) "Marketplace" means a physical or electronic place, platform, or forum where  
7846 tangible personal property, a product transferred electronically, or a service is offered for sale.

7847 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a  
7848 dedicated sales software application.

7849 (68) (a) "Marketplace facilitator" means a person, including an affiliate of the person,  
7850 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to  
7851 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or  
7852 controls and that directly or indirectly:

7853 (i) does any of the following:

7854 (A) lists, makes available, or advertises tangible personal property, a product  
7855 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the  
7856 person owns, operates, or controls;

7857 (B) facilitates the sale of a marketplace seller's tangible personal property, product  
7858 transferred electronically, or service by transmitting or otherwise communicating an offer or

7859 acceptance of a retail sale between the marketplace seller and a purchaser using the  
7860 marketplace;

7861 (C) owns, rents, licenses, makes available, or operates any electronic or physical  
7862 infrastructure or any property, process, method, copyright, trademark, or patent that connects a  
7863 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal  
7864 property, a product transferred electronically, or a service;

7865 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible  
7866 personal property, a product transferred electronically, or a service, regardless of ownership or  
7867 control of the tangible personal property, the product transferred electronically, or the service  
7868 that is the subject of the retail sale;

7869 (E) provides software development or research and development activities related to  
7870 any activity described in this Subsection (68)(a)(i), if the software development or research and  
7871 development activity is directly related to the person's marketplace;

7872 (F) provides or offers fulfillment or storage services for a marketplace seller;

7873 (G) sets prices for the sale of tangible personal property, a product transferred  
7874 electronically, or a service by a marketplace seller;

7875 (H) provides or offers customer service to a marketplace seller or a marketplace seller's  
7876 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal  
7877 property, a product transferred electronically, or a service sold by a marketplace seller on the  
7878 person's marketplace; or

7879 (I) brands or otherwise identifies sales as those of the person; and

7880 (ii) does any of the following:

7881 (A) collects the sales price or purchase price of a retail sale of tangible personal  
7882 property, a product transferred electronically, or a service;

7883 (B) provides payment processing services for a retail sale of tangible personal property,  
7884 a product transferred electronically, or a service;

7885 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing

7886 fee, a fee for inserting or making available tangible personal property, a product transferred  
7887 electronically, or a service on the person's marketplace, or other consideration for the  
7888 facilitation of a retail sale of tangible personal property, a product transferred electronically, or  
7889 a service, regardless of ownership or control of the tangible personal property, the product  
7890 transferred electronically, or the service that is the subject of the retail sale;

7891 (D) through terms and conditions, an agreement, or another arrangement with a third  
7892 person, collects payment from a purchase for a retail sale of tangible personal property, a  
7893 product transferred electronically, or a service and transmits that payment to the marketplace  
7894 seller, regardless of whether the third person receives compensation or other consideration in  
7895 exchange for the service; or

7896 (E) provides a virtual currency for a purchaser to use to purchase tangible personal  
7897 property, a product transferred electronically, or service offered for sale.

7898 (b) "Marketplace facilitator" does not include a person that only provides payment  
7899 processing services.

7900 (69) "Marketplace seller" means a seller that makes one or more retail sales through a  
7901 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the  
7902 seller is required to be registered to collect and remit the tax under this part.

7903 (70) "Member of the immediate family of the producer" means a person who is related  
7904 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:

7905 (a) child or stepchild, regardless of whether the child or stepchild is:

7906 (i) an adopted child or adopted stepchild; or

7907 (ii) a foster child or foster stepchild;

7908 (b) grandchild or stepgrandchild;

7909 (c) grandparent or stepgrandparent;

7910 (d) nephew or stepnephew;

7911 (e) niece or stepniece;

7912 (f) parent or stepparent;

- 7913 (g) sibling or stepsibling;
- 7914 (h) spouse;
- 7915 (i) person who is the spouse of a person described in Subsections (70)(a) through (g);

7916 or

- 7917 (j) person similar to a person described in Subsections (70)(a) through (i) as
- 7918 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 7919 Administrative Rulemaking Act.

7920 (71) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).

7921 (72) "Mobile telecommunications service" means the same as that term is defined in

7922 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

7923 (73) (a) "Mobile wireless service" means a telecommunications service, regardless of

7924 the technology used, if:

- 7925 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 7926 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 7927 (iii) the origination point described in Subsection (73)(a)(i) and the termination point
- 7928 described in Subsection (73)(a)(ii) are not fixed.

7929 (b) "Mobile wireless service" includes a telecommunications service that is provided

7930 by a commercial mobile radio service provider.

7931 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

7932 commission may by rule define "commercial mobile radio service provider."

7933 (74) (a) Except as provided in Subsection (74)(c), "mobility enhancing equipment"

7934 means equipment that is:

7935 (i) primarily and customarily used to provide or increase the ability to move from one

7936 place to another;

7937 (ii) appropriate for use in a:

7938 (A) home; or

7939 (B) motor vehicle; and

- 7940 (iii) not generally used by persons with normal mobility.
- 7941 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 7942 the equipment described in Subsection (74)(a).
- 7943 (c) "Mobility enhancing equipment" does not include:
- 7944 (i) a motor vehicle;
- 7945 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 7946 vehicle manufacturer;
- 7947 (iii) durable medical equipment; or
- 7948 (iv) a prosthetic device.
- 7949 (75) "Model 1 seller" means a seller registered under the agreement that has selected a
- 7950 certified service provider as the seller's agent to perform the seller's sales and use tax functions
- 7951 for agreement sales and use taxes, as outlined in the contract between the governing board of
- 7952 the agreement and the certified service provider, other than the seller's obligation under Section
- 7953 [59-12-124](#) to remit a tax on the seller's own purchases.
- 7954 (76) "Model 2 seller" means a seller registered under the agreement that:
- 7955 (a) except as provided in Subsection (76)(b), has selected a certified automated system
- 7956 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 7957 (b) retains responsibility for remitting all of the sales tax:
- 7958 (i) collected by the seller; and
- 7959 (ii) to the appropriate local taxing jurisdiction.
- 7960 (77) (a) Subject to Subsection (77)(b), "model 3 seller" means a seller registered under
- 7961 the agreement that has:
- 7962 (i) sales in at least five states that are members of the agreement;
- 7963 (ii) total annual sales revenues of at least \$500,000,000;
- 7964 (iii) a proprietary system that calculates the amount of tax:
- 7965 (A) for an agreement sales and use tax; and
- 7966 (B) due to each local taxing jurisdiction; and

7967 (iv) entered into a performance agreement with the governing board of the agreement.

7968 (b) For purposes of Subsection (77)(a), "model 3 seller" includes an affiliated group of  
7969 sellers using the same proprietary system.

7970 (78) "Model 4 seller" means a seller that is registered under the agreement and is not a  
7971 model 1 seller, model 2 seller, or model 3 seller.

7972 (79) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

7973 (80) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

7974 (81) "Oil sands" means impregnated bituminous sands that:

7975 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with  
7976 other hydrocarbons, or otherwise treated;

7977 (b) yield mixtures of liquid hydrocarbon; and

7978 (c) require further processing other than mechanical blending before becoming finished  
7979 petroleum products.

7980 (82) "Oil shale" means a group of fine black to dark brown shales containing kerogen  
7981 material that yields petroleum upon heating and distillation.

7982 (83) "Optional computer software maintenance contract" means a computer software  
7983 maintenance contract that a customer is not obligated to purchase as a condition to the retail  
7984 sale of computer software.

7985 (84) (a) "Other fuels" means products that burn independently to produce heat or  
7986 energy.

7987 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
7988 personal property.

7989 (85) (a) "Paging service" means a telecommunications service that provides  
7990 transmission of a coded radio signal for the purpose of activating a specific pager.

7991 (b) For purposes of Subsection (85)(a), the transmission of a coded radio signal  
7992 includes a transmission by message or sound.

7993 (86) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).



7994 (87) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

7995 (88) (a) "Permanently attached to real property" means that for tangible personal  
7996 property attached to real property:

7997 (i) the attachment of the tangible personal property to the real property:

7998 (A) is essential to the use of the tangible personal property; and

7999 (B) suggests that the tangible personal property will remain attached to the real  
8000 property in the same place over the useful life of the tangible personal property; or

8001 (ii) if the tangible personal property is detached from the real property, the detachment  
8002 would:

8003 (A) cause substantial damage to the tangible personal property; or

8004 (B) require substantial alteration or repair of the real property to which the tangible  
8005 personal property is attached.

8006 (b) "Permanently attached to real property" includes:

8007 (i) the attachment of an accessory to the tangible personal property if the accessory is:

8008 (A) essential to the operation of the tangible personal property; and

8009 (B) attached only to facilitate the operation of the tangible personal property;

8010 (ii) a temporary detachment of tangible personal property from real property for a  
8011 repair or renovation if the repair or renovation is performed where the tangible personal  
8012 property and real property are located; or

8013 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
8014 Subsection (88)(c)(iii) or (iv).

8015 (c) "Permanently attached to real property" does not include:

8016 (i) the attachment of portable or movable tangible personal property to real property if  
8017 that portable or movable tangible personal property is attached to real property only for:

8018 (A) convenience;

8019 (B) stability; or

8020 (C) for an obvious temporary purpose;

8021 (ii) the detachment of tangible personal property from real property except for the  
8022 detachment described in Subsection (88)(b)(ii);

8023 (iii) an attachment of the following tangible personal property to real property if the  
8024 attachment to real property is only through a line that supplies water, electricity, gas,  
8025 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
8026 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

8027 (A) a computer;

8028 (B) a telephone;

8029 (C) a television; or

8030 (D) tangible personal property similar to Subsections (88)(c)(iii)(A) through (C) as  
8031 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
8032 Administrative Rulemaking Act; or

8033 (iv) an item listed in Subsection (129)(c).

8034 (89) "Person" includes any individual, firm, partnership, joint venture, association,  
8035 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
8036 municipality, district, or other local governmental entity of the state, or any group or  
8037 combination acting as a unit.

8038 (90) "Place of primary use":

8039 (a) for telecommunications service other than mobile telecommunications service,  
8040 means the street address representative of where the customer's use of the telecommunications  
8041 service primarily occurs, which shall be:

8042 (i) the residential street address of the customer; or

8043 (ii) the primary business street address of the customer; or

8044 (b) for mobile telecommunications service, means the same as that term is defined in  
8045 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

8046 (91) (a) "Postpaid calling service" means a telecommunications service a person  
8047 obtains by making a payment on a call-by-call basis:

- 8048 (i) through the use of a:
- 8049 (A) bank card;
- 8050 (B) credit card;
- 8051 (C) debit card; or
- 8052 (D) travel card; or
- 8053 (ii) by a charge made to a telephone number that is not associated with the origination
- 8054 or termination of the telecommunications service.
- 8055 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
- 8056 service, that would be a prepaid wireless calling service if the service were exclusively a
- 8057 telecommunications service.
- 8058 (92) "Postproduction" means an activity related to the finishing or duplication of a
- 8059 medium described in Subsection [59-12-104\(54\)\(a\)](#).
- 8060 (93) "Prepaid calling service" means a telecommunications service:
- 8061 (a) that allows a purchaser access to telecommunications service that is exclusively
- 8062 telecommunications service;
- 8063 (b) that:
- 8064 (i) is paid for in advance; and
- 8065 (ii) enables the origination of a call using an:
- 8066 (A) access number; or
- 8067 (B) authorization code;
- 8068 (c) that is dialed:
- 8069 (i) manually; or
- 8070 (ii) electronically; and
- 8071 (d) sold in predetermined units or dollars that decline:
- 8072 (i) by a known amount; and
- 8073 (ii) with use.
- 8074 (94) "Prepaid wireless calling service" means a telecommunications service:

- 8075 (a) that provides the right to utilize:
- 8076 (i) mobile wireless service; and
- 8077 (ii) other service that is not a telecommunications service, including:
- 8078 (A) the download of a product transferred electronically;
- 8079 (B) a content service; or
- 8080 (C) an ancillary service;
- 8081 (b) that:
- 8082 (i) is paid for in advance; and
- 8083 (ii) enables the origination of a call using an:
- 8084 (A) access number; or
- 8085 (B) authorization code;
- 8086 (c) that is dialed:
- 8087 (i) manually; or
- 8088 (ii) electronically; and
- 8089 (d) sold in predetermined units or dollars that decline:
- 8090 (i) by a known amount; and
- 8091 (ii) with use.
- 8092 (95) (a) "Prepared food" means:
- 8093 (i) food:
- 8094 (A) sold in a heated state; or
- 8095 (B) heated by a seller;
- 8096 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 8097 item; or
- 8098 (iii) except as provided in Subsection (95)(c), food sold with an eating utensil provided
- 8099 by the seller, including a:
- 8100 (A) plate;
- 8101 (B) knife;

- 8102 (C) fork;
- 8103 (D) spoon;
- 8104 (E) glass;
- 8105 (F) cup;
- 8106 (G) napkin; or
- 8107 (H) straw.
- 8108 (b) "Prepared food" does not include:
- 8109 (i) food that a seller only:
- 8110 (A) cuts;
- 8111 (B) repackages; or
- 8112 (C) pasteurizes; or
- 8113 (ii) (A) the following:
- 8114 (I) raw egg;
- 8115 (II) raw fish;
- 8116 (III) raw meat;
- 8117 (IV) raw poultry; or
- 8118 (V) a food containing an item described in Subsections (95)(b)(ii)(A)(I) through (IV);
- 8119 and
- 8120 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 8121 Food and Drug Administration's Food Code that a consumer cook the items described in
- 8122 Subsection (95)(b)(ii)(A) to prevent food borne illness; or
- 8123 (iii) the following if sold without eating utensils provided by the seller:
- 8124 (A) food and food ingredients sold by a seller if the seller's proper primary
- 8125 classification under the 2002 North American Industry Classification System of the federal
- 8126 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 8127 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 8128 Manufacturing;

- 8129 (B) food and food ingredients sold in an unheated state:
- 8130 (I) by weight or volume; and
- 8131 (II) as a single item; or
- 8132 (C) a bakery item, including:
- 8133 (I) a bagel;
- 8134 (II) a bar;
- 8135 (III) a biscuit;
- 8136 (IV) bread;
- 8137 (V) a bun;
- 8138 (VI) a cake;
- 8139 (VII) a cookie;
- 8140 (VIII) a croissant;
- 8141 (IX) a danish;
- 8142 (X) a donut;
- 8143 (XI) a muffin;
- 8144 (XII) a pastry;
- 8145 (XIII) a pie;
- 8146 (XIV) a roll;
- 8147 (XV) a tart;
- 8148 (XVI) a torte; or
- 8149 (XVII) a tortilla.
- 8150 (c) An eating utensil provided by the seller does not include the following used to
- 8151 transport the food:
- 8152 (i) a container; or
- 8153 (ii) packaging.
- 8154 (96) "Prescription" means an order, formula, or recipe that is issued:
- 8155 (a) (i) orally;

8156 (ii) in writing;  
8157 (iii) electronically; or  
8158 (iv) by any other manner of transmission; and  
8159 (b) by a licensed practitioner authorized by the laws of a state.  
8160 (97) (a) Except as provided in Subsection (97)(b)(ii) or (iii), "prewritten computer  
8161 software" means computer software that is not designed and developed:  
8162 (i) by the author or other creator of the computer software; and  
8163 (ii) to the specifications of a specific purchaser.  
8164 (b) "Prewritten computer software" includes:  
8165 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer  
8166 software is not designed and developed:  
8167 (A) by the author or other creator of the computer software; and  
8168 (B) to the specifications of a specific purchaser;  
8169 (ii) computer software designed and developed by the author or other creator of the  
8170 computer software to the specifications of a specific purchaser if the computer software is sold  
8171 to a person other than the purchaser; or  
8172 (iii) except as provided in Subsection (97)(c), prewritten computer software or a  
8173 prewritten portion of prewritten computer software:  
8174 (A) that is modified or enhanced to any degree; and  
8175 (B) if the modification or enhancement described in Subsection (97)(b)(iii)(A) is  
8176 designed and developed to the specifications of a specific purchaser.  
8177 (c) "Prewritten computer software" does not include a modification or enhancement  
8178 described in Subsection (97)(b)(iii) if the charges for the modification or enhancement are:  
8179 (i) reasonable; and  
8180 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the  
8181 invoice or other statement of price provided to the purchaser at the time of sale or later, as  
8182 demonstrated by:

8183 (A) the books and records the seller keeps at the time of the transaction in the regular  
8184 course of business, including books and records the seller keeps at the time of the transaction in  
8185 the regular course of business for nontax purposes;

8186 (B) a preponderance of the facts and circumstances at the time of the transaction; and

8187 (C) the understanding of all of the parties to the transaction.

8188 (98) (a) "Private communications service" means a telecommunications service:

8189 (i) that entitles a customer to exclusive or priority use of one or more communications  
8190 channels between or among termination points; and

8191 (ii) regardless of the manner in which the one or more communications channels are  
8192 connected.

8193 (b) "Private communications service" includes the following provided in connection  
8194 with the use of one or more communications channels:

8195 (i) an extension line;

8196 (ii) a station;

8197 (iii) switching capacity; or

8198 (iv) another associated service that is provided in connection with the use of one or  
8199 more communications channels as defined in Section [59-12-215](#).

8200 (99) (a) Except as provided in Subsection (99)(b), "product transferred electronically"  
8201 means a product transferred electronically that would be subject to a tax under this chapter if  
8202 that product was transferred in a manner other than electronically.

8203 (b) "Product transferred electronically" does not include:

8204 (i) an ancillary service;

8205 (ii) computer software; or

8206 (iii) a telecommunications service.

8207 (100) (a) "Prosthetic device" means a device that is worn on or in the body to:

8208 (i) artificially replace a missing portion of the body;

8209 (ii) prevent or correct a physical deformity or physical malfunction; or



- 8210 (iii) support a weak or deformed portion of the body.
- 8211 (b) "Prosthetic device" includes:
- 8212 (i) parts used in the repairs or renovation of a prosthetic device;
- 8213 (ii) replacement parts for a prosthetic device;
- 8214 (iii) a dental prosthesis; or
- 8215 (iv) a hearing aid.
- 8216 (c) "Prosthetic device" does not include:
- 8217 (i) corrective eyeglasses; or
- 8218 (ii) contact lenses.
- 8219 (101) (a) "Protective equipment" means an item:
- 8220 (i) for human wear; and
- 8221 (ii) that is:
- 8222 (A) designed as protection:
- 8223 (I) to the wearer against injury or disease; or
- 8224 (II) against damage or injury of other persons or property; and
- 8225 (B) not suitable for general use.
- 8226 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 8227 commission shall make rules:
- 8228 (i) listing the items that constitute "protective equipment"; and
- 8229 (ii) that are consistent with the list of items that constitute "protective equipment"
- 8230 under the agreement.
- 8231 (102) (a) For purposes of Subsection [59-12-104\(41\)](#), "publication" means any written
- 8232 or printed matter, other than a photocopy:
- 8233 (i) regardless of:
- 8234 (A) characteristics;
- 8235 (B) copyright;
- 8236 (C) form;

- 8237 (D) format;
- 8238 (E) method of reproduction; or
- 8239 (F) source; and
- 8240 (ii) made available in printed or electronic format.
- 8241 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 8242 commission may by rule define the term "photocopy."
- 8243 (103) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 8244 (i) valued in money; and
- 8245 (ii) for which tangible personal property, a product transferred electronically, or
- 8246 services are:
  - 8247 (A) sold;
  - 8248 (B) leased; or
  - 8249 (C) rented.
- 8250 (b) "Purchase price" and "sales price" include:
- 8251 (i) the seller's cost of the tangible personal property, a product transferred
- 8252 electronically, or services sold;
- 8253 (ii) expenses of the seller, including:
  - 8254 (A) the cost of materials used;
  - 8255 (B) a labor cost;
  - 8256 (C) a service cost;
  - 8257 (D) interest;
  - 8258 (E) a loss;
  - 8259 (F) the cost of transportation to the seller; or
  - 8260 (G) a tax imposed on the seller;
- 8261 (iii) a charge by the seller for any service necessary to complete the sale; or
- 8262 (iv) consideration a seller receives from a person other than the purchaser if:
- 8263 (A) (I) the seller actually receives consideration from a person other than the purchaser;

8264 and

8265 (II) the consideration described in Subsection (103)(b)(iv)(A)(I) is directly related to a  
8266 price reduction or discount on the sale;

8267 (B) the seller has an obligation to pass the price reduction or discount through to the  
8268 purchaser;

8269 (C) the amount of the consideration attributable to the sale is fixed and determinable by  
8270 the seller at the time of the sale to the purchaser; and

8271 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the  
8272 seller to claim a price reduction or discount; and

8273 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,  
8274 coupon, or other documentation with the understanding that the person other than the seller  
8275 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

8276 (II) the purchaser identifies that purchaser to the seller as a member of a group or  
8277 organization allowed a price reduction or discount, except that a preferred customer card that is  
8278 available to any patron of a seller does not constitute membership in a group or organization  
8279 allowed a price reduction or discount; or

8280 (III) the price reduction or discount is identified as a third party price reduction or  
8281 discount on the:

8282 (Aa) invoice the purchaser receives; or

8283 (Bb) certificate, coupon, or other documentation the purchaser presents.

8284 (c) "Purchase price" and "sales price" do not include:

8285 (i) a discount:

8286 (A) in a form including:

8287 (I) cash;

8288 (II) term; or

8289 (III) coupon;

8290 (B) that is allowed by a seller;

- 8291 (C) taken by a purchaser on a sale; and
- 8292 (D) that is not reimbursed by a third party; or
- 8293 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
- 8294 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 8295 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 8296 transaction in the regular course of business, including books and records the seller keeps at the
- 8297 time of the transaction in the regular course of business for nontax purposes, by a
- 8298 preponderance of the facts and circumstances at the time of the transaction, and by the
- 8299 understanding of all of the parties to the transaction:
- 8300 (A) the following from credit extended on the sale of tangible personal property or
- 8301 services:
- 8302 (I) a carrying charge;
- 8303 (II) a financing charge; or
- 8304 (III) an interest charge;
- 8305 (B) a delivery charge;
- 8306 (C) an installation charge;
- 8307 (D) a manufacturer rebate on a motor vehicle; or
- 8308 (E) a tax or fee legally imposed directly on the consumer.
- 8309 (104) "Purchaser" means a person to whom:
- 8310 (a) a sale of tangible personal property is made;
- 8311 (b) a product is transferred electronically; or
- 8312 (c) a service is furnished.
- 8313 (105) "Qualifying enterprise data center" means an establishment that will:
- 8314 (a) own and operate a data center facility that will house a group of networked server
- 8315 computers in one physical location in order to centralize the dissemination, management, and
- 8316 storage of data and information;
- 8317 (b) be located in the state;

- 8318 (c) be a new operation constructed on or after July 1, 2016;
- 8319 (d) consist of one or more buildings that total 150,000 or more square feet;
- 8320 (e) be owned or leased by:
  - 8321 (i) the establishment; or
  - 8322 (ii) a person under common ownership, as defined in Section 59-7-101, of the
  - 8323 establishment; and
- 8324 (f) be located on one or more parcels of land that are owned or leased by:
  - 8325 (i) the establishment; or
  - 8326 (ii) a person under common ownership, as defined in Section 59-7-101, of the
  - 8327 establishment.
- 8328 (106) "Regularly rented" means:
  - 8329 (a) rented to a guest for value three or more times during a calendar year; or
  - 8330 (b) advertised or held out to the public as a place that is regularly rented to guests for
  - 8331 value.
- 8332 (107) "Rental" means the same as that term is defined in Subsection (60).
- 8333 (108) (a) Except as provided in Subsection (108)(b), "repairs or renovations of tangible
- 8334 personal property" means:
  - 8335 (i) a repair or renovation of tangible personal property that is not permanently attached
  - 8336 to real property; or
  - 8337 (ii) attaching tangible personal property or a product transferred electronically to other
  - 8338 tangible personal property or detaching tangible personal property or a product transferred
  - 8339 electronically from other tangible personal property if:
    - 8340 (A) the other tangible personal property to which the tangible personal property or
    - 8341 product transferred electronically is attached or from which the tangible personal property or
    - 8342 product transferred electronically is detached is not permanently attached to real property; and
    - 8343 (B) the attachment of tangible personal property or a product transferred electronically
    - 8344 to other tangible personal property or detachment of tangible personal property or a product

8345 transferred electronically from other tangible personal property is made in conjunction with a  
8346 repair or replacement of tangible personal property or a product transferred electronically.

8347 (b) "Repairs or renovations of tangible personal property" does not include:

8348 (i) attaching prewritten computer software to other tangible personal property if the  
8349 other tangible personal property to which the prewritten computer software is attached is not  
8350 permanently attached to real property; or

8351 (ii) detaching prewritten computer software from other tangible personal property if the  
8352 other tangible personal property from which the prewritten computer software is detached is  
8353 not permanently attached to real property.

8354 (109) "Research and development" means the process of inquiry or experimentation  
8355 aimed at the discovery of facts, devices, technologies, or applications and the process of  
8356 preparing those devices, technologies, or applications for marketing.

8357 (110) (a) "Residential telecommunications services" means a telecommunications  
8358 service or an ancillary service that is provided to an individual for personal use:

8359 (i) at a residential address; or

8360 (ii) at an institution, including a nursing home or a school, if the telecommunications  
8361 service or ancillary service is provided to and paid for by the individual residing at the  
8362 institution rather than the institution.

8363 (b) For purposes of Subsection (110)(a)(i), a residential address includes an:

8364 (i) apartment; or

8365 (ii) other individual dwelling unit.

8366 (111) "Residential use" means the use in or around a home, apartment building,  
8367 sleeping quarters, and similar facilities or accommodations.

8368 (112) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
8369 than:

8370 (a) resale;

8371 (b) sublease; or

8372 (c) subrent.

8373 (113) (a) "Retailer" means any person, unless prohibited by the Constitution of the  
8374 United States or federal law, that is engaged in a regularly organized business in tangible  
8375 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is  
8376 selling to the user or consumer and not for resale.

8377 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
8378 engaged in the business of selling to users or consumers within the state.

8379 (114) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
8380 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
8381 Subsection 59-12-103(1), for consideration.

8382 (b) "Sale" includes:

8383 (i) installment and credit sales;

8384 (ii) any closed transaction constituting a sale;

8385 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
8386 chapter;

8387 (iv) any transaction if the possession of property is transferred but the seller retains the  
8388 title as security for the payment of the price; and

8389 (v) any transaction under which right to possession, operation, or use of any article of  
8390 tangible personal property is granted under a lease or contract and the transfer of possession  
8391 would be taxable if an outright sale were made.

8392 (115) "Sale at retail" means the same as that term is defined in Subsection (112).

8393 (116) "Sale-leaseback transaction" means a transaction by which title to tangible  
8394 personal property or a product transferred electronically that is subject to a tax under this  
8395 chapter is transferred:

8396 (a) by a purchaser-lessee;

8397 (b) to a lessor;

8398 (c) for consideration; and

8399 (d) if:

8400 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase

8401 of the tangible personal property or product transferred electronically;

8402 (ii) the sale of the tangible personal property or product transferred electronically to the

8403 lessor is intended as a form of financing:

8404 (A) for the tangible personal property or product transferred electronically; and

8405 (B) to the purchaser-lessee; and

8406 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

8407 is required to:

8408 (A) capitalize the tangible personal property or product transferred electronically for

8409 financial reporting purposes; and

8410 (B) account for the lease payments as payments made under a financing arrangement.

8411 (117) "Sales price" means the same as that term is defined in Subsection (103).

8412 (118) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

8413 amounts charged by a school:

8414 (i) sales that are directly related to the school's educational functions or activities

8415 including:

8416 (A) the sale of:

8417 (I) textbooks;

8418 (II) textbook fees;

8419 (III) laboratory fees;

8420 (IV) laboratory supplies; or

8421 (V) safety equipment;

8422 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

8423 that:

8424 (I) a student is specifically required to wear as a condition of participation in a

8425 school-related event or school-related activity; and



8426 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
8427 place of ordinary clothing;

8428 (C) sales of the following if the net or gross revenues generated by the sales are  
8429 deposited into a school district fund or school fund dedicated to school meals:

8430 (I) food and food ingredients; or

8431 (II) prepared food; or

8432 (D) transportation charges for official school activities; or

8433 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
8434 event or school-related activity.

8435 (b) "Sales relating to schools" does not include:

8436 (i) bookstore sales of items that are not educational materials or supplies;

8437 (ii) except as provided in Subsection (118)(a)(i)(B):

8438 (A) clothing;

8439 (B) clothing accessories or equipment;

8440 (C) protective equipment; or

8441 (D) sports or recreational equipment; or

8442 (iii) amounts paid to or amounts charged by a school for admission to a school-related  
8443 event or school-related activity if the amounts paid or charged are passed through to a person:

8444 (A) other than a:

8445 (I) school;

8446 (II) nonprofit organization authorized by a school board or a governing body of a  
8447 private school to organize and direct a competitive secondary school activity; or

8448 (III) nonprofit association authorized by a school board or a governing body of a  
8449 private school to organize and direct a competitive secondary school activity; and

8450 (B) that is required to collect sales and use taxes under this chapter.

8451 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
8452 commission may make rules defining the term "passed through."

- 8453 (119) For purposes of this section and Section 59-12-104, "school" means:
- 8454 (a) an elementary school or a secondary school that:
- 8455 (i) is a:
- 8456 (A) public school; or
- 8457 (B) private school; and
- 8458 (ii) provides instruction for one or more grades kindergarten through 12; or
- 8459 (b) a public school district.
- 8460 (120) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 8461 (i) tangible personal property;
- 8462 (ii) a product transferred electronically; or
- 8463 (iii) a service.
- 8464 (b) "Seller" includes a marketplace facilitator.
- 8465 (121) (a) "Semiconductor fabricating, processing, research, or development materials"
- 8466 means tangible personal property or a product transferred electronically if the tangible personal
- 8467 property or product transferred electronically is:
- 8468 (i) used primarily in the process of:
- 8469 (A) (I) manufacturing a semiconductor;
- 8470 (II) fabricating a semiconductor; or
- 8471 (III) research or development of a:
- 8472 (Aa) semiconductor; or
- 8473 (Bb) semiconductor manufacturing process; or
- 8474 (B) maintaining an environment suitable for a semiconductor; or
- 8475 (ii) consumed primarily in the process of:
- 8476 (A) (I) manufacturing a semiconductor;
- 8477 (II) fabricating a semiconductor; or
- 8478 (III) research or development of a:
- 8479 (Aa) semiconductor; or

- 8480 (Bb) semiconductor manufacturing process; or
- 8481 (B) maintaining an environment suitable for a semiconductor.
- 8482 (b) "Semiconductor fabricating, processing, research, or development materials"
- 8483 includes:
- 8484 (i) parts used in the repairs or renovations of tangible personal property or a product
- 8485 transferred electronically described in Subsection (121)(a); or
- 8486 (ii) a chemical, catalyst, or other material used to:
- 8487 (A) produce or induce in a semiconductor a:
- 8488 (I) chemical change; or
- 8489 (II) physical change;
- 8490 (B) remove impurities from a semiconductor; or
- 8491 (C) improve the marketable condition of a semiconductor.
- 8492 (122) "Senior citizen center" means a facility having the primary purpose of providing
- 8493 services to the aged as defined in Section [62A-3-101](#).
- 8494 (123) (a) Subject to Subsections (123)(b) and (c), "short-term lodging consumable"
- 8495 means tangible personal property that:
- 8496 (i) a business that provides accommodations and services described in Subsection
- 8497 [59-12-103\(1\)\(i\)](#) purchases as part of a transaction to provide the accommodations and services
- 8498 to a purchaser;
- 8499 (ii) is intended to be consumed by the purchaser; and
- 8500 (iii) is:
- 8501 (A) included in the purchase price of the accommodations and services; and
- 8502 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 8503 to the purchaser.
- 8504 (b) "Short-term lodging consumable" includes:
- 8505 (i) a beverage;
- 8506 (ii) a brush or comb;

- 8507 (iii) a cosmetic;
- 8508 (iv) a hair care product;
- 8509 (v) lotion;
- 8510 (vi) a magazine;
- 8511 (vii) makeup;
- 8512 (viii) a meal;
- 8513 (ix) mouthwash;
- 8514 (x) nail polish remover;
- 8515 (xi) a newspaper;
- 8516 (xii) a notepad;
- 8517 (xiii) a pen;
- 8518 (xiv) a pencil;
- 8519 (xv) a razor;
- 8520 (xvi) saline solution;
- 8521 (xvii) a sewing kit;
- 8522 (xviii) shaving cream;
- 8523 (xix) a shoe shine kit;
- 8524 (xx) a shower cap;
- 8525 (xxi) a snack item;
- 8526 (xxii) soap;
- 8527 (xxiii) toilet paper;
- 8528 (xxiv) a toothbrush;
- 8529 (xxv) toothpaste; or
- 8530 (xxvi) an item similar to Subsections (123)(b)(i) through (xxv) as the commission may
- 8531 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 8532 Rulemaking Act.
- 8533 (c) "Short-term lodging consumable" does not include:

8534 (i) tangible personal property that is cleaned or washed to allow the tangible personal  
8535 property to be reused; or

8536 (ii) a product transferred electronically.

8537 (124) "Simplified electronic return" means the electronic return:

8538 (a) described in Section 318(C) of the agreement; and

8539 (b) approved by the governing board of the agreement.

8540 (125) "Solar energy" means the sun used as the sole source of energy for producing  
8541 electricity.

8542 (126) (a) "Sports or recreational equipment" means an item:

8543 (i) designed for human use; and

8544 (ii) that is:

8545 (A) worn in conjunction with:

8546 (I) an athletic activity; or

8547 (II) a recreational activity; and

8548 (B) not suitable for general use.

8549 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
8550 commission shall make rules:

8551 (i) listing the items that constitute "sports or recreational equipment"; and

8552 (ii) that are consistent with the list of items that constitute "sports or recreational  
8553 equipment" under the agreement.

8554 (127) "State" means the state of Utah, its departments, and agencies.

8555 (128) "Storage" means any keeping or retention of tangible personal property or any  
8556 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except  
8557 sale in the regular course of business.

8558 (129) (a) Except as provided in Subsection (129)(d) or (e), "tangible personal property"  
8559 means personal property that:

8560 (i) may be:

- 8561 (A) seen;
- 8562 (B) weighed;
- 8563 (C) measured;
- 8564 (D) felt; or
- 8565 (E) touched; or
- 8566 (ii) is in any manner perceptible to the senses.
- 8567 (b) "Tangible personal property" includes:
- 8568 (i) electricity;
- 8569 (ii) water;
- 8570 (iii) gas;
- 8571 (iv) steam; or
- 8572 (v) prewritten computer software, regardless of the manner in which the prewritten
- 8573 computer software is transferred.
- 8574 (c) "Tangible personal property" includes the following regardless of whether the item
- 8575 is attached to real property:
- 8576 (i) a dishwasher;
- 8577 (ii) a dryer;
- 8578 (iii) a freezer;
- 8579 (iv) a microwave;
- 8580 (v) a refrigerator;
- 8581 (vi) a stove;
- 8582 (vii) a washer; or
- 8583 (viii) an item similar to Subsections (129)(c)(i) through (vii) as determined by the
- 8584 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 8585 Rulemaking Act.
- 8586 (d) "Tangible personal property" does not include a product that is transferred
- 8587 electronically.

8588 (e) "Tangible personal property" does not include the following if attached to real  
8589 property, regardless of whether the attachment to real property is only through a line that  
8590 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
8591 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
8592 Rulemaking Act:

- 8593 (i) a hot water heater;
- 8594 (ii) a water filtration system; or
- 8595 (iii) a water softener system.

8596 (130) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
8597 software" means an item listed in Subsection (130)(b) if that item is purchased or leased  
8598 primarily to enable or facilitate one or more of the following to function:

- 8599 (i) telecommunications switching or routing equipment, machinery, or software; or
- 8600 (ii) telecommunications transmission equipment, machinery, or software.

8601 (b) The following apply to Subsection (130)(a):

- 8602 (i) a pole;
- 8603 (ii) software;
- 8604 (iii) a supplementary power supply;
- 8605 (iv) temperature or environmental equipment or machinery;
- 8606 (v) test equipment;
- 8607 (vi) a tower; or
- 8608 (vii) equipment, machinery, or software that functions similarly to an item listed in  
8609 Subsections (130)(b)(i) through (vi) as determined by the commission by rule made in  
8610 accordance with Subsection (130)(c).

8611 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
8612 commission may by rule define what constitutes equipment, machinery, or software that  
8613 functions similarly to an item listed in Subsections (130)(b)(i) through (vi).

8614 (131) "Telecommunications equipment, machinery, or software required for 911

8615 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
8616 Sec. 20.18.

8617 (132) "Telecommunications maintenance or repair equipment, machinery, or software"  
8618 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
8619 one or more of the following, regardless of whether the equipment, machinery, or software is  
8620 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
8621 following:

- 8622 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 8623 (b) telecommunications switching or routing equipment, machinery, or software; or
- 8624 (c) telecommunications transmission equipment, machinery, or software.

8625 (133) (a) "Telecommunications service" means the electronic conveyance, routing, or  
8626 transmission of audio, data, video, voice, or any other information or signal to a point, or  
8627 among or between points.

8628 (b) "Telecommunications service" includes:

8629 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
8630 processing application is used to act:

- 8631 (A) on the code, form, or protocol of the content;
- 8632 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 8633 (C) regardless of whether the service:
  - 8634 (I) is referred to as voice over Internet protocol service; or
  - 8635 (II) is classified by the Federal Communications Commission as enhanced or value

8636 added;

- 8637 (ii) an 800 service;
- 8638 (iii) a 900 service;
- 8639 (iv) a fixed wireless service;
- 8640 (v) a mobile wireless service;
- 8641 (vi) a postpaid calling service;



- 8642 (vii) a prepaid calling service;
- 8643 (viii) a prepaid wireless calling service; or
- 8644 (ix) a private communications service.
- 8645 (c) "Telecommunications service" does not include:
- 8646 (i) advertising, including directory advertising;
- 8647 (ii) an ancillary service;
- 8648 (iii) a billing and collection service provided to a third party;
- 8649 (iv) a data processing and information service if:
- 8650 (A) the data processing and information service allows data to be:
- 8651 (I) (Aa) acquired;
- 8652 (Bb) generated;
- 8653 (Cc) processed;
- 8654 (Dd) retrieved; or
- 8655 (Ee) stored; and
- 8656 (II) delivered by an electronic transmission to a purchaser; and
- 8657 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 8658 or information;
- 8659 (v) installation or maintenance of the following on a customer's premises:
- 8660 (A) equipment; or
- 8661 (B) wiring;
- 8662 (vi) Internet access service;
- 8663 (vii) a paging service;
- 8664 (viii) a product transferred electronically, including:
- 8665 (A) music;
- 8666 (B) reading material;
- 8667 (C) a ring tone;
- 8668 (D) software; or

- 8669 (E) video;
- 8670 (ix) a radio and television audio and video programming service:
- 8671 (A) regardless of the medium; and
- 8672 (B) including:
  - 8673 (I) furnishing conveyance, routing, or transmission of a television audio and video
  - 8674 programming service by a programming service provider;
  - 8675 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
  - 8676 (III) audio and video programming services delivered by a commercial mobile radio
  - 8677 service provider as defined in 47 C.F.R. Sec. 20.3;
  - 8678 (x) a value-added nonvoice data service; or
  - 8679 (xi) tangible personal property.
- 8680 (134) (a) "Telecommunications service provider" means a person that:
  - 8681 (i) owns, controls, operates, or manages a telecommunications service; and
  - 8682 (ii) engages in an activity described in Subsection (134)(a)(i) for the shared use with or
  - 8683 resale to any person of the telecommunications service.
- 8684 (b) A person described in Subsection (134)(a) is a telecommunications service provider
- 8685 whether or not the Public Service Commission of Utah regulates:
  - 8686 (i) that person; or
  - 8687 (ii) the telecommunications service that the person owns, controls, operates, or
  - 8688 manages.
- 8689 (135) (a) "Telecommunications switching or routing equipment, machinery, or
- 8690 software" means an item listed in Subsection (135)(b) if that item is purchased or leased
- 8691 primarily for switching or routing:
  - 8692 (i) an ancillary service;
  - 8693 (ii) data communications;
  - 8694 (iii) voice communications; or
  - 8695 (iv) telecommunications service.

- 8696 (b) The following apply to Subsection (135)(a):
- 8697 (i) a bridge;
- 8698 (ii) a computer;
- 8699 (iii) a cross connect;
- 8700 (iv) a modem;
- 8701 (v) a multiplexer;
- 8702 (vi) plug in circuitry;
- 8703 (vii) a router;
- 8704 (viii) software;
- 8705 (ix) a switch; or
- 8706 (x) equipment, machinery, or software that functions similarly to an item listed in
- 8707 Subsections (135)(b)(i) through (ix) as determined by the commission by rule made in
- 8708 accordance with Subsection (135)(c).
- 8709 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 8710 commission may by rule define what constitutes equipment, machinery, or software that
- 8711 functions similarly to an item listed in Subsections (135)(b)(i) through (ix).
- 8712 (136) (a) "Telecommunications transmission equipment, machinery, or software"
- 8713 means an item listed in Subsection (136)(b) if that item is purchased or leased primarily for
- 8714 sending, receiving, or transporting:
- 8715 (i) an ancillary service;
- 8716 (ii) data communications;
- 8717 (iii) voice communications; or
- 8718 (iv) telecommunications service.
- 8719 (b) The following apply to Subsection (136)(a):
- 8720 (i) an amplifier;
- 8721 (ii) a cable;
- 8722 (iii) a closure;

- 8723 (iv) a conduit;
- 8724 (v) a controller;
- 8725 (vi) a duplexer;
- 8726 (vii) a filter;
- 8727 (viii) an input device;
- 8728 (ix) an input/output device;
- 8729 (x) an insulator;
- 8730 (xi) microwave machinery or equipment;
- 8731 (xii) an oscillator;
- 8732 (xiii) an output device;
- 8733 (xiv) a pedestal;
- 8734 (xv) a power converter;
- 8735 (xvi) a power supply;
- 8736 (xvii) a radio channel;
- 8737 (xviii) a radio receiver;
- 8738 (xix) a radio transmitter;
- 8739 (xx) a repeater;
- 8740 (xxi) software;
- 8741 (xxii) a terminal;
- 8742 (xxiii) a timing unit;
- 8743 (xxiv) a transformer;
- 8744 (xxv) a wire; or
- 8745 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 8746 Subsections (136)(b)(i) through (xxv) as determined by the commission by rule made in
- 8747 accordance with Subsection (136)(c).
- 8748 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 8749 commission may by rule define what constitutes equipment, machinery, or software that

8750 functions similarly to an item listed in Subsections (136)(b)(i) through (xxv).

8751 (137) (a) "Textbook for a higher education course" means a textbook or other printed  
8752 material that is required for a course:

8753 (i) offered by an institution of higher education; and

8754 (ii) that the purchaser of the textbook or other printed material attends or will attend.

8755 (b) "Textbook for a higher education course" includes a textbook in electronic format.

8756 (138) "Tobacco" means:

8757 (a) a cigarette;

8758 (b) a cigar;

8759 (c) chewing tobacco;

8760 (d) pipe tobacco; or

8761 (e) any other item that contains tobacco.

8762 (139) "Unassisted amusement device" means an amusement device, skill device, or  
8763 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
8764 the amusement device, skill device, or ride device.

8765 (140) (a) "Use" means the exercise of any right or power over tangible personal  
8766 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
8767 incident to the ownership or the leasing of that tangible personal property, product transferred  
8768 electronically, or service.

8769 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
8770 property, a product transferred electronically, or a service in the regular course of business and  
8771 held for resale.

8772 (141) "Value-added nonvoice data service" means a service:

8773 (a) that otherwise meets the definition of a telecommunications service except that a  
8774 computer processing application is used to act primarily for a purpose other than conveyance,  
8775 routing, or transmission; and

8776 (b) with respect to which a computer processing application is used to act on data or

8777 information:

- 8778 (i) code;
- 8779 (ii) content;
- 8780 (iii) form; or
- 8781 (iv) protocol.

8782 (142) (a) Subject to Subsection (142)(b), "vehicle" means the following that are  
8783 required to be titled, registered, or titled and registered:

- 8784 (i) an aircraft as defined in Section 72-10-102;
- 8785 (ii) a vehicle as defined in Section 41-1a-102;
- 8786 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 8787 (iv) a vessel as defined in Section 41-1a-102.

8788 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 8789 (i) a vehicle described in Subsection (142)(a); or
- 8790 (ii) (A) a locomotive;
- 8791 (B) a freight car;
- 8792 (C) railroad work equipment; or
- 8793 (D) other railroad rolling stock.

8794 (143) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
8795 exchanging a vehicle as defined in Subsection (142).

8796 (144) (a) "Vertical service" means an ancillary service that:

- 8797 (i) is offered in connection with one or more telecommunications services; and
- 8798 (ii) offers an advanced calling feature that allows a customer to:
  - 8799 (A) identify a caller; and
  - 8800 (B) manage multiple calls and call connections.

8801 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
8802 conference bridging service.

8803 (145) (a) "Voice mail service" means an ancillary service that enables a customer to

8804 receive, send, or store a recorded message.

8805 (b) "Voice mail service" does not include a vertical service that a customer is required  
8806 to have in order to utilize a voice mail service.

8807 (146) (a) Except as provided in Subsection (146)(b), "waste energy facility" means a  
8808 facility that generates electricity:

8809 (i) using as the primary source of energy waste materials that would be placed in a  
8810 landfill or refuse pit if it were not used to generate electricity, including:

8811 (A) tires;

8812 (B) waste coal;

8813 (C) oil shale; or

8814 (D) municipal solid waste; and

8815 (ii) in amounts greater than actually required for the operation of the facility.

8816 (b) "Waste energy facility" does not include a facility that incinerates:

8817 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

8818 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

8819 (147) "Watercraft" means a vessel as defined in Section [73-18-2](#).

8820 (148) "Wind energy" means wind used as the sole source of energy to produce  
8821 electricity.

8822 (149) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
8823 location by the United States Postal Service.

8824 Section 163. Section **63A-3-103** is amended to read:

8825 **63A-3-103. Duties of director of division -- Application to institutions of higher**  
8826 **education.**

8827 (1) The director of the Division of Finance shall:

8828 (a) define fiscal procedures relating to approval and allocation of funds;

8829 (b) provide for the accounting control of funds;

8830 (c) promulgate rules that:

- 8831 (i) establish procedures for maintaining detailed records of all types of leases;  
8832 (ii) account for all types of leases in accordance with generally accepted accounting  
8833 principles;  
8834 (iii) require the performance of a lease with an option to purchase study by state  
8835 agencies prior to any lease with an option to purchase acquisition of capital equipment; and  
8836 (iv) require that the completed lease with an option to purchase study be approved by  
8837 the director of the Division of Finance;
- 8838 (d) if the department operates the Division of Finance as an internal service fund  
8839 agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in  
8840 Section 63A-1-114:
- 8841 (i) the proposed rate and fee schedule as required by Section 63A-1-114; and  
8842 (ii) other information or analysis requested by the Rate Committee;
- 8843 (e) oversee the Office of State Debt Collection;
- 8844 (f) publish the state's current constitutional debt limit on the Utah Public Finance  
8845 Website, created in Section 63A-1-202; and
- 8846 (g) prescribe other fiscal functions required by law or under the constitutional authority  
8847 of the governor to transact all executive business for the state.
- 8848 (2) (a) Institutions of higher education are subject to the provisions of Title 63A,  
8849 Chapter 3, Part 1, General Provisions, and Title 63A, Chapter 3, Part 2, Accounting System,  
8850 only to the extent expressly authorized or required by the [~~State Board of Regents~~] Utah Board  
8851 of Higher Education under Title 53B, State System of Higher Education.
- 8852 (b) Institutions of higher education shall submit financial data for the past fiscal year  
8853 conforming to generally accepted accounting principles to the director of the Division of  
8854 Finance.
- 8855 (3) The Division of Finance shall prepare financial statements and other reports in  
8856 accordance with legal requirements and generally accepted accounting principles for the state  
8857 auditor's examination and certification:



8858 (a) not later than 60 days after a request from the state auditor; and

8859 (b) at the end of each fiscal year.

8860 Section 164. Section **63A-3-110** is amended to read:

8861 **63A-3-110. Personal use expenditures for state officers and employees.**

8862 (1) As used in this section:

8863 (a) "Employee" means a person who is not an elected or appointed officer and who is  
8864 employed on a full- or part-time basis by a governmental entity.

8865 (b) "Governmental entity" means:

8866 (i) an executive branch agency of the state, the offices of the governor, lieutenant  
8867 governor, state auditor, attorney general, and state treasurer, the State Board of Education, and  
8868 the [~~State Board of Regents~~] Utah Board of Higher Education;

8869 (ii) the Office of the Legislative Auditor General, the Office of the Legislative Fiscal  
8870 Analyst, the Office of Legislative Research and General Counsel, the Legislature, and  
8871 legislative committees;

8872 (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar  
8873 administrative units in the judicial branch;

8874 (iv) independent state entities created under Title 63H, Independent State Entities; or

8875 (v) the Utah Science Technology and Research Governing Authority created under  
8876 Section **63M-2-301**.

8877 (c) "Officer" means a person who is elected or appointed to an office or position within  
8878 a governmental entity.

8879 (d) (i) "Personal use expenditure" means an expenditure made without the authority of  
8880 law that:

8881 (A) is not directly related to the performance of an activity as a state officer or  
8882 employee;

8883 (B) primarily furthers a personal interest of a state officer or employee or a state  
8884 officer's or employee's family, friend, or associate; and

8885 (C) would constitute taxable income under federal law.

8886 (ii) "Personal use expenditure" does not include:

8887 (A) a de minimis or incidental expenditure; or

8888 (B) a state vehicle or a monthly stipend for a vehicle that an officer or employee uses to

8889 travel to and from the officer or employee's official duties, including a minimal allowance for a

8890 detour as provided by the state.

8891 (e) "Public funds" means the same as that term is defined in Section [51-7-3](#).

8892 (2) A state officer or employee may not:

8893 (a) use public funds for a personal use expenditure; or

8894 (b) incur indebtedness or liability on behalf of, or payable by, a governmental entity for

8895 a personal use expenditure.

8896 (3) If the Division of Finance or the responsible governmental entity determines that a

8897 state officer or employee has intentionally made a personal use expenditure in violation of

8898 Subsection (2), the governmental entity shall:

8899 (a) require the state officer or employee to deposit the amount of the personal use

8900 expenditure into the fund or account from which:

8901 (i) the personal use expenditure was disbursed; or

8902 (ii) payment for the indebtedness or liability for a personal use expenditure was

8903 disbursed;

8904 (b) require the state officer or employee to remit an administrative penalty in an

8905 amount equal to 50% of the personal use expenditure to the Division of Finance; and

8906 (c) deposit the money received under Subsection (3)(b) into the General Fund.

8907 (4) (a) Any state officer or employee who has been found by a governmental entity to

8908 have made a personal use expenditure in violation of Subsection (2) may appeal the finding of

8909 the governmental entity.

8910 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

8911 Division of Finance shall make rules regarding an appeal process for an appeal made under

8912 Subsection (4)(a), including the designation of an appeal authority.

8913 (5) (a) Subject to Subsection (5)(b), the Division of Finance may withhold all or a  
8914 portion of the wages of a state officer or employee who has violated Subsection (2) until the  
8915 requirements of Subsection (3) have been met.

8916 (b) If the state officer or employee has requested an appeal under Subsection (4), the  
8917 Division of Finance may only withhold the wages of the officer or employee after the appeal  
8918 authority described in Subsection (4)(b) has confirmed that the officer or employee violated  
8919 Subsection (2).

8920 (6) Nothing in this chapter immunizes a state officer or employee from or precludes  
8921 any criminal prosecution or civil or employment action for an unlawful personal use  
8922 expenditure.

8923 (7) A state officer or employee who is convicted of misusing public money or public  
8924 property under Section 76-8-402 may not disburse public funds or access public accounts.

8925 Section 165. Section 63A-4-103 is amended to read:

8926 **63A-4-103. Risk management -- Duties of state agencies.**

8927 (1) (a) Unless specifically authorized by statute to do so, a state agency may not:

- 8928 (i) purchase insurance or self-fund any risk unless authorized by the risk manager; or
- 8929 (ii) procure or provide liability insurance for the state.

8930 (b) (i) Notwithstanding the provisions of Subsection (1)(a), the [~~State Board of~~  
8931 ~~Regents~~] Utah Board of Higher Education may authorize higher education institutions to  
8932 purchase insurance for, or self-fund, risks associated with their programs and activities that are  
8933 not covered through the risk manager.

8934 (ii) The [~~State Board of Regents~~] Utah Board of Higher Education shall provide copies  
8935 of those purchased policies to the risk manager.

8936 (iii) The [~~State Board of Regents~~] Utah Board of Higher Education shall ensure that the  
8937 state is named as additional insured on any of those policies.

8938 (2) Each state agency shall:

8939 (a) comply with reasonable risk related recommendations made by the risk manager;

8940 (b) participate in risk management training activities conducted or sponsored by the  
8941 risk manager;

8942 (c) include the insurance and liability provisions prescribed by the risk manager in all  
8943 state contracts, together with a statement certifying to the other party to the contract that the  
8944 insurance and liability provisions in the contract are those prescribed by the risk manager;

8945 (d) at each principal design stage, provide written notice to the risk manager that  
8946 construction and major remodeling plans relating to agency buildings and facilities to be  
8947 covered by the fund are available for review, for risk control purposes, and make them  
8948 available to the risk manager for his review and recommendations; and

8949 (e) cooperate fully with requests from the risk manager for agency planning, program,  
8950 or risk related information, and allow the risk manager to attend agency planning and  
8951 management meetings.

8952 (3) Failure to include in the contract the provisions required by Subsection (2)(c) does  
8953 not make the contract unenforceable by the state.

8954 Section 166. Section **63A-5-104** is amended to read:

8955 **63A-5-104. Definitions -- Capital development and capital improvement process**  
8956 **-- Approval requirements -- Limitations on new projects -- Emergencies.**

8957 (1) As used in this section:

8958 (a) (i) "Capital developments" means a:

8959 (A) remodeling, site, or utility project with a total cost of \$3,500,000 or more;

8960 (B) new facility with a construction cost of \$500,000 or more; or

8961 (C) purchase of real property where an appropriation is requested to fund the purchase.

8962 (ii) "Capital developments" does not include a project described in Subsection

8963 (1)(b)(iii).

8964 (b) "Capital improvements" means:

8965 (i) a remodeling, alteration, replacement, or repair project with a total cost of less than

8966 \$3,500,000;

8967 (ii) a site or utility improvement with a total cost of less than \$3,500,000;

8968 (iii) a utility infrastructure improvement project that:

8969 (A) has a total cost of less than \$7,000,000;

8970 (B) consists of two or more projects that, if done separately, would each cost less than

8971 \$3,500,000; and

8972 (C) the State Building Board determines is more cost effective or feasible to be

8973 completed as a single project; or

8974 (iv) a new facility with a total construction cost of less than \$500,000.

8975 (c) (i) "New facility" means the construction of a new building on state property

8976 regardless of funding source.

8977 (ii) "New facility" includes:

8978 (A) an addition to an existing building; and

8979 (B) the enclosure of space that was not previously fully enclosed.

8980 (iii) "New facility" does not include:

8981 (A) the replacement of state-owned space that is demolished or that is otherwise

8982 removed from state use, if the total construction cost of the replacement space is less than

8983 \$3,500,000; or

8984 (B) the construction of facilities that do not fully enclose a space.

8985 (d) "Replacement cost of existing state facilities and infrastructure" means the

8986 replacement cost, as determined by the Division of Risk Management, of state facilities,

8987 excluding auxiliary facilities as defined by the State Building Board and the replacement cost

8988 of infrastructure as defined by the State Building Board.

8989 (e) "State funds" means public money appropriated by the Legislature.

8990 (2) (a) Except as provided in Subsection (2)(f), the board shall, on behalf of all state

8991 agencies, submit capital development recommendations and priorities to the Legislature for

8992 approval and prioritization.

8993 (b) In developing the board's capital development recommendations and priorities, the  
8994 board shall require each state agency that requests an appropriation for a capital development  
8995 project to:

8996 (i) submit to the board a capital development project request; and  
8997 (ii) complete and submit to the board a study that demonstrates the feasibility of the  
8998 capital development project, including:

- 8999 (A) the need for the capital development project;
- 9000 (B) the appropriateness of the scope of the capital development project;
- 9001 (C) any private funding for the capital development project; and
- 9002 (D) the economic and community impacts of the capital development project.

9003 (c) The board shall verify the completion and accuracy of a feasibility study that a state  
9004 agency submits to the board under Subsection (2)(b).

9005 (d) The board shall require that an institution of higher education described in Section  
9006 [53B-1-102](#) that submits a request for a capital development project address whether and how,  
9007 as a result of the project, the institution will:

9008 (i) offer courses or other resources that will help meet demand for jobs, training, and  
9009 employment in the current market and the projected market for the next five years;

9010 (ii) respond to individual skilled and technical job demand over the next 3, 5, and 10  
9011 years;

9012 (iii) respond to industry demands for trained workers;

9013 (iv) help meet commitments made by the Governor's Office of Economic  
9014 Development, including relating to training and incentives;

9015 (v) respond to changing needs in the economy; and

9016 (vi) based on demographics, respond to demands for on-line or in-class instruction.

9017 (e) The board shall give more weight in the board's scoring process to a request that is  
9018 designated as a higher priority by the ~~[State Board of Regents]~~ Utah Board of Higher Education  
9019 than a request that is designated as a lower priority by the ~~[State Board of Regents]~~ Utah Board

9020 of Higher Education only when determining the order of prioritization among requests  
9021 submitted by the [~~State Board of Regents~~] Utah Board of Higher Education.

9022 (f) (i) For a dedicated project as defined in Section 53B-2a-101 or 53B-22-201, the  
9023 board shall submit recommendations to the Legislature in accordance with this section.

9024 (ii) A dedicated project as defined in Section 53B-2a-101 or 53B-22-201 is not subject  
9025 to prioritization by the board.

9026 (3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development  
9027 project may not be constructed on state property without legislative approval.

9028 (b) Legislative approval is not required for a capital development project that consists  
9029 of the design or construction of a new facility if:

9030 (i) the board determines that the requesting state agency has provided adequate  
9031 assurance that state funds will not be used for the design or construction of the facility;

9032 (ii) the state agency provides to the board a written document, signed by the head of the  
9033 state agency:

9034 (A) stating that funding or a revenue stream is in place, or will be in place before the  
9035 project is completed, to ensure that increased state funding will not be required to cover the  
9036 cost of operations and maintenance to the resulting facility for immediate or future capital  
9037 improvements; and

9038 (B) detailing the source of the funding that will be used for the cost of operations and  
9039 maintenance for immediate and future capital improvements to the resulting facility; and

9040 (iii) the board determines that the use of the state property is:

9041 (A) appropriate and consistent with the master plan for the property; and

9042 (B) will not create an adverse impact on the state.

9043 (c) (i) The Division of Facilities Construction and Management shall maintain a record  
9044 of facilities constructed under the exemption provided in Subsection (3)(b).

9045 (ii) For facilities constructed under the exemption provided in Subsection (3)(b), a state  
9046 agency may not request:

- 9047 (A) increased state funds for operations and maintenance; or  
9048 (B) state capital improvement funding.
- 9049 (d) Legislative approval is not required for:
- 9050 (i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds  
9051 that has been approved by the board;
- 9052 (ii) a facility to be built with nonstate funds and owned by nonstate entities within  
9053 research park areas at the University of Utah and Utah State University;
- 9054 (iii) a facility to be built at This is the Place State Park by This is the Place Foundation  
9055 with funds of the foundation, including grant money from the state, or with donated services or  
9056 materials;
- 9057 (iv) a capital project that:
- 9058 (A) is funded by the Uintah Basin Revitalization Fund or the Navajo Revitalization  
9059 Fund; and
- 9060 (B) does not provide a new facility for a state agency or higher education institution; or
- 9061 (v) a capital project on school and institutional trust lands that is funded by the School  
9062 and Institutional Trust Lands Administration from the Land Grant Management Fund and that  
9063 does not fund construction of a new facility for a state agency or higher education institution.
- 9064 (e) (i) Legislative approval is not required for capital development projects to be built  
9065 for the Department of Transportation:
- 9066 (A) as a result of an exchange of real property under Section [72-5-111](#); or
- 9067 (B) as a result of a sale or exchange of real property from a maintenance facility if the  
9068 real property is exchanged for, or the proceeds from the sale of the real property are used for,  
9069 another maintenance facility, including improvements for a maintenance facility and real  
9070 property.
- 9071 (ii) When the Department of Transportation approves a sale or exchange under  
9072 Subsection (3)(e), it shall notify the president of the Senate, the speaker of the House, and the  
9073 cochairs of the Infrastructure and General Government Appropriations Subcommittee of the



9074 Legislature's Joint Appropriation Committee about any new facilities to be built or improved  
9075 under this exemption.

9076 (4) The Legislature may authorize:

9077 (a) the total square feet to be occupied by each state agency; and

9078 (b) the total square feet and total cost of lease space for each agency.

9079 (5) If construction of a new building or facility will require an immediate or future  
9080 increase in state funding for operations and maintenance or for capital improvements, the  
9081 Legislature may not authorize the new building or facility until the Legislature appropriates  
9082 funds for:

9083 (a) the portion of operations and maintenance, if any, that will require an immediate or  
9084 future increase in state funding; and

9085 (b) the portion of capital improvements, if any, that will require an immediate or future  
9086 increase in state funding.

9087 (6) (a) Except as provided in Subsections (6)(b) and (c), the Legislature may not fund  
9088 the design or construction of any new capital development projects, except to complete the  
9089 funding of projects for which partial funding has been previously provided, until the  
9090 Legislature has appropriated 1.1% of the replacement cost of existing state facilities and  
9091 infrastructure to capital improvements.

9092 (b) If the Legislature determines that there exists an Education Fund budget deficit or a  
9093 General Fund budget deficit as those terms are defined in Section [63J-1-312](#), the Legislature  
9094 may, in eliminating the deficit, reduce the amount appropriated to capital improvements to  
9095 0.9% of the replacement cost of state buildings and infrastructure.

9096 (c) Subsection (6)(a) does not apply to a dedicated project as defined in Section  
9097 [53B-2a-101](#) or [53B-22-201](#).

9098 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), the Legislature may not fund the  
9099 design and construction of a new facility in phases over more than one year unless the  
9100 Legislature approves the funding for both the design and construction by a vote of two-thirds of

9101 all the members elected to each house.

9102 (ii) Subsection (7)(a)(i) does not apply to a dedicated project as defined in Section  
9103 53B-2a-101 or 53B-22-201.

9104 (b) An agency is required to receive approval from the board before the agency begins  
9105 programming for a new facility that requires legislative approval under Subsection (3).

9106 (c) The board or an agency may fund the programming of a new facility before the  
9107 Legislature makes an appropriation for the new facility under Subsection (7)(a).

9108 (8) (a) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures  
9109 Act, after the Legislature approves capital development and capital improvement priorities  
9110 under this section and Section 63A-5-228, if an emergency arises that creates an unforeseen  
9111 and critical need for a capital improvement project, the board may reallocate capital  
9112 improvement funds to address the project.

9113 (b) The board shall report any changes the board makes in capital improvement  
9114 allocations approved by the Legislature to:

9115 (i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and  
9116 (ii) the Legislature at its next annual general session.

9117 Section 167. Section 63A-5-303 is amended to read:

9118 **63A-5-303. Lease reporting and coordination.**

9119 (1) The director shall:

9120 (a) prepare a standard form upon which agencies and other state institutions and  
9121 entities can report their current and proposed lease activity, including any lease renewals; and

9122 (b) develop procedures and mechanisms within the division to:

9123 (i) obtain and share information about each agency's real property needs; and

9124 (ii) provide oversight and review of lessors and lessees during the term of each lease.

9125 (2) Each agency, the Judicial Council, and the [~~Board of Regents~~] board of trustees for  
9126 each institution of higher education shall report all current and proposed lease activity on the  
9127 standard form prepared by the division to:

- 9128 (a) the State Building Board; and
- 9129 (b) the Office of Legislative Fiscal Analyst.

9130 Section 168. Section **63A-5-305** is amended to read:

9131 **63A-5-305. Leasing by higher education institutions.**

9132 (1) The [~~Board of Regents~~] Utah Board of Higher Education shall establish written  
9133 policies and procedures governing leasing by higher education institutions.

9134 (2) Except as provided in Sections [53B-2a-113](#) and [63M-2-602](#), a higher education  
9135 institution shall comply with the procedures and requirements of the [~~Board of Regents~~] Utah  
9136 Board of Higher Education policies before signing or renewing a lease.

9137 Section 169. Section **63A-5-501** is amended to read:

9138 **63A-5-501. Making keys to buildings of the state, political subdivisions, or**  
9139 **colleges and universities without permission prohibited.**

9140 No person shall knowingly make or cause to be made any key or duplicate key for any  
9141 building, laboratory, facility, room, dormitory, hall or any other structure or part thereof owned  
9142 by the state, by any political subdivision thereof or by the [~~board of regents~~] Utah Board of  
9143 Higher Education or other governing body of any college or university [~~which~~] that is  
9144 supported wholly or in part by the state without the prior written consent of the state, political  
9145 subdivision, [~~board of regents~~] Utah Board of Higher Education, or other governing body.

9146 Section 170. Section **63C-19-102** is amended to read:

9147 **63C-19-102. Definitions.**

9148 As used in this chapter:

9149 (1) "Commission" means the Higher Education Strategic Planning Commission created  
9150 in Section [63C-19-201](#).

9151 (2) "Institution of higher education" means an institution described in [~~Subsections~~  
9152 ~~[53B-1-102\(1\)\(a\)\(ii\)](#) through [\(ix\)](#)] Subsection [53B-1-102\(1\)\(a\)](#).~~

9153 (3) "Institutional role" means an institution of higher education's role described in  
9154 Section [53B-16-101](#).

9155 (4) "State system of higher education" means the state system of higher education  
9156 described in Section 53B-1-102.

9157 (5) "Strategic plan" means the strategic plan described in Section 63C-19-202.

9158 (6) "Technical college" means the same as that term is defined in Section 53B-1-101.5.  
9159 Section 171. Section 63C-19-201 is amended to read:

9160 **63C-19-201. Higher Education Strategic Planning Commission -- Membership --**  
9161 **Quorum and voting requirements -- Compensation -- Staff support.**

9162 (1) There is created the Higher Education Strategic Planning Commission consisting of  
9163 the following [22] members:

9164 (a) two members of the Senate, appointed by the president of the Senate;

9165 (b) two members of the House of Representatives, appointed by the speaker of the  
9166 House of Representatives;

9167 [~~(c) two members of the State Board of Regents, appointed by the chair of the State~~  
9168 ~~Board of Regents;~~]

9169 [~~(d) two members of the Utah System of Technical Colleges Board of Trustees,~~  
9170 ~~appointed by the chair of the Utah System of Technical Colleges Board of Trustees;~~]

9171 (c) four members of the Utah Board of Higher Education, appointed by the chair of the  
9172 Utah Board of Higher Education;

9173 [~~(e)~~] (d) four individuals, appointed by the chair of the [~~State Board of Regents~~] Utah  
9174 Board of Higher Education, who represent degree-granting institutions of higher education  
9175 from a range of geographic areas and with varied institutional roles;

9176 [~~(f)~~] (e) two individuals, appointed by the chair of the [~~Utah System of Technical~~  
9177 ~~Colleges Board of Trustees~~] Utah Board of Higher Education, who represent technical colleges  
9178 from a range of geographic areas;

9179 [~~(g)~~] (f) the commissioner of higher education or the commissioner's designee;

9180 [~~(h) the commissioner of technical education or the commissioner's designee;~~]

9181 [~~(i)~~] (g) (i) a member of the governor's staff who is responsible for advising the

9182 governor on education issues, appointed by the governor; or  
 9183 (ii) a member of the governor's staff designated by the individual described in  
 9184 Subsection (1)(g)(i);  
 9185 ~~[(f)]~~ (h) the executive director of the Governor's Office of Economic Development or  
 9186 the executive director's designee;  
 9187 ~~[(k)]~~ (i) the executive director of the Department of Workforce Services or the  
 9188 executive director's designee;  
 9189 ~~[(f)]~~ (j) the state superintendent of public instruction or the superintendent's designee;  
 9190 and  
 9191 ~~[(m)]~~ (k) two Utah business leaders, one appointed by the president of the Senate and  
 9192 one appointed by the speaker of the House of Representatives.  
 9193 (2) (a) The president of the Senate shall appoint one of the members described in  
 9194 Subsection (1)(a) as a cochair of the commission.  
 9195 (b) The speaker of the House of Representatives shall appoint one of the members  
 9196 described in Subsection (1)(b) as a cochair of the commission.  
 9197 (c) The chair of the ~~[State Board of Regents]~~ Utah Board of Higher Education shall  
 9198 appoint ~~[one]~~ two of the members described in Subsection (1)(c) as ~~[a vice chair]~~ vice chairs of  
 9199 the commission.  
 9200 ~~[(d) The chair of the Utah System of Technical Colleges Board of Trustees shall~~  
 9201 ~~appoint one of the members described in Subsection (1)(d) as a vice chair of the commission.]~~  
 9202 (3) (a) The salary and expenses of a commission member who is a legislator shall be  
 9203 paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3,  
 9204 Legislator Compensation.  
 9205 (b) A commission member who is not a legislator may not receive compensation or  
 9206 benefits for the member's service on the commission, but may receive per diem and  
 9207 reimbursement for travel expenses incurred as a commission member at the rates established by  
 9208 the Division of Finance under:

- 9209 (i) Sections 63A-3-106 and 63A-3-107; and
- 9210 (ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
- 9211 63A-3-107.
- 9212 (4) (a) A majority of the commission members constitutes a quorum.
- 9213 (b) The action of a majority of a quorum constitutes an action of the commission.
- 9214 (5) The Office of Legislative Research and General Counsel and the Office of the
- 9215 Legislative Fiscal Analyst shall provide staff support to the commission.
- 9216 Section 172. Section 63C-19-202 is amended to read:
- 9217 **63C-19-202. Commission powers and duties -- Strategic plan -- Reports.**
- 9218 (1) (a) ~~[The]~~ During calendar year 2019, the commission shall develop a strategic plan
- 9219 aimed at meeting the future challenges of the state system of higher education.
- 9220 (b) The strategic plan shall address:
- 9221 (i) providing quality, accessible, and innovative postsecondary education that prepares
- 9222 Utahns for the twenty-first century;
- 9223 (ii) cost-effective and affordable modes of higher education delivery;
- 9224 (iii) the integration of prior learning and competency-based experiences to meet degree
- 9225 or certificate requirements;
- 9226 (iv) maximizing the role of the state system of higher education in workforce and
- 9227 economic development;
- 9228 (v) a statewide campus and technology master plan that reflects regional differences in
- 9229 projected student enrollment growth in the state system of higher education;
- 9230 (vi) governance of the state system of higher education, including studying best
- 9231 practices and recommending modifications; and
- 9232 (vii) other issues related to the state system of higher education as determined by the
- 9233 commission.
- 9234 ~~[(2)(a) The commission shall:]~~
- 9235 ~~[(i) select a consultant to manage the strategic planning process in accordance with~~

9236 Subsection (3);]

9237        [~~(ii) guide the analytical work of a consultant described in Subsection (2)(a)(i) and~~

9238 ~~review the results of the work;]~~

9239        [~~(iii) coordinate with a consultant described in Subsection (2)(a)(i) to engage in a~~

9240 ~~strategic planning process and create a strategic plan;]~~

9241        [~~(iv) conduct regional meetings to gather stakeholder input during the strategic~~

9242 ~~planning process; and]~~

9243        [~~(v) report to the Legislature and the governor in accordance with Subsection (5);]~~

9244        [~~(b) The commission may designate and assign working groups within the commission~~

9245 ~~to address, study, evaluate, or discuss issues related to the commission's work.]~~

9246        [~~(3) Subject to direction from the commission, a consultant selected under Subsection~~

9247 ~~(2)(a) shall:]~~

9248        [~~(a) collect and analyze data related to the current and future projected conditions of~~

9249 ~~the state system of higher education, including:]~~

9250            [~~(i) relevant demographics and educational attainment;]~~

9251            [~~(ii) the state's economy, including workforce supply and demand;]~~

9252            [~~(iii) affordability and financing of higher education through tuition, state funding, and~~

9253 ~~other sources;]~~

9254            [~~(iv) innovation by institutions of higher education, including research and research~~

9255 ~~commercialization;]~~

9256            [~~(v) operational and capital facility efficiencies;]~~

9257            [~~(vi) accountability measures to assess the performance of the state system of higher~~

9258 ~~education; and]~~

9259            [~~(vii) any other data collection or analysis requested by the commission;]~~

9260        [~~(b) based on the data described in Subsection (3)(a), make comparisons between~~

9261 ~~higher education in Utah and higher education in other states or countries;]~~

9262        [~~(c) project the condition of the state system of higher education in the future under the~~

9263 state's current system based on the projected:]  
9264        ~~[(i) population;]~~  
9265        ~~[(ii) workforce needs; and]~~  
9266        ~~[(iii) funding requirements through tuition and state funding;]~~  
9267        ~~[(d) develop alternatives to the projection described in Subsection (3)(c) by modeling~~  
9268 ~~potential changes to:]~~  
9269        ~~[(i) industry and economic growth;]~~  
9270        ~~[(ii) student enrollment patterns;]~~  
9271        ~~[(iii) the portion of funding for the state system of higher education that comes from~~  
9272 ~~tuition and the portion of funding that comes from state funding; and]~~  
9273        ~~[(iv) investments in capital facilities or technology infrastructure;]~~  
9274        ~~[(e) recommend accountability or performance measures to assess the effectiveness of~~  
9275 ~~the state system of higher education;]~~  
9276        ~~[(f) in coordination with the commission, conduct the regional meetings described in~~  
9277 ~~Subsection (2)(a)(iv) to share information and seek input from a range of stakeholders;]~~  
9278        ~~[(g) recommend changes to the governance system for the state system of higher~~  
9279 ~~education that would facilitate implementation of the strategic plan; and]~~  
9280        ~~[(h) produce for the commission:]~~  
9281        ~~[(i) a draft report, including findings, observations, and strategic priorities; and]~~  
9282        ~~[(ii) a final report, incorporating feedback from the commission on the draft report~~  
9283 ~~described in Subsection (3)(h)(i), regarding the future of the state system of higher education.]~~  
9284        ~~[(4) The State Board of Regents and the Utah System of Technical Colleges Board of~~  
9285 ~~Trustees shall provide the commission and a consultant selected under Subsection (2)(a) with~~  
9286 ~~data and data analysis as requested by the commission.]~~  
9287        (2) During calendar year 2020, the commission shall:  
9288        (a) develop a statewide attainment goal and subgoals for higher education;  
9289        (b) define affordability for higher education in the state; and



9290 (c) assist in facilitating the transition to the Utah Board of Higher Education.  
9291 [~~5~~] (3) (a) On or before November 30, 2018, the commission shall report on the  
9292 commission's progress to:  
9293 (i) the Education Interim Committee;  
9294 (ii) the Higher Education Appropriations Subcommittee;  
9295 (iii) the Legislative Management Committee; and  
9296 (iv) the governor.  
9297 (b) On or before November 30, 2019, the commission shall provide a [final] report,  
9298 including a strategic plan and any recommendations, to:  
9299 (i) the Education Interim Committee;  
9300 (ii) the Higher Education Appropriations Subcommittee;  
9301 (iii) the Legislative Management Committee; and  
9302 (iv) the governor.  
9303 (c) On or before November 30, 2020, the commission shall report on the duties  
9304 described in Subsection (2) to:  
9305 (i) the Education Interim Committee;  
9306 (ii) the Higher Education Appropriations Subcommittee;  
9307 (iii) the Legislative Management Committee; and  
9308 (iv) the governor.  
9309 Section 173. Section **63D-2-102** is amended to read:  
9310 **63D-2-102. Definitions.**  
9311 As used in this chapter:  
9312 (1) (a) "Collect" means the gathering of personally identifiable information:  
9313 (i) from a user of a governmental website; or  
9314 (ii) about a user of the governmental website.  
9315 (b) "Collect" includes use of any identifying code linked to a user of a governmental  
9316 website.

9317 (2) "Court website" means a website on the Internet that is operated by or on behalf of  
9318 any court created in Title 78A, Chapter 1, Judiciary.

9319 (3) "Governmental entity" means:

9320 (a) an executive branch agency as defined in Section [63F-1-102](#);

9321 (b) the legislative branch;

9322 (c) the judicial branch;

9323 (d) the State Board of Education;

9324 (e) the [~~Board of Regents~~] Utah Board of Higher Education;

9325 (f) an institution of higher education; and

9326 (g) a political subdivision of the state:

9327 (i) as defined in Section [17B-1-102](#); and

9328 (ii) including a school district.

9329 (4) (a) "Governmental website" means a website on the Internet that is operated by or  
9330 on behalf of a governmental entity.

9331 (b) "Governmental website" includes a court website.

9332 (5) "Governmental website operator" means a governmental entity or person acting on  
9333 behalf of the governmental entity that:

9334 (a) operates a governmental website; and

9335 (b) collects or maintains personally identifiable information from or about a user of  
9336 that website.

9337 (6) "Personally identifiable information" means information that identifies:

9338 (a) a user by:

9339 (i) name;

9340 (ii) account number;

9341 (iii) physical address;

9342 (iv) email address;

9343 (v) telephone number;

- 9344 (vi) Social Security number;
- 9345 (vii) credit card information; or
- 9346 (viii) bank account information;
- 9347 (b) a user as having requested or obtained specific materials or services from a
- 9348 governmental website;
- 9349 (c) Internet sites visited by a user; or
- 9350 (d) any of the contents of a user's data-storage device.
- 9351 (7) "User" means a person who accesses a governmental website.
- 9352 Section 174. Section **63F-1-102** is amended to read:
- 9353 **63F-1-102. Definitions.**
- 9354 As used in this title:
- 9355 (1) "Chief information officer" means the chief information officer appointed under
- 9356 Section [63F-1-201](#).
- 9357 (2) "Data center" means a centralized repository for the storage, management, and
- 9358 dissemination of data.
- 9359 (3) "Department" means the Department of Technology Services.
- 9360 (4) "Enterprise architecture" means:
- 9361 (a) information technology that can be applied across state government; and
- 9362 (b) support for information technology that can be applied across state government,
- 9363 including:
- 9364 (i) technical support;
- 9365 (ii) master software licenses; and
- 9366 (iii) hardware and software standards.
- 9367 (5) (a) "Executive branch agency" means an agency or administrative subunit of state
- 9368 government.
- 9369 (b) "Executive branch agency" does not include:
- 9370 (i) the legislative branch;

- 9371 (ii) the judicial branch;
- 9372 (iii) the State Board of Education;
- 9373 (iv) the ~~[Board of Regents]~~ Utah Board of Higher Education;
- 9374 (v) institutions of higher education;
- 9375 (vi) independent entities as defined in Section 63E-1-102; and
- 9376 (vii) elective constitutional offices of the executive department which includes:
  - 9377 (A) the state auditor;
  - 9378 (B) the state treasurer; and
  - 9379 (C) the attorney general.
- 9380 (6) "Executive branch strategic plan" means the executive branch strategic plan created
- 9381 under Section 63F-1-203.
- 9382 (7) "Individual with a disability" means an individual with a condition that meets the
- 9383 definition of "disability" in 42 U.S.C. Sec. 12102.
- 9384 (8) "Information technology" means all computerized and auxiliary automated
- 9385 information handling, including:
  - 9386 (a) systems design and analysis;
  - 9387 (b) acquisition, storage, and conversion of data;
  - 9388 (c) computer programming;
  - 9389 (d) information storage and retrieval;
  - 9390 (e) voice, video, and data communications;
  - 9391 (f) requisite systems controls;
  - 9392 (g) simulation; and
  - 9393 (h) all related interactions between people and machines.
- 9394 (9) "State information architecture" means a logically consistent set of principles,
- 9395 policies, and standards that guide the engineering of state government's information technology
- 9396 and infrastructure in a way that ensures alignment with state government's business and service
- 9397 needs.

9398 Section 175. Section **63F-1-206** is amended to read:

9399 **63F-1-206. Rulemaking -- Policies.**

9400 (1) (a) Except as provided in Subsection (2), the chief information officer shall, by rule  
9401 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

9402 (i) provide standards that impose requirements on executive branch agencies that:

9403 (A) are related to the security of the statewide area network; and

9404 (B) establish standards for when an agency must obtain approval before obtaining  
9405 items listed in Subsection **63F-1-205**(1);

9406 (ii) specify the detail and format required in an agency information technology plan  
9407 submitted in accordance with Section **63F-1-204**;

9408 (iii) provide for standards related to the privacy policies of websites operated by or on  
9409 behalf of an executive branch agency;

9410 (iv) provide for the acquisition, licensing, and sale of computer software;

9411 (v) specify the requirements for the project plan and business case analysis required by  
9412 Section **63F-1-205**;

9413 (vi) provide for project oversight of agency technology projects when required by  
9414 Section **63F-1-205**;

9415 (vii) establish, in accordance with Subsection **63F-1-205**(2), the implementation of the  
9416 needs assessment for information technology purchases;

9417 (viii) establish telecommunications standards and specifications in accordance with  
9418 Section **63F-1-404**; and

9419 (ix) establish standards for accessibility of information technology by individuals with  
9420 disabilities in accordance with Section **63F-1-210**.

9421 (b) The rulemaking authority granted by this Subsection (1) is in addition to any other  
9422 rulemaking authority granted by this title.

9423 (2) (a) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
9424 and subject to Subsection (2)(b), the chief information officer may adopt a policy that outlines

9425 procedures to be followed by the chief information officer in facilitating the implementation of  
9426 this title by executive branch agencies if the policy:

9427 (i) is consistent with the executive branch strategic plan; and

9428 (ii) is not required to be made by rule under Subsection (1) or Section [63G-3-201](#).

9429 (b) (i) A policy adopted by the chief information officer under Subsection (2)(a) may  
9430 not take effect until 30 days after the day on which the chief information officer submits the  
9431 policy to:

9432 (A) the governor; and

9433 (B) all cabinet level officials.

9434 (ii) During the 30-day period described in Subsection (2)(b)(i), cabinet level officials  
9435 may review and comment on a policy submitted under Subsection (2)(b)(i).

9436 (3) (a) Notwithstanding Subsection (1) or (2) or Title 63G, Chapter 3, Utah  
9437 Administrative Rulemaking Act, without following the procedures of Subsection (1) or (2), the  
9438 chief information officer may adopt a security procedure to be followed by executive branch  
9439 agencies to protect the statewide area network if:

9440 (i) broad communication of the security procedure would create a significant potential  
9441 for increasing the vulnerability of the statewide area network to breach or attack; and

9442 (ii) after consultation with the chief information officer, the governor agrees that broad  
9443 communication of the security procedure would create a significant potential increase in the  
9444 vulnerability of the statewide area network to breach or attack.

9445 (b) A security procedure described in Subsection (3)(a) is classified as a protected  
9446 record under Title 63G, Chapter 2, Government Records Access and Management Act.

9447 (c) The chief information officer shall provide a copy of the security procedure as a  
9448 protected record to:

9449 (i) the chief justice of the Utah Supreme Court for the judicial branch;

9450 (ii) the speaker of the House of Representatives and the president of the Senate for the  
9451 legislative branch;

9452 (iii) the chair of the [~~Board of Regents~~] Utah Board of Higher Education; and

9453 (iv) the chair of the State Board of Education.

9454 Section 176. Section **63F-1-303** is amended to read:

9455 **63F-1-303. Executive branch agencies -- Subscription by institutions.**

9456 (1) An executive branch agency in accordance with its agency information technology  
9457 plan approved by the chief information officer shall:

9458 (a) subscribe to the information technology services provided by the department; or

9459 (b) contract with one or more alternate private providers of information technology  
9460 services if the chief information officer determines that the purchase of the services from a  
9461 private provider will:

9462 (i) result in:

9463 (A) cost savings;

9464 (B) increased efficiency; or

9465 (C) improved quality of services; and

9466 (ii) not impair the interoperability of the state's information technology services.

9467 (2) An institution of higher education may subscribe to the services provided by the  
9468 department if:

9469 (a) the president of the institution recommends that the institution subscribe to the  
9470 services of the department; and

9471 (b) the [~~Board of Regents~~] Utah Board of Higher Education determines that  
9472 subscription to the services of the department will result in cost savings or increased efficiency  
9473 to the institution.

9474 (3) The following may subscribe to information technology services by requesting that  
9475 the services be provided from the department:

9476 (a) the legislative branch;

9477 (b) the judicial branch;

9478 (c) the State Board of Education;

- 9479 (d) a political subdivision of the state;
- 9480 (e) an agency of the federal government;
- 9481 (f) an independent entity as defined in Section 63E-1-102; and
- 9482 (g) an elective constitutional officer of the executive department as defined in
- 9483 Subsection 63F-1-102(5)(b)(vii).

9484 Section 177. Section 63F-2-102 is amended to read:

9485 **63F-2-102. Data Security Management Council -- Membership -- Duties.**

9486 (1) There is created the Data Security Management Council composed of [~~nine~~] eight

9487 members as follows:

9488 (a) the chief information officer appointed under Section 63F-1-201, or the chief

9489 information officer's designee;

9490 (b) one individual appointed by the governor;

9491 (c) one individual appointed by the speaker of the House of Representatives and the

9492 president of the Senate from the Legislative Information Technology Steering Committee; and

9493 (d) the highest ranking information technology official, or the highest ranking

9494 information technology official's designee, from each of:

9495 (i) the Judicial Council;

9496 (ii) the [~~State Board of Regents~~] Utah Board of Higher Education;

9497 (iii) the State Board of Education;

9498 [~~(iv) the Utah System of Technical Colleges Board of Trustees;~~]

9499 [~~(v)~~] (iv) the State Tax Commission; and

9500 [~~(vi)~~] (v) the Office of the Attorney General.

9501 (2) The council shall elect a chair of the council by majority vote.

9502 (3) (a) A majority of the members of the council constitutes a quorum.

9503 (b) Action by a majority of a quorum of the council constitutes an action of the council.

9504 (4) The Department of Technology Services shall provide staff to the council.

9505 (5) The council shall meet quarterly, or as often as necessary, to:



- 9506 (a) review existing state government data security policies;
- 9507 (b) assess ongoing risks to state government information technology;
- 9508 (c) create a method to notify state and local government entities of new risks;
- 9509 (d) coordinate data breach simulation exercises with state and local government
- 9510 entities; and
- 9511 (e) develop data security best practice recommendations for state government that
- 9512 include recommendations regarding:
  - 9513 (i) hiring and training a chief information security officer for each government entity;
  - 9514 (ii) continuous risk monitoring;
  - 9515 (iii) password management;
  - 9516 (iv) using the latest technology to identify and respond to vulnerabilities;
  - 9517 (v) protecting data in new and old systems; and
  - 9518 (vi) best procurement practices.
- 9519 (6) A member who is not a member of the Legislature may not receive compensation
- 9520 or benefits for the member's service but may receive per diem and travel expenses as provided
- 9521 in:
  - 9522 (a) Section [63A-3-106](#);
  - 9523 (b) Section [63A-3-107](#); and
  - 9524 (c) rules made by the Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#).
- 9525 Section 178. Section **63G-2-103** is amended to read:
- 9526 **63G-2-103. Definitions.**
- 9527 As used in this chapter:
- 9528 (1) "Audit" means:
  - 9529 (a) a systematic examination of financial, management, program, and related records
  - 9530 for the purpose of determining the fair presentation of financial statements, adequacy of
  - 9531 internal controls, or compliance with laws and regulations; or
  - 9532 (b) a systematic examination of program procedures and operations for the purpose of

9533 determining their effectiveness, economy, efficiency, and compliance with statutes and  
9534 regulations.

9535 (2) "Chronological logs" mean the regular and customary summary records of law  
9536 enforcement agencies and other public safety agencies that show:

9537 (a) the time and general nature of police, fire, and paramedic calls made to the agency;  
9538 and

9539 (b) any arrests or jail bookings made by the agency.

9540 (3) "Classification," "classify," and their derivative forms mean determining whether a  
9541 record series, record, or information within a record is public, private, controlled, protected, or  
9542 exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

9543 (4) (a) "Computer program" means:

9544 (i) a series of instructions or statements that permit the functioning of a computer  
9545 system in a manner designed to provide storage, retrieval, and manipulation of data from the  
9546 computer system; and

9547 (ii) any associated documentation and source material that explain how to operate the  
9548 computer program.

9549 (b) "Computer program" does not mean:

9550 (i) the original data, including numbers, text, voice, graphics, and images;

9551 (ii) analysis, compilation, and other manipulated forms of the original data produced by  
9552 use of the program; or

9553 (iii) the mathematical or statistical formulas, excluding the underlying mathematical  
9554 algorithms contained in the program, that would be used if the manipulated forms of the  
9555 original data were to be produced manually.

9556 (5) (a) "Contractor" means:

9557 (i) any person who contracts with a governmental entity to provide goods or services  
9558 directly to a governmental entity; or

9559 (ii) any private, nonprofit organization that receives funds from a governmental entity.

- 9560 (b) "Contractor" does not mean a private provider.
- 9561 (6) "Controlled record" means a record containing data on individuals that is controlled  
9562 as provided by Section [63G-2-304](#).
- 9563 (7) "Designation," "designate," and their derivative forms mean indicating, based on a  
9564 governmental entity's familiarity with a record series or based on a governmental entity's  
9565 review of a reasonable sample of a record series, the primary classification that a majority of  
9566 records in a record series would be given if classified and the classification that other records  
9567 typically present in the record series would be given if classified.
- 9568 (8) "Elected official" means each person elected to a state office, county office,  
9569 municipal office, school board or school district office, local district office, or special service  
9570 district office, but does not include judges.
- 9571 (9) "Explosive" means a chemical compound, device, or mixture:
- 9572 (a) commonly used or intended for the purpose of producing an explosion; and  
9573 (b) that contains oxidizing or combustive units or other ingredients in proportions,  
9574 quantities, or packing so that:
- 9575 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the  
9576 compound or mixture may cause a sudden generation of highly heated gases; and  
9577 (ii) the resultant gaseous pressures are capable of:
- 9578 (A) producing destructive effects on contiguous objects; or  
9579 (B) causing death or serious bodily injury.
- 9580 (10) "Government audit agency" means any governmental entity that conducts an audit.
- 9581 (11) (a) "Governmental entity" means:
- 9582 (i) executive department agencies of the state, the offices of the governor, lieutenant  
9583 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,  
9584 the Board of Examiners, the National Guard, the Career Service Review Office, the State  
9585 Board of Education, the ~~[State Board of Regents]~~ Utah Board of Higher Education, and the  
9586 State Archives;

9587 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal  
9588 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative  
9589 committees, except any political party, group, caucus, or rules or sifting committee of the  
9590 Legislature;

9591 (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar  
9592 administrative units in the judicial branch;

9593 (iv) any state-funded institution of higher education or public education; or

9594 (v) any political subdivision of the state, but, if a political subdivision has adopted an  
9595 ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this  
9596 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or  
9597 as specified in any other section of this chapter that specifically refers to political subdivisions.

9598 (b) "Governmental entity" also means:

9599 (i) every office, agency, board, bureau, committee, department, advisory board, or  
9600 commission of an entity listed in Subsection (11)(a) that is funded or established by the  
9601 government to carry out the public's business;

9602 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative  
9603 undertaking;

9604 (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

9605 (iv) an association as defined in Section 53G-7-1101;

9606 (v) the Utah Independent Redistricting Commission; and

9607 (vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or  
9608 more law enforcement officers, as defined in Section 53-13-103.

9609 (c) "Governmental entity" does not include the Utah Educational Savings Plan created  
9610 in Section 53B-8a-103.

9611 (12) "Gross compensation" means every form of remuneration payable for a given  
9612 period to an individual for services provided including salaries, commissions, vacation pay,  
9613 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any

9614 similar benefit received from the individual's employer.

9615 (13) "Individual" means a human being.

9616 (14) (a) "Initial contact report" means an initial written or recorded report, however  
9617 titled, prepared by peace officers engaged in public patrol or response duties describing official  
9618 actions initially taken in response to either a public complaint about or the discovery of an  
9619 apparent violation of law, which report may describe:

9620 (i) the date, time, location, and nature of the complaint, the incident, or offense;

9621 (ii) names of victims;

9622 (iii) the nature or general scope of the agency's initial actions taken in response to the  
9623 incident;

9624 (iv) the general nature of any injuries or estimate of damages sustained in the incident;

9625 (v) the name, address, and other identifying information about any person arrested or  
9626 charged in connection with the incident; or

9627 (vi) the identity of the public safety personnel, except undercover personnel, or  
9628 prosecuting attorney involved in responding to the initial incident.

9629 (b) Initial contact reports do not include follow-up or investigative reports prepared  
9630 after the initial contact report. However, if the information specified in Subsection (14)(a)  
9631 appears in follow-up or investigative reports, it may only be treated confidentially if it is  
9632 private, controlled, protected, or exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

9633 (15) "Legislative body" means the Legislature.

9634 (16) "Notice of compliance" means a statement confirming that a governmental entity  
9635 has complied with an order of the State Records Committee.

9636 (17) "Person" means:

9637 (a) an individual;

9638 (b) a nonprofit or profit corporation;

9639 (c) a partnership;

9640 (d) a sole proprietorship;

9641 (e) other type of business organization; or

9642 (f) any combination acting in concert with one another.

9643 (18) "Private provider" means any person who contracts with a governmental entity to  
9644 provide services directly to the public.

9645 (19) "Private record" means a record containing data on individuals that is private as  
9646 provided by Section [63G-2-302](#).

9647 (20) "Protected record" means a record that is classified protected as provided by  
9648 Section [63G-2-305](#).

9649 (21) "Public record" means a record that is not private, controlled, or protected and that  
9650 is not exempt from disclosure as provided in Subsection [63G-2-201\(3\)\(b\)](#).

9651 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,  
9652 card, tape, recording, electronic data, or other documentary material regardless of physical form  
9653 or characteristics:

9654 (i) that is prepared, owned, received, or retained by a governmental entity or political  
9655 subdivision; and

9656 (ii) where all of the information in the original is reproducible by photocopy or other  
9657 mechanical or electronic means.

9658 (b) "Record" does not mean:

9659 (i) a personal note or personal communication prepared or received by an employee or  
9660 officer of a governmental entity:

9661 (A) in a capacity other than the employee's or officer's governmental capacity; or

9662 (B) that is unrelated to the conduct of the public's business;

9663 (ii) a temporary draft or similar material prepared for the originator's personal use or  
9664 prepared by the originator for the personal use of an individual for whom the originator is  
9665 working;

9666 (iii) material that is legally owned by an individual in the individual's private capacity;

9667 (iv) material to which access is limited by the laws of copyright or patent unless the

- 9668 copyright or patent is owned by a governmental entity or political subdivision;
- 9669 (v) proprietary software;
- 9670 (vi) junk mail or a commercial publication received by a governmental entity or an  
9671 official or employee of a governmental entity;
- 9672 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections  
9673 of a library open to the public;
- 9674 (viii) material that is cataloged, indexed, or inventoried and contained in the collections  
9675 of a library open to the public, regardless of physical form or characteristics of the material;
- 9676 (ix) a daily calendar or other personal note prepared by the originator for the  
9677 originator's personal use or for the personal use of an individual for whom the originator is  
9678 working;
- 9679 (x) a computer program that is developed or purchased by or for any governmental  
9680 entity for its own use;
- 9681 (xi) a note or internal memorandum prepared as part of the deliberative process by:
- 9682 (A) a member of the judiciary;
- 9683 (B) an administrative law judge;
- 9684 (C) a member of the Board of Pardons and Parole; or
- 9685 (D) a member of any other body, other than an association or appeals panel as defined  
9686 in Section [53G-7-1101](#), charged by law with performing a quasi-judicial function;
- 9687 (xii) a telephone number or similar code used to access a mobile communication  
9688 device that is used by an employee or officer of a governmental entity, provided that the  
9689 employee or officer of the governmental entity has designated at least one business telephone  
9690 number that is a public record as provided in Section [63G-2-301](#);
- 9691 (xiii) information provided by the Public Employees' Benefit and Insurance Program,  
9692 created in Section [49-20-103](#), to a county to enable the county to calculate the amount to be  
9693 paid to a health care provider under Subsection [17-50-319\(2\)\(e\)\(ii\)](#);
- 9694 (xiv) information that an owner of unimproved property provides to a local entity as

9695 provided in Section 11-42-205;

9696 (xv) a video or audio recording of an interview, or a transcript of the video or audio  
9697 recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

9698 (xvi) child pornography, as defined by Section 76-5b-103; or

9699 (xvii) before final disposition of an ethics complaint occurs, a video or audio recording  
9700 of the closed portion of a meeting or hearing of:

9701 (A) a Senate or House Ethics Committee;

9702 (B) the Independent Legislative Ethics Commission;

9703 (C) the Independent Executive Branch Ethics Commission, created in Section  
9704 63A-14-202; or

9705 (D) the Political Subdivisions Ethics Review Commission established in Section  
9706 63A-15-201.

9707 (23) "Record series" means a group of records that may be treated as a unit for  
9708 purposes of designation, description, management, or disposition.

9709 (24) "Records officer" means the individual appointed by the chief administrative  
9710 officer of each governmental entity, or the political subdivision to work with state archives in  
9711 the care, maintenance, scheduling, designation, classification, disposal, and preservation of  
9712 records.

9713 (25) "Schedule," "scheduling," and their derivative forms mean the process of  
9714 specifying the length of time each record series should be retained by a governmental entity for  
9715 administrative, legal, fiscal, or historical purposes and when each record series should be  
9716 transferred to the state archives or destroyed.

9717 (26) "Sponsored research" means research, training, and other sponsored activities as  
9718 defined by the federal Executive Office of the President, Office of Management and Budget:

9719 (a) conducted:

9720 (i) by an institution within the state system of higher education defined in Section  
9721 53B-1-102; and



- 9722 (ii) through an office responsible for sponsored projects or programs; and
- 9723 (b) funded or otherwise supported by an external:
- 9724 (i) person that is not created or controlled by the institution within the state system of
- 9725 higher education; or
- 9726 (ii) federal, state, or local governmental entity.
- 9727 (27) "State archives" means the Division of Archives and Records Service created in
- 9728 Section [63A-12-101](#).
- 9729 (28) "State archivist" means the director of the state archives.
- 9730 (29) "State Records Committee" means the State Records Committee created in
- 9731 Section [63G-2-501](#).
- 9732 (30) "Summary data" means statistical records and compilations that contain data
- 9733 derived from private, controlled, or protected information but that do not disclose private,
- 9734 controlled, or protected information.
- 9735 Section 179. Section **63G-6a-103** is amended to read:
- 9736 **63G-6a-103. Definitions.**
- 9737 As used in this chapter:
- 9738 (1) "Applicable rulemaking authority" means:
- 9739 (a) for a legislative procurement unit, the Legislative Management Committee;
- 9740 (b) for a judicial procurement unit, the Judicial Council;
- 9741 (c) (i) only to the extent of the procurement authority expressly granted to the
- 9742 procurement unit by statute:
- 9743 (A) for the building board or the Division of Facilities Construction and Management,
- 9744 created in Section [63A-5-201](#), the building board;
- 9745 (B) for the Office of the Attorney General, the attorney general; and
- 9746 (C) for the Department of Transportation created in Section [72-1-201](#), the executive
- 9747 director of the Department of Transportation; and
- 9748 (ii) for each other executive branch procurement unit, the board;

- 9749 (d) for a local government procurement unit:
- 9750 (i) the legislative body of the local government procurement unit; or
- 9751 (ii) an individual or body designated by the legislative body of the local government
- 9752 procurement unit;
- 9753 (e) for a school district or a public school, the board, except to the extent of a school
- 9754 district's own nonadministrative rules that do not conflict with the provisions of this chapter;
- 9755 (f) for a state institution of higher education [~~described in:~~], the Utah Board of Higher
- 9756 Education;
- 9757 [~~(i) Subsections 53B-1-102(1)(a) and (c), the State Board of Regents; or]~~
- 9758 [~~(ii) Subsection 53B-1-102(1)(b), the Utah System of Technical Colleges Board of~~
- 9759 ~~Trustees;]~~
- 9760 (g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the
- 9761 State Board of Education;
- 9762 (h) for a public transit district, the chief executive of the public transit district;
- 9763 (i) for a local district other than a public transit district or for a special service district:
- 9764 (i) before January 1, 2015, the board of trustees of the local district or the governing
- 9765 body of the special service district; or
- 9766 (ii) on or after January 1, 2015, the board, except to the extent that the board of trustees
- 9767 of the local district or the governing body of the special service district makes its own rules:
- 9768 (A) with respect to a subject addressed by board rules; or
- 9769 (B) that are in addition to board rules;
- 9770 (j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the board of
- 9771 directors of the Utah Educational Savings Plan;
- 9772 (k) for the School and Institutional Trust Lands Administration, created in Section
- 9773 53C-1-201, the School and Institutional Trust Lands Board of Trustees;
- 9774 (l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201,
- 9775 the School and Institutional Trust Fund Board of Trustees;

9776 (m) for the Utah Communications Authority, established in Section 63H-7a-201, the  
9777 Utah Communications Authority Board, created in Section 63H-7a-203; or

9778 (n) for any other procurement unit, the board.

9779 (2) "Approved vendor" means a person who has been approved for inclusion on an  
9780 approved vendor list through the approved vendor list process.

9781 (3) "Approved vendor list" means a list of approved vendors established under Section  
9782 63G-6a-507.

9783 (4) "Approved vendor list process" means the procurement process described in  
9784 Section 63G-6a-507.

9785 (5) "Bidder" means a person who submits a bid or price quote in response to an  
9786 invitation for bids.

9787 (6) "Bidding process" means the procurement process described in Part 6, Bidding.

9788 (7) "Board" means the Utah State Procurement Policy Board, created in Section  
9789 63G-6a-202.

9790 (8) "Building board" means the State Building Board, created in Section 63A-5-101.

9791 (9) "Change directive" means a written order signed by the procurement officer that  
9792 directs the contractor to suspend work or make changes, as authorized by contract, without the  
9793 consent of the contractor.

9794 (10) "Change order" means a written alteration in specifications, delivery point, rate of  
9795 delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual  
9796 agreement of the parties to the contract.

9797 (11) "Chief procurement officer" means the chief procurement officer appointed under  
9798 Subsection 63G-6a-302(1).

9799 (12) "Conducting procurement unit" means a procurement unit that conducts all  
9800 aspects of a procurement:

9801 (a) except:

9802 (i) reviewing a solicitation to verify that it is in proper form; and

- 9803 (ii) causing the publication of a notice of a solicitation; and  
9804 (b) including:  
9805 (i) preparing any solicitation document;  
9806 (ii) appointing an evaluation committee;  
9807 (iii) conducting the evaluation process, except as provided in Subsection  
9808 [63G-6a-707](#)(6)(b) relating to scores calculated for costs of proposals;  
9809 (iv) selecting and recommending the person to be awarded a contract;  
9810 (v) negotiating the terms and conditions of a contract, subject to the issuing  
9811 procurement unit's approval; and  
9812 (vi) contract administration.
- 9813 (13) "Conservation district" means the same as that term is defined in Section  
9814 [17D-3-102](#).
- 9815 (14) "Construction":  
9816 (a) means services, including work, and supplies for a project for the construction,  
9817 renovation, alteration, improvement, or repair of a public facility on real property; and  
9818 (b) does not include services and supplies for the routine, day-to-day operation, repair,  
9819 or maintenance of an existing public facility.
- 9820 (15) "Construction manager/general contractor":  
9821 (a) means a contractor who enters into a contract:  
9822 (i) for the management of a construction project; and  
9823 (ii) that allows the contractor to subcontract for additional labor and materials that are  
9824 not included in the contractor's cost proposal submitted at the time of the procurement of the  
9825 contractor's services; and  
9826 (b) does not include a contractor whose only subcontract work not included in the  
9827 contractor's cost proposal submitted as part of the procurement of the contractor's services is to  
9828 meet subcontracted portions of change orders approved within the scope of the project.
- 9829 (16) "Construction subcontractor":

9830 (a) means a person under contract with a contractor or another subcontractor to provide  
9831 services or labor for the design or construction of a construction project;

9832 (b) includes a general contractor or specialty contractor licensed or exempt from  
9833 licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

9834 (c) does not include a supplier who provides only materials, equipment, or supplies to a  
9835 contractor or subcontractor for a construction project.

9836 (17) "Contract" means an agreement for a procurement.

9837 (18) "Contract administration" means all functions, duties, and responsibilities  
9838 associated with managing, overseeing, and carrying out a contract between a procurement unit  
9839 and a contractor, including:

9840 (a) implementing the contract;

9841 (b) ensuring compliance with the contract terms and conditions by the conducting  
9842 procurement unit and the contractor;

9843 (c) executing change orders;

9844 (d) processing contract amendments;

9845 (e) resolving, to the extent practicable, contract disputes;

9846 (f) curing contract errors and deficiencies;

9847 (g) terminating a contract;

9848 (h) measuring or evaluating completed work and contractor performance;

9849 (i) computing payments under the contract; and

9850 (j) closing out a contract.

9851 (19) "Contractor" means a person who is awarded a contract with a procurement unit.

9852 (20) "Cooperative procurement" means procurement conducted by, or on behalf of:

9853 (a) more than one procurement unit; or

9854 (b) a procurement unit and a cooperative purchasing organization.

9855 (21) "Cooperative purchasing organization" means an organization, association, or  
9856 alliance of purchasers established to combine purchasing power in order to obtain the best

9857 value for the purchasers by engaging in procurements in accordance with Section [63G-6a-2105](#).

9858 (22) "Cost-plus-a-percentage-of-cost contract" means a contract under which the  
9859 contractor is paid a percentage of the total actual expenses or costs in addition to the  
9860 contractor's actual expenses or costs.

9861 (23) "Cost-reimbursement contract" means a contract under which a contractor is  
9862 reimbursed for costs which are allowed and allocated in accordance with the contract terms and  
9863 the provisions of this chapter, and a fee, if any.

9864 (24) "Days" means calendar days, unless expressly provided otherwise.

9865 (25) "Definite quantity contract" means a fixed price contract that provides for a  
9866 specified amount of supplies over a specified period, with deliveries scheduled according to a  
9867 specified schedule.

9868 (26) "Design professional" means:

9869 (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects  
9870 Licensing Act;

9871 (b) an individual licensed as a professional engineer or professional land surveyor  
9872 under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing  
9873 Act; or

9874 (c) an individual certified as a commercial interior designer under Title 58, Chapter 86,  
9875 State Certification of Commercial Interior Designers Act.

9876 (27) "Design professional procurement process" means the procurement process  
9877 described in Part 15, Design Professional Services.

9878 (28) "Design professional services" means:

9879 (a) professional services within the scope of the practice of architecture as defined in  
9880 Section [58-3a-102](#);

9881 (b) professional engineering as defined in Section [58-22-102](#);

9882 (c) master planning and programming services; or

9883 (d) services within the scope of the practice of commercial interior design, as defined

9884 in Section 58-86-102.

9885 (29) "Design-build" means the procurement of design professional services and  
9886 construction by the use of a single contract.

9887 (30) "Director" means the director of the division.

9888 (31) "Division" means the Division of Purchasing and General Services, created in  
9889 Section 63A-2-101.

9890 (32) "Educational procurement unit" means:

9891 (a) a school district;

9892 (b) a public school, including a local school board or a charter school;

9893 (c) the Utah Schools for the Deaf and the Blind;

9894 (d) the Utah Education and Telehealth Network;

9895 (e) an institution of higher education of the state described in Section 53B-1-102; or

9896 (f) the State Board of Education.

9897 (33) "Established catalogue price" means the price included in a catalogue, price list,  
9898 schedule, or other form that:

9899 (a) is regularly maintained by a manufacturer or contractor;

9900 (b) is published or otherwise available for inspection by customers; and

9901 (c) states prices at which sales are currently or were last made to a significant number  
9902 of any category of buyers or buyers constituting the general buying public for the supplies or  
9903 services involved.

9904 (34) "Executive branch procurement unit" means a department, division, office,  
9905 bureau, agency, or other organization within the state executive branch.

9906 (35) "Fixed price contract" means a contract that provides a price, for each  
9907 procurement item obtained under the contract, that is not subject to adjustment except to the  
9908 extent that:

9909 (a) the contract provides, under circumstances specified in the contract, for an  
9910 adjustment in price that is not based on cost to the contractor; or

9911 (b) an adjustment is required by law.

9912 (36) "Fixed price contract with price adjustment" means a fixed price contract that  
9913 provides for an upward or downward revision of price, precisely described in the contract, that:

9914 (a) is based on the consumer price index or another commercially acceptable index,  
9915 source, or formula; and

9916 (b) is not based on a percentage of the cost to the contractor.

9917 (37) "Grant" means an expenditure of public funds or other assistance, or an agreement  
9918 to expend public funds or other assistance, for a public purpose authorized by law, without  
9919 acquiring a procurement item in exchange.

9920 (38) "Head of a procurement unit" means:

9921 (a) for a legislative procurement unit, any person designated by rule made by the  
9922 applicable rulemaking authority;

9923 (b) for an executive branch procurement unit:

9924 (i) the director of the division; or

9925 (ii) any other person designated by the board, by rule;

9926 (c) for a judicial procurement unit:

9927 (i) the Judicial Council; or

9928 (ii) any other person designated by the Judicial Council, by rule;

9929 (d) for a local government procurement unit:

9930 (i) the legislative body of the local government procurement unit; or

9931 (ii) any other person designated by the local government procurement unit;

9932 (e) for a local district other than a public transit district, the board of trustees of the  
9933 local district or a designee of the board of trustees;

9934 (f) for a special service district, the governing body of the special service district or a  
9935 designee of the governing body;

9936 (g) for a local building authority, the board of directors of the local building authority  
9937 or a designee of the board of directors;



9938 (h) for a conservation district, the board of supervisors of the conservation district or a  
9939 designee of the board of supervisors;

9940 (i) for a public corporation, the board of directors of the public corporation or a  
9941 designee of the board of directors;

9942 (j) for a school district or any school or entity within a school district, the board of the  
9943 school district, or the board's designee;

9944 (k) for a charter school, the individual or body with executive authority over the charter  
9945 school, or the individual's or body's designee;

9946 (l) for an institution of higher education described in Section 53B-2-101, the president  
9947 of the institution of higher education, or the president's designee;

9948 (m) for a public transit district, the board of trustees or a designee of the board of  
9949 trustees;

9950 (n) for the State Board of Education, the State Board of Education or a designee of the  
9951 State Board of Education; or

9952 (o) for the Utah Communications Authority, established in Section 63H-7a-201, the  
9953 executive director of the Utah Communications Authority or a designee of the executive  
9954 director.

9955 (39) "Immaterial error":

9956 (a) means an irregularity or abnormality that is:

9957 (i) a matter of form that does not affect substance; or

9958 (ii) an inconsequential variation from a requirement of a solicitation that has no, little,  
9959 or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

9960 (b) includes:

9961 (i) a missing signature, missing acknowledgment of an addendum, or missing copy of a  
9962 professional license, bond, or insurance certificate;

9963 (ii) a typographical error;

9964 (iii) an error resulting from an inaccuracy or omission in the solicitation; and

9965 (iv) any other error that the chief procurement officer or the head of a procurement unit  
9966 with independent procurement authority reasonably considers to be immaterial.

9967 (40) "Indefinite quantity contract" means a fixed price contract that:

9968 (a) is for an indefinite amount of procurement items to be supplied as ordered by a  
9969 procurement unit; and

9970 (b) (i) does not require a minimum purchase amount; or

9971 (ii) provides a maximum purchase limit.

9972 (41) "Independent procurement authority" means authority granted to a procurement  
9973 unit under Subsection [63G-6a-106\(4\)\(a\)](#).

9974 (42) "Invitation for bids":

9975 (a) means a document used to solicit:

9976 (i) bids to provide a procurement item to a procurement unit; or

9977 (ii) quotes for a price of a procurement item to be provided to a procurement unit; and

9978 (b) includes all documents attached to or incorporated by reference in a document  
9979 described in Subsection (42)(a).

9980 (43) "Issuing procurement unit" means a procurement unit that:

9981 (a) reviews a solicitation to verify that it is in proper form;

9982 (b) causes the notice of a solicitation to be published; and

9983 (c) negotiates and approves the terms and conditions of a contract.

9984 (44) "Judicial procurement unit" means:

9985 (a) the Utah Supreme Court;

9986 (b) the Utah Court of Appeals;

9987 (c) the Judicial Council;

9988 (d) a state judicial district; or

9989 (e) an office, committee, subcommittee, or other organization within the state judicial  
9990 branch.

9991 (45) "Labor hour contract" is a contract under which:

9992 (a) the supplies and materials are not provided by, or through, the contractor; and

9993 (b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and  
9994 profit for a specified number of labor hours or days.

9995 (46) "Legislative procurement unit" means:

9996 (a) the Legislature;

9997 (b) the Senate;

9998 (c) the House of Representatives;

9999 (d) a staff office of the Legislature, the Senate, or the House of Representatives; or

10000 (e) a committee, subcommittee, commission, or other organization:

10001 (i) within the state legislative branch; or

10002 (ii) (A) that is created by statute to advise or make recommendations to the Legislature;

10003 (B) the membership of which includes legislators; and

10004 (C) for which the Office of Legislative Research and General Counsel provides staff  
10005 support.

10006 (47) "Local building authority" means the same as that term is defined in Section  
10007 [17D-2-102](#).

10008 (48) "Local district" means the same as that term is defined in Section [17B-1-102](#).

10009 (49) "Local government procurement unit" means:

10010 (a) a county or municipality, and each office or agency of the county or municipality,  
10011 unless the county or municipality adopts its own procurement code by ordinance;

10012 (b) a county or municipality that has adopted this entire chapter by ordinance, and each  
10013 office or agency of that county or municipality; or

10014 (c) a county or municipality that has adopted a portion of this chapter by ordinance, to  
10015 the extent that a term in the ordinance is used in the adopted portion of this chapter, and each  
10016 office or agency of that county or municipality.

10017 (50) "Multiple award contracts" means the award of a contract for an indefinite  
10018 quantity of a procurement item to more than one person.

10019           (51) "Multiyear contract" means a contract that extends beyond a one-year period,  
10020 including a contract that permits renewal of the contract, without competition, beyond the first  
10021 year of the contract.

10022           (52) "Municipality" means a city, town, or metro township.

10023           (53) "Nonadopting local government procurement unit" means:

10024           (a) a county or municipality that has not adopted Part 16, Protests, Part 17,  
10025 Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19,  
10026 General Provisions Related to Protest or Appeal; and

10027           (b) each office or agency of a county or municipality described in Subsection (53)(a).

10028           (54) "Offeror" means a person who submits a proposal in response to a request for  
10029 proposals.

10030           (55) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference  
10031 under the requirements of this chapter.

10032           (56) "Procure" means to acquire a procurement item through a procurement.

10033           (57) "Procurement":

10034           (a) means a procurement unit's acquisition of a procurement item through an  
10035 expenditure of public funds, or an agreement to expend public funds, including an acquisition  
10036 through a public-private partnership;

10037           (b) includes all functions that pertain to the acquisition of a procurement item,  
10038 including:

10039           (i) preparing and issuing a solicitation; and

10040           (ii) (A) conducting a standard procurement process; or

10041           (B) conducting a procurement process that is an exception to a standard procurement  
10042 process under Part 8, Exceptions to Procurement Requirements; and

10043           (c) does not include a grant.

10044           (58) "Procurement item" means a supply, a service, or construction.

10045           (59) "Procurement officer" means:

- 10046 (a) for a procurement unit with independent procurement authority:
- 10047 (i) the head of the procurement unit;
- 10048 (ii) a designee of the head of the procurement unit; or
- 10049 (iii) a person designated by rule made by the applicable rulemaking authority; or
- 10050 (b) for the division or a procurement unit without independent procurement authority,
- 10051 the chief procurement officer.
- 10052 (60) "Procurement unit":
- 10053 (a) means:
- 10054 (i) a legislative procurement unit;
- 10055 (ii) an executive branch procurement unit;
- 10056 (iii) a judicial procurement unit;
- 10057 (iv) an educational procurement unit;
- 10058 (v) the Utah Communications Authority, established in Section [63H-7a-201](#);
- 10059 (vi) a local government procurement unit;
- 10060 (vii) a local district;
- 10061 (viii) a special service district;
- 10062 (ix) a local building authority;
- 10063 (x) a conservation district;
- 10064 (xi) a public corporation; or
- 10065 (xii) a public transit district; and
- 10066 (b) does not include a political subdivision created under Title 11, Chapter 13,
- 10067 Interlocal Cooperation Act.
- 10068 (61) "Professional service" means labor, effort, or work that requires an elevated
- 10069 degree of specialized knowledge and discretion, including labor, effort, or work in the field of:
- 10070 (a) accounting;
- 10071 (b) administrative law judge service;
- 10072 (c) architecture;

- 10073 (d) construction design and management;
- 10074 (e) engineering;
- 10075 (f) financial services;
- 10076 (g) information technology;
- 10077 (h) the law;
- 10078 (i) medicine;
- 10079 (j) psychiatry; or
- 10080 (k) underwriting.
- 10081 (62) "Protest officer" means:
- 10082 (a) for the division or a procurement unit with independent procurement authority:
- 10083 (i) the head of the procurement unit;
- 10084 (ii) the head of the procurement unit's designee who is an employee of the procurement
- 10085 unit; or
- 10086 (iii) a person designated by rule made by the applicable rulemaking authority; or
- 10087 (b) for a procurement unit without independent procurement authority, the chief
- 10088 procurement officer or the chief procurement officer's designee who is an employee of the
- 10089 division.
- 10090 (63) "Public corporation" means the same as that term is defined in Section [63E-1-102](#).
- 10091 (64) "Public entity" means any government entity of the state or political subdivision of
- 10092 the state, including:
- 10093 (a) a procurement unit;
- 10094 (b) a municipality or county, regardless of whether the municipality or county has
- 10095 adopted this chapter or any part of this chapter; and
- 10096 (c) any other government entity located in the state that expends public funds.
- 10097 (65) "Public facility" means a building, structure, infrastructure, improvement, or other
- 10098 facility of a public entity.
- 10099 (66) "Public funds" means money, regardless of its source, including from the federal

10100 government, that is owned or held by a procurement unit.

10101 (67) "Public transit district" means a public transit district organized under Title 17B,  
10102 Chapter 2a, Part 8, Public Transit District Act.

10103 (68) "Public-private partnership" means an arrangement or agreement, occurring on or  
10104 after January 1, 2017, between a procurement unit and one or more contractors to provide for a  
10105 public need through the development or operation of a project in which the contractor or  
10106 contractors share with the procurement unit the responsibility or risk of developing, owning,  
10107 maintaining, financing, or operating the project.

10108 (69) "Qualified vendor" means a vendor who:

10109 (a) is responsible; and

10110 (b) submits a responsive statement of qualifications under Section [63G-6a-410](#) that  
10111 meets the minimum mandatory requirements, evaluation criteria, and any applicable score  
10112 thresholds set forth in the request for statement of qualifications.

10113 (70) "Real property" means land and any building, fixture, improvement, appurtenance,  
10114 structure, or other development that is permanently affixed to land.

10115 (71) "Request for information" means a nonbinding process through which a  
10116 procurement unit requests information relating to a procurement item.

10117 (72) "Request for proposals" means a document used to solicit proposals to provide a  
10118 procurement item to a procurement unit, including all other documents that are attached to that  
10119 document or incorporated in that document by reference.

10120 (73) "Request for proposals process" means the procurement process described in Part  
10121 7, Request for Proposals.

10122 (74) "Request for statement of qualifications" means a document used to solicit  
10123 information about the qualifications of a person interested in responding to a potential  
10124 procurement, including all other documents attached to that document or incorporated in that  
10125 document by reference.

10126 (75) "Requirements contract" means a contract:

10127 (a) under which a contractor agrees to provide a procurement unit's entire requirements  
10128 for certain procurement items at prices specified in the contract during the contract period; and

10129 (b) that:

10130 (i) does not require a minimum purchase amount; or

10131 (ii) provides a maximum purchase limit.

10132 (76) "Responsible" means being capable, in all respects, of:

10133 (a) meeting all the requirements of a solicitation; and

10134 (b) fully performing all the requirements of the contract resulting from the solicitation,  
10135 including being financially solvent with sufficient financial resources to perform the contract.

10136 (77) "Responsive" means conforming in all material respects to the requirements of a  
10137 solicitation.

10138 (78) "Sealed" means manually or electronically secured to prevent disclosure.

10139 (79) "Service":

10140 (a) means labor, effort, or work to produce a result that is beneficial to a procurement  
10141 unit;

10142 (b) includes a professional service; and

10143 (c) does not include labor, effort, or work provided under an employment agreement or  
10144 a collective bargaining agreement.

10145 (80) "Small purchase process" means the procurement process described in Section  
10146 [63G-6a-506](#).

10147 (81) "Sole source contract" means a contract resulting from a sole source procurement.

10148 (82) "Sole source procurement" means a procurement without competition pursuant to  
10149 a determination under Subsection [63G-6a-802\(1\)\(a\)](#) that there is only one source for the  
10150 procurement item.

10151 (83) "Solicitation" means an invitation for bids, request for proposals, request for  
10152 statement of qualifications, or request for information.

10153 (84) "Solicitation response" means:



- 10154 (a) a bid submitted in response to an invitation for bids;
- 10155 (b) a proposal submitted in response to a request for proposals; or
- 10156 (c) a statement of qualifications submitted in response to a request for statement of
- 10157 qualifications.
- 10158 (85) "Special service district" means the same as that term is defined in Section
- 10159 [17D-1-102](#).
- 10160 (86) "Specification" means any description of the physical or functional characteristics
- 10161 or of the nature of a procurement item included in an invitation for bids or a request for
- 10162 proposals, or otherwise specified or agreed to by a procurement unit, including a description of:
- 10163 (a) a requirement for inspecting or testing a procurement item; or
- 10164 (b) preparing a procurement item for delivery.
- 10165 (87) "Standard procurement process" means:
- 10166 (a) the bidding process;
- 10167 (b) the request for proposals process;
- 10168 (c) the approved vendor list process;
- 10169 (d) the small purchase process; or
- 10170 (e) the design professional procurement process.
- 10171 (88) "State cooperative contract" means a contract awarded by the division for and in
- 10172 behalf of all public entities.
- 10173 (89) "Statement of qualifications" means a written statement submitted to a
- 10174 procurement unit in response to a request for statement of qualifications.
- 10175 (90) "Subcontractor":
- 10176 (a) means a person under contract to perform part of a contractual obligation under the
- 10177 control of the contractor, whether the person's contract is with the contractor directly or with
- 10178 another person who is under contract to perform part of a contractual obligation under the
- 10179 control of the contractor; and
- 10180 (b) includes a supplier, distributor, or other vendor that furnishes supplies or services

10181 to a contractor.

10182 (91) "Supply" means a good, material, technology, piece of equipment, or any other  
10183 item of personal property.

10184 (92) "Tie bid" means that the lowest responsive bids of responsible bidders are  
10185 identical in price.

10186 (93) "Time and materials contract" means a contract under which the contractor is paid:

10187 (a) the actual cost of direct labor at specified hourly rates;

10188 (b) the actual cost of materials and equipment usage; and

10189 (c) an additional amount, expressly described in the contract, to cover overhead and  
10190 profit, that is not based on a percentage of the cost to the contractor.

10191 (94) "Transitional costs":

10192 (a) means the costs of changing:

10193 (i) from an existing provider of a procurement item to another provider of that  
10194 procurement item; or

10195 (ii) from an existing type of procurement item to another type;

10196 (b) includes:

10197 (i) training costs;

10198 (ii) conversion costs;

10199 (iii) compatibility costs;

10200 (iv) costs associated with system downtime;

10201 (v) disruption of service costs;

10202 (vi) staff time necessary to implement the change;

10203 (vii) installation costs; and

10204 (viii) ancillary software, hardware, equipment, or construction costs; and

10205 (c) does not include:

10206 (i) the costs of preparing for or engaging in a procurement process; or

10207 (ii) contract negotiation or drafting costs.

10208 (95) "Trial use contract" means a contract for a procurement item that the procurement  
10209 unit acquires for a trial use or testing to determine whether the procurement item will benefit  
10210 the procurement unit.

10211 (96) "Vendor":

10212 (a) means a person who is seeking to enter into a contract with a procurement unit to  
10213 provide a procurement item; and

10214 (b) includes:

10215 (i) a bidder;

10216 (ii) an offeror;

10217 (iii) an approved vendor;

10218 (iv) a design professional; and

10219 (v) a person who submits an unsolicited proposal under Section [63G-6a-712](#).

10220 Section 180. Section **63G-6a-202** is amended to read:

10221 **63G-6a-202. Creation of Utah State Procurement Policy Board.**

10222 (1) There is created the Utah State Procurement Policy Board.

10223 (2) The board consists of up to 15 members as follows:

10224 (a) two representatives of state institutions of higher education, appointed by the [~~board~~  
10225 ~~of regents~~] Utah Board of Higher Education;

10226 (b) a representative of the Department of Human Services, appointed by the executive  
10227 director of that department;

10228 (c) a representative of the Department of Transportation, appointed by the executive  
10229 director of that department;

10230 (d) two representatives of school districts, appointed by the State Board of Education;

10231 (e) a representative of the Division of Facilities Construction and Management,  
10232 appointed by the director of that division;

10233 (f) one representative of a county, appointed by the Utah Association of Counties;

10234 (g) one representative of a city or town, appointed by the Utah League of Cities and

10235 Towns;

10236 (h) two representatives of local districts or special service districts, appointed by the  
10237 Utah Association of Special Districts;

10238 (i) the executive director of the Department of Technology Services or the executive  
10239 director's designee;

10240 (j) the chief procurement officer or the chief procurement officer's designee; and

10241 (k) two representatives of state agencies, other than a state agency already represented  
10242 on the board, appointed by the executive director of the Department of Administrative  
10243 Services, with the approval of the executive director of the state agency that employs the  
10244 employee.

10245 (3) Members of the board shall be knowledgeable and experienced in, and have  
10246 supervisory responsibility for, procurement in their official positions.

10247 (4) A board member may serve as long as the member meets the description in  
10248 Subsection (2) unless removed by the person or entity with the authority to appoint the board  
10249 member.

10250 (5) (a) The board shall:

10251 (i) adopt rules of procedure for conducting its business; and

10252 (ii) elect a chair to serve for one year.

10253 (b) The chair of the board shall be selected by a majority of the members of the board  
10254 and may be elected to succeeding terms.

10255 (c) The chief procurement officer shall designate an employee of the division to serve  
10256 as the nonvoting secretary to the policy board.

10257 (6) A member of the board may not receive compensation or benefits for the member's  
10258 service, but may receive per diem and travel expenses in accordance with:

10259 (a) Section [63A-3-106](#);

10260 (b) Section [63A-3-107](#); and

10261 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and

10262 63A-3-107.

10263 Section 181. Section 63G-7-301 is amended to read:

10264 **63G-7-301. Waivers of immunity.**

10265 (1) (a) Immunity from suit of each governmental entity is waived as to any contractual  
10266 obligation.

10267 (b) Actions arising out of contractual rights or obligations are not subject to the  
10268 requirements of Sections 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

10269 (c) The Division of Water Resources is not liable for failure to deliver water from a  
10270 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development  
10271 Act, if the failure to deliver the contractual amount of water is due to drought, other natural  
10272 condition, or safety condition that causes a deficiency in the amount of available water.

10273 (2) Immunity from suit of each governmental entity is waived:

10274 (a) as to any action brought to recover, obtain possession of, or quiet title to real or  
10275 personal property;

10276 (b) as to any action brought to foreclose mortgages or other liens on real or personal  
10277 property, to determine any adverse claim on real or personal property, or to obtain an  
10278 adjudication about any mortgage or other lien that the governmental entity may have or claim  
10279 on real or personal property;

10280 (c) as to any action based on the negligent destruction, damage, or loss of goods,  
10281 merchandise, or other property while it is in the possession of any governmental entity or  
10282 employee, if the property was seized for the purpose of forfeiture under any provision of state  
10283 law;

10284 (d) subject to Subsection 63G-7-302(1), as to any action brought under the authority of  
10285 Utah Constitution, Article I, Section 22, for the recovery of compensation from the  
10286 governmental entity when the governmental entity has taken or damaged private property for  
10287 public uses without just compensation;

10288 (e) subject to Subsection 63G-7-302(2), as to any action brought to recover attorney

10289 fees under Sections 63G-2-405 and 63G-2-802;

10290 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees  
10291 Act;

10292 (g) as to any action brought to obtain relief from a land use regulation that imposes a  
10293 substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious  
10294 Land Use Act;

10295 (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

10296 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,  
10297 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or  
10298 (ii) any defective or dangerous condition of a public building, structure, dam, reservoir,  
10299 or other public improvement;

10300 (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury  
10301 proximately caused by a negligent act or omission of an employee committed within the scope  
10302 of employment;

10303 (j) as to any action or suit brought under Section 20A-19-301 and as to any  
10304 compensation or expenses awarded under Section 20A-19-301(5); and

10305 (k) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from  
10306 a sexual battery, as provided in Section 76-9-702.1, committed:

10307 (i) against a student of a public elementary or secondary school, including a charter  
10308 school; and

10309 (ii) by an employee of a public elementary or secondary school or charter school who:

10310 (A) at the time of the sexual battery, held a position of special trust, as defined in  
10311 Section 76-5-404.1, with respect to the student;

10312 (B) is criminally charged in connection with the sexual battery; and

10313 (C) the public elementary or secondary school or charter school knew or in the exercise  
10314 of reasonable care should have known, at the time of the employee's hiring, to be a sex  
10315 offender, as defined in Section 77-41-102, required to register under Title 77, Chapter 41, Sex

10316 and Kidnap Offender Registry, whose status as a sex offender would have been revealed in a  
10317 background check under Section 53G-11-402.

10318 (3) (a) As used in this Subsection (3):

10319 (i) "Appropriate behavior policy" means a policy that:

10320 (A) is not less stringent than a model policy, created by the State Board of Education,  
10321 establishing a professional standard of care for preventing the conduct described in Subsection  
10322 (3)(a)(i)(D);

10323 (B) is adopted by the applicable local education governing body;

10324 (C) regulates behavior of a school employee toward a student; and

10325 (D) includes a prohibition against any sexual conduct between an employee and a  
10326 student and against the employee and student sharing any sexually explicit or lewd  
10327 communication, image, or photograph.

10328 (ii) "Local education agency" means:

10329 (A) a school district;

10330 (B) a charter school; or

10331 (C) the Utah Schools for the Deaf and the Blind.

10332 (iii) "Local education governing board" means:

10333 (A) for a school district, the local school board;

10334 (B) for a charter school, the charter school governing board; or

10335 (C) for the Utah Schools for the Deaf and the Blind, the state board.

10336 (iv) "Public school" means a public elementary or secondary school.

10337 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

10338 (vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering  
10339 the term "child" in that section to include an individual under age 18.

10340 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a  
10341 claim against a local education agency for an injury resulting from a sexual battery or sexual  
10342 abuse committed against a student of a public school by a paid employee of the public school

10343 who is criminally charged in connection with the sexual battery or sexual abuse, unless:  
10344       (i) at the time of the sexual battery or sexual abuse, the public school was subject to an  
10345 appropriate behavior policy; and  
10346       (ii) before the sexual battery or sexual abuse occurred, the public school had:  
10347           (A) provided training on the policy to the employee; and  
10348           (B) required the employee to sign a statement acknowledging that the employee has  
10349 read and understands the policy.  
10350       (4) (a) As used in this Subsection (4):  
10351           (i) "Higher education institution" means an institution included within the state system  
10352 of higher education under Section [53B-1-102](#).  
10353           (ii) "Policy governing behavior" means a policy adopted by a higher education  
10354 institution or the [~~State Board of Regents~~] Utah Board of Higher Education that:  
10355           (A) establishes a professional standard of care for preventing the conduct described in  
10356 Subsections (4)(a)(ii)(C) and (D);  
10357           (B) regulates behavior of a special trust employee toward a subordinate student;  
10358           (C) includes a prohibition against any sexual conduct between a special trust employee  
10359 and a subordinate student; and  
10360           (D) includes a prohibition against a special trust employee and subordinate student  
10361 sharing any sexually explicit or lewd communication, image, or photograph.  
10362           (iii) "Sexual battery" means the offense described in Section [76-9-702.1](#).  
10363           (iv) "Special trust employee" means an employee of a higher education institution who  
10364 is in a position of special trust, as defined in Section [76-5-404.1](#), with a higher education  
10365 student.  
10366           (v) "Subordinate student" means a student:  
10367           (A) of a higher education institution; and  
10368           (B) whose educational opportunities could be adversely impacted by a special trust  
10369 employee.



10370 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a  
10371 claim for an injury resulting from a sexual battery committed against a subordinate student by a  
10372 special trust employee, unless:

10373 (i) the institution proves that the special trust employee's behavior that otherwise would  
10374 constitute a sexual battery was:

10375 (A) with a subordinate student who was at least 18 years old at the time of the  
10376 behavior; and

10377 (B) with the student's consent; or

10378 (ii) (A) at the time of the sexual battery, the higher education institution was subject to  
10379 a policy governing behavior; and

10380 (B) before the sexual battery occurred, the higher education institution had taken steps  
10381 to implement and enforce the policy governing behavior.

10382 Section 182. Section 63G-10-102 is amended to read:

10383 **63G-10-102. Definitions.**

10384 As used in this chapter:

10385 (1) (a) "Action settlement agreement" includes a stipulation, consent decree, settlement  
10386 agreement, or any other legally binding document or representation that resolves a threatened  
10387 or pending lawsuit between the state and another party by requiring the state to take legally  
10388 binding action.

10389 (b) "Action settlement agreement" includes stipulations, consent decrees, settlement  
10390 agreements, and other legally binding documents or representations resolving a dispute  
10391 between the state and another party when the state is required to pay money and required to  
10392 take legally binding action.

10393 (c) "Action settlement agreement" does not include:

10394 (i) the internal process established by the Department of Transportation to resolve  
10395 construction contract claims;

10396 (ii) any resolution of an employment dispute or claim made by an employee of the state

10397 of Utah against the state as employer;

10398 (iii) adjudicative orders issued by the State Tax Commission, the Public Service

10399 Commission, the Labor Commission, or the Department of Workforce Services; or

10400 (iv) the settlement of disputes arising from audits, defaults, or breaches of permits,

10401 contracts of sale, easements, or leases by the School and Institutional Trust Lands

10402 Administration.

10403 (2) (a) "Agency" means each department, commission, board, council, agency,

10404 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,

10405 unit, bureau, panel, or other administrative unit of the state.

10406 (b) "Agency" includes the legislative branch, the judicial branch, the attorney general's

10407 office, the State Board of Education, the [~~Board of Regents~~] Utah Board of Higher Education,

10408 the institutional councils of each higher education institution, and each higher education

10409 institution.

10410 (3) (a) "Financial settlement agreement" includes a stipulation, consent decree,

10411 settlement agreement, and any other legally binding document or representation that resolves a

10412 dispute between the state and another party exclusively by requiring the payment of money

10413 from one party to the other.

10414 (b) "Financial settlement agreement" does not include:

10415 (i) agreements made under the internal process established by the Department of

10416 Transportation to resolve construction contract claims;

10417 (ii) adjudicative orders issued by the State Tax Commission, Public Service

10418 Commission, Labor Commission, or the Department of Workforce Services;

10419 (iii) the settlement of disputes arising from audits, defaults, or breaches of permits,

10420 contracts of sale, easements, or leases by the School and Institutional Trust Lands

10421 Administration; or

10422 (iv) agreements made under the internal processes established by the Division of

10423 Facilities Construction and Management or by law to resolve construction contract claims

- 10424 made against the state by contractors or subcontractors.
- 10425 (4) "Government entities" means the state and its political subdivisions.
- 10426 Section 183. Section **63I-2-253** is amended to read:
- 10427 **63I-2-253. Repeal dates -- Titles 53 through 53G.**
- 10428 ~~[(1) (a) Subsections 53B-2a-103(2) and (4), regarding the composition of the UTech~~
- 10429 ~~Board of Trustees and the transition to that composition, are repealed July 1, 2019.]~~
- 10430 ~~[(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative~~
- 10431 ~~Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3),~~
- 10432 ~~make necessary changes to subsection numbering and cross references.]~~
- 10433 (1) Section 53B-2a-103 is repealed July 1, 2021.
- 10434 (2) Section 53B-2a-104 is repealed July 1, 2021.
- 10435 ~~[(2)] (3) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a~~
- 10436 ~~technical college board of [directors] trustees, is repealed July 1, 2022.~~
- 10437 (b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and
- 10438 General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make
- 10439 necessary changes to subsection numbering and cross references.
- 10440 ~~[(3)] (4) Section 53B-6-105.7 is repealed July 1, 2024.~~
- 10441 ~~[(4)] (5) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as~~
- 10442 ~~provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.~~
- 10443 (b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's
- 10444 change in performance with the technical college's average performance, is repealed July 1,
- 10445 2021.
- 10446 ~~[(5)] (6) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as~~
- 10447 ~~provided in Subsection (3)(b)," is repealed July 1, 2021.~~
- 10448 (b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college
- 10449 during a fiscal year before fiscal year 2020, is repealed July 1, 2021.
- 10450 ~~[(6)] (7) Section 53B-8-112 is repealed July 1, 2024.~~

- 10451            [~~(7)~~] (8) Section [53B-8-114](#) is repealed July 1, 2024.
- 10452            [~~(8)~~] (9) (a) The following sections, regarding the Regents' scholarship program, are  
10453 repealed on July 1, 2023:
- 10454            (i) Section [53B-8-202](#);
- 10455            (ii) Section [53B-8-203](#);
- 10456            (iii) Section [53B-8-204](#); and
- 10457            (iv) Section [53B-8-205](#).
- 10458            (b) (i) Subsection [53B-8-201](#)(2), regarding the Regents' scholarship program for  
10459 students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.
- 10460            (ii) When repealing Subsection [53B-8-201](#)(2), the Office of Legislative Research and  
10461 General Counsel shall, in addition to its authority under Subsection [36-12-12](#)(3), make  
10462 necessary changes to subsection numbering and cross references.
- 10463            [~~(9)~~] (10) Section [53B-10-101](#) is repealed on July 1, 2027.
- 10464            [~~(10)~~] (11) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project,  
10465 is repealed July 1, 2023.
- 10466            [~~(11)~~] (12) Section [53E-3-519](#) regarding school counselor services is repealed July 1,  
10467 2020.
- 10468            [~~(12)~~] (13) Section [53E-3-520](#) is repealed July 1, 2021.
- 10469            [~~(13)~~] (14) Subsection [53E-5-306](#)(3)(b)(ii)(B), related to improving school  
10470 performance and continued funding relating to the School Recognition and Reward Program, is  
10471 repealed July 1, 2020.
- 10472            [~~(14)~~] (15) Section [53E-5-307](#) is repealed July 1, 2020.
- 10473            [~~(15)~~] (16) In Subsections [53F-2-205](#)(4) and (5), regarding the State Board of  
10474 Education's duties if contributions from the minimum basic tax rate are overestimated or  
10475 underestimated, the language that states "or [53F-2-301.5](#), as applicable" is repealed July 1,  
10476 2023.
- 10477            [~~(16)~~] (17) Subsection [53F-2-301](#)(1), relating to the years the section is not in effect, is

10478 repealed July 1, 2023.

10479           [(17)] (18) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as  
10480 applicable" is repealed July 1, 2023.

10481           ~~[(18) Section 53F-4-204 is repealed July 1, 2019.]~~

10482           (19) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as  
10483 applicable" is repealed July 1, 2023.

10484           (20) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as  
10485 applicable" is repealed July 1, 2023.

10486           (21) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as  
10487 applicable" is repealed July 1, 2023.

10488           (22) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as  
10489 applicable" is repealed July 1, 2023.

10490           (23) On July 1, 2023, when making changes in this section, the Office of Legislative  
10491 Research and General Counsel shall, in addition to the office's authority under Subsection  
10492 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in  
10493 this section are complete sentences and accurately reflect the office's perception of the  
10494 Legislature's intent.

10495           Section 184. Section 63I-2-263 is amended to read:

10496           **63I-2-263. Repeal dates, Title 63A to Title 63N.**

10497           (1) On July 1, 2020:

10498           (a) Subsection 63A-1-203(5)(a)(i) is repealed; and

10499           (b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after  
10500 May 8, 2018," is repealed.

10501           (2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.

10502           (3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission, is  
10503 repealed July 1, ~~[2020]~~ 2021.

10504           (4) The following sections regarding the World War II Memorial Commission are

- 10505 repealed on July 1, 2020:
- 10506 (a) Section 63G-1-801;
- 10507 (b) Section 63G-1-802;
- 10508 (c) Section 63G-1-803; and
- 10509 (d) Section 63G-1-804.
- 10510 (5) In relation to the State Fair Park Committee, on January 1, 2021:
- 10511 (a) Section 63H-6-104.5 is repealed; and
- 10512 (b) Subsections 63H-6-104(8) and (9) are repealed.
- 10513 (6) Section 63H-7a-303 is repealed on July 1, 2022.
- 10514 (7) In relation to the Employability to Careers Program Board, on July 1, 2022:
- 10515 (a) Subsection 63J-1-602.1(52) is repealed;
- 10516 (b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed;
- 10517 and
- 10518 (c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.
- 10519 (8) Section 63J-4-708 is repealed January 1, 2023.
- 10520 Section 185. Section 63I-5-102 is amended to read:
- 10521 **63I-5-102. Definitions.**
- 10522 As used in this chapter:
- 10523 (1) "Agency governing board" is any board or commission that has policy making and
- 10524 oversight responsibility over the agency, including the authority to appoint and remove the
- 10525 agency director.
- 10526 (2) "Agency head" means a cabinet officer, an elected official, an executive director, or
- 10527 a board or commission vested with responsibility to administer or make policy for a state
- 10528 agency.
- 10529 (3) "Agency internal audit director" or "audit director" means the person who:
- 10530 (a) directs the internal audit program for the state agency; and
- 10531 (b) is appointed by the audit committee or, if no audit committee has been established,

- 10532 by the agency head.
- 10533 (4) "Appointing authority" means:
- 10534 (a) the governor, for state agencies other than the State Tax Commission;
- 10535 (b) the Judicial Council, for judicial branch agencies;
- 10536 (c) the ~~[Board of Regents]~~ Utah Board of Higher Education, for higher education
- 10537 entities;
- 10538 (d) the State Board of Education, for entities administered by the State Board of
- 10539 Education; or
- 10540 (e) the four tax commissioners, for the State Tax Commission.
- 10541 (5) "Audit committee" means a standing committee composed of members who:
- 10542 (a) are appointed by an appointing authority;
- 10543 (b) (i) do not have administrative responsibilities within the agency; and
- 10544 (ii) are not an agency contractor or other service provider; and
- 10545 (c) have the expertise to provide effective oversight of and advice about internal audit
- 10546 activities and services.
- 10547 (6) "Audit plan" means a prioritized list of audits to be performed by an internal audit
- 10548 program within a specified period of time.
- 10549 (7) "Higher education entity" means the ~~[Board of Regents, the institutional councils of~~
- 10550 ~~each higher education institution]~~ Utah Board of Higher Education, an institution of higher
- 10551 education board of trustees, or each higher education institution.
- 10552 (8) "Internal audit" means an independent appraisal activity established within a state
- 10553 agency as a control system to examine and evaluate the adequacy and effectiveness of other
- 10554 internal control systems within the agency.
- 10555 (9) "Internal audit program" means an audit function that:
- 10556 (a) is conducted by an agency, division, bureau, or office, independent of the agency,
- 10557 division, bureau, or office operations;
- 10558 (b) objectively evaluates the effectiveness of agency, division, bureau, or office

10559 governance, risk management, internal controls, and the efficiency of operations; and  
10560 (c) is conducted in accordance with the current:  
10561 (i) International Standards for the Professional Practice of Internal Auditing; or  
10562 (ii) The Government Auditing Standards, issued by the Comptroller General of the  
10563 United States.  
10564 (10) "Judicial branch agency" means each administrative entity of the judicial branch.  
10565 (11) (a) "State agency" means:  
10566 (i) each department, commission, board, council, agency, institution, officer,  
10567 corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel,  
10568 or other administrative unit of the state; or  
10569 (ii) each state public education entity.  
10570 (b) "State agency" does not mean:  
10571 (i) a legislative branch agency;  
10572 (ii) an independent state agency as defined in Section [63E-1-102](#);  
10573 (iii) a county, municipality, school district, local district, or special service district; or  
10574 (iv) any administrative subdivision of a county, municipality, school district, local  
10575 district, or special service district.  
10576 Section 186. Section **63I-5-201** is amended to read:  
10577 **63I-5-201. Internal auditing programs -- State agencies.**  
10578 (1) (a) The departments of Administrative Services, Agriculture, Commerce, Heritage  
10579 and Arts, Corrections, Workforce Services, Environmental Quality, Health, Human Services,  
10580 Natural Resources, Public Safety, and Transportation, and the State Tax Commission shall  
10581 conduct various types of auditing procedures as determined by the agency head or governor.  
10582 (b) The governor may, by executive order, require a state agency not described in  
10583 Subsection (1)(a) to establish an internal audit program.  
10584 (c) The governor shall ensure that each state agency that reports to the governor has  
10585 adequate internal audit coverage.



10586 (2) (a) The Administrative Office of the Courts shall establish an internal audit  
10587 program under the direction of the Judicial Council, including auditing procedures for courts  
10588 not of record.

10589 (b) The Judicial Council may, by rule, require other judicial agencies to establish an  
10590 internal audit program.

10591 (3) (a) Dixie State University, the University of Utah, Utah State University, Salt Lake  
10592 Community College, Southern Utah University, Utah Valley University, Weber State  
10593 University, and Snow College shall establish an internal audit program under the direction of  
10594 the [~~Board of Regents~~] Utah Board of Higher Education.

10595 (b) The [~~State Board of Regents~~] Utah Board of Higher Education may issue policies  
10596 requiring other higher education entities or programs to establish an internal audit program.

10597 (4) The State Board of Education shall establish an internal audit program that provides  
10598 internal audit services for each program administered by the State Board of Education.

10599 (5) Subject to Section 32B-2-302.5, the internal audit division of the Department of  
10600 Alcoholic Beverage Control shall establish an internal audit program under the direction of the  
10601 Alcoholic Beverage Control Commission.

10602 Section 187. Section **63J-1-210** is amended to read:

10603 **63J-1-210. Restrictions on agency expenditures of money -- Lobbyists.**

10604 (1) As used in this section:

10605 (a) (i) "Agency" means:

10606 (A) a department, commission, board, council, agency, institution, officer, corporation,  
10607 fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other  
10608 administrative unit of the state; or

10609 (B) a school, a school district, or a charter school.

10610 (ii) "Agency" includes the legislative branch, the judicial branch, the [~~Board of~~  
10611 ~~Regents~~] Utah Board of Higher Education, the board of trustees of each higher education  
10612 institution, or a higher education institution.

10613 (b) "Contract lobbyist" means a person who is not an employee of an agency who is  
10614 hired as an independent contractor by the agency to communicate with legislators or the  
10615 governor for the purpose of influencing the passage, defeat, amendment, or postponement of a  
10616 legislative action or an executive action.

10617 (c) "Executive action" means action undertaken by the governor, including signing or  
10618 vetoing legislation, and action undertaken by any official in the executive branch of state  
10619 government.

10620 (d) "Legislative action" means action undertaken by the Utah Legislature or any part of  
10621 it.

10622 (2) An agency to which money is appropriated by the Legislature may not expend any  
10623 money to pay a contract lobbyist.

10624 (3) This section does not affect the provisions of Title 36, Chapter 11, Lobbyist  
10625 Disclosure and Regulation Act.

10626 Section 188. Section **63J-1-219** is amended to read:

10627 **63J-1-219. Definitions -- Federal receipts reporting requirements.**

10628 (1) As used in this section:

10629 (a) (i) "Designated state agency" means the Department of Administrative Services, the  
10630 Department of Agriculture and Food, the Department of Alcoholic Beverage Control, the  
10631 Department of Commerce, the Department of Heritage and Arts, the Department of  
10632 Corrections, the Department of Environmental Quality, the Department of Financial  
10633 Institutions, the Department of Health, the Department of Human Resource Management, the  
10634 Department of Human Services, the Department of Insurance, the Department of Natural  
10635 Resources, the Department of Public Safety, the Department of Technology Services, the  
10636 Department of Transportation, the Department of Veterans and Military Affairs, the  
10637 Department of Workforce Services, the Labor Commission, the Office of Economic  
10638 Development, the Public Service Commission, the [~~State Board of Regents~~] Utah Board of  
10639 Higher Education, the State Board of Education, the State Tax Commission, or the Utah

10640 National Guard.

10641 (ii) "Designated state agency" does not include the judicial branch, the legislative  
10642 branch, or an office or other entity within the judicial branch or the legislative branch.

10643 (b) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C.  
10644 Sec. 7501, that is reported as part of a single audit.

10645 (c) "Single audit" is as defined in 31 U.S.C. Sec. 7501.

10646 (2) Subject to Subsections (3) and (4), a designated state agency shall each year, on or  
10647 before October 31, prepare a report that:

10648 (a) reports the aggregate value of federal receipts the designated state agency received  
10649 for the preceding fiscal year;

10650 (b) reports the aggregate amount of federal funds appropriated by the Legislature to the  
10651 designated state agency for the preceding fiscal year;

10652 (c) calculates the percentage of the designated state agency's total budget for the  
10653 preceding fiscal year that constitutes federal receipts that the designated state agency received  
10654 for that fiscal year; and

10655 (d) develops plans for operating the designated state agency if there is a reduction of:

10656 (i) 5% or more in the federal receipts that the designated state agency receives; and

10657 (ii) 25% or more in the federal receipts that the designated state agency receives.

10658 (3) (a) The report required by Subsection (2) that the ~~[Board of Regents]~~ Utah Board of  
10659 Higher Education prepares shall include the information required by Subsections (2)(a) through  
10660 (c) for each state institution of higher education listed in Section [53B-2-101](#).

10661 (b) The report required by Subsection (2) that the State Board of Education prepares  
10662 shall include the information required by Subsections (2)(a) through (c) for each school district  
10663 and each charter school within the public education system.

10664 (4) A designated state agency that prepares a report in accordance with Subsection (2)  
10665 shall submit the report to the Division of Finance on or before November 1 of each year.

10666 (5) (a) The Division of Finance shall, on or before November 30 of each year, prepare a

10667 report that:

10668 (i) compiles and summarizes the reports the Division of Finance receives in accordance  
10669 with Subsection (4); and

10670 (ii) compares the aggregate value of federal receipts each designated state agency  
10671 received for the previous fiscal year to the aggregate amount of federal funds appropriated by  
10672 the Legislature to that designated state agency for that fiscal year.

10673 (b) The Division of Finance shall, as part of the report required by Subsection (5)(a),  
10674 compile a list of designated state agencies that do not submit a report as required by this  
10675 section.

10676 (6) The Division of Finance shall submit the report required by Subsection (5) to the  
10677 Executive Appropriations Committee on or before December 1 of each year.

10678 (7) Upon receipt of the report required by Subsection (5), the chairs of the Executive  
10679 Appropriations Committee shall place the report on the agenda for review and consideration at  
10680 the next Executive Appropriations Committee meeting.

10681 (8) When considering the report required by Subsection (5), the Executive  
10682 Appropriations Committee may elect to:

10683 (a) recommend that the Legislature reduce or eliminate appropriations for a designated  
10684 state agency;

10685 (b) take no action; or

10686 (c) take another action that a majority of the committee approves.

10687 Section 189. Section **63J-1-602.2** is amended to read:

10688 **63J-1-602.2. List of nonlapsing appropriations to programs.**

10689 Appropriations made to the following programs are nonlapsing:

10690 (1) The Legislature and its committees.

10691 (2) The Percent-for-Art Program created in Section [9-6-404](#).

10692 (3) The LeRay McAllister Critical Land Conservation Program created in Section  
10693 [11-38-301](#).

- 10694 (4) Dedicated credits accrued to the Utah Marriage Commission as provided under  
10695 Subsection 17-16-21(2)(d)(ii).
- 10696 (5) The Trip Reduction Program created in Section 19-2a-104.
- 10697 (6) The Division of Wildlife Resources for the appraisal and purchase of lands under  
10698 the Pelican Management Act, as provided in Section 23-21a-6.
- 10699 (7) The primary care grant program created in Section 26-10b-102.
- 10700 (8) Sanctions collected as dedicated credits from Medicaid provider under Subsection  
10701 26-18-3(7).
- 10702 (9) The Utah Health Care Workforce Financial Assistance Program created in Section  
10703 26-46-102.
- 10704 (10) The Rural Physician Loan Repayment Program created in Section 26-46a-103.
- 10705 (11) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.
- 10706 (12) Funds that the Department of Alcoholic Beverage Control retains in accordance  
10707 with Subsection 32B-2-301(7)(a) or (b).
- 10708 (13) The General Assistance program administered by the Department of Workforce  
10709 Services, as provided in Section 35A-3-401.
- 10710 (14) A new program or agency that is designated as nonlapsing under Section  
10711 36-24-101.
- 10712 (15) The Utah National Guard, created in Title 39, Militia and Armories.
- 10713 (16) The State Tax Commission under Section 41-1a-1201 for the:
- 10714 (a) purchase and distribution of license plates and decals; and
- 10715 (b) administration and enforcement of motor vehicle registration requirements.
- 10716 (17) The Search and Rescue Financial Assistance Program, as provided in Section  
10717 53-2a-1102.
- 10718 (18) The Motorcycle Rider Education Program, as provided in Section 53-3-905.
- 10719 (19) The [~~State Board of Regents~~] Utah Board of Higher Education for teacher  
10720 preparation programs, as provided in Section 53B-6-104.

- 10721 (20) The Medical Education Program administered by the Medical Education Council,  
10722 as provided in Section [53B-24-202](#).
- 10723 (21) The State Board of Education, as provided in Section [53F-2-205](#).
- 10724 (22) The Division of Services for People with Disabilities, as provided in Section  
10725 [62A-5-102](#).
- 10726 (23) The Division of Fleet Operations for the purpose of upgrading underground  
10727 storage tanks under Section [63A-9-401](#).
- 10728 (24) The Utah Seismic Safety Commission, as provided in Section [63C-6-104](#).
- 10729 (25) Appropriations to the Department of Technology Services for technology  
10730 innovation as provided under Section [63F-4-202](#).
- 10731 (26) The Office of Administrative Rules for publishing, as provided in Section  
10732 [63G-3-402](#).
- 10733 (27) The Utah Science Technology and Research Initiative created in Section  
10734 [63M-2-301](#).
- 10735 (28) The Governor's Office of Economic Development to fund the Enterprise Zone  
10736 Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.
- 10737 (29) Appropriations to fund the Governor's Office of Economic Development's Rural  
10738 Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural  
10739 Employment Expansion Program.
- 10740 (30) The Department of Human Resource Management user training program, as  
10741 provided in Section [67-19-6](#).
- 10742 (31) A public safety answering point's emergency telecommunications service fund, as  
10743 provided in Section [69-2-301](#).
- 10744 (32) The Traffic Noise Abatement Program created in Section [72-6-112](#).
- 10745 (33) The Judicial Council for compensation for special prosecutors, as provided in  
10746 Section [77-10a-19](#).
- 10747 (34) A state rehabilitative employment program, as provided in Section [78A-6-210](#).

- 10748 (35) The Utah Geological Survey, as provided in Section 79-3-401.
- 10749 (36) The Bonneville Shoreline Trail Program created under Section 79-5-503.
- 10750 (37) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and
- 10751 78B-6-144.5.
- 10752 (38) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent
- 10753 Defense Commission.
- 10754 (39) The program established by the Division of Facilities Construction and
- 10755 Management under Subsection 63A-5-228(3) under which state agencies receive an
- 10756 appropriation and pay lease payments for the use and occupancy of buildings owned by the
- 10757 Division of Facilities Construction and Management.
- 10758 Section 190. Section 63J-2-102 is amended to read:
- 10759 **63J-2-102. Definitions.**
- 10760 As used in this chapter:
- 10761 (1) (a) "Agency" means each department, commission, board, council, agency,
- 10762 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
- 10763 unit, bureau, panel, or other administrative unit of the state.
- 10764 (b) "Agency" does not include the legislative branch, the [~~board of regents~~] Utah Board
- 10765 of Higher Education, the Utah Higher Education Assistance Authority, the board of trustees of
- 10766 each higher education institution, each higher education institution and its associated branches,
- 10767 centers, divisions, institutes, foundations, hospitals, colleges, schools, or departments, a public
- 10768 education entity, or an independent agency.
- 10769 (2) "Dedicated credits" means the same as that term is defined in Section 63J-1-102.
- 10770 (3) "Fees" means revenue collected by an agency for performing a service or providing
- 10771 a function that the agency deposits or accounts for as dedicated credits.
- 10772 (4) (a) "Governmental fund" means funds used to account for the acquisition, use, and
- 10773 balances of expendable financial resources and related liabilities using a measurement focus
- 10774 that emphasizes the flow of financial resources.

10775 (b) "Governmental fund" does not include internal service funds, enterprise funds,  
10776 capital projects funds, debt service funds, or trust and agency funds as established in Section  
10777 [51-5-4](#).

10778 (5) "Independent agency" means the Utah State Retirement Office and the Utah  
10779 Housing Corporation.

10780 (6) "Program" means the same as that term is defined in Section [63J-1-102](#).

10781 (7) "Revenue types" means the categories established by the Division of Finance under  
10782 the authority of this chapter that classify revenue according to the purpose for which it is  
10783 collected.

10784 Section 191. Section **63J-3-103** is amended to read:

10785 **63J-3-103. Definitions.**

10786 As used in this chapter:

10787 (1) (a) "Appropriations" means actual unrestricted capital and operating appropriations  
10788 from unrestricted General Fund and Education Fund sources.

10789 (b) "Appropriations" includes appropriations that are contingent upon available  
10790 surpluses in the General Fund and Education Fund.

10791 (c) "Appropriations" does not mean:

10792 (i) public education expenditures;

10793 (ii) Utah Education and Telehealth Network expenditures in support of public  
10794 education;

10795 (iii) [~~Utah System of Technical Colleges~~] Utah Board of Higher Education  
10796 expenditures in support of public education;

10797 (iv) State Tax Commission expenditures related to collection of income taxes in  
10798 support of public education;

10799 (v) debt service expenditures;

10800 (vi) emergency expenditures;

10801 (vii) expenditures from all other fund or subfund sources;



- 10802 (viii) transfers or appropriations from the Education Fund to the Uniform School Fund;
- 10803 (ix) transfers into, or appropriations made to, the General Fund Budget Reserve
- 10804 Account established in Section 63J-1-312;
- 10805 (x) transfers into, or appropriations made to, the Education Budget Reserve Account
- 10806 established in Section 63J-1-313;
- 10807 (xi) transfers in accordance with Section 63J-1-314 into, or appropriations made to the
- 10808 Wildland Fire Suppression Fund created in Section 65A-8-204 or the State Disaster Recovery
- 10809 Restricted Account created in Section 53-2a-603;
- 10810 (xii) money appropriated to fund the total one-time project costs for the construction of
- 10811 capital developments as defined in Section 63A-5-104;
- 10812 (xiii) transfers or deposits into or appropriations made to the Centennial Highway Fund
- 10813 created by Section 72-2-118;
- 10814 (xiv) transfers or deposits into or appropriations made to the Transportation Investment
- 10815 Fund of 2005 created by Section 72-2-124;
- 10816 (xv) transfers or deposits into or appropriations made to:
- 10817 (A) the Department of Transportation from any source; or
- 10818 (B) any transportation-related account or fund from any source; or
- 10819 (xvi) supplemental appropriations from the General Fund to the Division of Forestry,
- 10820 Fire, and State Lands to provide money for wildland fire control expenses incurred during the
- 10821 current or previous fire years.
- 10822 (2) "Base year real per capita appropriations" means the result obtained for the state by
- 10823 dividing the fiscal year 1985 actual appropriations of the state less debt money by:
- 10824 (a) the state's July 1, 1983 population; and
- 10825 (b) the fiscal year 1983 inflation index divided by 100.
- 10826 (3) "Calendar year" means the time period beginning on January 1 of any given year
- 10827 and ending on December 31 of the same year.
- 10828 (4) "Fiscal emergency" means an extraordinary occurrence requiring immediate

10829 expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session,  
10830 Chapter 4.

10831 (5) "Fiscal year" means the time period beginning on July 1 of any given year and  
10832 ending on June 30 of the subsequent year.

10833 (6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual  
10834 capital and operations appropriations from General Fund and non-Uniform School Fund  
10835 income tax revenue sources, less debt money.

10836 (7) "Inflation index" means the change in the general price level of goods and services  
10837 as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic  
10838 Analysis, U.S. Department of Commerce calculated as provided in Section [63J-3-202](#).

10839 (8) (a) "Maximum allowable appropriations limit" means the appropriations that could  
10840 be, or could have been, spent in any given year under the limitations of this chapter.

10841 (b) "Maximum allowable appropriations limit" does not mean actual appropriations  
10842 spent or actual expenditures.

10843 (9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two  
10844 fiscal years previous to the fiscal year for which the maximum allowable inflation and  
10845 population appropriations limit is being computed under this chapter.

10846 (10) "Most recent fiscal year's population" means the fiscal year population two fiscal  
10847 years previous to the fiscal year for which the maximum allowable inflation and population  
10848 appropriations limit is being computed under this chapter.

10849 (11) "Population" means the number of residents of the state as of July 1 of each year  
10850 as calculated by the Governor's Office of Management and Budget according to the procedures  
10851 and requirements of Section [63J-3-202](#).

10852 (12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and  
10853 other monetary exaction and interest connected with it that are recorded as unrestricted revenue  
10854 of the General Fund and from non-Uniform School Fund income tax revenues, except as  
10855 specifically exempted by this chapter.

10856 (13) "Security" means any bond, note, warrant, or other evidence of indebtedness,  
10857 whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an  
10858 "indebtedness" within the meaning of any provision of the constitution or laws of this state.

10859 Section 192. Section **63N-1-301** is amended to read:

10860 **63N-1-301. Annual report -- Content -- Format -- Strategic plan.**

10861 (1) The office shall prepare and submit to the governor and the Legislature, by October  
10862 1 of each year, an annual written report of the operations, activities, programs, and services of  
10863 the office, including the divisions, sections, boards, commissions, councils, and committees  
10864 established under this title, for the preceding fiscal year.

10865 (2) For each operation, activity, program, or service provided by the office, the annual  
10866 report shall include:

10867 (a) a description of the operation, activity, program, or service;

10868 (b) data and metrics:

10869 (i) selected and used by the office to measure progress, performance, effectiveness, and  
10870 scope of the operation, activity, program, or service, including summary data; and

10871 (ii) that are consistent and comparable for each state operation, activity, program, or  
10872 service that primarily involves employment training or placement as determined by the  
10873 executive directors of the office, the Department of Workforce Services, and the Governor's  
10874 Office of Management and Budget;

10875 (c) budget data, including the amount and source of funding, expenses, and allocation  
10876 of full-time employees for the operation, activity, program, or service;

10877 (d) historical data from previous years for comparison with data reported under  
10878 Subsections (2)(b) and (c);

10879 (e) goals, challenges, and achievements related to the operation, activity, program, or  
10880 service;

10881 (f) relevant federal and state statutory references and requirements;

10882 (g) contact information of officials knowledgeable and responsible for each operation,

10883 activity, program, or service; and

10884 (h) other information determined by the office that:

10885 (i) may be needed, useful, or of historical significance; or

10886 (ii) promotes accountability and transparency for each operation, activity, program, or

10887 service with the public and elected officials.

10888 (3) The annual report shall be designed to provide clear, accurate, and accessible

10889 information to the public, the governor, and the Legislature.

10890 (4) The office shall:

10891 (a) submit the annual report in accordance with Section [68-3-14](#);

10892 (b) make the annual report, and previous annual reports, accessible to the public by

10893 placing a link to the reports on the office's website; and

10894 (c) provide the data and metrics described in Subsection (2)(b) to the Talent Ready

10895 Utah Board created in Section [63N-12-503](#).

10896 (5) (a) On or before October 1, 2019, the office shall:

10897 (i) in consultation with the organizations described in Subsection (5)(c), coordinate the

10898 development of a written strategic plan that contains a coordinated economic development

10899 strategy for the state; and

10900 (ii) provide the strategic plan to the president of the Senate, the speaker of the House of

10901 Representatives, and the Economic Development and Workforce Services Interim Committee.

10902 (b) The strategic plan shall:

10903 (i) establish a statewide economic development strategy that consists of a limited set of

10904 clear, concise, and defined principles and goals;

10905 (ii) recommend targeted economic development policies that will further the

10906 implementation of the economic development strategy described in this section;

10907 (iii) identify each of the relevant state-level economic development agencies, including

10908 the agencies described in Subsection (5)(c);

10909 (iv) outline the functional role in furthering the state's economic development strategy

10910 for each relevant state-level economic development agency;

10911 (v) establish specific principles and make specific recommendations to decrease

10912 competition and increase communication and cooperation among state-level economic

10913 development agencies, providers and administrators of economic development programs in the

10914 state, nonprofit entities that participate in economic development in the state, and local

10915 governments;

10916 (vi) recommend a fundamental realignment of economic development programs in the

10917 state to ensure each program's purpose is congruent with the mission of the organization within

10918 which the program is located;

10919 (vii) address rural economic development by:

10920 (A) establishing goals and principles to ensure the state's economic development

10921 strategy works for both urban and rural areas of the state; and

10922 (B) providing recommendations on how existing rural economic development

10923 programs should be restructured or realigned;

10924 (viii) assess the effectiveness of the state's economic development incentives and make

10925 recommendations regarding:

10926 (A) how incentive policies could be improved; and

10927 (B) how incentives could be better coordinated among state-level economic

10928 development agencies and local governments;

10929 (ix) make recommendations regarding how to align the state's economic development

10930 strategy and policies in order to take advantage of the strengths and address the weaknesses of

10931 the state's current and projected urban and rural workforce;

10932 (x) make recommendations regarding how to monitor and assess whether certain

10933 economic development policies further the statewide economic development strategy described

10934 in this section, including recommendations on performance metrics to measure results; and

10935 (xi) align the strategic plan with each element of the statewide economic development

10936 strategy.

10937 (c) The office shall coordinate the development of the strategic plan by working in  
10938 coordination with and obtaining information from other state agencies, including:

10939 (i) the Department of Workforce Services;

10940 (ii) the Office of Energy Development;

10941 (iii) the State Board of Education; and

10942 [~~(iv) the State Board of Regents; and~~]

10943 [~~(v) the Utah System of Technical Colleges Board of Trustees.~~]

10944 (iv) the Utah Board of Higher Education.

10945 (d) If contacted by the office, other state agencies, including those described in  
10946 Subsection (5)(c), shall, in accordance with state and federal law, share information and  
10947 cooperate with the office in coordinating the development of the strategic plan.

10948 Section 193. Section **63N-12-503** is amended to read:

10949 **63N-12-503. Talent Ready Utah Board.**

10950 (1) There is created within GOED the Talent Ready Utah Board composed of the  
10951 following [~~15~~] 14 members:

10952 (a) the state superintendent of public instruction or the superintendent's designee;

10953 (b) the commissioner of higher education or the commissioner of higher education's  
10954 designee;

10955 [~~(c) the commissioner of technical education or the commissioner of technical  
10956 education's designee;~~]

10957 [~~(d)~~] (c) the chair of the State Board of Education or the chair's designee;

10958 [~~(e)~~] (d) the executive director of the Department of Workforce Services or the  
10959 executive director of the department's designee;

10960 [~~(f)~~] (e) the executive director of GOED or the executive director's designee;

10961 [~~(g)~~] (f) the director of the Division of Occupational and Professional Licensing or the  
10962 director's designee;

10963 [~~(h)~~] (g) the governor's education advisor or the advisor's designee;

- 10964            [~~(h)~~] (h) one member of the Senate, appointed by the president of the Senate;
- 10965            [~~(j)~~] (i) one member of the House of Representatives, appointed by the speaker of the
- 10966 House of Representatives;
- 10967            [~~(k)~~] (j) the president of the Salt Lake Chamber or the president's designee;
- 10968            [~~(l)~~] (k) three representatives of private industry chosen by the talent ready board; and
- 10969            [~~(m)~~] (l) a representative of the technology industry chosen by the talent ready board.
- 10970            (2) The talent ready board shall select a chair and vice chair from among the members
- 10971 of the talent ready board.
- 10972            (3) The talent ready board shall meet at least quarterly.
- 10973            (4) Attendance of a majority of the members of the talent ready board constitutes a
- 10974 quorum for the transaction of official talent ready board business.
- 10975            (5) Formal action by the talent ready board requires the majority vote of a quorum.
- 10976            (6) A member of the talent ready board:
- 10977            (a) may not receive compensation or benefits for the member's service; and
- 10978            (b) who is not a legislator may receive per diem and travel expenses in accordance
- 10979 with:
- 10980            (i) Section [63A-3-106](#);
- 10981            (ii) Section [63A-3-107](#); and
- 10982            (iii) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
- 10983 [63A-3-107](#).
- 10984            (7) The talent ready board shall:
- 10985            (a) (i) review and develop metrics to measure the progress, performance, effectiveness,
- 10986 and scope of any state operation, activity, program, or service that primarily involves
- 10987 employment training or placement; and
- 10988            (ii) ensure that the metrics described in Subsection (7)(a) are consistent and
- 10989 comparable for each state operation, activity, program, or service that primarily involves
- 10990 employment training or placement;

10991 (b) make recommendations to the center regarding how to better align training and  
10992 education in the state with industry demand;

10993 (c) make recommendations to the center regarding how to better align technical  
10994 education with current and future workforce needs; and

10995 (d) coordinate with the center to meet the responsibilities described in Subsection  
10996 [63N-12-502\(4\)](#).

10997 Section 194. Section **63N-12-508** is amended to read:

10998 **63N-12-508. Utah Works.**

10999 (1) There is created within the center the Utah Works Program.

11000 (2) The program, under the direction of the center and the talent ready board, shall  
11001 develop workforce solutions that meet the needs of businesses that are creating jobs and  
11002 economic growth in the state by:

11003 (a) partnering with the office, the Department of Workforce Services, [~~the Utah System~~  
11004 ~~of Higher Education, and the Utah System of Technical Colleges~~] and the Utah system of  
11005 higher education;

11006 (b) identifying businesses that have significant hiring demands in the state;

11007 (c) coordinating with the Department of Workforce Services to create effective  
11008 recruitment initiatives to attract student and workforce participants and business participants to  
11009 the program;

11010 (d) coordinating with the [~~Utah System of Higher Education and the Utah System of~~  
11011 ~~Technical Colleges~~] Utah system of higher education to develop educational and training  
11012 resources to provide student participants in the program qualifications to be hired by business  
11013 participants in the program; and

11014 (e) coordinating with the State Board of Education and local education agencies when  
11015 appropriate to develop educational and training resources to provide student participants in the  
11016 program qualifications to be hired by business participants in the program.

11017 (3) The office, in consultation with the talent ready board, may, in accordance with



11018 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the  
11019 provisions of this section, make rules regarding the development and administration of the  
11020 Utah Works Program.

11021 (4) The center shall report the following metrics to the office for inclusion in the  
11022 office's annual report described in Section [63N-1-301](#):

11023 (a) the number of participants in the program;

11024 (b) the number of participants who have completed training offered by the program;

11025 and

11026 (c) the number of participants who have been hired by a business participating in the  
11027 program.

11028 Section 195. Section **67-8-3** is amended to read:

11029 **67-8-3. Compensation plan for appointive officers -- Exceptions -- Legislative**  
11030 **approval -- Career status attorneys.**

11031 (1) (a) The executive director of the Department of Human Resource Management,  
11032 based upon recommendations of the Executive and Judicial Compensation Commission shall,  
11033 before October 31 of each year, recommend to the governor a compensation plan for appointed  
11034 officers of the state except those officers whose compensation is set under Section [49-11-203](#),  
11035 [53E-3-302](#), [~~[53B-1-105](#)~~] [53B-1-408](#), or [53C-1-301](#).

11036 (b) The plan shall include salaries and wages, paid leave, group insurance plans,  
11037 retirement programs, and any other benefits that may be offered to state officers.

11038 (2) The governor shall include in each annual budget proposal to the Legislature  
11039 specific recommendations on compensation for those appointed state officers in Subsection (1).

11040 (3) (a) After consultation with the attorney general, the executive director of the  
11041 Department of Human Resource Management shall place career status attorneys on a state  
11042 salary schedule at a range comparable with salaries paid attorneys in private and other public  
11043 employment.

11044 (b) The attorney general and the executive director shall take into consideration the

11045 experience of the attorney, length of service with the Office of the Attorney General, quality of  
11046 performance, and responsibility involved in legal assignments.

11047 (c) The attorney general and the executive director shall periodically adjust the salary  
11048 levels for attorneys in a career status to reasonably compensate them for full-time employment  
11049 and the restrictions placed on the private practice of law.

11050 Section 196. Section **67-19c-101** is amended to read:

11051 **67-19c-101. Department award program.**

11052 (1) As used in this section:

11053 (a) "Department" means the Department of Administrative Services, the Department of  
11054 Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of  
11055 Commerce, the Department of Heritage and Arts, the Department of Corrections, the  
11056 Department of Workforce Services, the Department of Environmental Quality, the Department  
11057 of Financial Institutions, the Department of Health, the Department of Human Resource  
11058 Management, the Department of Human Services, the Insurance Department, the National  
11059 Guard, the Department of Natural Resources, the Department of Public Safety, the Public  
11060 Service Commission, the Labor Commission, the State Board of Education, the [~~State Board of~~  
11061 ~~Regents~~] Utah Board of Higher Education, the State Tax Commission, the Department of  
11062 Technology Services, and the Department of Transportation.

11063 (b) "Department head" means the individual or body of individuals in whom the  
11064 ultimate legal authority of the department is vested by law.

11065 (2) There is created a department awards program to award an outstanding employee in  
11066 each department of state government.

11067 (3) (a) By April 1 of each year, each department head shall solicit nominations for  
11068 outstanding employee of the year for his department from the employees in his department.

11069 (b) By July 1 of each year, the department head shall:

11070 (i) select a person from the department to receive the outstanding employee of the year  
11071 award using the criteria established in Subsection (3)(c); and

- 11072 (ii) announce the recipient of the award to his employees.
- 11073 (c) Department heads shall make the award to a person who demonstrates:
- 11074 (i) extraordinary competence in performing his function;
- 11075 (ii) creativity in identifying problems and devising workable, cost-effective solutions to
- 11076 them;
- 11077 (iii) excellent relationships with the public and other employees;
- 11078 (iv) a commitment to serving the public as the client; and
- 11079 (v) a commitment to economy and efficiency in government.
- 11080 (4) (a) The Department of Human Resource Management shall divide any
- 11081 appropriation for outstanding department employee awards that it receives from the Legislature
- 11082 equally among the departments.
- 11083 (b) If the department receives money from the Department of Human Resource
- 11084 Management or if the department budget allows, the department head shall provide the
- 11085 employee with a bonus, a plaque, or some other suitable acknowledgement of the award.
- 11086 (5) (a) The department head may name the award after an exemplary present or former
- 11087 employee of the department.
- 11088 (b) A department head may not name the award for himself or for any relative as
- 11089 defined in Section 52-3-1.
- 11090 (c) Any awards or award programs existing in any department as of May 3, 1993, shall
- 11091 be modified to conform to the requirements of this section.
- 11092 Section 197. Section 67-21-3 is amended to read:
- 11093 **67-21-3. Reporting of governmental waste or violations of law -- Employer action**
- 11094 **-- Exceptions.**
- 11095 (1) (a) An employer may not take adverse action against an employee because the
- 11096 employee, or a person authorized to act on behalf of the employee, communicates in good
- 11097 faith:
- 11098 (i) the waste or misuse of public funds, property, or manpower;

11099           (ii) a violation or suspected violation of a law, rule, or regulation adopted under the law  
11100 of this state, a political subdivision of this state, or any recognized entity of the United States;  
11101 or  
11102           (iii) as it relates to a state government employer:  
11103           (A) gross mismanagement;  
11104           (B) abuse of authority; or  
11105           (C) unethical conduct.  
11106           (b) For purposes of Subsection (1)(a), an employee is presumed to have communicated  
11107 in good faith if the employee gives written notice or otherwise formally communicates the  
11108 conduct described in Subsection (1)(a) to:  
11109           (i) a person in authority over the person alleged to have engaged in the conduct  
11110 described in Subsection (1)(a);  
11111           (ii) the attorney general's office;  
11112           (iii) law enforcement, if the conduct is criminal in nature;  
11113           (iv) if the employee is a public entity employee, public body employee, legislative  
11114 employee, or a judicial employee:  
11115           (A) the state auditor's office;  
11116           (B) the president of the Senate;  
11117           (C) the speaker of the House of Representatives;  
11118           (D) the Office of Legislative Auditor General;  
11119           (E) the governor's office;  
11120           (F) the state court administrator; or  
11121           (G) the Division of Finance;  
11122           (v) if the employee is a public entity employee, but not an employee of a state  
11123 institution of higher education, the director of the Division of Purchasing and General Services;  
11124           (vi) if the employee is a political subdivision employee:  
11125           (A) the legislative body, or a member of the legislative body, of the political

- 11126 subdivision;
- 11127 (B) the governing body, or a member of the governing body, of the political
- 11128 subdivision;
- 11129 (C) the top executive of the political subdivision; or
- 11130 (D) any government official with authority to audit the political subdivision or the
- 11131 applicable part of the political subdivision; or
- 11132 (vii) if the employee is an employee of a state institution of higher education:
- 11133 [~~(A) the State Board of Regents or a member of the State Board of Regents;~~]
- 11134 (A) the Utah Board of Higher Education or a member of the Utah Board of Higher
- 11135 Education;
- 11136 (B) the commissioner of higher education;
- 11137 (C) the president of the state institution of higher education where the employee is
- 11138 employed; or
- 11139 (D) the entity that conducts audits of the state institution of higher education where the
- 11140 employee is employed.
- 11141 (c) The presumption described in Subsection (1)(b) may be rebutted by showing that
- 11142 the employee knew or reasonably ought to have known that the report is malicious, false, or
- 11143 frivolous.
- 11144 (2) An employer may not take adverse action against an employee because an
- 11145 employee participates or gives information in an investigation, hearing, court proceeding,
- 11146 legislative or other inquiry, or other form of administrative review held by the public body.
- 11147 (3) An employer may not take adverse action against an employee because the
- 11148 employee has objected to or refused to carry out a directive that the employee reasonably
- 11149 believes violates a law of this state, a political subdivision of this state, or the United States, or
- 11150 a rule or regulation adopted under the authority of the laws of this state, a political subdivision
- 11151 of this state, or the United States.
- 11152 (4) An employer may not implement rules or policies that unreasonably restrict an

11153 employee's ability to document:

11154 (a) the waste or misuse of public funds, property, or manpower;

11155 (b) a violation or suspected violation of any law, rule, or regulation; or

11156 (c) as it relates to a state government employer:

11157 (i) gross mismanagement;

11158 (ii) abuse of authority; or

11159 (iii) unethical conduct.

11160 Section 198. **Repealer.**

11161 This bill repeals:

11162 Section **53B-1-101, Purpose of title.**

11163 Section **53B-1-106, Appointment and hiring of staff -- Transfer of functions,**  
11164 **personnel, and funds.**

11165 Section **53B-1-107, Annual report of board activities.**

11166 Section **53B-2a-102, Commissioner of technical education -- Appointment --**  
11167 **Duties.**

11168 Section **53B-2a-111, Board of Trustees -- Consultation with State Board of**  
11169 **Regents.**

11170 Section 199. **Appropriation.**

11171 The following sums of money are appropriated for the fiscal year beginning July 1,  
11172 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for  
11173 fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures  
11174 Act, the Legislature appropriates the following sums of money from the funds or accounts  
11175 indicated for the use and support of the government of the state of Utah.

11176 ITEM 1

11177 To Legislature - Office of Legislative Research and General Counsel

11178 From General Fund, One-time

\$1,200

11179 Schedule of Programs:

11180	<u>Administration</u>	<u>\$1,200</u>
11181	<u>ITEM 2</u>	
11182	<u>To Legislature - Senate</u>	
11183	<u>From General Fund, One-time</u>	<u>\$4,000</u>
11184	<u>Schedule of Programs:</u>	
11185	<u>Administration</u>	<u>\$4,000</u>
11186	<u>ITEM 3</u>	
11187	<u>To Legislature - House of Representatives</u>	
11188	<u>From General Fund, One-time</u>	<u>\$4,000</u>
11189	<u>Schedule of Programs:</u>	
11190	<u>Administration</u>	<u>\$4,000</u>
11191	<u>The Legislature intends that an appropriation provided under items 1 through 3 be used</u>	
11192	<u>for expenses relating to the Higher Education Strategic Planning Commission, described in</u>	
11193	<u>Title 63C, Chapter 19, Higher Education Strategic Planning Commission.</u>	
11194	<u>STATE BOARD OF REGENTS</u>	
11195	<u>ITEM 4</u>	
11196	<u>To State Board of Regents - Administration</u>	
11197	<u>From Education Fund</u>	<u>\$4,742,600</u>
11198	<u>From Revenue Transfers</u>	<u>\$106,200</u>
11199	<u>From Beginning Nonlapsing Balances</u>	<u>\$380,800</u>
11200	<u>From Closing Nonlapsing Balances</u>	<u>(\$380,800)</u>
11201	<u>Schedule of Programs:</u>	
11202	<u>Administration</u>	<u>\$4,848,800</u>
11203	<u>The Legislature intends that the Division of Finance rename the "State Board of</u>	
11204	<u>Regents" agency "Utah Board of Higher Education" and the "State Board of Regents -</u>	
11205	<u>Administration" line item "Utah Board of Higher Education – Administration".</u>	
11206	<u>ITEM 5</u>	

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11207	<u>To State Board of Regents - Student Assistance</u>	
11208	<u>From Education Fund</u>	<u>\$38,400</u>
11209	<u>Schedule of Programs:</u>	
11210	<u>Engineering Loan Repayment</u>	<u>\$38,400</u>
11211	<u>The Legislature intends that the Division of Finance rename the "State Board of</u>	
11212	<u>Regents -- Student Assistance" line item "Utah Board of Higher Education -- Student</u>	
11213	<u>Assistance".</u>	
11214	<u>ITEM 6</u>	
11215	<u>To State Board of Regents - Student Support</u>	
11216	<u>From Education Fund</u>	<u>\$18,605,800</u>
11217	<u>From Education Fund, One-time</u>	<u>\$862,100</u>
11218	<u>From Education Fund Restricted - Performance Funding</u>	
11219	<u>Restricted Account, One-time</u>	<u>\$381,100</u>
11220	<u>From Beginning Nonlapsing Balances</u>	<u>\$459,900</u>
11221	<u>From Closing Nonlapsing Balances</u>	<u>(\$459,900)</u>
11222	<u>Schedule of Programs:</u>	
11223	<u>Concurrent Enrollment</u>	<u>(\$486,700)</u>
11224	<u>Articulation Support</u>	<u>(\$301,700)</u>
11225	<u>Higher Education Technology Initiative</u>	<u>\$5,504,600</u>
11226	<u>Utah Academic Library Consortium</u>	<u>\$3,410,000</u>
11227	<u>Engineering Initiative</u>	<u>\$5,000,000</u>
11228	<u>Math Competency Initiative</u>	<u>\$1,926,200</u>
11229	<u>Performance Funding -- Colleges and</u>	
11230	<u>Universities</u>	<u>\$0</u>
11231	<u>Performance Funding -- Technical</u>	
11232	<u>Colleges</u>	<u>\$237,400</u>
11233	<u>Custom Fit</u>	<u>\$4,559,200</u>



11234	<u>The Legislature intends that the Division of Finance rename the "State Board of</u>	
11235	<u>Regents -- Student Support" line item "Utah Board of Higher Education -- Institutional and</u>	
11236	<u>Student Support".</u>	
11237	<u>ITEM 7</u>	
11238	<u>To State Board of Regents - Technology</u>	
11239	<u>From Education Fund</u>	<u>(\$7,983,500)</u>
11240	<u>From Education Fund, One-time</u>	<u>(\$862,100)</u>
11241	<u>From Education Fund Restricted - Performance Funding</u>	
11242	<u>Restricted Account, One-time</u>	<u>(\$143,700)</u>
11243	<u>From Beginning Nonlapsing Balances</u>	<u>(\$700)</u>
11244	<u>From Closing Nonlapsing Balances</u>	<u>\$700</u>
11245	<u>ITEM 8</u>	
11246	<u>To State Board of Regents - Economic Development</u>	
11247	<u>From Education Fund</u>	<u>(\$5,386,400)</u>
11248	<u>From Beginning Nonlapsing Balances</u>	<u>(\$127,400)</u>
11249	<u>From Closing Nonlapsing Balances</u>	<u>\$127,400</u>
11250	<u>ITEM 9</u>	
11251	<u>To State Board of Regents - Education Excellence</u>	
11252	<u>From Education Fund</u>	<u>(\$935,900)</u>
11253	<u>From Education Fund Restricted - Performance Funding</u>	
11254	<u>Restricted Account</u>	<u>(\$143,700)</u>
11255	<u>From Education Fund Restricted - Performance Funding</u>	
11256	<u>Restricted Account, One-time</u>	<u>\$143,700</u>
11257	<u>From Revenue Transfers</u>	<u>(\$106,200)</u>
11258	<u>From Beginning Nonlapsing Balances</u>	<u>(\$214,000)</u>
11259	<u>From Closing Nonlapsing Balances</u>	<u>\$214,000</u>
11260	<u>ITEM 10</u>	

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11261	<u>To State Board of Regents - Math Competency Initiative</u>	
11262	<u>From Education Fund</u>	<u>(\$1,926,200)</u>
11263	<u>From Beginning Nonlapsing Balances</u>	<u>(\$485,400)</u>
11264	<u>From Closing Nonlapsing Balances</u>	<u>\$485,400</u>
11265	<u>UTAH SYSTEM OF TECHNICAL COLLEGES</u>	
11266	<u>ITEM 11</u>	
11267	<u>To Utah System of Technical Colleges - USTC Administration</u>	
11268	<u>From Education Fund</u>	<u>(\$7,154,800)</u>
11269	<u>From Education Fund Restricted - Performance Funding</u>	
11270	<u>Restricted Account</u>	<u>(\$237,400)</u>
11271	<u>From Beginning Nonlapsing Balances</u>	<u>(\$13,200)</u>
11272	<u>From Closing Nonlapsing Balances</u>	<u>\$13,200</u>
11273	Section 200. <b>Effective date.</b>	
11274	<u>(1) Except as provided in Subsection (2), this bill takes effect July 1, 2020.</u>	
11275	<u>(2) Amendments to the following sections take effect May 12, 2020:</u>	
11276	<u>(a) Section <a href="#">53B-1-401</a>;</u>	
11277	<u>(b) Section <a href="#">53B-1-403</a>;</u>	
11278	<u>(c) Section <a href="#">53B-1-501</a>;</u>	
11279	<u>(d) Section <a href="#">53B-1-502</a>;</u>	
11280	<u>(e) Section <a href="#">53B-1-503</a>; and</u>	
11281	<u>(f) Section <a href="#">63C-19-202</a>.</u>	
11282	Section 201. <b>Coordinating S.B. 111 with H.B. 68 -- Substantive and technical</b>	
11283	<b>amendments.</b>	
11284	<u>If this S.B. 111 and H.B. 68, Apprenticeship and Work-Based Learning Amendments,</u>	
11285	<u>both pass and become law, it is the intent of the Legislature that the Office of Legislative</u>	
11286	<u>Research and General Counsel prepare the Utah Code database for publication by modifying</u>	
11287	<u>Subsection <a href="#">63N-12-507(1)</a>, amended in H.B. 68 to read:</u>	

11288 "(1) The center in collaboration with the talent ready board may partner with one or  
11289 more of the following to facilitate and encourage apprenticeship opportunities and work-based  
11290 learning opportunities for Utah students:

- 11291 (a) the state board;  
11292 (b) the Utah system of higher education; and  
11293 (c) a participating employer in the state."

11294 Section 202. **Coordinating S.B. 111 with S.B. 60 -- Substantive and technical**  
11295 **amendments.**

11296 If this S.B. 111 and S.B. 60, Advice and Consent Amendments, both pass and become  
11297 law, it is the intent of the Legislature that the Office of Legislative Research and General  
11298 Counsel prepare the Utah Code database for publication by:

11299 (1) creating a newly enacted Subsection [53B-1-501](#)(4) to read:

11300 "(4) Notwithstanding Section [67-1-2](#), for an appointment described in this section:

11301 (a) a majority of the president of the Senate, the Senate majority leader, and the Senate  
11302 minority leader may waive the 30-day requirement described in Subsection [67-1-2](#)(1); and  
11303 (b) the Senate is not required to hold a confirmation hearing."; and

11304 (2) modifying Subsections [67-1-2](#)(2)(b) and (3) amended in S.B. 60 to read:

11305 "(b) A majority of the president of the Senate, the Senate majority leader, and the  
11306 Senate minority leader may waive the 30-day requirement described in Subsection (1) for a  
11307 gubernatorial nominee other than a nominee for the following:

- 11308 (i) the executive director of a department;  
11309 (ii) the executive director of the Governor's Office of Economic Development;  
11310 (iii) the executive director of the Labor Commission;  
11311 (iv) a member of the State Tax Commission;  
11312 (v) a member of the State Board of Education;  
11313 (vi) a member of the Utah Board of Higher Education; or  
11314 (vii) an individual;

11315 (A) whose appointment requires the advice and consent of the Senate; and  
11316 (B) whom the governor designates as a member of the governor's cabinet.  
11317 (3) The Senate shall hold a confirmation hearing for a nominee for an individual  
11318 described in Subsections (2)(b)(i) through (vii)."

11319 Section 203. **Coordinating S.B. 111 with S.B. 90 -- Substantive and technical**  
11320 **amendments.**

11321 If this S.B. 111 and S.B. 90, Procurement Code Amendments, both pass and become  
11322 law, it is the intent of the Legislature that the Office of Legislative Research and General  
11323 Counsel prepare the Utah Code database for publication as follows:

11324 (1) the amendments to Section 63G-6a-103 in S.B. 90 supersede the amendments to  
11325 Section 63G-6a-103 in S.B. 111;

11326 (2) modify the definition of "Procurement official" in Subsection 63G-6a-103(57)(n) to  
11327 read:

11328 "(n) for the Utah Board of Higher Education, the Commissioner of Higher Education or  
11329 the designee of the Commissioner of Higher Education;";

11330 (3) modify the definition of "Rulemaking authority" in Subsection 63G-6a-103(77)(f)  
11331 to read:

11332 "(f) for a state institution of higher education, the Utah Board of Higher Education;";

11333 (4) (a) delete Subsection 63G-6a-103(77)(g); and

11334 (b) renumber remaining subsections accordingly;

11335 (5) modify Subsection 63G-6a-103(77)(k), which is renumbered to Subsection  
11336 63G-6a-103(77)(j), to read:

11337 "(k) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah  
11338 Board of Higher Education;".

11339 Section 204. **Revisor instructions.**

11340 The Legislature intends that the Office of Legislative Research and General Counsel, in  
11341 preparing the Utah Code database for publication, on July 1, 2020, replace "State Board of

11342 Regents" or "Board of Regents" with "Utah Board of Higher Education" in any new language  
11343 added to the Utah Code by legislation passed during the 2020 General Session, except for the  
11344 references to the "State Board of Regents" enacted in this bill in:  
11345       (1) Section [53B-1-404](#); and  
11346       (2) Title 53B, Chapter 1, Part 5, Transition to Utah Board of Higher Education.