

**Senator Ann Millner** proposes the following substitute bill:

**HIGHER EDUCATION AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ann Millner**

House Sponsor: Brad R. Wilson

---

---

**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;



- 26           ▶ provides for the transition in the membership of the Utah Board of Higher
- 27 Education from the membership of the State Board of Regents and the Utah System
- 28 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.

**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, \$106,300;
  - 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, \$20,190,400;
- 60           • from Beginning Nonlapsing Balances, \$486,100;
- 61           • from Closing Nonlapsing Balances, (\$486,100);
- 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,

One-time, \$143,700;

► to the State Board of Regents - Math Competency Initiative, as an ongoing appropriation:

- from the Education Fund, (\$1,926,200);
- from Beginning Nonlapsing Balances, (\$485,400);
- from Closing Nonlapsing Balances, \$485,400; and

► to the Utah System of Technical Colleges - Utah System of Technical Colleges Administration:

- from the Education Fund, (\$7,154,800);
- from Education Fund Restricted - Performance Funding Restricted Account, (\$237,400);
- from Beginning Nonlapsing Balances, (\$13,200);
- from Closing Nonlapsing Balances, \$13,200.

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides coordination clauses.

This bill provides revisor instructions.

**Utah Code Sections Affected:**

**AMENDS:**

**7-22-101**, as last amended by Laws of Utah 2015, Chapter 284

**9-9-104.6**, as last amended by Laws of Utah 2019, Chapter 246

**9-22-103**, as renumbered and amended by Laws of Utah 2019, Chapter 487

**9-22-104**, as renumbered and amended by Laws of Utah 2019, Chapter 487

**9-22-106**, as renumbered and amended by Laws of Utah 2019, Chapter 487

**11-17-17**, as last amended by Laws of Utah 1993, Chapters 4 and 67

**11-27-2**, as last amended by Laws of Utah 2016, Chapter 350

**11-59-302**, as enacted by Laws of Utah 2018, Chapter 388

**13-34a-104**, as last amended by Laws of Utah 2017, Chapter 98

**19-3-320**, as last amended by Laws of Utah 2016, Chapter 144

**20A-11-1202**, as last amended by Laws of Utah 2019, Chapter 203

**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

331   

---

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:

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

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

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

(2) This chapter does not apply to:

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

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

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

(d) the ~~[State Board of Regents]~~ Utah Board of Higher Education, the Utah Higher Education Assistance Authority, or the State Treasurer; and

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

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

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

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

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

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

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

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

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

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

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

(i) the Department of Human Services;

(ii) the Department of Natural Resources;

(iii) the Department of Workforce Services;

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

(v) the State Board of Education; and

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

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

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

(ii) notify the division:

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

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

(b) This Subsection (3) applies to:

(i) the Department of Agriculture and Food;

(ii) the Department of Heritage and Arts;

(iii) the Department of Corrections;

(iv) the Department of Environmental Quality;

(v) the Department of Public Safety;

(vi) the Department of Transportation;

(vii) the Office of the Attorney General;

(viii) the State Tax Commission; and

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

(c) At the request of the division, a contact person listed in Subsection (3)(b) may

participate in a meeting described in Subsection (1).

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

(i) Section 63A-3-106;

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

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

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

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

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

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

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

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

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

(d) one member appointed by the governor;

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

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

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

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

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

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

(b) Except as required by Subsection (2)(c), members appointed by the governor shall

be appointed to four-year terms.

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

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

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

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

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

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

(a) Section 63A-3-106;

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

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

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

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

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

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

(1) The STEM board shall:

(a) establish a STEM Action Center to:

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

(A) the State Board of Education;

(B) school districts and charter schools;

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

(D) institutions of higher education;

(E) parents of home-schooled students;

(F) other state agencies; and

(G) business and industry representatives;

(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

STEM education and training activities with the employment needs of business and industry in the state.

(2) As funding allows, the director of the STEM Action Center shall:

(a) support high quality professional development for educators regarding STEM education;

(b) ensure that the STEM Action Center acts as a research and development center for STEM education through a request for proposals process described in Section 9-22-107;

(c) review and acquire STEM education related materials and products for:

(i) high quality professional development;

(ii) assessment, data collection, analysis, and reporting; and

(iii) public school instruction;

(d) facilitate participation in interscholastic STEM related competitions, fairs, camps, and STEM education activities;

(e) engage private industry in the development and maintenance of the STEM Action Center and STEM Action Center projects;

(f) use resources to bring the latest STEM education learning tools into public education classrooms;

(g) identify at least 10 best practice innovations used in Utah that have resulted in a measurable improvement in student performance or outcomes in STEM areas;

(h) identify best practices being used outside the state and, as appropriate, develop and implement selected practices through a pilot program;

(i) identify:

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

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

(j) collect data on Utah best practices, including best practices from public education, higher education, the Utah Education and Telehealth Network, and other STEM related entities;

(k) keep track of the following items related to best practices described in Subsection (2)(j):

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

(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](#);

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

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

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

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

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

(1) The ~~[State Board of Regents]~~ Utah Board of Higher Education may, on behalf of the University of Utah and Utah State University exercise all powers granted to municipalities and counties pursuant to this chapter, except as provided in Subsection (2).

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

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

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

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

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

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

As used in this chapter:

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

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

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

(4) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body payable in whole or in part from revenues derived from ad valorem taxes and that constitutes an indebtedness within the meaning of any

applicable constitutional or statutory debt limitation.

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

(6) "Government obligations" means:

(a) direct obligations of the United States of America, or other securities, the principal of and interest on which are unconditionally guaranteed by the United States of America; or

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

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

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

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

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

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

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

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

(c) any special improvement bond.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) is for the benefit of:

(i) postsecondary schools in the state; or

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

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

**53B-1-102.**

(2) If the division executes an interstate reciprocity agreement described in Subsection (1) or the ~~[State Board of Regents]~~ Utah Board of Higher Education executes an interstate reciprocity agreement under Section **53B-16-109**:

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

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

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

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

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

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

(a) implement the reciprocity agreement; and

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

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

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

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

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

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

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

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



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

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

As used in this part:

(1) "Applicable election officer" means:

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

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

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

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

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

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

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

(d) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(e) remuneration from:

(i) any organization or the organization's directly affiliated organization that has a registered lobbyist; or

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

(f) an in-kind contribution.

(4) (a) "Commercial interlocal cooperation agency" means an interlocal cooperation agency that receives its revenues from conduct of its commercial operations.

(b) "Commercial interlocal cooperation agency" does not mean an interlocal cooperation agency that receives some or all of its revenues from:

(i) government appropriations;

(ii) taxes;

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

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

(5) "Expenditure" means:

(a) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;

(b) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;

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

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

(e) goods or services provided to or for the benefit of a candidate, a candidate's personal campaign committee, or a political issues committee for political purposes at less than fair market value.

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

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

(a) government appropriations;

(b) taxes;

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

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

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

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

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

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

(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.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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.

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

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

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

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

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

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

(4) The commissioner shall:

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

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

(c) provide an annual written report to:

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

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

(iii) the Higher Education Appropriations Subcommittee.

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

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

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

- (c) the completion rate of each program;
- (d) the cost of state funding for each program; and
- (e) recommendations for improving apprenticeship programs.

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

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

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

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

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

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

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

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

(b) six local government members who are:

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

(ii) three elected or appointed municipal officials, nominated by the Utah League of Cities and Towns and appointed by the governor with the consent of the Senate.

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

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

(c) Members may be reappointed only once.

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

(b) When a vacancy occurs in the membership for any reason, the replacement shall be 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.

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

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

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

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

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

(a) Section 63A-3-107; and

(b) rules made by the Division of Finance in accordance with Section 63A-3-107.

Section 17. Section 35A-14-102 is amended to read:

**35A-14-102. Definitions.**

As used in this chapter:

(1) "Advisory board" means the Utah Data Research Advisory Board created in Section 35A-14-203.

(2) "Center" means the Utah Data Research Center.

(3) "Data" means any information about a person stored in a physical or electronic record.

(4) "Data research program" means the data maintained by the center in accordance with Section 35A-14-301.

(5) "De-identified data" means data about a person that cannot, without additional information, identify the person to another person or machine.

(6) "Director" means the director of the Workforce Research and Analysis Division.

(7) "Participating entity" means:

(a) the State Board of Education, which includes the director as defined in Section 53E-10-701;

~~[(b) the State Board of Regents;]~~

~~[(c) the Utah System of Technical Colleges Board of Trustees;]~~

(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

remaining unexpired term of the member being replaced. If the remaining unexpired term is less than six months, the newly appointed member shall be reappointed on July 1. The time served until July 1 is not counted in the restriction set forth in Subsection (6).

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

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 22. Section 41-6a-2002 is amended to read:

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

As used in this section:

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

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

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

- (i) executive department agencies of the state;
- (ii) the offices of the governor, the lieutenant governor, the state auditor, the attorney general, and the state treasurer;
- (iii) the Board of Pardons and Parole;
- (iv) the Board of Examiners;
- (v) the National Guard;
- (vi) the Career Service Review Office;
- (vii) the State Board of Education;
- (viii) the ~~[State Board of Regents]~~ Utah Board of Higher Education;
- (ix) the State Archives;
- (x) the Office of the Legislative Auditor General;
- (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

director.

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

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

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

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

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

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

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

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

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

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

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

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

(b) Chapter 13, Public Employees' Noncontributory Retirement Act;

(c) Chapter 14, Public Safety Contributory Retirement Act;

(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.

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

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

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

(a) the member; and

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

(33) "Nonelective contribution" means an amount contributed by a participating employer into a participant's defined contribution account.

(34) "Normal cost rate":

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

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

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

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

(37) "Participating employer" means a participating employer, as defined by Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act, and Chapter 18, Judges' Noncontributory Retirement Act, or an agency financed in whole or in part by public funds

which is participating in a system or plan as of January 1, 2002.

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

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

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

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

(40) "Plan" means the Utah Governors' and Legislators' Retirement Plan created by Chapter 19, Utah Governors' and Legislators' Retirement Act, the New Public Employees' Tier II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution Plan, the New Public Safety and Firefighter Tier II Defined Contribution Plan created by Chapter 23, Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created under Section 49-11-801.

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

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

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

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

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

(1) A member, a participating employer, or a member and a participating employer jointly may purchase service credit equal to the period of the member's employment in the following:

(a) United States federal employment;

(b) employment in a private school based in the United States, if the member received an employer paid retirement benefit for the employment;

(c) public employment in another state or territory of the United States which qualifies the member for membership in the public plan or system covering the employment, but only if the member does not qualify for any retirement benefits based on the employment;

(d) forfeited service credit in this state if the member does not qualify for an allowance based on the service credit;

(e) full-time public service while on an approved leave of absence;

(f) the period of time for which disability benefits were paid if:

(i) the member was receiving:

(A) long-term disability benefits;

(B) short-term disability benefits; or

(C) worker's compensation disability benefits; and

(ii) the member's employer had not entered into a benefit protection contract under Section 49-11-404 during the period the member had a disability due to sickness or accident;

(g) employment covered by a retirement plan offered by a public or private system, organization, or company designated by the [~~State Board of Regents~~] Utah Board of Higher Education, if the member forfeits any retirement benefit from that retirement plan for the period of employment to be purchased under this Subsection (1)(g);

(h) employment in a charter school located within the state if the member forfeits any retirement benefit under any other retirement system or plan for the period of employment to be purchased under this Subsection (1)(h); or

(i) employment with a participating employer that is exempt from coverage under this title under a written request for exemption with the office, if the member forfeits any retirement benefit under any other retirement system or plan for the period of employment to be purchased under this Subsection (1)(i).

(2) A member shall:

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

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

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

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

(i) recommended by the actuary; and

(ii) adopted by the board.

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

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

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

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

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

(ii) not pay the increased cost and have the purchased service credit prorated.

(c) For a purchase made on or after July 1, 2010:

(i) the purchase shall be made in accordance with rules:

(A) adopted by the board based on recommendations by the board's actuary; and

(B) in effect at the time the purchase is completed; and

(ii) the cost of the service credit purchase shall not be recalculated at the time of retirement.

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

purchase, the office shall refund the excess payment to the member or participating employer who paid for the purchase.

(8) (a) The board may adopt rules under which a member may make the necessary payments to the office for purchases under this title as permitted by federal law.

(b) The office may reject any payments if the office determines the tax status of the system, plans, or programs would be jeopardized by allowing the payment.

(9) An employee who elects to participate exclusively in the defined contribution plan under Chapter 22, Part 4, Tier II Defined Contribution Plan, or Chapter 23, Part 4, Tier II Defined Contribution Plan, may not purchase service credit for that period of employment.

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

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

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

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

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

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

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

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

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

(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

credit earned by an employee under this chapter before July 1, 2014, is not affected under Subsection (1)(g).

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

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

(b) an elected official;

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

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

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

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

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

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

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

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

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

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

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

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

(6) (a) In accordance with this section, Section 49-13-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

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

(7) Each participating employer shall:

(a) maintain a list of employee exemptions; and

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

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

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

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

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

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

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

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

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

(b) Each institution of higher education shall prepare or amend existing employment classifications, under the direction of the ~~[Board of Regents]~~ Utah Board of Higher Education, or the ~~[Board of Directors]~~ technical college board of trustees of each technical college for each 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.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) (a) (i) The final average salary is limited in the computation of that part of an allowance based on service rendered prior to July 1, 1967, during a period when the retiree received employer contributions on a portion of compensation from an educational institution

toward the payment of the premium required on a retirement annuity contract with a public or private system, organization, or company designated by the [~~State Board of Regents~~] Utah Board of Higher Education to \$4,800.

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

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

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

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

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

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

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

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

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

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

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the [~~State Board of Regents~~] Utah Board of Higher Education, or the [~~Board of Directors~~] technical college board of trustees of each technical college for an employee of each technical college, during any period in which required

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

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

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

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

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

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

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

or

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

or

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

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

or

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

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

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

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

and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

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

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

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

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

(b) an elected official;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) Each participating employer shall:

(a) maintain a list of employee exemptions; and

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

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

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

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

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

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

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

(d) The ~~[Board of Directors]~~ technical college board of trustees of each technical college shall designate the public or private retirement systems, organizations, or companies 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

after the spouse's death.

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

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

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

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

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

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

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

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

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

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

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),

shall, not later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract allowed under this Subsection (1).

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

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

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

(2) (a) A regular full-time employee hired by an institution of higher education after January 1, 1979, may participate only in the retirement plan which attaches to the person's employment classification.

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

(i) this system; or

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

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

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

(3) A regular full-time employee hired by an institution of higher education on or after July 1, 2011, whose employment classification requires participation in this system may elect to continue participation in this system upon change to an employment classification which requires participation in a public or private system, organization, or company designated by:

(a) except as provided in Subsection (3)(b), the ~~[Board of Regents]~~ Utah Board of Higher Education; or

(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,



institutions, departments, divisions, agencies, or similar instrumentalities and not transferred to the state treasurer as provided by this section shall be:

(a) deposited and invested by the custodian in accordance with this chapter, unless otherwise required by statute or by applicable federal law; and

(b) reported to the state treasurer in a form prescribed by the state treasurer.

(3) Unless otherwise provided by the constitution or laws of this state or by contractual obligation, the income derived from the investment of state money by the state treasurer shall be deposited ~~[in]~~ into and become part of the General Fund.

Section 35. Section **51-7-13** is amended to read:

**51-7-13. Funds of member institutions of state system of higher education and public education foundations -- Authorized deposits or investments.**

(1) The provisions of this section apply to all funds of:

(a) higher education institutions, other than endowment funds, that are not transferred to the state treasurer under Section [51-7-4](#); and

(b) public education foundations established under Section [53E-3-403](#).

(2) (a) Proceeds of general obligation bond issues and all funds pledged or otherwise dedicated to the payment of interest and principal of general obligation bonds issued by or for the benefit of the institution shall be invested according to the requirements of:

(i) Section [51-7-11](#) and the rules of the council; or

(ii) the terms of the borrowing instruments applicable to those bonds and funds if those terms are more restrictive than Section [51-7-11](#).

(b) (i) The public treasurer shall invest the proceeds of bonds other than general obligation bonds issued by or for the benefit of the institution and all funds pledged or otherwise dedicated to the payment of interest and principal of bonds other than general obligation bonds according to the terms of the borrowing instruments applicable to those bonds.

(ii) If no provisions governing investment of bond proceeds or pledged or dedicated funds are contained in the borrowing instruments applicable to those bonds or funds, the public treasurer shall comply with the requirements of Section [51-7-11](#) in investing those proceeds and funds.

(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

the executive director of each department.

(11) "Unavailable" means:

(a) absent from the place of governance during a disaster that seriously disrupts normal governmental operations, whether or not that absence or inability would give rise to a vacancy under existing constitutional or statutory provisions; or

(b) as otherwise defined by local ordinance.

Section 39. Section **53-7-204** is amended to read:

**53-7-204. Duties of Utah Fire Prevention Board -- Unified Code Analysis Council**  
**-- Local administrative duties.**

(1) The board shall:

(a) administer the state fire code as the standard in the state;

(b) subject to the state fire code, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) establishing standards for the prevention of fire and for the protection of life and property against fire and panic in any:

(A) publicly owned building, including all public and private schools, colleges, and university buildings;

(B) building or structure used or intended for use as an asylum, a mental hospital, a hospital, a sanitarium, a home for the elderly, an assisted living facility, a children's home or day care center, or any building or structure used for a similar purpose; or

(C) place of assemblage where 50 or more persons may gather together in a building, structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;

(ii) establishing safety and other requirements for placement and discharge of display fireworks on the basis of:

(A) the state fire code; and

(B) relevant publications of the National Fire Protection Association;

(iii) establishing safety standards for retail storage, handling, and sale of class C common state approved explosives;

(iv) defining methods to establish proof of competence to place and discharge display fireworks, special effects fireworks, and flame effects;

(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:



**53B-1-101.5. Definitions.**

As used in this title:

(1) (a) "Academic education" means an educational program that is offered by a degree-granting institution.

(b) "Academic education" does not include technical education.

~~[(1)]~~ (2) "Board" means the ~~[State Board of Regents established]~~ Utah Board of Higher Education described in Section ~~[53B-1-103]~~ 53B-1-402.

~~[(2)]~~ (3) "Career and technical education" means ~~[organized educational programs offering sequences of courses or skill sets directly related to preparing individuals for paid or unpaid employment in current or emerging occupations that generally do not require a baccalaureate or advanced degree.]~~ an educational program that:

(a) is designed to meet industry needs;

(b) leads to:

(i) a certificate; or

(ii) a degree; and

(c) may qualify for funding under the Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 U.S.C. 2301 et seq.

~~[(3)]~~ (4) "Commissioner" means the commissioner of higher education appointed in accordance with Section ~~[53B-1-105]~~ 53B-1-408.

~~[(4)]~~ "Technical college" means, except as provided in Section 53B-26-102, a member college of the Utah System of Technical Colleges listed in Section ~~53B-2a-105.~~

(5) "Degree-granting institution of higher education" or "degree-granting institution" means an institution of higher education described in Subsection 53B-1-102(1)(a).

(6) "Institution board of trustees" means:

(a) an institution of higher education board of trustees described in Section 53B-2-103; or

(b) a technical college board of trustees described in Section 53B-2a-108.

(7) "Technical college" means an institution of higher education described in Subsection 53B-1-102(1)(b).

(8) (a) "Technical education" means career and technical education that:

(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 consulting of one student from each technical college  
 2852 a committee consisting of eight students, one from each technical college, each of whom is  
 2853 recognized by the student's technical college; and  
 2854 (ii) an appointee described in Subsection (4)(a)(ii) from among three nominees  
 2855 presented to the governor by the student body presidents of degree-granting institutions.  
 2856 ~~[(3)] (5) (a) All appointments to the board shall be made on a nonpartisan basis.~~  
 2857 ~~[(b) In making appointments to the board, the governor shall consider:]~~  
 2858 ~~[(i) geographic representation of members;]~~  
 2859 ~~[(ii) diversity;]~~  
 2860 ~~[(iii) experience in higher education governance;]~~  
 2861 ~~[(iv) experience in economic development; and]~~  
 2862 ~~[(v) exposure to institutions of higher education.]~~  
 2863 ~~[(c)] (b) An individual may not serve simultaneously on the [State Board of Regents]~~  
 2864 ~~board and an institution [of higher education] board of trustees.~~  
 2865 ~~[(4)] (6) (a) (i) Except as provided in Subsection [(4)(b), members of the board]~~  
 2866 ~~(6)(a)(ii) and Section 53B-1-501, members shall be appointed to six-year staggered terms,~~  
 2867 ~~each of which [begin] begins on July 1 of the year of appointment.~~  
 2868 ~~[(b) A student member] (ii) A member described in Subsection (1)[(c)](b) shall be~~  
 2869 ~~appointed to a one-year term.~~  
 2870 (b) (i) A member described in Subsection (1)(a) may serve up to two consecutive full  
 2871 terms.  
 2872 (ii) The governor may appoint a member described in Subsection (1)(a) to a second  
 2873 consecutive full term without a recommendation from the nominating committee.  
 2874 (iii) A member described in Subsection (1)(b) may not serve more than one full term.  
 2875 (c) (i) The governor may remove a member [of the board] for cause.  
 2876 (ii) The governor shall consult with the president of the Senate before removing a  
 2877 member [of the board].

2878           ~~[(5)]~~ (7) (a) A member ~~[of the board]~~ shall take the official oath of office before  
2879 entering upon the duties of office.

2880           (b) The oath shall be filed with the Division of Archives and Records Services.

2881           ~~[(6)]~~ (8) The board shall elect a chair and vice chair from among the board's members  
2882 who shall serve terms of two years and until their successors are chosen and qualified.

2883           ~~[(7)]~~ (9) (a) The board shall appoint a secretary from the commissioner's staff ~~[of the~~  
2884 ~~board's chief executive]~~ to serve at the board's discretion.

2885           (b) The secretary is a full-time employee ~~[who receives a salary set by the board]~~.

2886           (c) The secretary shall record and maintain a record of all board meetings and perform  
2887 other duties as the board directs.

2888           ~~[(8)]~~ (10) (a) The board may establish advisory committees in addition to the advisory  
2889 council described in Section [53B-1-407](#).

2890           ~~[(b) The powers and authority of the board are nondelegable, except as specifically~~  
2891 ~~provided for in this title.]~~

2892           ~~[(c)]~~ (b) All matters requiring board determination shall be addressed in a properly  
2893 convened meeting of the board or the board's executive committee.

2894           ~~[(9)]~~ (11) (a) The board shall enact bylaws for the board's own government not  
2895 inconsistent with the constitution or the laws of this state.

2896           (b) The board shall provide for an executive committee in the bylaws that:

2897           (i) has the full authority of the board to act upon routine matters during the interim  
2898 between board meetings;

2899           (ii) may not act on nonroutine matters except under extraordinary and emergency  
2900 circumstances; and

2901           (iii) shall report to the board at the board's next meeting following an action undertaken  
2902 by the executive committee.

2903           ~~[(10)]~~ (12) (a) The board shall meet regularly upon the board's own determination.

2904           (b) The board may also meet, in full or executive session, at the request of the chair,  
2905 ~~[the executive officer, or]~~ the commissioner, or at least five members of the board.

2906           ~~[(11)]~~ (13) A quorum of the ~~[voting members of the]~~ board is required to conduct the  
2907 board's business and consists of ~~[nine]~~ 10 members.

2908           ~~[(12)]~~ (14) (a) A vacancy in the board occurring before the expiration of a ~~[voting]~~

2909 member's full term shall be immediately filled ~~[by appointment by the governor with the~~  
2910 ~~consent of the Senate]~~ through the nomination process described in Section 53B-1-406 and this  
2911 section.

2912 (b) An individual appointed under Subsection ~~[(12)]~~ (14)(a) serves for the remainder of  
2913 the unexpired term.

2914 (15) (a) (i) Subject to Subsection (15)(a)(ii), a member shall receive a daily salary for  
2915 each calendar day that the member attends a board meeting that is the same as the daily salary  
2916 for a member of the Legislature described in Section 36-2-3.

2917 (ii) A member may receive a salary for up to 10 calendar days per calendar year.

2918 ~~[(13) A board member may not receive compensation or benefits for the member's~~  
2919 ~~service, but may]~~ (b) A member may receive per diem and travel expenses in accordance with:

2920 ~~[(a)]~~ (i) Section 63A-3-106;

2921 ~~[(b)]~~ (ii) Section 63A-3-107; and

2922 ~~[(c)]~~ (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
2923 63A-3-107.

2924 (16) The commissioner shall provide to each member:

2925 (a) initial training when the member joins the board; and

2926 (b) ongoing annual training.

2927 Section 49. Section **53B-1-405** is enacted to read:

2928 **53B-1-405. Qualifications for board members.**

2929 (1) The board shall develop qualifications for the composition of the board to ensure  
2930 that combined, the board members have:

2931 (a) a range of experience, including experience in industry;

2932 (b) varied areas of expertise; and

2933 (c) varied geographic representation.

2934 (2) In developing the qualifications, the board shall consider:

2935 (a) expertise in:

2936 (i) business or industry;

2937 (ii) technical education;

2938 (iii) general education; and

2939 (iv) advanced education and research;

2940 (b) geographic representation; and  
2941 (c) knowledge or experience in a field including:  
2942 (i) finance;  
2943 (ii) accounting or auditing;  
2944 (iii) law;  
2945 (iv) facilities or real estate;  
2946 (v) educational delivery models;  
2947 (vi) workforce development;  
2948 (vii) economic development;  
2949 (viii) kindergarten through grade 12 education; and  
2950 (ix) educational quality assessment.  
2951 (3) The board shall consult with the governor to develop the qualifications described in  
2952 this section.  
2953 Section 50. Section **53B-1-406** is enacted to read:  
2954 **53B-1-406. Nominating committee.**  
2955 (1) Except as provided in Subsection (1)(b), a nominating committee shall be formed  
2956 to begin service:  
2957 (a) by January 1, 2022; and  
2958 (b) on January 1 of each even number year thereafter.  
2959 (2) (a) A nominating committee shall include:  
2960 (i) subject to Subsection (2)(b), one individual appointed by the president of the  
2961 Senate;  
2962 (ii) subject to Subsection (2)(b), one individual appointed by the speaker of the House  
2963 of Representatives; and  
2964 (iii) five individuals appointed by the governor, including:  
2965 (A) one individual who is a member of the board of trustees of a degree-granting  
2966 institution;  
2967 (B) one individual who is a member of a technical college board of trustees; and  
2968 (C) three additional individuals.  
2969 (b) An individual appointed under Subsection (2)(a)(i) or (ii) may not be serving as a  
2970 legislator at the time of appointment.



2971 (3) (a) Except as provided in Subsection (3)(b), a nominating committee member is  
2972 appointed to a two-year term.

2973 (b) If a nominating committee is formed due to a vacancy on the board occurring  
2974 before January 1, 2022, each nominating committee member shall be appointed to a term that  
2975 expires on December 31, 2023.

2976 (4) (a) The nominating committee shall elect one member to serve as the chair of the  
2977 nominating committee.

2978 (b) The chair, or another nominating committee member designated by the chair, shall  
2979 schedule and convene all nominating committee meetings.

2980 (c) (i) Four members of the nominating committee constitute a quorum.

2981 (ii) The action of a majority of a quorum constitutes the action of the nominating  
2982 committee.

2983 (5) The nominating committee shall submit to the governor at least three candidates for  
2984 each open position on the board.

2985 (6) The nominating committee shall identify a candidate for the board based on the  
2986 qualifications described in Section [53B-1-405](#).

2987 (7) The nominating committee shall nominate individuals to the governor on a  
2988 nonpartisan basis.

2989 (8) A nominating committee member may not receive compensation or benefits for the  
2990 member's service, but may receive per diem and travel expenses in accordance with:

2991 (a) Section [63A-3-106](#);

2992 (b) Section [63A-3-107](#); and

2993 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and  
2994 [63A-3-107](#).

2995 (9) The commissioner shall provide staff support to the nominating committee.

2996 Section 51. Section **53B-1-407** is enacted to read:

2997 **53B-1-407. Industry advisory council.**

2998 (1) The board shall establish an industry advisory council.

2999 (2) The board shall ensure that the industry advisory council includes representation  
3000 from:

3001 (a) employers;

- 3002 (b) kindergarten through grade 12 representatives;  
3003 (c) degree-granting institution faculty; and  
3004 (d) technical college faculty.

3005 (3) The industry advisory council shall inform:

- 3006 (a) the committee for technical education;  
3007 (b) the committee for academic education; and  
3008 (c) the State Board of Education.

3009 Section 52. Section **53B-1-408**, which is renumbered from Section 53B-1-105 is  
3010 renumbered and amended to read:

3011 **[53B-1-105]. 53B-1-408. Appointment of commissioner of higher**  
3012 **education -- Qualifications -- Associate commissioners -- Duties.**

3013 (1) (a) [The] Subject to Section 53B-1-503, the board, upon approval from the  
3014 governor and with the advice and consent of the Senate [for each appointee nominated on or  
3015 after May 8, 2012], shall appoint a commissioner of higher education to serve at [its] the  
3016 board's pleasure as [its] the board's chief executive officer.

3017 (b) The commissioner may be terminated by:

- 3018 (i) the board; or  
3019 (ii) the governor, after consultation with the board.

3020 (c) The board shall:

- 3021 (i) set the salary of the commissioner;  
3022 (ii) subject to Subsection (3), prescribe the duties and functions of the commissioner;

3023 and

3024 (iii) select a commissioner on the basis of outstanding professional qualifications.

3025 (2) (a) The commissioner shall appoint, subject to approval by the board:

- 3026 (i) an associate commissioner for academic education; and  
3027 (ii) an associate commissioner for technical education.

3028 (b) (i) The commissioner may appoint associate commissioners in addition to the  
3029 associate commissioners described in Subsection (2)(a).

3030 (ii) An association commissioner described in Subsection (2)(b)(i) is not subject to the  
3031 approval of the board.

3032 [(2)] (3) The commissioner is responsible to the board to:

3033 (a) ensure that the policies [~~and programs~~], programs, and strategic plan of the board  
3034 are properly executed;

3035 (b) furnish information about the [~~state~~] Utah system of higher education and make  
3036 recommendations regarding that information to the board;

3037 (c) provide state-level leadership in any activity affecting an institution [~~in the state~~  
3038 ~~system~~] of higher education; and

3039 (d) perform other duties assigned by the board in carrying out [~~its~~] the board's duties  
3040 and responsibilities.

3041 Section 53. Section **53B-1-409** is enacted to read:

3042 **53B-1-409. Appointment and hiring of staff.**

3043 (1) The commissioner may appoint and hire a staff of professional, legal, and  
3044 administrative personnel.

3045 (2) The commissioner shall determine salaries, retirement provisions, and other  
3046 benefits for the staff described in this section.

3047 Section 54. Section **53B-1-410** is enacted to read:

3048 **53B-1-410. Utah Board of Higher Education successor to rights and duties.**

3049 (1) The board is the successor to the Utah System of Technical Colleges Board of  
3050 Trustees.

3051 (2) For the Utah System of Technical Colleges Board of Trustees, the board:

3052 (a) is vested with all rights, titles, privileges, powers, obligations, liabilities,  
3053 immunities, franchises, endowments, assets, property, and claims;

3054 (b) shall fulfill and perform all obligations, including obligations relating to  
3055 outstanding bonds and notes; and

3056 (c) may continue an administrative rule.

3057 Section 55. Section **53B-1-501** is enacted to read:

3058 **Part 5. Transition to Utah Board of Higher Education**

3059 **53B-1-501. Establishment of initial board membership.**

3060 (1) (a) The governor shall appoint, with the advice and consent of the Senate,  
3061 individuals to the board, to ensure that beginning July 1, 2020, the board consists of 18  
3062 members, including:

3063 (i) at least six individuals who were members of the State Board of Regents on May

3064 12, 2020;

3065 (ii) at least six individuals who were members of the Utah System of Technical  
3066 Colleges Board of Trustees on May 12, 2020; and

3067 (iii) two student members appointed to the board in accordance with Section  
3068 53B-1-404.

3069 (b) Before making an appointment described in Subsection (1)(a), the governor shall  
3070 consult:

3071 (i) for an appointment described in Subsection (1)(a)(i), with State Board of Regents  
3072 leadership; and

3073 (ii) for an appointment described in Subsection (1)(a)(ii), with Utah System of  
3074 Technical Colleges Board of Trustees leadership.

3075 (2) (a) Except for an appointment described in Subsection (1)(a)(iii), the governor shall  
3076 appoint an individual to a two-year, four-year, or six-year term to ensure that one-third of the  
3077 members complete the members' terms on June 30 of each even number year.

3078 (b) The governor may appoint an individual described in Subsection (1)(a) to a second  
3079 term without the individual being considered by the nominating committee described in  
3080 Section 53B-1-406 if, at the time of the individual's initial appointment to the board, the  
3081 individual:

3082 (i) is serving the individual's first full term on the State Board of Regents or the Utah  
3083 System of Technical Colleges Board of Trustees; or

3084 (ii) is not a member of the State Board of Regents or the Utah System of Technical  
3085 Colleges Board of Trustees.

3086 (c) An appointment described in Subsection (2)(b) is for a six-year term.

3087 (3) Following the appointments described in this section, a vacancy on the board shall  
3088 be filled in accordance with Section 53B-1-404.

3089 Section 56. Section **53B-1-502** is enacted to read:

3090 **53B-1-502. Transition of Utah System of Technical Colleges to Utah Board of**  
3091 **Higher Education -- Recommendations.**

3092 (1) Beginning July 1, 2020, the board shall assume all statutory and administrative  
3093 requirements that were requirements on the Utah System of Technical Colleges Board of  
3094 Trustees on June 30, 2020.

3095           (2) (a) Beginning July 1, 2020, an individual who was an employee of the Utah System  
3096 of Technical Colleges on June 30, 2020, is an employee of the Utah Board of Higher  
3097 Education.

3098           (b) Subsection (2)(a) does not apply to:

3099           (i) a technical college employee; or

3100           (ii) a technical college president.

3101           (3) The board shall review statutory and administrative requirements on the board,  
3102 including requirements related to academic education and technical education, and may  
3103 recommend amendments.

3104           (4) On or before November 1, 2020, the board shall report on any recommendations  
3105 described in Subsection (3) to the Higher Education Strategic Planning Commission.

3106           Section 57. Section **53B-1-503** is enacted to read:

3107           **53B-1-503. Commissioner beginning July 1, 2020.**

3108           (1) An individual serving as commissioner before July 1, 2020, may not continue to  
3109 serve as commissioner after August 1, 2020, unless the board appoints the individual:

3110           (a) in accordance with Section [53B-1-408](#); or

3111           (b) as an interim commissioner.

3112           (2) The State Board of Regents and the Utah System of Technical Colleges Board of  
3113 Trustees:

3114           (a) shall jointly:

3115           (i) develop and post a job description for the commissioner; and

3116           (ii) recruit candidates for the commissioner; and

3117           (b) may provide one or more candidates identified under Subsection (2)(a) for the  
3118 position of commissioner to the Utah Board of Higher Education.

3119           Section 58. Section **53B-2-102** is amended to read:

3120           **53B-2-102. Board to appoint president for each institution.**

3121           (1) As used in this section:

3122           (a) "Institution of higher education" means [~~an institution that is part of the Utah~~  
3123 ~~System of Higher Education described in Subsection [53B-1-102](#)(1)(a)] a degree-granting  
3124 institution.~~

3125           (b) "President" means the president of an institution of higher education.

3126           ~~[(b)]~~ (c) "Search committee" means a committee that selects finalists for a position as  
3127 an institution of higher education president.

3128           (2) The board shall appoint a president for each institution of higher education.

3129           (3) An institution of higher education president serves at the pleasure of the board.

3130           (4) (a) (i) ~~[(f)]~~ Except as provided in Subsection (4)(a)(ii), to appoint an institution of  
3131 higher education president, the board shall establish a search committee that includes  
3132 representatives of faculty, staff, students, the institution of higher education board of trustees,  
3133 alumni, the outgoing institution of higher education president's executive council or cabinet,  
3134 and the board.

3135           (ii) The board may delegate the authority to appoint the search committee described in  
3136 Subsection (4)(a)(i) to an institution of higher education board of trustees.

3137           (iii) The commissioner shall provide staff support to a search committee.

3138           (b) (i) ~~[(A)]~~ Except as provided in Subsection (4)(b)(ii), a search committee shall be  
3139 cochaired by a member of the board and a member of the institution of higher education board  
3140 of trustees.

3141           (ii) The board may delegate the authority to chair a search committee to the institution  
3142 of higher education board trustees.

3143           (c) A search committee described in Subsection (4)(a) shall forward three to five  
3144 finalists to the board to consider for a position as an institution of higher education president.

3145           (d) A search committee may not forward an individual to the board as a finalist unless  
3146 two-thirds of the search committee members, as verified by the commissioner, find the  
3147 individual to be qualified and likely to succeed as an institution of higher education president.

3148           (5) (a) The board shall select an institution of higher education president from among  
3149 the finalists presented by a search committee.

3150           (b) If the board is not satisfied with the finalists forwarded by a search committee, the  
3151 board may direct the search committee to resume the search process until the search committee  
3152 has forwarded three finalists with whom the board is satisfied.

3153           (6) The board, through the commissioner, shall create a comprehensive, active  
3154 recruiting plan to ensure a strong, diverse pool of potential candidates for institution of higher  
3155 education presidents.

3156           (7) (a) Except as provided in Subsection (7)(b), a record or information gathered or

generated during the search process, including a candidate's application and the search committee's deliberations, is confidential and is a protected record under Section 63G-2-305.

(b) Application materials for a publicly named finalist described in Subsection (5)(a) are not protected records under Section 63G-2-305.

Section 59. Section 53B-2-103 is amended to read:

**53B-2-103. Boards of trustees for a degree-granting institution -- Powers and duties.**

(1) ~~[Each college or university has a]~~ A degree-granting institution has a board of trustees that may act on behalf of the [college or university] institution in performing duties, responsibilities, and functions as may be specifically authorized to the board of trustees by the [State Board of Regents] board or by statute.

(2) A board of trustees of a degree-granting institution has the following powers and duties:

(a) to facilitate communication between the institution and the community;

(b) to assist in planning, implementing, and executing fund raising and development projects aimed at supplementing institutional appropriations;

(c) to perpetuate and strengthen alumni and community identification with the ~~[college or university's]~~ degree-granting institution's tradition and goals;

(d) to select recipients of honorary degrees; and

(e) to approve changes to the ~~[institution of higher education's]~~ degree-granting institution's programs, in accordance with Section 53B-16-102.

(3) A board of trustees of a degree-granting institution shall:

(a) approve a strategic plan for the institution of higher education that is aligned with:

(i) state attainment goals;

(ii) workforce needs; and

(iii) the institution of higher education's role, mission, and distinctiveness; and

(b) monitor the institution of higher education's progress toward achieving the strategic plan.

Section 60. Section 53B-2-104 is amended to read:

**53B-2-104. Board of trustees for a degree-granting institution -- Membership -- Terms -- Vacancies -- Oath -- Officers -- Bylaws -- Quorum -- Committees --**

**Compensation.**

(1) (a) Except as provided in Subsection (10), the board of trustees of an institution of higher education consists of the following:

(i) except as provided in Subsection (1)(c), eight individuals appointed by the governor with the advice and consent of the Senate; and

(ii) two ex officio members who are the president of the institution's alumni association, and the president of the associated students of the institution.

(b) The appointed members of the boards of trustees for Utah Valley University and Salt Lake Community College shall be representative of the interests of business, industry, and labor.

(c) (i) The board of trustees of Utah State University has nine individuals appointed by the governor with the advice and consent of the Senate.

(ii) One of the nine individuals described in Subsection (1)(c)(i) shall reside in the Utah State University Eastern service region or the Utah State University Blanding service region.

(2) (a) The governor shall appoint four members of each board of trustees during each odd-numbered year to four-year terms commencing on July 1 of the year of appointment.

(b) Except as provided in Subsection (2)(d), a member appointed under Subsection (1)(a)(i) or (1)(c)(i) holds office until a successor is appointed and qualified.

(c) The ex officio members serve for the same period as they serve as presidents and until their successors have qualified.

(d) (i) The governor may remove a member appointed under Subsection (1)(a)(i) or (1)(c)(i) for cause.

(ii) The governor shall consult with the president of the Senate before removing a member appointed under Subsection (1)(a)(i) or (1)(c)(i).

(3) When a vacancy occurs in the membership of a board of trustees for any reason, the replacement shall be appointed for the unexpired term.

(4) (a) Each member of a board of trustees shall take the official oath of office prior to assuming the office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(5) A board of trustees shall elect a chair and vice chair, who serve for two years and



3219 until their successors are elected and qualified.

3220 (6) (a) A board of trustees may enact bylaws for the board of trustees' own government,  
3221 including provisions for regular meetings.

3222 (b) (i) A board of trustees may provide for an executive committee in the board of  
3223 trustees' bylaws.

3224 (ii) If established, an executive committee shall have full authority of the board of  
3225 trustees to act upon routine matters during the interim between board of trustees meetings.

3226 (iii) An executive committee may act on nonroutine matters only under extraordinary  
3227 and emergency circumstances.

3228 (iv) An executive committee shall report the executive committee's activities to the  
3229 board of trustees at the board of trustees' next regular meeting following the action.

3230 (c) Copies of a board of trustees' bylaws shall be filed with the board.

3231 (7) A quorum is required to conduct business and consists of six members.

3232 (8) A board of trustees may establish advisory committees.

3233 (9) A member may not receive compensation or benefits for the member's service, but  
3234 may receive per diem and travel expenses in accordance with:

3235 (a) Section 63A-3-106;

3236 (b) Section 63A-3-107; and

3237 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
3238 63A-3-107.

3239 (10) This section does not apply to a technical college board of [~~directors~~] trustees  
3240 described in Section 53B-2a-108.

3241 Section 61. Section 53B-2-106 is amended to read:

3242 **53B-2-106. Duties and responsibilities of the president of an institution of higher**  
3243 **education -- Approval by board of trustees -- Applicability to a technical college**  
3244 **president.**

3245 (1) (a) Except as provided in Subsection [~~(5)~~] (6), the president of each institution of  
3246 higher education described in Section 53B-2-101 may exercise grants of power and authority as  
3247 delegated by the board, as well as the necessary and proper exercise of powers and authority  
3248 not specifically denied to the institution of higher education or the institution of higher  
3249 education's administration, faculty, or students by the board or by law, to ensure the effective

3250 and efficient administration and operation of the institution of higher education consistent with  
3251 the statewide master plan for higher education.

3252 (b) The president of each institution of higher education may, after consultation with  
3253 the institution of higher education's board of trustees, exercise powers relating to the institution  
3254 of higher education's employees, including faculty and persons under contract with the  
3255 institution of higher education, by implementing:

3256 (i) furloughs;

3257 (ii) reductions in force;

3258 (iii) benefit adjustments;

3259 (iv) program reductions or discontinuance;

3260 (v) early retirement incentives that provide cost savings to the institution of higher  
3261 education; or

3262 (vi) other measures that provide cost savings to the institution of higher education.

3263 (2) Except as provided by the board, the president of each institution of higher  
3264 education, with the approval of the institution of higher education's board of trustees, may:

3265 (a) (i) appoint a secretary, a treasurer, administrative officers, deans, faculty members,  
3266 and other professional personnel, prescribe their duties, and determine their salaries;

3267 (ii) appoint support personnel, prescribe their duties, and determine their salaries from  
3268 the institution of higher education's position classification plan, which may:

3269 (A) be based upon similarity of duties and responsibilities within the institution of  
3270 higher education; and

3271 (B) as funds permit, provide salary and benefits comparable with private enterprise;

3272 (iii) adopt policies for:

3273 (A) employee sick leave use and accrual; and

3274 (B) service recognition for employees with more than 15 years of employment with the  
3275 institution of higher education; and

3276 (iv) subject to the authority of, the policy established by, and the approval of the board,  
3277 and recognizing the status of the institutions within the state system of higher education as  
3278 bodies politic and corporate, appoint attorneys to provide legal advice to the institution of  
3279 higher education's administration and to coordinate legal affairs within the institution of higher  
3280 education. The board shall coordinate activities of attorneys at the institutions of higher

education. The institutions of higher education shall provide an annual report to the board on the activities of appointed attorneys. These appointed attorneys may not conduct litigation, settle claims covered by the State Risk Management Fund, or issue formal legal opinions, but shall, in all respects, cooperate with the Office of the Attorney General in providing legal representation to the institution of higher education;

(b) provide for the constitution, government, and organization of the faculty and administration, and enact implementing rules, including the establishment of a prescribed system of tenure;

(c) authorize the faculty to determine the general initiation and direction of instruction and of the examination, admission, and classification of students. In recognition of the diverse nature and traditions of the various institutions governed by the board, the systems of faculty government need not be identical but should be designed to further faculty identification with and involvement in the institution's pursuit of achievement and excellence and in fulfillment of the institution's role as established in the statewide master plan for higher education; and

(d) enact rules for administration and operation of the institution which are consistent with the prescribed role established by the board, rules enacted by the board, or the laws of the state. The rules may provide for administrative, faculty, student, and joint committees with jurisdiction over specified institutional matters, for student government and student affairs organization, for the establishment of institutional standards in furtherance of the ideals of higher education fostered and subscribed to by the institution of higher education, the institution of higher education's administration, faculty, and students, and for the holding of classes on legal holidays, other than Sunday.

(3) An institution of higher education president shall manage the president's institution as a part of the Utah system of higher education.

~~[(3)]~~ (4) Compensation costs and related office expenses for appointed attorneys shall be funded within existing budgets.

~~[(4)]~~ (5) The ~~[State Board of Regents]~~ board shall establish guidelines relating to the roles and relationships between institutional presidents and boards of trustees, including those matters which must be approved by a board of trustees before implementation by the president.

~~[(5)]~~ (6) This section does not apply to a technical college president.

Section 62. Section **53B-2a-100.5** is amended to read:

## CHAPTER 2a. TECHNICAL COLLEGES

**53B-2a-100.5. Title.**

This chapter is known as "[~~Utah System of~~] Technical Colleges."

Section 63. Section **53B-2a-101** is amended to read:

**53B-2a-101. Definitions.**

As used in this chapter:

~~[(1) "Board of trustees" means the UTech Board of Trustees.]~~

~~[(2)]~~ (1) "Capital developments" means the same as that term is defined in Section [63A-5-104](#).

~~[(3) "Commissioner of technical education" means the UTech commissioner of technical education.]~~

~~[(4)]~~ (2) "Competency-based" means mastery of subject matter or skill level, as demonstrated through business and industry approved standards and assessments, achieved through participation in a hands-on learning environment, and which is tied to observable, measurable performance objectives.

~~[(5)]~~ (3) "Dedicated project" means a capital development project for which state funds from the Technical Colleges Capital Projects Fund created in Section [53B-2a-118](#) are requested or used.

~~[(6)]~~ (4) "Nondedicated project" means a capital development project for which state funds from a source other than the Technical Colleges Capital Projects Fund created in Section [53B-2a-118](#) are requested or used.

~~[(7)]~~ (5) "Open-entry, open-exit" means:

(a) a method of instructional delivery that allows for flexible scheduling in response to individual student needs or requirements and demonstrated competency when knowledge and skills have been mastered;

(b) students have the flexibility to begin or end study at any time, progress through course material at their own pace, and demonstrate competency when knowledge and skills have been mastered; and

(c) if competency is demonstrated in a program of study, a credential, certificate, or diploma may be awarded.

~~[(8)]~~ (6) "State funds" means the same as that term is defined in Section [63A-5-104](#).

3343           ~~[(9) "UTech" means the Utah System of Technical Colleges described in Section~~  
3344           ~~53B-1-102.]~~

3345           Section 64. Section **53B-2a-104** is amended to read:

3346           **53B-2a-104. Utah System of Technical Colleges Board of Trustees powers and**  
3347           **duties.**

3348           (1) ~~[The board of trustees]~~ Except as provided in Subsection (2), the Utah System of  
3349           Technical Colleges Board of Trustees is vested with the control, management, and supervision  
3350           of technical colleges in a manner consistent with the policy and purpose of this title and the  
3351           specific powers and responsibilities granted to the board of trustees.

3352           (2) Beginning on July 1, 2020:

3353           (a) the Utah System of Technical Colleges Board of Trustees no longer has duties or  
3354           authorities; and

3355           (b) in accordance with Title 53B, Chapter 1, Part 5, Transition to Utah Board of Higher  
3356           Education, the Utah Board of Higher Education assumes all statutory powers, duties,  
3357           authorities, and budgetary authority of the Utah System of Technical Colleges Board of  
3358           Trustees.

3359           ~~[(2) The board of trustees shall:]~~

3360           ~~[(a) ensure that a technical college complies with the requirements in Section~~  
3361           ~~53B-2a-106;]~~

3362           ~~[(b) appoint the commissioner of technical education in accordance with Section~~  
3363           ~~53B-2a-102;]~~

3364           ~~[(c) advise the commissioner of technical education and the State Board of Regents on~~  
3365           ~~issues related to career and technical education, including articulation with institutions of~~  
3366           ~~higher education and public education;]~~

3367           ~~[(d) ensure that a secondary student in the public education system has access to career~~  
3368           ~~and technical education through a technical college in the secondary student's service region;]~~

3369           ~~[(e) in consultation with the State Board of Education, the State Board of Regents, and~~  
3370           ~~technical college presidents, develop strategies for providing career and technical education in~~  
3371           ~~rural areas, considering distances between rural career and technical education providers;]~~

3372           ~~[(f) receive budget requests from each technical college, compile and prioritize the~~  
3373           ~~requests, and submit the request to:]~~

3374 [i] the Legislature; and]  
3375 [(ii) the Governor's Office of Management and Budget;]  
3376 [(g) receive funding requests pertaining to capital facilities and land purchases from  
3377 each technical college, ensure that the requests comply with Section 53B-2a-112, prioritize the  
3378 requests, and submit the prioritized requests to the State Building Board;]  
3379 [(h) comply with Chapter 7, Part 7, Performance Funding;]  
3380 [(i) in conjunction with the commissioner of technical education, establish  
3381 benchmarks, provide oversight, evaluate program performance, and obtain independent audits  
3382 to ensure that a technical college follows the noncredit career and technical education mission  
3383 described in this part;]  
3384 [(j) approve programs for UTech;]  
3385 [(k) approve the tuition rates for technical colleges;]  
3386 [(l) prepare and submit an annual report detailing the board of trustees' progress and  
3387 recommendations on career and technical education issues to the governor and to the  
3388 Legislature's Education Interim Committee by October 31 of each year, which shall include  
3389 information detailing:]  
3390 [(i) how the career and technical education needs of secondary students are being met,  
3391 including what access secondary students have to programs offered at technical colleges;]  
3392 [(ii) how the emphasis on high demand, high wage, and high skill jobs in business and  
3393 industry described in Section 53B-2a-106 is being provided;]  
3394 [(iii) performance outcomes, including:]  
3395 [(A) performance on the metrics described in Section 53B-7-707; and]  
3396 [(B) earnings; and]  
3397 [(iv) student tuition and fees; and]  
3398 [(m) collaborate with the State Board of Regents, the State Board of Education, the  
3399 Department of Workforce Services, and the Governor's Office of Economic Development on  
3400 the delivery of career and technical education.]  
3401 [(3) The board of trustees, the commissioner of technical education, or a technical  
3402 college president or board of directors may not conduct a feasibility study or perform another  
3403 act relating to offering a degree or awarding credit.]  
3404 Section 65. Section 53B-2a-105 is amended to read:

3405 **53B-2a-105. Technical colleges.**

3406 [~~Utah is composed of the~~] Utah has the following technical colleges:

3407 (1) Bridgerland Technical College, which serves the geographic area encompassing:

3408 (a) the Box Elder School District;

3409 (b) the Cache School District;

3410 (c) the Logan School District; and

3411 (d) the Rich School District;

3412 (2) Ogden-Weber Technical College, which serves the geographic area encompassing:

3413 (a) the Ogden City School District; and

3414 (b) the Weber School District;

3415 (3) Davis Technical College, which serves the geographic area encompassing:

3416 (a) the Davis School District; and

3417 (b) the Morgan School District;

3418 (4) Tooele Technical College, which serves the geographic area encompassing the

3419 Tooele County School District;

3420 (5) Mountainland Technical College, which serves the geographic area encompassing:

3421 (a) the Alpine School District;

3422 (b) the Nebo School District;

3423 (c) the Provo School District;

3424 (d) the South Summit School District;

3425 (e) the North Summit School District;

3426 (f) the Wasatch School District; and

3427 (g) the Park City School District;

3428 (6) Uintah Basin Technical College, which serves the geographic area encompassing:

3429 (a) the Daggett School District;

3430 (b) the Duchesne School District; and

3431 (c) the Uintah School District;

3432 (7) Southwest Technical College, which serves the geographic area encompassing:

3433 (a) the Beaver School District;

3434 (b) the Garfield School District;

3435 (c) the Iron School District; and

3436 (d) the Kane School District; and  
3437 (8) Dixie Technical College, which serves the geographic area encompassing the  
3438 Washington School District.

3439 Section 66. Section **53B-2a-106** is amended to read:

3440 **53B-2a-106. Technical colleges -- Duties.**

3441 (1) Each technical college shall, within the geographic area served by the technical  
3442 college:

3443 (a) offer [~~a noncredit postsecondary and secondary career and~~] technical education  
3444 [~~curriculum~~] programs;

3445 (b) offer [~~that curriculum~~] a program described in Subsection (1)(a) at:

3446 (i) low cost to adult students, as approved by the board [~~of trustees~~]; and

3447 (ii) no tuition to secondary students;

3448 [~~(c) provide career and technical education that will result in:~~]

3449 [~~(i) appropriate licensing, certification, or other evidence of completion of training;~~  
3450 ~~and]~~

3451 [~~(ii) qualification for specific employment, with an emphasis on high demand, high~~  
3452 ~~wage, and high skill jobs in business and industry;~~]

3453 [~~(d)~~] (c) develop cooperative agreements with school districts, charter schools, other  
3454 higher education institutions, businesses, industries, and community and private agencies to  
3455 maximize the availability of instructional facilities within the geographic area served by the  
3456 technical college; and

3457 [~~(e)~~] (d) after consulting with school districts and charter schools within the geographic  
3458 area served by the technical college:

3459 (i) ensure that secondary students in the public education system have access to [~~career~~  
3460 ~~and~~] technical education at the technical college; and

3461 (ii) prepare and submit an annual report to the board [~~of trustees~~] detailing:

3462 (A) how the [~~career and~~] technical education needs of secondary students within the  
3463 region are being met;

3464 (B) what access secondary students within the region have to programs offered at the  
3465 technical college;

3466 (C) how the [~~emphasis on~~] technical college emphasizes high demand, high wage, high



3467 skill jobs in business and industry [~~described in Subsection (1)(c)(ii) is being provided~~]; and  
3468 (D) student tuition and fees.

3469 (2) A technical college may offer:

3470 (a) a competency-based high school diploma approved by the State Board of Education  
3471 in accordance with Section [53E-3-501](#);

3472 (b) [~~noncredit~~], basic instruction in areas such as reading, language arts, and  
3473 mathematics that are necessary for student success in a chosen [~~career and~~] technical education  
3474 or job-related program;

3475 (c) [~~noncredit~~] courses of interest when similar offerings to the community are limited  
3476 and courses are financially self-supporting; and

3477 (d) secondary school level courses through the Statewide Online Education Program in  
3478 accordance with Section [53F-4-504](#).

3479 (3) Except as provided in Subsection (2)(d), a technical college may not:

3480 (a) offer courses other than [~~noncredit career and~~] technical education or the  
3481 [~~noncredit~~], basic instruction described in Subsections (2)(b) and (c);

3482 (b) offer a degree;

3483 (c) offer [~~career and~~] technical education or basic instruction outside the geographic  
3484 area served by the technical college without a cooperative agreement between an affected  
3485 institution of higher education, except as provided in Subsection [~~(6)~~] (5);

3486 (d) provide tenure or academic rank for its instructors; or

3487 (e) participate in intercollegiate athletics.

3488 (4) The mission of a technical college is limited to [~~noncredit career and~~] technical  
3489 education and may not expand to include [~~credit-based~~] academic programs [~~typically offered~~  
3490 ~~by community colleges or other institutions of higher education~~] that lead to a degree.

3491 [~~(5) A technical college shall be recognized as a member of UTech, and regional~~  
3492 ~~affiliation shall be retained and recognized through local designations such as "Bridgerland~~  
3493 ~~Technical College: A member technical college of the Utah System of Technical Colleges."~~]

3494 [~~(6)~~] (5) (a) A technical college may offer [~~career and~~] technical education or basic  
3495 instruction outside the geographic area served by the technical college without a cooperative  
3496 agreement, as required in Subsection (3)(c), if:

3497 (i) the [~~career and~~] technical education or basic instruction is specifically requested by:

3498 (A) an employer; or  
 3499 (B) a craft, trade, or apprenticeship program;  
 3500 (ii) the technical college notifies the affected institution about the request; and  
 3501 (iii) the affected institution is given an opportunity to make a proposal, prior to any  
 3502 contract being finalized or training being initiated by the technical college, to the employer,  
 3503 craft, trade, or apprenticeship program about offering the requested ~~[career and]~~ technical  
 3504 education or basic instruction, provided that the proposal shall be presented no later than one  
 3505 business week from the delivery of the notice described under Subsection ~~[(6)]~~ (5)(a)(ii).

3506 (b) The requirements under Subsection ~~[(6)]~~ (5)(a)(iii) do not apply if there is a prior  
 3507 training relationship.

3508 Section 67. Section **53B-2a-107** is amended to read:

3509 **53B-2a-107. Technical college presidents -- Appointments -- Duties.**

3510 (1) (a) The board ~~[of trustees]~~ shall appoint a president for each technical college.

3511 (b) The board ~~[of trustees]~~ shall establish a policy for appointing a technical college  
 3512 president that:

3513 (i) requires the board ~~[of trustees]~~ to create, or delegate to the technical college board  
 3514 of trustees to create, a search committee that:

3515 (A) includes ~~[an equal number of board of trustees]~~ board members and at least as  
 3516 many members from the technical college board of ~~[directors]~~ trustees as members from the  
 3517 board; and

3518 (B) may include technical college faculty, students, or other individuals;

3519 (ii) requires the search committee to seek nominations, interview candidates, and  
 3520 forward qualified candidates to the board ~~[of trustees]~~ for consideration;

3521 (iii) provides for at least two members of the technical college board of ~~[directors]~~  
 3522 trustees to participate in [board of trustees'] the board's interviews of finalists; [and]

3523 (iv) provides for the board ~~[of trustees]~~ to vote to appoint a technical college president  
 3524 in a meeting that complies with Title 52, Chapter 4, Open and Public Meetings Act[-]; and

3525 (v) provides for the commissioner to provide staff support for a search committee.

3526 (c) (i) Except as provided in Subsection (1)(c)(ii), a record or information gathered or  
 3527 generated during the search process for a technical college president, including a candidate's  
 3528 application and the search committee's deliberations, is confidential and is a protected record

3529 under Section 63G-2-305.

3530 (ii) Application materials for a publicly named finalist are not protected records under  
3531 Section 63G-2-305.

3532 (2) (a) A technical college president shall serve as the chief executive officer of the  
3533 technical college.

3534 (b) A technical college president does not need to have a doctorate degree, but shall  
3535 have extensive experience in career and technical education.

3536 (c) A technical college president is subject to regular review and evaluation  
3537 administered by the board [~~of trustees~~], in consultation with the technical college board of  
3538 [~~directors~~] trustees, through a process approved by the board [~~of trustees~~].

3539 (d) A technical college president serves at the pleasure of the board [~~of trustees~~].

3540 (e) The board [~~of trustees~~], in consultation with a technical college board of [~~directors~~]  
3541 trustees, shall set the compensation for the technical college president using market survey  
3542 information.

3543 (3) A technical college president shall:

3544 (a) serve as the executive officer of the technical college board of [~~directors~~] trustees;

3545 (b) administer the day-to-day operations of the technical college;

3546 (c) consult with the technical college board of [~~directors; and~~] trustees;

3547 (d) administer human resource policies and employee compensation plans in  
3548 accordance with the requirements of the board [~~of trustees~~]; and

3549 (e) manage the technical college president's institution as part of the Utah system of  
3550 higher education.

3551 Section 68. Section **53B-2a-108** is amended to read:

3552 **53B-2a-108. Technical college boards of trustees -- Membership -- Appointments.**

3553 (1) As used in this section:

3554 (a) "Higher education institution" means the same as that term is defined in Section  
3555 53B-2a-112.

3556 (b) "Technical college service area" means the geographic area served by each  
3557 technical college as described in Section 53B-2a-105.

3558 (2) A technical college board of [~~directors~~] trustees consists of:

3559 (a) one member of the local school board for each school district in the technical

college service area, appointed by the local school board to which the member belongs;

(b) except as provided in Subsection (3)(b), one individual who is a member of the higher education institution board of trustees, appointed by the higher education institution board of trustees; and

(c) a number of individuals, appointed by the governor with the advice and consent of the Senate, that is:

(i) seven for:

(A) Tooele Technical College;

(B) Uintah Basin Technical College; and

(C) Dixie Technical College;

(ii) eight for:

(A) Bridgerland Technical College;

(B) Ogden-Weber Technical College;

(C) Davis Technical College; and

(D) Southwest Technical College; or

(iii) nine for Mountainland Technical College.

(3) (a) In appointing the members described in Subsection (2)(c), the governor shall appoint individuals who represent the interests of business, industry, or labor in the technical college service area.

(b) If no member of the institution of higher education board of trustees lives within the technical college service area, the institution of higher education board of trustees may nominate an individual to be appointed by the governor with the advice and consent of the Senate instead of appointing a member described in Subsection (2)(b).

(4) (a) The governor may remove a member appointed under Subsection (2)(c) or (3)(b) for cause.

(b) The governor shall consult with the president of the Senate before removing a member appointed under Subsection (2)(c) or (3)(b).

(5) (a) Notwithstanding Subsection (2) or [53B-2a-109\(2\)](#), an individual appointed to a technical college board of ~~[directors]~~ trustees on or before May 7, 2018, may continue to serve on the technical college board of ~~[directors]~~ trustees until the end of the individual's current term, even if the total number of members on the technical college board of ~~[directors]~~ trustees

exceeds the number of members for the technical college board of [~~directors~~] trustees described in Subsection (2).

(b) Notwithstanding Subsection (2), the governor may only make an appointment described in Subsection (2)(c) if the number of members on the technical college board of [~~directors~~] trustees following the appointment will be less than or equal to the number of members for the technical college board of [~~directors~~] trustees described in Subsection (2).

Section 69. Section **53B-2a-109** is amended to read:

**53B-2a-109. Technical college boards of trustees -- Terms -- Quorum -- Chair -- Compensation.**

(1) (a) Except as provided in this Subsection (1), a member of a technical college board of [~~directors~~] trustees is appointed to a four-year term.

(b) The governor may appoint a member described in Subsection **53B-2a-108**(2)(c) to a two-year term to ensure that the terms of approximately half of the members described in Subsection **53B-2a-108**(2)(c) expire every other year.

(c) When a vacancy occurs in the membership of a technical college board of [~~directors~~] trustees, the appointing authority for the vacant position described in Section **53B-2a-108** shall appoint a replacement for the remainder of the term.

(d) An appointed member holds office until a successor is appointed in accordance with Section **53B-2a-108**.

(2) A member of a technical college board of [~~directors~~] trustees may not hold office for more than two consecutive full terms.

(3) A majority of a technical college board of [~~directors~~] trustees is a quorum.

(4) A technical college board of [~~directors~~] trustees shall elect a chair from the technical college board of [~~directors~~'] trustees' membership.

(5) A member of a technical college board of [~~directors~~] trustees may not receive compensation or benefits for the member of the technical college board of [~~director's~~] trustees' service, but may receive per diem and travel expenses in accordance with:

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

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

(c) rules made by the Division of Finance pursuant to Sections **63A-3-106** and **63A-3-107**.

(6) (a) A technical college board of ~~[directors]~~ trustees may enact bylaws for the technical college board of ~~[directors']~~ trustees' own government, including provisions for regular meetings, that are in accordance with the policies of the board ~~[of trustees]~~.

(b) (i) A technical college board of ~~[directors]~~ trustees may provide for an executive committee in the technical college board of ~~[directors']~~ trustees' bylaws.

(ii) If established, an executive committee shall have the full authority of the technical college board of ~~[directors]~~ trustees to act upon routine matters during the interim between board of ~~[directors']~~ trustees' meetings.

(iii) An executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) An executive committee shall report the executive committee's activities to the technical college board of ~~[directors]~~ trustees at the technical college board of ~~[directors']~~ trustees' next regular meeting following the activities.

(7) A technical college board of ~~[directors]~~ trustees may establish advisory committees.

Section 70. Section **53B-2a-110** is amended to read:

**53B-2a-110. Technical college board of trustees' powers and duties.**

(1) A technical college board of ~~[directors]~~ trustees shall:

(a) assist the technical college president in preparing a budget request for the technical college's annual operations to the board ~~[of trustees]~~;

(b) after consulting with the board ~~[of trustees]~~, other higher education institutions, school districts, and charter schools within the technical college's region, prepare a comprehensive strategic plan for delivering ~~[career and]~~ technical education within the region;

(c) consult with business, industry, the Department of Workforce Services, the Governor's Office of Economic Development, and the Governor's Office of Management and Budget on an ongoing basis to determine what workers and skills are needed for employment in Utah businesses and industries;

(d) in accordance with Section 53B-16-102, develop programs based upon the information ~~[gathered in accordance with]~~ described in Subsection (1)(c), including expedited program approval and termination procedures to meet market needs;

(e) adopt an annual budget and fund balances;

(f) develop policies for the operation of ~~[career and]~~ technical education facilities under

3653 the technical college board of ~~[directors']~~ trustees' jurisdiction;

3654 (g) establish human resources and compensation policies for all employees in

3655 accordance with policies of the board ~~[of trustees]~~;

3656 (h) approve credentials for employees and assign employees to duties in accordance

3657 with board ~~[of trustees]~~ policies and accreditation guidelines;

3658 (i) conduct annual program evaluations;

3659 (j) appoint program advisory committees and other advisory groups to provide counsel,

3660 support, and recommendations for updating and improving the effectiveness of training

3661 programs and services;

3662 (k) approve regulations, both regular and emergency, to be issued and executed by the

3663 technical college president;

3664 (l) coordinate with local school boards, school districts, and charter schools to meet the

3665 ~~[career and]~~ technical education needs of secondary students; ~~[and]~~

3666 (m) develop policies and procedures for the admission, classification, instruction, and

3667 examination of students in accordance with the policies and accreditation guidelines of the

3668 board ~~[of trustees]~~ and the State Board of Education~~[-]~~; and

3669 (n) (i) approve a strategic plan for the technical college that is aligned with:

3670 (A) state attainment goals;

3671 (B) workforce needs; and

3672 (C) the technical college's role, mission, and distinctiveness; and

3673 (ii) monitor the technical college's progress toward achieving the strategic plan.

3674 (2) A policy described in Subsection (1)(g) does not apply to compensation for a

3675 technical college president.

3676 (3) A technical college board of ~~[directors]~~ trustees may not exercise jurisdiction over

3677 career and technical education provided by a school district or charter school or provided by a

3678 higher education institution independently of the technical college.

3679 (4) If a program advisory committee or other advisory group submits a printed

3680 recommendation to a technical college board of ~~[directors]~~ trustees, the technical college board

3681 of ~~[directors]~~ trustees shall acknowledge the recommendation with a printed response that

3682 explains the technical college board of ~~[directors']~~ trustees' action regarding the

3683 recommendation and the reasons for the action.

3684 Section 71. Section **53B-2a-112** is amended to read:

3685 **53B-2a-112. Technical colleges -- Relationships with other public and higher**  
3686 **education institutions -- Agreements -- Priorities -- New capital facilities.**

3687 (1) As used in this section, "higher education institution" means:

3688 (a) Utah State University for:

3689 (i) Bridgerland Technical College;

3690 (ii) Tooele Technical College; and

3691 (iii) Uintah Basin Technical College;

3692 (b) Weber State University for:

3693 (i) Ogden-Weber Technical College; and

3694 (ii) Davis Technical College;

3695 (c) Utah Valley University for Mountainland Technical College;

3696 (d) Southern Utah University for Southwest Technical College; and

3697 (e) Dixie State University for Dixie Technical College.

3698 ~~[(2) A technical college shall avoid any unnecessary duplication of career and technical~~  
3699 ~~education instructional facilities, programs, administration, and staff between the technical~~  
3700 ~~college and other public and higher education institutions.]~~

3701 ~~[(3)]~~ (2) A technical college may enter into agreements:

3702 (a) with other higher education institutions to cultivate cooperative relationships; or

3703 (b) with other public and higher education institutions to enhance career and technical  
3704 education within the technical college's region~~[-or]~~.

3705 ~~[(c) to comply with Subsection (2).]~~

3706 ~~[(4)]~~ (3) Before a technical college develops new instructional facilities, the technical  
3707 college shall give priority to:

3708 (a) maintaining the technical college's existing instructional facilities for both  
3709 secondary and adult students;

3710 (b) coordinating with the president of the technical college's higher education  
3711 institution and entering into any necessary agreements to provide career and technical  
3712 education to secondary and adult students that:

3713 (i) maintain and support existing higher education career and technical education  
3714 programs; and



3715 (ii) maximize the use of existing higher education facilities; and

3716 (c) developing cooperative agreements with school districts, charter schools, other  
3717 higher education institutions, businesses, industries, and community and private agencies to  
3718 maximize the availability of career and technical education instructional facilities for both  
3719 secondary and adult students.

3720 ~~[(5)]~~ (4) (a) Before submitting a funding request pertaining to new capital facilities and  
3721 land purchases to the board ~~[of trustees]~~, a technical college shall:

3722 (i) ensure that all available instructional facilities are maximized in accordance with  
3723 Subsections ~~[(4)]~~ (3)(a) through (c); and

3724 (ii) coordinate the request with the president of the technical college's higher education  
3725 institution, if applicable.

3726 (b) The State Building Board shall make a finding that the requirements of this section  
3727 are met before the State Building Board may consider a funding request from the board ~~[of~~  
3728 ~~trustees]~~ pertaining to new capital facilities and land purchases for a technical college.

3729 (c) A technical college may not construct, approve the construction of, plan for the  
3730 design or construction of, or consent to the construction of a career and technical education  
3731 facility without approval of the Legislature.

3732 ~~[(6)]~~ (5) Before acquiring new fiscal and administrative support structures, a technical  
3733 college shall:

3734 (a) review the use of existing public or higher education administrative and accounting  
3735 systems, financial record systems, and student and financial aid systems for the delivery of  
3736 career and technical education in the region;

3737 (b) determine the feasibility of using existing systems; and

3738 (c) with the approval of the technical college board of ~~[directors]~~ trustees and the board  
3739 ~~[of trustees]~~, use the existing systems.

3740 Section 72. Section **53B-2a-113** is amended to read:

3741 **53B-2a-113. Technical colleges -- Leasing authority -- Lease-purchase agreements**  
3742 **-- Report.**

3743 (1) ~~[In accordance with Subsection **53B-2a-112**(2), a]~~ A technical college may enter  
3744 into a lease with other higher education institutions, school districts, charter schools, state  
3745 agencies, or business and industry for a term of:

3746 (a) one year or less with the approval of the technical college board of [~~directors~~]  
3747 trustees; or  
3748 (b) more than one year with the approval of the board [~~of trustees and~~] if:  
3749 (i) [~~the approval of~~] the Legislature approves funding for the lease [~~by the Legislature~~]  
3750 prior to a technical college entering into the lease; or  
3751 (ii) the lease agreement includes language that allows termination of the lease without  
3752 penalty.  
3753 (2) (a) [~~In accordance with Subsection 53B-2a-112(2), a~~] A technical college may enter  
3754 into a lease-purchase agreement if:  
3755 (i) there is a long-term benefit to the state;  
3756 (ii) the project is included in [~~both~~] the technical college [~~and UTech master plans~~]  
3757 master plan;  
3758 (iii) the lease-purchase agreement includes language that allows termination of the  
3759 lease;  
3760 (iv) the lease-purchase agreement is approved by the technical college board of  
3761 [~~directors~~] trustees and the board [~~of trustees~~]; and  
3762 (v) the lease-purchase agreement is:  
3763 (A) reviewed by the Division of Facilities Construction and Management;  
3764 (B) reviewed by the State Building Board; and  
3765 (C) approved by the Legislature.  
3766 (b) An approval under Subsection (2)(a) shall include a recognition of:  
3767 (i) all parties, dates, and elements of the agreement;  
3768 (ii) the equity or collateral component that creates the benefit; and  
3769 (iii) the options dealing with the sale and division of equity.  
3770 (3) (a) Each technical college shall provide an annual lease report to the board [~~of~~  
3771 ~~trustees~~] that details each of the technical college's leases, annual costs, location, square  
3772 footage, and recommendations for lease continuation.  
3773 (b) The board [~~of trustees~~] shall compile and distribute an annual combined lease  
3774 report for all technical colleges to the Division of Facilities Construction and Management and  
3775 to others upon request.  
3776 (4) The board [~~of trustees~~] shall use the annual combined lease report in determining

3777 planning, utilization, and budget requests.

3778 Section 73. Section **53B-2a-114** is amended to read:

3779 **53B-2a-114. Educational program on the use of information technology.**

3780 (1) ~~[UTech]~~ The board, through the technical colleges, shall offer an educational  
3781 program on the use of information technology as provided in this section.

3782 (2) An educational program on the use of information technology shall:

3783 (a) provide instruction on skills and competencies essential for the workplace and  
3784 requested by employers;

3785 (b) include the following components:

3786 (i) a curriculum;

3787 (ii) online access to the curriculum;

3788 (iii) instructional software for classroom and student use;

3789 (iv) certification of skills and competencies most frequently requested by employers;

3790 (v) professional development for faculty; and

3791 (vi) deployment and program support, including integration with existing curriculum  
3792 standards; and

3793 (c) be made available to students, faculty, and staff of technical colleges.

3794 Section 74. Section **53B-2a-115** is amended to read:

3795 **53B-2a-115. Utah System of Technical Colleges -- Institutional name changes.**

3796 (1) Beginning July 1, 2017:

3797 ~~[(a) the Utah College of Applied Technology shall be known as the Utah System of~~  
3798 ~~Technical Colleges;]~~

3799 ~~[(b)]~~ (a) Bridgerland Applied Technology College shall be known as Bridgerland  
3800 Technical College;

3801 ~~[(c)]~~ (b) Ogden-Weber Applied Technology College shall be known as Ogden-Weber  
3802 Technical College;

3803 ~~[(d)]~~ (c) Davis Applied Technology College shall be known as Davis Technical  
3804 College;

3805 ~~[(e)]~~ (d) Tooele Applied Technology College shall be known as Tooele Technical  
3806 College;

3807 ~~[(f)]~~ (e) Mountainland Applied Technology College shall be known as Mountainland

3808 Technical College;

3809 ~~[(g)]~~ (f) Uintah Basin Applied Technology College shall be known as Uintah Basin

3810 Technical College;

3811 ~~[(h)]~~ (g) Southwest Applied Technology College shall be known as Southwest

3812 Technical College; and

3813 ~~[(i)]~~ (h) Dixie Applied Technology College shall be known as Dixie Technical College.

3814 (2) (a) As described in Subsection (1), ~~[the Utah System of Technical Colleges is a~~

3815 ~~continuation of the Utah College of Applied Technology and]~~ each technical college is a

3816 continuation of the applied technology college that preceded the technical college.

3817 (b) An institution described in Subsection (1):

3818 (i) possess all rights, title, privileges, powers, immunities, franchises, endowments,

3819 property, and claims of the institution that preceded the institution; and

3820 (ii) shall fulfill and perform all obligations of the institution that preceded the

3821 institution, including obligations relating to outstanding bonds and notes.

3822 Section 75. Section **53B-2a-116** is amended to read:

3823 **53B-2a-116. Technical college scholarships.**

3824 (1) As used in this section:

3825 (a) "High demand program" means a program designated by the board ~~[of trustees]~~ in

3826 accordance with Subsection (7).

3827 (b) "Institution of higher education" means an institution ~~[within the Utah System of~~

3828 ~~Higher Education]~~ described in Subsection **53B-1-102**(1)(a).

3829 (c) "Membership hour" means 60 minutes of scheduled instruction provided by a

3830 technical college to a student enrolled in the technical college.

3831 (d) "Scholarship" means a technical college scholarship described in this section.

3832 (e) "Technical college service area" means the same as that term is defined in Section

3833 **53B-2a-108**.

3834 (2) (a) Subject to future budget constraints, the Legislature shall annually appropriate

3835 money to the board ~~[of trustees]~~ to be distributed to technical colleges to award scholarships.

3836 (b) The board ~~[of trustees]~~ shall annually distribute:

3837 (i) 50% of the appropriation described in Subsection (2)(a) to each technical college in

3838 an equal amount; and

3839 (ii) 50% of the appropriation described in Subsection (2)(a) to each technical college  
3840 based on the technical college's prior year share of secondary student membership hours  
3841 completed at all technical colleges.

3842 (3) In accordance with the rules described in Subsection (6), a technical college may  
3843 award a scholarship to an individual who:

3844 (a) graduates or will graduate from high school within the 12 months prior to the  
3845 individual receiving a scholarship;

3846 (b) is enrolled in, or intends to enroll in, a high demand program; and

3847 (c) while the individual is enrolled in a secondary school, makes satisfactory progress  
3848 in a career and technical education pathway offered by:

3849 (i) a technical college;

3850 (ii) an institution of higher education; or

3851 (iii) a school district or charter school.

3852 (4) Subject to Subsection (5), a technical college may award a scholarship for an  
3853 amount of money up to the total cost of tuition, program fees, and required textbooks for the  
3854 high demand program in which the scholarship recipient is enrolled or intends to enroll.

3855 (5) (a) Except as provided in Subsection (5)(b), a technical college may only apply a  
3856 scholarship toward a scholarship recipient's costs described in Subsection (4) from the day on  
3857 which the technical college awards the scholarship until 12 months after the day on which the  
3858 scholarship recipient graduates from high school.

3859 (b) (i) A technical college may defer a scholarship for up to three years after the day on  
3860 which the scholarship recipient graduates from high school.

3861 (ii) A technical college that defers a scholarship may apply the scholarship toward the  
3862 scholarship recipient's costs described in Subsection (4) for up to a total of 12 months.

3863 (c) A technical college may cancel a scholarship if the scholarship recipient does not:

3864 (i) maintain enrollment in the technical college on at least a half time basis, as  
3865 determined by the technical college; or

3866 (ii) make satisfactory progress toward the completion of a certificate.

3867 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3868 board ~~[of trustees]~~ shall make rules that establish:

3869 (a) requirements related to a technical college's administration of a scholarship

3870 described in this section;

3871 (b) requirements related to eligibility for a scholarship, including requiring technical  
3872 colleges to prioritize scholarships for underserved populations;

3873 (c) a process for an individual to apply to a technical college to receive a scholarship;  
3874 and

3875 (d) how to determine satisfactory progress for purposes described in Subsections (3)(c)  
3876 and (5)(c)(ii).

3877 (7) Every other year, after consulting with the Department of Workforce Services, the  
3878 board [~~of trustees~~] shall designate, as a high demand program, a technical college program that  
3879 prepares an individual to work in a job that has, in Utah or in the technical college service area:

3880 (a) high employer demand and high median hourly wages; or

3881 (b) significant industry importance.

3882 Section 76. Section **53B-2a-117** is amended to read:

3883 **53B-2a-117. Legislative approval -- Capital development projects --**

3884 **Prioritization.**

3885 (1) As used in this section:

3886 (a) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers  
3887 as published by the Bureau of Labor Statistics of the United States Department of Labor.

3888 (b) "Fund" means the Technical Colleges Capital Projects Fund created in Section  
3889 **53B-2a-118**.

3890 (2) In accordance with this section, a technical college is required to receive legislative  
3891 approval in an appropriations act for a dedicated project or a nondedicated project.

3892 (3) In accordance with Section **53B-2a-112**, a technical college shall submit to the  
3893 board [~~of trustees~~] a proposal for a funding request for each dedicated project or nondedicated  
3894 project for which the technical college seeks legislative approval.

3895 (4) The board [~~of trustees~~] shall:

3896 (a) review each proposal submitted under Subsection (3) to ensure that the proposal  
3897 complies with Section **53B-2a-112**;

3898 (b) based on the results of the [~~board of trustees~~] board's review under Subsection  
3899 (4)(a), create:

3900 (i) a list of approved dedicated projects, prioritized in accordance with Subsection (6);

3901 and  
3902 (ii) a list of approved nondedicated projects, prioritized in accordance with Subsection  
3903 (6); and  
3904 (c) submit the lists described in Subsection (4)(b) to:  
3905 (i) the governor;  
3906 (ii) the Infrastructure and General Government Appropriations Subcommittee;  
3907 (iii) the Higher Education Appropriations Subcommittee; and  
3908 (iv) the State Building Board for the State Building Board's:  
3909 (A) recommendation, for the list described in Subsection (4)(b)(i); or  
3910 (B) recommendation and prioritization, for the list described in Subsection (4)(b)(ii).  
3911 (5) A dedicated project:  
3912 (a) is subject to the State Building Board's recommendation as described in Section  
3913 63A-5-104; and  
3914 (b) is not subject to the State Building Board's prioritization as described in Section  
3915 63A-5-104.  
3916 (6) (a) Subject to Subsection (7), the board [~~of trustees~~] shall prioritize funding  
3917 requests for capital development projects described in this section based on:  
3918 (i) growth and capacity;  
3919 (ii) effectiveness and support of critical programs;  
3920 (iii) cost effectiveness;  
3921 (iv) building deficiencies and life safety concerns; and  
3922 (v) alternative funding sources.  
3923 (b) [~~On or before August 1, 2019, the board of trustees~~] The board shall establish:  
3924 (i) how the board [~~of trustees~~] will measure each factor described in Subsection (6)(a);  
3925 and  
3926 (ii) procedures for prioritizing funding requests for capital development projects  
3927 described in this section.  
3928 (7) (a) Subject to Subsection (7)(b), and in accordance with Subsection (6), the board  
3929 [~~of trustees~~] may annually prioritize:  
3930 (i) up to three nondedicated projects if the ongoing appropriation to the fund is less  
3931 than \$7,000,000;

3932 (ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least  
3933 \$7,000,000 but less than \$14,000,000; or

3934 (iii) one nondedicated project if the ongoing appropriation to the fund is at least  
3935 \$14,000,000.

3936 (b) For each calendar year beginning on or after January 1, 2020, the dollar amounts  
3937 described in Subsection (7)(a) shall be adjusted by an amount equal to the percentage  
3938 difference between:

3939 (i) the Consumer Price Index for the 2019 calendar year; and

3940 (ii) the Consumer Price Index for the previous calendar year.

3941 (8) (a) A technical college may request operations and maintenance funds for a capital  
3942 development project approved under this section.

3943 (b) The Legislature shall consider a technical college's request described in Subsection  
3944 (8)(a).

3945 Section 77. Section **53B-6-104** is amended to read:

3946 **53B-6-104. Multi-University Consortium for Teacher Training in Sensory**  
3947 **Impairments -- Purposes -- Appropriation.**

3948 (1) (a) In conjunction with the [~~State Board of Regents~~] board's master plan for higher  
3949 education, there is established a Multi-University Consortium for Teacher Training in Sensory  
3950 Impairments which is an outgrowth of a consortium established by the federal government.

3951 (b) The consortium shall include within its membership the University of Utah, Utah  
3952 State University, Brigham Young University, the Utah Schools for the Deaf and the Blind, the  
3953 Services for At-Risk Students section under the State Board of Education, and local school  
3954 districts.

3955 (2) The consortium, in collaboration with the [~~State Board of Regents~~] board and the  
3956 State Board of Education, shall develop and implement teacher preparation programs that  
3957 qualify and certify instructors to work with students who are visually impaired, deaf, or hard of  
3958 hearing, or both visually impaired and deaf or hard of hearing.

3959 [~~(3) (a) There is appropriated from the General Fund for fiscal year 1994-95, \$200,000~~  
3960 ~~to the State Board of Regents to fund the consortium's teacher preparation programs referred to~~  
3961 ~~in Subsection (2):]~~

3962 [~~(b) The appropriation is nonlapsing.]~~



3963           ~~[(c)] (3) [The State Board of Regents]~~ The board shall consider including within ~~[its]~~  
3964 the board's annual budget recommendations a line item appropriation to provide ongoing  
3965 funding for the programs provided pursuant to this section.

3966           Section 78. Section **53B-6-105.5** is amended to read:

3967           **53B-6-105.5. Technology Initiative Advisory Board -- Composition -- Duties.**

3968           (1) There is created a Technology Initiative Advisory Board to assist and make  
3969 recommendations to the ~~[State Board of Regents in its]~~ board in the board's administration of  
3970 the Engineering and Computer Science Initiative established under Section **53B-6-105**.

3971           (2) (a) The advisory board shall consist of individuals appointed by the governor from  
3972 business and industry who have expertise in the areas of engineering, computer science, and  
3973 related technologies.

3974           (b) The advisory board shall select a chair and cochair.

3975           (c) The advisory board shall meet at the call of the chair.

3976           (d) The ~~[State Board of Regents]~~ board, through the commissioner of higher education,  
3977 shall provide staff support for the advisory board.

3978           (3) A member of ~~[an]~~ the advisory board may not receive compensation or benefits for  
3979 the member's service, but may receive per diem and travel expenses in accordance with:

3980           (a) Section **63A-3-106**;

3981           (b) Section **63A-3-107**; and

3982           (c) rules made by the Division of Finance pursuant to Sections **63A-3-106** and  
3983 **63A-3-107**.

3984           (4) The advisory board shall:

3985           (a) make recommendations to the ~~[State Board of Regents]~~ board on the allocation and  
3986 distribution of money appropriated to fund:

3987           (i) the faculty incentive program established in Section **53B-6-105.9**; and

3988           (ii) equipment purchases required to improve the quality of instructional programs in  
3989 engineering, computer science, and related technology;

3990           (b) prepare a strategic plan that details actions required by the ~~[State Board of Regents]~~  
3991 board to meet the intent of the Engineering and Technology Science Initiative;

3992           (c) review and assess engineering, computer science, and related technology programs  
3993 currently being offered at higher education institutions and their impact on the economic

3994 prosperity of the state;

3995 (d) provide the [~~State Board of Regents~~] board with an assessment and reporting plan  
3996 that:

3997 (i) measures results against expectations under the initiative, including verification of  
3998 the matching requirements for institutions of higher education to receive money under Section  
3999 [53B-6-105.9](#); and

4000 (ii) includes an analysis of market demand for technical employment, program  
4001 articulation among higher education institutions in engineering, computer science, and related  
4002 technology, tracking of student placement, student admission to the initiative program by  
4003 region, transfer rates, and retention in and graduation rates from the initiative program; and

4004 (e) make an annual report of its activities to the [~~State Board of Regents~~] board.

4005 (5) The annual report of the Technology Initiative Advisory Board shall include the  
4006 summary report of the institutional matches described in Section [53B-6-105.9](#).

4007 Section 79. Section **53B-6-105.9** is amended to read:

4008 **53B-6-105.9. Incentive program for engineering, computer science, and related**  
4009 **technology faculty.**

4010 (1) The Legislature shall provide an annual appropriation to help fund the faculty  
4011 incentive component of the Engineering and Computer Science Initiative established under  
4012 Section [53B-6-105](#).

4013 (2) The appropriation shall be used to hire, recruit, and retain outstanding faculty in  
4014 engineering, computer science, and related technology fields under guidelines established by  
4015 the [~~State Board of Regents~~] board.

4016 (3) (a) State institutions of higher education shall match the appropriation on a  
4017 one-to-one basis in order to qualify for state money appropriated under Subsection (1).

4018 (b) (i) Qualifying institutions shall annually report their matching dollars to the board.

4019 (ii) The board shall make a summary report of the institutional matches.

4020 (iii) The annual report of the Technology Initiative Advisory Board required by Section  
4021 [53B-6-105.5](#) shall include the summary report of the institutional matches.

4022 (4) The board shall make [~~a rule~~] rules in accordance with Title 63G, Chapter 3, Utah  
4023 Administrative Rulemaking Act, establishing policies and procedures to apply for and  
4024 distribute the state appropriation to qualifying institutions.

Section 80. Section **53B-6-106** is amended to read:

**53B-6-106. Jobs Now and economic development initiatives.**

(1) The board shall develop, establish, and maintain:

(a) [~~The Utah System of Technical Colleges Board of Trustees shall develop, establish, and maintain~~] a Jobs Now Initiative, to promote workforce preparation programs that meet critical needs and shortages throughout the state~~[-]; and~~

(b) [~~The State Board of Regents shall develop, establish, and maintain~~] economic development initiatives within the Utah system of higher education.

(2) The initiatives specified in Subsection (1) shall provide support for technical training expansion that trains skilled potential employees within a period not to exceed 12 months for technical jobs in critical needs occupations and other innovative economic development policy initiatives.

(3) (a) Subject to future budget constraints, the Legislature shall provide an annual appropriation to the [~~Utah System of Technical Colleges~~] board to fund the Jobs Now Initiative established in Subsection (1)(a).

(b) (i) The [~~Utah System of Technical Colleges Board of Trustees~~] board shall allocate the appropriation for the Jobs Now Initiative to technical colleges.

(ii) A technical college shall use money received under Subsection (3)(b)(i) for technical training expansion referred to in Subsection (2).

(c) Subject to future budget constraints, the Legislature shall provide an annual appropriation to the [~~State Board of Regents~~] board to fund economic development initiatives established pursuant Subsection (1)(b).

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~[-]~~, the board shall make rules to implement the initiatives described in Subsection (1).

~~[(i) the Utah System of Technical Colleges Board of Trustees shall make rules to implement the Jobs Now Initiative; and]~~

~~[(ii) the board shall make rules to implement economic development initiatives.]~~

Section 81. Section **53B-7-101** is amended to read:

**53B-7-101. Combined requests for appropriations -- Board review of operating budgets -- Submission of budgets -- Recommendations -- Hearing request -- Appropriation formulas -- Allocations -- Dedicated credits -- Financial affairs.**

4056 (1) As used in this section:

4057 (a) ~~[(i)]~~ "Higher education institution" or "institution" means an institution of higher  
4058 education listed in Section [53B-1-102](#).

4059 ~~[(ii) "Higher education institution" or "institution" does not include:]~~

4060 ~~[(A) the Utah System of Technical Colleges Board of Trustees; or]~~

4061 ~~[(B) a technical college.]~~

4062 (b) "Research university" means the University of Utah or Utah State University.

4063 (2) (a) ~~[The]~~ Subject to Subsection (3), the board shall recommend a combined  
4064 appropriation for the operating budgets of higher education institutions for inclusion in a state  
4065 appropriations act.

4066 (b) The board's combined budget recommendation shall include:

4067 (i) employee compensation;

4068 (ii) mandatory costs, including building operations and maintenance, fuel, and power;

4069 (iii) performance funding described in Part 7, Performance Funding;

4070 (iv) statewide and institutional priorities, including scholarships, financial aid, and  
4071 technology infrastructure; and

4072 (v) enrollment growth.

4073 (c) The board's recommendations shall be available for presentation to the governor  
4074 and to the Legislature at least 30 days before the convening of the Legislature, and shall include  
4075 schedules showing the recommended amounts for each institution, including separately funded  
4076 programs or divisions.

4077 (d) The recommended appropriations shall be determined by the board only after ~~[it]~~  
4078 the board has reviewed the proposed institutional operating budgets, and has consulted with the  
4079 various institutions and board staff in order to make appropriate adjustments.

4080 (3) In the combined request for appropriation, the board shall differentiate between  
4081 appropriations requested for academic education and appropriations requested for technical  
4082 education.

4083 ~~[(3)]~~ (4) (a) Institutional operating budgets shall be submitted to the board at least 90  
4084 days before the convening of the Legislature in accordance with procedures established by the  
4085 board.

4086 (b) Except as provided in ~~[Section]~~ Sections [53B-2a-117](#) and [53B-22-204](#), funding

4087 requests pertaining to capital facilities and land purchases shall be submitted in accordance  
4088 with procedures prescribed by the State Building Board.

4089       ~~[(4)]~~ (5) (a) The budget recommendations of the board shall be accompanied by full  
4090 explanations and supporting data.

4091       (b) The appropriations recommended by the board shall be made with the dual  
4092 objective of:

4093       (i) justifying for higher education institutions appropriations consistent with their  
4094 needs, and consistent with the financial ability of the state; and

4095       (ii) determining an equitable distribution of funds among the respective institutions in  
4096 accordance with the aims and objectives of the statewide master plan for higher education.

4097       ~~[(5)]~~ (6) (a) The board shall request a hearing with the governor on the recommended  
4098 appropriations.

4099       (b) After the governor delivers his budget message to the Legislature, the board shall  
4100 request hearings on the recommended appropriations with the Higher Education  
4101 Appropriations Subcommittee.

4102       (c) If either the total amount of the state appropriations or its allocation among the  
4103 institutions as proposed by the Legislature or the Higher Education Appropriations  
4104 Subcommittee is substantially different from the recommendations of the board, the board may  
4105 request further hearings with the Legislature or the Higher Education Appropriations  
4106 Subcommittee to reconsider both the total amount and the allocation.

4107       ~~[(6)]~~ (7) The board may devise, establish, periodically review, and revise formulas for  
4108 the board's use and for the use of the governor and the Higher Education Appropriations  
4109 Subcommittee in making appropriation recommendations.

4110       ~~[(7)]~~ (8) (a) The board shall recommend to each session of the Legislature the  
4111 minimum tuitions, resident and nonresident, for each institution which it considers necessary to  
4112 implement the budget recommendations.

4113       (b) The board may fix the tuition, fees, and charges for each institution at levels the  
4114 board finds necessary to meet budget requirements.

4115       ~~[(8)]~~ (9) Money allocated to each institution by legislative appropriation may be  
4116 budgeted in accordance with institutional work programs approved by the board, provided that  
4117 the expenditures funded by appropriations for each institution are kept within the

4118 appropriations for the applicable period.

4119       ~~[(9)]~~ (10) The dedicated credits, including revenues derived from tuitions, fees, federal  
4120 grants, and proceeds from sales received by the institutions are appropriated to the respective  
4121 institutions to be used in accordance with institutional work programs.

4122       ~~[(10)]~~ (11) An institution may do the institution's own purchasing, issue the institution's  
4123 own payrolls, and handle the institution's own financial affairs under the general supervision of  
4124 the board.

4125       ~~[(11)]~~ (12) If the Legislature appropriates money in accordance with this section, the  
4126 money shall be distributed to the board and higher education institutions to fund the items  
4127 described in Subsection (2)(b).

4128       Section 82. Section **53B-7-104** is amended to read:

4129       **53B-7-104. Retention of net reimbursed overhead revenues.**

4130       (1) For fiscal year 1990-91 and for each succeeding year, all budget documents for the  
4131 system of higher education shall reflect retention by the institutions within the system of their  
4132 net reimbursed overhead revenues for support of research and related programs under policies  
4133 established by the ~~[State Board of Regents]~~ board. These overhead revenues may not be  
4134 considered a dedicated credit.

4135       (2) The board, in conjunction with institutions within the system, shall provide the  
4136 Legislature, through the Office of Legislative Fiscal Analyst, with a complete accounting of the  
4137 net reimbursed overhead revenues on an annual basis. This accounting shall include actual  
4138 expenditures for the prior fiscal year, budgeted expenditures for the current fiscal year, and  
4139 planned expenditures for the following fiscal year.

4140       Section 83. Section **53B-7-702** is amended to read:

4141       **53B-7-702. Definitions.**

4142       As used in this part:

4143       (1) "Account" means the Performance Funding Restricted Account created in Section  
4144 **53B-7-703**.

4145       (2) "Estimated revenue growth from targeted jobs" means the estimated increase in  
4146 individual income tax revenue generated by individuals employed in targeted jobs, determined  
4147 by the Department of Workforce Services in accordance with Section **53B-7-704**.

4148       (3) "Full new performance funding amount" means the maximum amount of new

4149 performance funding that a ~~[higher education]~~ degree-granting institution or technical college  
 4150 may qualify for in a fiscal year, determined by the Legislature in accordance with Section  
 4151 53B-7-705.

4152 (4) "Full-time" means the number of credit hours the board determines is full-time  
 4153 enrollment for a student.

4154 (5) "GOED" means the Governor's Office of Economic Development created in  
 4155 Section 63N-1-201.

4156 ~~[(6) "Higher education institution" means the same as that term is defined in Section~~  
 4157 53B-7-101.]

4158 ~~[(7)]~~ (6) "Job" means an occupation determined by the Department of Workforce  
 4159 Services.

4160 ~~[(8)]~~ (7) "Membership hour" means 60 minutes of scheduled instruction provided by a  
 4161 technical college to a student enrolled in the technical college.

4162 ~~[(9)]~~ (8) "New performance funding" means the difference between the total amount of  
 4163 money in the account and the amount of money appropriated from the account for performance  
 4164 funding in the current fiscal year.

4165 ~~[(10)]~~ (9) "Performance" means total performance across the metrics described in:

4166 (a) Section 53B-7-706 for a ~~[higher education]~~ degree-granting institution; or

4167 (b) Section 53B-7-707 for a technical college.

4168 ~~[(11)]~~ (10) "Research university" means the University of Utah or Utah State  
 4169 University.

4170 ~~[(12)]~~ (11) "Targeted job" means a job designated by the Department of Workforce  
 4171 Services or GOED in accordance with Section 53B-7-704.

4172 ~~[(13)]~~ (12) "Technical college graduate" means an individual who:

4173 (a) has earned a certificate from an accredited program at a technical college; and

4174 (b) is no longer enrolled in the technical college.

4175 ~~[(14) "Utah System of Technical Colleges" means the Utah System of Technical~~  
 4176 ~~Colleges described in Chapter 2a, Utah System of Technical Colleges.]~~

4177 Section 84. Section **53B-7-703** is amended to read:

4178 **53B-7-703. Performance Funding Restricted Account -- Creation -- Deposits into**  
 4179 **account -- Legislative review.**

4180 (1) There is created within the Education Fund a restricted account known as the  
4181 "Performance Funding Restricted Account."  
4182 (2) Money in the account shall be:  
4183 (a) used for performance funding for:  
4184 (i) ~~[higher education]~~ degree-granting institutions; and  
4185 (ii) technical colleges; and  
4186 (b) appropriated by the Legislature in accordance with Section 53B-7-705.  
4187 (3) (a) Money in the account shall earn interest.  
4188 (b) All interest earned on account money shall be deposited into the account.  
4189 (4) (a) Except as provided in Subsection (4)(b)(ii), the Division of Finance shall  
4190 deposit into the account an amount equal to:  
4191 (i) 14% of the estimated revenue growth from targeted jobs upon appropriation by the  
4192 Legislature for the fiscal year beginning on July 1, 2018; and  
4193 (ii) 20% of the estimated revenue growth from targeted jobs upon appropriation by the  
4194 Legislature for a fiscal year beginning on or after July 1, 2019.  
4195 (b) (i) As used in this Subsection (4)(b), "total higher education appropriations" means,  
4196 for the current fiscal year, the total state funded appropriations to:  
4197 (A) the ~~[State Board of Regents]~~ board;  
4198 (B) ~~[higher education]~~ degree-granting institutions; and  
4199 ~~[(C) the Utah System of Technical Colleges; and]~~  
4200 ~~[(D)]~~ (C) technical colleges.  
4201 (ii) If a deposit described in Subsection (4)(a) would exceed 10% of total higher  
4202 education appropriations, upon appropriation by the Legislature, the Division of Finance shall  
4203 deposit into the account an amount equal to 10% of total higher education appropriations.  
4204 (c) The Legislature may appropriate money to the account.  
4205 (5) During the interim following a legislative general session in which an amount  
4206 described in Subsection (4)(b) is deposited into the account, the Higher Education  
4207 Appropriations Subcommittee shall review performance funding described in this part and  
4208 make recommendations to the Legislature about:  
4209 (a) the performance levels required for ~~[higher education]~~ degree-granting institutions  
4210 and technical colleges to receive performance funding as described in Section 53B-7-705;



4211 (b) the performance metrics described in Sections 53B-7-706 and 53B-7-707; and  
4212 (c) the amount of individual income tax revenue dedicated to higher education  
4213 performance funding.

4214 Section 85. Section 53B-7-705 is amended to read:

4215 **53B-7-705. Determination of full new performance funding amount -- Role of**  
4216 **appropriations subcommittee -- Program review.**

4217 (1) In accordance with this section, and based on money deposited into the account, the  
4218 Legislature shall, as part of the higher education appropriations budget process, annually  
4219 determine the full new performance funding amount for each:

4220 (a) ~~[higher education]~~ degree-granting institution; and

4221 (b) technical college.

4222 (2) The Legislature shall annually allocate:

4223 (a) 90% of the money in the account to ~~[higher education]~~ degree-granting institutions;  
4224 and

4225 (b) 10% of the money in the account to technical colleges.

4226 (3) (a) The Legislature shall determine a ~~[higher education]~~ degree-granting  
4227 institution's full new performance funding amount based on the ~~[higher education]~~  
4228 degree-granting institution's prior year share of:

4229 (i) full-time equivalent enrollment in all ~~[higher education]~~ degree-granting  
4230 institutions; and

4231 (ii) the total state-funded appropriated budget for all ~~[higher education]~~ degree-granting  
4232 institutions.

4233 (b) In determining a ~~[higher education]~~ degree-granting institution's full new  
4234 performance funding amount, the Legislature shall give equal weight to the factors described in  
4235 Subsections (3)(a)(i) and (ii).

4236 (4) (a) The Legislature shall determine a technical college's full new performance  
4237 funding amount based on the technical college's prior year share of:

4238 (i) membership hours for all technical colleges; and

4239 (ii) the total state-funded appropriated budget for all technical colleges.

4240 (b) In determining a technical college's full new performance funding amount, the  
4241 Legislature shall give equal weight to the factors described in Subsections (4)(a)(i) and (ii).

(5) Annually, at least 30 days before the first day of the legislative general session[  
(a)] the board shall submit a report to the Higher Education Appropriations Subcommittee on  
each ~~[higher education]~~ degree-granting institution's ~~[performance; and]~~ and each technical  
college's performance.

~~[(b) the Utah System of Technical Colleges Board of Trustees shall submit a report to  
the Higher Education Appropriations Subcommittee on each technical college's performance.]~~

(6) (a) In accordance with this Subsection (6), and based on the ~~[reports]~~ report  
described in Subsection (5), the Legislature shall determine for each ~~[higher education]~~  
degree-granting institution and each technical college:

(i) the portion of the full new performance funding amount earned; and

(ii) the amount of new performance funding to recommend that the Legislature  
appropriate, from the account, to the ~~[higher education]~~ degree-granting institution or technical  
college.

(b) (i) A ~~[higher education]~~ degree-granting institution earns the full new performance  
funding amount if the ~~[higher education]~~ degree-granting institution has a positive change in  
performance of at least 1% compared to the ~~[higher education]~~ degree-granting institution's  
average performance over the previous five years.

(ii) (A) Except as provided in Subsection (6)(b)(ii)(B), a technical college earns the full  
new performance funding amount if the technical college has a positive change in the technical  
college's performance of at least 5% compared to the technical college's average performance  
over the previous five years.

(B) A technical college's change in performance may be compared to the technical  
college's average performance over fewer than five years in accordance with Subsection  
53B-7-707(3)(b).

(c) A ~~[higher education]~~ degree-granting institution or technical college that has a  
positive change in performance that is less than a change described in Subsection (6)(b) is  
eligible to receive a prorated amount of the full new performance funding amount.

(d) A ~~[higher education institution]~~ degree-granting or technical college that has a  
negative change, or no change, in performance over a time period described in Subsection  
(6)(b) is not eligible to receive new performance funding.

(7) An appropriation described in this section is ongoing.

4273 (8) Notwithstanding Section 53B-7-703 and Subsections (6) and (7), the Legislature  
4274 may, by majority vote, appropriate or refrain from appropriating money for performance  
4275 funding as circumstances require in a particular year.

4276 (9) On or before November 1, 2020, the Education Interim Committee, the Higher  
4277 Education Appropriations Subcommittee, and the governor shall review the implementation of  
4278 performance funding described in this part.

4279 Section 86. Section 53B-7-706 is amended to read:

4280 **53B-7-706. Performance metrics for degree-granting institutions --**

4281 **Determination of performance.**

4282 (1) (a) The board shall establish a model for determining a ~~[higher education]~~  
4283 degree-granting institution's performance.

4284 (b) The board shall submit a draft of the model described in this section to the Higher  
4285 Education Appropriations Subcommittee and the governor for comments and  
4286 recommendations.

4287 (2) (a) The model described in Subsection (1) shall include metrics, including:

4288 (i) completion, measured by degrees and certificates awarded;

4289 (ii) completion by underserved students, measured by degrees and certificates awarded  
4290 to underserved students;

4291 (iii) responsiveness to workforce needs, measured by degrees and certificates awarded  
4292 in high market demand fields;

4293 (iv) institutional efficiency, measured by degrees and certificates awarded per full-time  
4294 equivalent student; and

4295 (v) for a research university, research, measured by total research expenditures.

4296 (b) Subject to Subsection (2)(c), the board shall determine the relative weights of the  
4297 metrics described in Subsection (2)(a).

4298 (c) The board shall assign the responsiveness to workforce needs metric described in  
4299 Subsection (2)(a)(iii) a weight of at least 25% when determining ~~[an institution of higher~~  
4300 education's] a degree-granting institution's performance.

4301 (3) For each ~~[higher education]~~ degree-granting institution, the board shall annually  
4302 determine the ~~[higher education]~~ degree-granting institution's:

4303 (a) performance; and

4304 (b) change in performance compared to the ~~[higher education]~~ degree-granting  
4305 institution's average performance over the previous five years.

4306 (4) The board shall use the model described in this section to make the report described  
4307 in Section ~~53B-7-705~~ for determining a ~~[higher education]~~ degree-granting institution's  
4308 performance funding for a fiscal year beginning on or after July 1, 2018.

4309 Section 87. Section **53B-7-707** is amended to read:

4310 **53B-7-707. Performance metrics for technical colleges -- Determination of**  
4311 **performance.**

4312 (1) (a) The ~~[Utah System of Technical Colleges Board of Trustees]~~ board shall  
4313 establish a model for determining a technical college's performance.

4314 (b) The ~~[Utah System of Technical Colleges Board of Trustees]~~ board shall submit a  
4315 draft of the model described in this section to the Higher Education Appropriations  
4316 Subcommittee and the governor for comments and recommendations.

4317 (2) (a) The model described in Subsection (1) shall include metrics, including:

4318 (i) completions, measured by certificates awarded;

4319 (ii) short-term occupational training, measured by completions of:

4320 (A) short-term occupational training that takes less than 60 hours to complete; and

4321 (B) short-term occupational training that takes at least 60 hours to complete;

4322 (iii) secondary completions, measured by:

4323 (A) completions of competencies sufficient to be recommended for high school credits;

4324 (B) certificates awarded to secondary students; and

4325 (C) retention of certificate-seeking high school graduates as certificate-seeking  
4326 postsecondary students;

4327 (iv) placements, measured by:

4328 (A) total placements in related employment, military service, or continuing education;

4329 (B) placements for underserved students; and

4330 (C) placements from high impact programs; and

4331 (v) institutional efficiency, measured by the number of technical college graduates per  
4332 900 membership hours.

4333 (b) The ~~[Utah System of Technical Colleges Board of Trustees]~~ board shall determine  
4334 the relative weights of the metrics described in Subsection (2)(a).

4335 (3) (a) For each technical college, the [~~Utah System of Technical Colleges Board of~~  
4336 ~~Trustees~~] board shall annually determine the technical college's:

4337 (i) performance; and

4338 (ii) except as provided in Subsection (3)(b), change in performance compared to the  
4339 technical college's average performance over the previous five years.

4340 (b) For performance during a fiscal year before fiscal year 2020, if comparable  
4341 performance data is not available for the previous five years, the [~~Utah System of Technical~~  
4342 ~~Colleges Board of Trustees~~] board may determine a technical college's change in performance  
4343 using the average performance over the previous three or four years.

4344 Section 88. Section **53B-8-101** is amended to read:

4345 **53B-8-101. Waiver of tuition.**

4346 (1) (a) The president of an institution of higher education described in Section  
4347 **53B-2-101** may waive all or part of the tuition on behalf of meritorious or impecunious resident  
4348 students to an amount not exceeding 10% of the total amount of tuition which, in the absence  
4349 of the waivers, would have been collected from all Utah resident students at the institution of  
4350 higher education.

4351 (b) (i) Two and a half percent of the waivers designated in Subsection (1)(a) shall be  
4352 set aside for members of the Utah National Guard.

4353 (ii) A waiver described in Subsection (1)(b)(i) shall be preserved by the student at least  
4354 60 days before the beginning of an academic term.

4355 (2) (a) A president of an institution of higher education listed in Subsections  
4356 **53B-2-101**(1)(a) through (h) may waive all or part of the nonresident portion of tuition for a  
4357 meritorious nonresident undergraduate student.

4358 (b) In determining which students are meritorious for purposes of granting a tuition  
4359 waiver under Subsection (2)(a), a president shall consider students who are performing above  
4360 the average at the institution of higher education, including having an admissions index higher  
4361 than the average for the institution, if an admissions index is used.

4362 (c) A president of an institution of higher education may continue to waive the  
4363 nonresident portion of tuition for a student described in Subsection (2)(a) for as long as the  
4364 student is enrolled at the institution of higher education.

4365 (d) In addition to waiving the nonresident portion of tuition for a meritorious

nonresident student under Subsection (2)(a), a president of an institution of higher education may waive the resident portion of tuition after the meritorious nonresident student completes a year of full-time study at the institution of higher education.

(3) To encourage students to enroll for instruction in occupations critical to the state for which trained personnel are in short supply, a president of an institution of higher education shall grant additional full or partial tuition waivers upon recommendation of~~[:]~~ the board.

~~[(a) the board, for an institution of higher education described in Subsections 53B-2-101(1)(a) through (h); or]~~

~~[(b) the Utah System of Technical Colleges Board of Trustees, for a technical college.]~~

(4) A president of an institution of higher education may waive all or part of the difference between resident and nonresident tuition for:

(a) meritorious graduate students; or

(b) nonresident summer school students.

(5) The board may establish policies that:

(a) require an institution of higher education described in Subsections 53B-2-101(1)(a) through (h) to regularly assess and report whether the institution of higher education's use of tuition waivers supports the goals established by the board in accordance with Section ~~[53B-1-103]~~ 53B-1-402 for the institution of higher education;

(b) subject to the provisions of this section, establish the amount or percentage of tuition that an institution of higher education may waive;

(c) define the terms "meritorious" and "impecunious," as the terms apply to tuition waivers for resident students described in Subsection (1)(a); and

(d) establish limitations on an institution of higher education's allocation of waivers described in Subsection (1)(a) for resident students who are meritorious or resident students who are impecunious.

(6) (a) The board shall submit an annual budget appropriation request for each institution of higher education described in ~~[Subsections 53B-2-101(1)(a) through (h)]~~ Section 53B-2-101.

~~[(b) The Utah System of Technical Colleges Board of Trustees shall submit an annual budget appropriation request for each technical college.]~~

~~[(c)]~~ (b) A request described in Subsection (6)(a) ~~[or (b)]~~ shall include requests for

4397 funds sufficient in amount to equal the estimated loss of dedicated credits that would be  
4398 realized if all of the tuition waivers authorized by Subsection (2) were granted.

4399 Section 89. Section **53B-8-103** is amended to read:

4400 **53B-8-103. Waiver of nonresident differential in tuition rates -- Dixie State**  
4401 **University good neighbor tuition waivers.**

4402 (1) Notwithstanding any other provision of law:

4403 (a) (i) The board may determine when to grant a full or partial waiver of the  
4404 nonresident differential in tuition rates charged to undergraduate students pursuant to reciprocal  
4405 agreements with other states.

4406 (ii) In making the determination described under Subsection (1)(a)(i), the board shall  
4407 consider the potential of the waiver to:

4408 (A) enhance educational opportunities for Utah residents;

4409 (B) promote mutually beneficial cooperation and development of Utah communities  
4410 and nearby communities in neighboring states;

4411 (C) contribute to the quality of educational programs; and

4412 (D) assist in maintaining the cost effectiveness of auxiliary operations in Utah  
4413 institutions of higher education.

4414 (b) (i) Consistent with its determinations made pursuant to Subsection (1)(a), the board  
4415 may enter into agreements with other states to provide for a full or partial reciprocal waiver of  
4416 the nonresident tuition differential charged to undergraduate students.

4417 (ii) An agreement shall provide for the numbers and identifying criteria of  
4418 undergraduate students, and shall specify the institutions of higher education that will be  
4419 affected by the agreement.

4420 (c) The board shall establish policy guidelines for the administration by the affected  
4421 Utah institutions of any tuition waivers authorized under this section, for evaluating applicants  
4422 for such waivers, and for reporting the results of the reciprocal waiver programs authorized by  
4423 this section.

4424 (d) A report and financial analysis of any waivers of tuition authorized under this  
4425 section shall be submitted annually to the general session of the Legislature as part of the  
4426 budget recommendations of the board for the system of higher education.

4427 (2) (a) Dixie State University may offer a good neighbor full waiver of the nonresident

4428 differential in tuition rates charged to undergraduate students:

4429 (i) pursuant to reciprocal agreements with other states; or

4430 (ii) to a resident of a county that has a portion of the county located within 70 miles of  
4431 the main campus of Dixie State University.

4432 (b) (i) A student who attends Dixie State University under a good neighbor tuition  
4433 waiver shall pay a surcharge per credit hour in addition to the regular resident tuition and fees  
4434 of Dixie State University.

4435 (ii) The surcharge per credit hour shall be based on a percentage of the approved  
4436 resident tuition per credit hour each academic year.

4437 (iii) The percentage assessed as a surcharge per credit hour shall be set by the [State  
4438 Board of Regents] board.

4439 (c) Dixie State University may restrict the number of good neighbor tuition waivers  
4440 awarded.

4441 (d) A student who attends Dixie State University on a good neighbor tuition waiver  
4442 may not count the time during which the waiver is received towards establishing resident  
4443 student status in Utah.

4444 Section 90. Section **53B-8-104** is amended to read:

4445 **53B-8-104. Nonresident partial tuition scholarships.**

4446 (1) The board may grant a scholarship for partial waiver of the nonresident portion of  
4447 total tuition charged by public institutions of higher education to nonresident undergraduate  
4448 students, subject to the limitations provided in this section, if the board determines that the  
4449 scholarship will:

4450 (a) promote mutually beneficial cooperation between Utah communities and nearby  
4451 communities in states adjacent to Utah;

4452 (b) contribute to the quality and desirable cultural diversity of educational programs in  
4453 Utah institutions;

4454 (c) assist in maintaining an adequate level of service and related cost-effectiveness of  
4455 auxiliary operations in Utah institutions of higher education; and

4456 (d) promote enrollment of nonresident students with high academic aptitudes.

4457 (2) The board shall establish policy guidelines for the administration by institutions of  
4458 higher education of any partial tuition scholarships authorized under this section, for evaluating



4459 applicants for those scholarships, and for reporting the results of the scholarship program  
4460 authorized by this section.

4461 (3) The policy guidelines promulgated by the board under Subsection (2) shall include  
4462 the following provisions:

4463 (a) the amount of the approved scholarship may not be more than 1/2 of the differential  
4464 tuition charged to nonresident students for an equal number of credit hours of instruction;

4465 (b) a nonresident partial tuition scholarship may be awarded initially only to a  
4466 nonresident undergraduate student who has not previously been enrolled in a college or  
4467 university in Utah and who has enrolled full time for 10 or more credit hours, whose legal  
4468 domicile is within approximately 100 highway miles of the Utah system of higher education  
4469 institution at which the recipient wishes to enroll or such distance that the ~~[regents]~~ board may  
4470 establish for any institution;

4471 (c) the total number of nonresident partial tuition scholarships granted may not exceed  
4472 a total of 600 such scholarships in effect at any one time; and

4473 (d) the board shall determine eligibility for nonresident partial tuition scholarships on  
4474 the basis of program availability at an institution and on a competitive basis, using quantifiable  
4475 measurements such as grade point averages and results of test scores.

4476 (4) The board shall submit an annual report and financial analysis of the effects of  
4477 offering nonresident partial tuition scholarships authorized under this section to the Higher  
4478 Education Appropriations Subcommittee as part of the board's budget recommendations for the  
4479 system of higher education.

4480 Section 91. Section **53B-8-106** is amended to read:

4481 **53B-8-106. Resident tuition -- Requirements -- Rules.**

4482 (1) If allowed under federal law, a student, other than a nonimmigrant alien within the  
4483 meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States  
4484 Code, shall be exempt from paying the nonresident portion of total tuition if the student:

4485 (a) attended high school in this state for three or more years;

4486 (b) graduated from a high school in this state or received the equivalent of a high  
4487 school diploma in this state; and

4488 (c) registers as an entering student at an institution of higher education not earlier than  
4489 the fall of the 2002-03 academic year.

(2) In addition to the requirements under Subsection (1), a student without lawful immigration status shall file an affidavit with the institution of higher education stating that the student has filed an application to legalize his immigration status, or will file an application as soon as he is eligible to do so.

(3) The [~~State Board of Regents~~] board shall make rules for the implementation of this section.

(4) Nothing in this section limits the ability of institutions of higher education to assess nonresident tuition on students who do not meet the requirements under this section.

Section 92. Section **53B-8-107** is amended to read:

**53B-8-107. Military member surviving dependents -- Tuition waiver.**

(1) As used in this section:

(a) "Federal active duty" means serving under orders in accordance with United States Code, Title 10 or Title 32, at any time on or after September 11, 2001.

(b) "Qualifying deceased military member" means a person who:

(i) was killed while serving on state or federal active duty, under orders of competent authority and not as a result of the member's own misconduct; or

(ii) dies of wounds or injuries received while serving on state or federal active duty, under orders of competent authority and not as a result of the member's own misconduct; and

(iii) was a member of the armed forces of the United States and a Utah resident;

(iv) was a member of the reserve component of the armed forces on or after September 11, 2001, and a Utah resident; or

(v) was a member of the Utah National Guard on or after September 11, 2001.

(c) "State active duty" means serving in the Utah National Guard in any duty status authorized by the governor under Title 39, Militia and Armories.

(2) This section shall be known as the Scott B. Lundell Military Survivors' tuition waiver.

(3) A state institution of higher education shall waive undergraduate tuition for a dependent of a qualifying deceased military member under the following conditions:

(a) the dependent has been accepted by the institution in accordance with the institution's admissions guidelines;

(b) except as provided in Subsection (4), the dependent is a resident student as

4521 determined under Section 53B-8-102;

4522 (c) the dependent may not have already completed a course of studies leading to an  
4523 undergraduate degree;

4524 (d) the dependent may only utilize the waiver for courses that are applicable toward the  
4525 degree or certificate requirements of the program in which the dependent is enrolled; and

4526 (e) the dependent may not be excluded from the waiver if the dependent has previously  
4527 taken courses at or has been awarded credit by a state institution of higher education.

4528 (4) Notwithstanding Subsection (3)(b), a dependent of a qualifying deceased military  
4529 member that was a member of the Utah National Guard is not required to be a resident student  
4530 as determined under Section 53B-8-102.

4531 (5) The tuition waiver in this section is applicable for undergraduate study only.

4532 (6) The Department of Veterans and Military Affairs, after consultation with the  
4533 adjutant general if necessary, shall certify to the institution that the dependent is a surviving  
4534 dependent eligible for the tuition waiver in accordance with this section.

4535 (7) The waiver in this section does not apply to fees, books, or housing expenses.

4536 (8) The ~~[State Board of Regents]~~ board may request reimbursement from the  
4537 Legislature for costs incurred in providing the tuition waiver under this section.

4538 Section 93. Section 53B-8-201 is amended to read:

4539 **53B-8-201. Regents' Scholarship Program.**

4540 (1) As used in this section:

4541 (a) "Eligible institution" means an institution of higher education within the state  
4542 system of higher education described in Section 53B-1-102.

4543 (b) "Eligible student" means a student who:

4544 (i) applies to the board in accordance with the rules described in Subsection (6);

4545 (ii) is enrolled in an eligible institution; and

4546 (iii) meets the criteria established by the board in rules described in Subsection (6).

4547 (c) "Fee" means:

4548 (i) for an eligible institution that is ~~[part of the Utah System of Higher Education]~~ a  
4549 degree-granting institution, a fee approved by the board; or

4550 (ii) for an eligible institution that is a technical college, a fee approved by the eligible  
4551 institution.

- 4552 (d) "Program" means the Regents' Scholarship Program described in this section.
- 4553 (2) (a) A student who graduates from high school after July 1, 2018:
- 4554 (i) may receive a Regents' scholarship in accordance with this section; and
- 4555 (ii) may not receive a scholarship in accordance with Sections 53B-8-202 through
- 4556 53B-8-205.
- 4557 (b) A student who graduates from high school on or before July 1, 2018:
- 4558 (i) may receive a scholarship in accordance with Sections 53B-8-202 through
- 4559 53B-8-205; and
- 4560 (ii) may not receive a Regents' scholarship in accordance with this section.
- 4561 (3) (a) Subject to legislative appropriations, beginning with an appropriation for fiscal
- 4562 year 2019, the board shall annually distribute money for the Regents' Scholarship Program
- 4563 described in this section to each eligible institution to award as Regents' scholarships to eligible
- 4564 students.
- 4565 (b) The board shall annually determine the amount of a Regents' scholarship based on:
- 4566 (i) the number of eligible students in the state; and
- 4567 (ii) money available for the program.
- 4568 (c) The board shall annually determine the total amount of money to distribute to an
- 4569 eligible institution based on the eligible institution's share of all eligible students in the state.
- 4570 (4) (a) Except as provided in Subsection (4)(b) or (c), an eligible institution shall
- 4571 provide to an eligible student a Regents' scholarship in the amount determined by the board
- 4572 described in Subsection (3)(b).
- 4573 (b) For a Regents' scholarship for which an eligible student applies on or before July 1,
- 4574 2019, an eligible institution may reduce the amount of the Regents' scholarship based on other
- 4575 state aid awarded to the eligible student for tuition and fees.
- 4576 (c) For a Regents' scholarship for which an eligible student applies after July 1, 2019:
- 4577 (i) an eligible institution shall reduce the amount of the Regents' scholarship so that the
- 4578 total amount of state aid awarded to the eligible student, including tuition or fee waivers and
- 4579 the Regents' scholarship, does not exceed the cost of the eligible student's tuition and fees; and
- 4580 (ii) the eligible student may only use the Regents' scholarship for tuition and fees.
- 4581 (5) The board may:
- 4582 (a) audit an eligible institution's administration of Regents' scholarships; and

4583 (b) require an eligible institution to repay to the board money distributed to the eligible  
4584 institution under this section that is not provided to an eligible student as a Regents'  
4585 scholarship.

4586 (6) ~~[(a)]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
4587 Act, the board shall make rules that establish:

4588 ~~[(i)]~~ (a) requirements related to an eligible institution's administration of Regents'  
4589 scholarships;

4590 ~~[(ii)]~~ (b) a process for a student to apply to the board to determine the student's  
4591 eligibility for a Regents' scholarship;

4592 ~~[(iii)]~~ (c) criteria to determine a student's eligibility for a Regents' scholarship,  
4593 including:

4594 ~~[(A)]~~ (i) minimum secondary education academic performance standards;

4595 ~~[(B)]~~ (ii) the completion of secondary core curriculum and graduation requirements;

4596 ~~[(C)]~~ (iii) the completion of a Free Application for Federal Student Aid;

4597 ~~[(D)]~~ (iv) need-based measures that address college affordability and access; and

4598 ~~[(E)]~~ (v) minimum enrollment requirements in an eligible institution; and

4599 ~~[(iv)]~~ (d) a requirement for each eligible institution to annually report to the board on  
4600 all Regents' scholarships awarded by the eligible institution.

4601 ~~[(b) In making rules described in Subsection (6)(a) that apply to a technical college, the~~  
4602 ~~board shall consult with the Utah System of Technical Colleges Board of Trustees.]~~

4603 (7) The board shall annually report on the program to the Higher Education  
4604 Appropriations Subcommittee.

4605 (8) (a) The State Board of Education, a school district, or a public high school shall  
4606 cooperate with the board and eligible institutions to facilitate the program, including by  
4607 exchanging relevant data where allowed by law.

4608 (b) The State Board of Education shall annually provide to the board a list of directory  
4609 information, including name and address, for each grade 8 student in the state.

4610 (9) Notwithstanding the provisions in this section, a private, nonprofit college or  
4611 university in the state that is accredited by the Northwest Commission on Colleges and  
4612 Universities is an eligible institution for purposes of providing a Regents' scholarship to an  
4613 eligible student who applies for a Regents' scholarship on or before July 1, 2019.

(10) If money appropriated under this section is available after Regents' scholarships are awarded, the board shall use the money for the Access Utah Promise Scholarship Program created in Section 53B-8-302.

Section 94. Section 53B-8-301 is amended to read:

**53B-8-301. Definitions.**

As used in this part:

(1) "Access Utah promise scholarship" or "promise scholarship" means a scholarship described in Section 53B-8-303.

(2) "Eligible individual" means an individual who:

(a) applies for a promise scholarship in accordance with Section 53B-8-303; and

(b) meets the eligibility requirements described in Section 53B-8-303.

(3) "Fee" means:

(a) for an institution that is ~~[part of the Utah System of Higher Education]~~ a degree-granting institution, a fee approved by the board; or

(b) for an institution that is a technical college, a fee approved by the institution.

(4) "Institution of higher education" or "institution" means an institution described in Section 53B-1-102.

(5) "Partner award" means a financial award described in Section 53B-8-304.

(6) "Promise partner" means an employer that participates in the program described in Section 53B-8-304.

Section 95. Section 53B-8-303 is amended to read:

**53B-8-303. Access Utah promise scholarships.**

(1) An individual may apply for a promise scholarship in accordance with the rules described in Subsection (8).

(2) An individual is eligible to receive a promise scholarship if the individual:

(a) (i) has a high school diploma or the equivalent; and

(ii) does not have an associate or higher postsecondary degree;

(b) demonstrates financial need, in accordance with the rules described in Subsection (8);

(c) is a Utah resident;

(d) enrolls in an institution; and

(e) accepts all other grants, tuition or fee waivers, and scholarships offered to the individual to attend the institution in which the individual enrolls.

(3) Subject to legislative appropriations, and in accordance with the rules described in Subsection (8), the board shall annually distribute money for promise scholarships to each institution.

(4) (a) Except as provided in Subsection (4)(d), an institution shall award a promise scholarship to an eligible individual.

(b) For a promise scholarship recipient, an institution shall:

(i) evaluate the recipient's knowledge, skills, and competencies acquired through formal or informal education outside the traditional postsecondary academic environment; and

(ii) award credit, as applicable, for the recipient's prior learning described in Subsection (4)(b)(i).

(c) An institution shall award a promise scholarship in an amount that is equal to the difference between:

(i) the total cost of tuition and fees for the program in which the recipient is enrolled; and

(ii) the total value of all other grants, tuition waivers, fee waivers, and scholarships received by the recipient to attend the institution.

(d) If an institution's distribution described in Subsection (3) is insufficient to award a promise scholarship to each eligible individual in the amount described in Subsection (4)(c), the institution:

(i) shall, when possible, use other funding sources to fully fund the amount described in Subsection (4)(c) for each eligible individual; and

(ii) may prioritize promise scholarships based on financial need in accordance with the rules described in Subsection (8).

(e) An institution may use up to 3% of the institution's distribution described in Subsection (3) for administration.

(5) An institution shall continue to award a promise scholarship to a recipient who meets the requirements established by the board in the rules described in Subsection (8) until the earliest of the following:

(a) two years after the recipient initially receives a promise scholarship;

4676 (b) the recipient uses a promise scholarship to attend an institution for four semesters;  
4677 (c) the recipient completes the requirements for an associate degree; or  
4678 (d) if the recipient attends an institution that does not offer associate degrees, the  
4679 recipient has 60 earned credit hours.

4680 (6) A recipient may only use a promise scholarship for tuition and fees.

4681 (7) A promise scholarship is transferable between institutions.

4682 (8) ~~[(a)]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
4683 Act, ~~[and Subsection (8)(b),]~~ the board shall make rules to establish:

4684 ~~[(i)]~~ (a) requirements related to whether an individual is eligible for a promise  
4685 scholarship, including:

4686 ~~[(A)]~~ (i) a process for an eligible individual to defer a promise scholarship;

4687 ~~[(B)]~~ (ii) how an individual demonstrates financial need for purposes of receiving a  
4688 promise scholarship; and

4689 ~~[(C)]~~ (iii) how to determine whether an individual is a Utah resident;

4690 ~~[(iv)]~~ (b) a process and requirements for an individual to apply for a promise  
4691 scholarship;

4692 ~~[(v)]~~ (c) a formula to determine the distributions to each institution described in  
4693 Subsection (3) that takes into account:

4694 ~~[(A)]~~ (i) the cost of tuition and fees for programs offered by institutions; and

4695 ~~[(B)]~~ (ii) the number of eligible individuals who attend each institution;

4696 ~~[(iv)]~~ (d) how an institution may prioritize awarding scholarships based on the  
4697 financial needs of eligible individuals;

4698 ~~[(v)]~~ (e) conditions a recipient is required to meet to continue to receive a promise  
4699 scholarship, including requirements related to academic achievement and enrollment status;  
4700 and

4701 ~~[(vi)]~~ (f) a requirement that in communicating about promise scholarships to recipients  
4702 and potential recipients, the board and institutions do not portray the Access Utah Promise  
4703 Scholarship Program as a program that is guaranteed to be in effect indefinitely.

4704 ~~[(b) In making the rules described in Subsection (8)(a), the board shall consult with the~~  
4705 ~~Utah System of Technical Colleges Board of Trustees.]~~

4706 (9) On or before November 1 each year, the board shall report to the Higher Education



4707 Appropriations Subcommittee regarding promise scholarships, including:

4708 (a) the number of scholarships awarded; and

4709 (b) whether the promise scholarship program is effective in helping underserved  
4710 students access higher education.

4711 Section 96. Section **53B-8a-102.5** is amended to read:

4712 **53B-8a-102.5. Definitions for part.**

4713 As used in this part:

4714 (1) "Administrative fund" means the money used to administer the Utah Educational  
4715 Savings Plan.

4716 (2) "Board" means the board of directors of the Utah Educational Savings Plan, which  
4717 is the [~~State Board of Regents~~] Utah Board of Higher Education acting in the [~~State Board of~~  
4718 ~~Regents~~] Utah Board of Higher Education's capacity as the Utah Higher Education Assistance  
4719 Authority under Title 53B, Chapter 12, Higher Education Assistance Authority.

4720 (3) "Endowment fund" means the endowment fund established under Section  
4721 53B-8a-107, which is held as a separate fund within the Utah Educational Savings Plan.

4722 (4) "Executive director" means the administrator appointed to administer and manage  
4723 the Utah Educational Savings Plan.

4724 (5) "Federally insured depository institution" means an institution whose deposits and  
4725 accounts are to any extent insured by a federal deposit insurance agency, including the Federal  
4726 Deposit Insurance Corporation and the National Credit Union Administration.

4727 (6) "Grantor trust" means a trust, the income of which is for the benefit of the grantor  
4728 under Section 677, Internal Revenue Code.

4729 (7) "Higher education costs" means qualified higher education expenses as defined in  
4730 Section 529(e)(3), Internal Revenue Code.

4731 (8) "Owner of the grantor trust" means one or more individuals who are treated as an  
4732 owner of a trust under Section 677, Internal Revenue Code, if that trust is a grantor trust.

4733 (9) "Program fund" means the program fund created under Section 53B-8a-107, which  
4734 is held as a separate fund within the Utah Educational Savings Plan.

4735 (10) "Qualified investment" means an amount invested in accordance with an account  
4736 agreement established under this part.

4737 (11) "Tuition and fees" means the quarterly or semester charges imposed to attend an

4738 institution of higher education and required as a condition of enrollment.

4739 Section 97. Section **53B-8a-204** is amended to read:

4740 **53B-8a-204. Distribution of program money -- Application process --**

4741 **Prioritization -- Account agreements.**

4742 (1) The plan shall distribute money in the program by creating a 529 savings account  
4743 for an eligible individual identified by a community partner.

4744 (2) (a) (i) The plan shall carry out the responsibility described in Subsection (1) by  
4745 establishing a process in which a community partner may apply for an allocation of program  
4746 money to designate for eligible individuals.

4747 (ii) The [~~State Board of Regents~~] Utah Board of Higher Education shall establish the  
4748 application process for a community partner to apply for an allocation of program money.

4749 (iii) The application process described in Subsection (2)(a)(ii) shall include:

4750 (A) the criteria for a community partner to apply for an allocation of program money;

4751 (B) the criteria that the plan will use to prioritize applications if the dollar amounts  
4752 requested in the applications exceed the dollar amount available;

4753 (C) the requirements for establishing a 529 savings account in the name of an eligible  
4754 individual; and

4755 (D) the roles and responsibilities of a community partner that makes a successful  
4756 application for an allocation of program money.

4757 (b) (i) A community partner that receives an allocation of program money shall enter  
4758 into a contract with the plan.

4759 (ii) The contract described in Subsection (2)(b)(i) shall:

4760 (A) define the roles and responsibilities of the community partner and the plan with  
4761 regard to the community partner's allocation of program money; and

4762 (B) specify that the individual the community partner identifies to receive a portion of  
4763 the community partner's allocation is an eligible individual.

4764 (3) If the plan approves a community partner's application for an allocation of program  
4765 money, the plan may not promise or otherwise encumber the allocation to any other person  
4766 unless the allocation is forfeited under Subsection (5)(b)(ii).

4767 (4) (a) A community partner shall identify each eligible individual who will receive a  
4768 portion of the community partner's allocation of program money.

(b) After a community partner identifies an eligible individual to receive a portion of the community partner's allocation, the community partner shall notify the plan of:

(i) the amount of the community partner's allocation that shall transfer to a 529 savings account in the name of the identified eligible individual; and

(ii) the amount, if any, that the community partner will be contributing in accordance with Part 1, Utah Educational Savings Plan, to the 529 savings account on behalf of the identified eligible individual.

(5) (a) Upon receiving the information described in Subsection (4)(b), the plan shall establish a 529 savings account for the identified eligible individual, with the community partner as the account owner.

(b) The community partner shall inform the beneficiary that:

(i) within three years after the day on which the beneficiary graduates from high school, the beneficiary shall enroll in:

(A) a credit-granting institution of higher education within the state system of higher education;

(B) a private, nonprofit college or university in the state that is accredited by the Northwestern Association of Schools and Colleges; or

(C) a technical college; and

(ii) if the beneficiary fails to enroll within three years after the day on which the beneficiary graduates from high school, any money that remains in the 529 savings account shall be returned to the program.

(c) After entering into the account agreement described in Subsection (5)(a), the plan shall deposit into the beneficiary's 529 savings account the amount of the allocation described in Subsection (4)(b)(i).

Section 98. Section **53B-8e-103** is amended to read:

**53B-8e-103. Tuition waivers for Purple Heart recipients -- Qualifications -- Limitations.**

(1) Beginning in the 2004-05 academic year, a state institution of higher education shall waive undergraduate tuition for each Purple Heart recipient who:

(a) is admitted as a full-time, part-time, or summer school student in an undergraduate program of study leading to a degree or certificate;

4800 (b) is a resident student of the state as determined under Section 53B-8-102; and  
4801 (c) submits verification as provided in Subsection (3) that the student is a Purple Heart  
4802 recipient.

4803 (2) (a) Beginning in the 2008-09 academic year, a state institution of higher education  
4804 shall waive graduate tuition as provided in this Subsection (2) for each Purple Heart recipient  
4805 who:

4806 (i) is admitted as a full-time, part-time, or summer school student in a graduate  
4807 program of study leading to a degree;

4808 (ii) is a resident student of the state as determined under Section 53B-8-102; and

4809 (iii) submits verification as provided in Subsection (3) that the student is a Purple Heart  
4810 recipient.

4811 (b) To qualify for a graduate tuition waiver, a Purple Heart recipient shall apply for a  
4812 graduate program no later than 10 years from the day on which the Purple Heart recipient  
4813 completes an undergraduate degree.

4814 (c) The total amount of all graduate tuition waived for a Purple Heart recipient may not  
4815 exceed \$10,000.

4816 (d) A Purple Heart recipient may receive a graduate tuition waiver for a period of time  
4817 that does not exceed the lesser of:

4818 (i) the time it takes for the Purple Heart recipient to complete a graduate degree; or

4819 (ii) five years after the day on which the Purple Heart recipient is accepted to a  
4820 graduate program.

4821 (3) A Purple Heart recipient seeking a tuition waiver shall request the Department of  
4822 Veterans and Military Affairs to provide the verification required by Subsection (1)(c). The  
4823 Department of Veterans and Military Affairs shall provide the verification upon obtaining  
4824 evidence satisfactory to the division that the student is a Purple Heart recipient.

4825 (4) The [~~State Board of Regents~~] board may request reimbursement from the  
4826 Legislature for costs incurred in providing the tuition waiver under this section.

4827 Section 99. Section 53B-10-201 is amended to read:

4828 **53B-10-201. Definitions.**

4829 As used in this part:

4830 (1) "Full-time" means the number of credit hours the board determines is full-time

4831 enrollment for a student.

4832 (2) "GOED" means the Governor's Office of Economic Development created in  
4833 Section 63N-1-201.

4834 (3) "Incentive loan" means a loan described in Section 53B-10-202.

4835 (4) "Institution" means an institution of higher education [~~that is part of the Utah~~  
4836 ~~System of Higher Education~~] described in Subsection 53B-1-102(1)(a).

4837 (5) "Program" means the Talent Development Incentive Loan Program created in  
4838 Section 53B-10-202.

4839 (6) "Qualifying degree" means an associate's or a bachelor's degree that qualifies an  
4840 individual to work in a qualifying job, as determined by GOED under Section 53B-10-203.

4841 (7) "Qualifying job" means a job:

4842 (a) described in Section 53B-10-203 for which an individual may receive an incentive  
4843 loan for the current two-year period; or

4844 (b) (i) that was selected in accordance with Section 53B-10-203 at the time a recipient  
4845 received an incentive loan; and

4846 (ii) (A) for which the recipient is pursuing a qualifying degree;

4847 (B) for which the recipient completed a qualifying degree; or

4848 (C) in which the recipient is working.

4849 (8) "Recipient" means an individual who receives an incentive loan.

4850 Section 100. Section 53B-11-104 is amended to read:

4851 **53B-11-104. Eligibility for student financial aid -- Filing of selective service**  
4852 **status.**

4853 (1) A male born after December 31, 1959, may not receive any state-supported loan,  
4854 grant, or scholarship for attendance at a postsecondary institution within the state unless he has  
4855 filed a statement of selective service status with the institution.

4856 (2) The statement shall certify one of the following:

4857 (a) that the male has registered with the selective service system in accordance with the  
4858 Military Selective Service Act, 50 U.S.C. Sec. 3802, as amended;

4859 (b) that the male is not required to register with the selective service system because he  
4860 is:

4861 (i) under 18 or over 26 years of age;

(ii) on active duty with the armed forces of the United States other than for training in a reserve or national guard unit;

(iii) a nonimmigrant alien lawfully in the United States in accordance with the Immigration and Nationality Act, 8 U.S.C. Sec. 1101(a)(15); or

(iv) not a citizen of the United States and is a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(3) (a) The board ~~[of regents]~~, through the commissioner of higher education, shall specify the form of statement to be filed under Subsection (2).

(b) Each statement shall contain a section:

(i) certifying registration with the selective service system and a space for the student to record his selective service number; and

(ii) for the certification of nonregistration and for an explanation of the reason for exemption.

(c) The board may require documentation for the certifications under Subsection (3)(b).

(4) Postsecondary institutions within the state may not make or guarantee any loan, grant, scholarship, or other state-supported financial assistance to a male student unless the student has filed the statement required under Subsection (1).

(5) (a) If a postsecondary institution within the state has received a statement certifying that the individual is registered under Subsection (2)(a) or is exempt from registration for a reason other than he is under 18 years of age, the individual is not required to file any further statement with the institution under this section.

(b) If the institution receives a statement of exemption because the individual is under 18 years of age, it shall require the filing of a new statement each time the individual seeks to apply for financial assistance for educational expenses, until it receives a statement certifying that the individual has registered with the selective service system or is exempt from registration for a reason other than being under 18 years of age.

Section 101. Section **53B-12-102** is amended to read:

**53B-12-102. Separation of duties, responsibilities, funds, liabilities, and expenses -- Appointment of board of directors -- No state or local debt -- Minors eligible for loans.**

(1) As used in this section, "fiduciary or commercial information" means information:

(a) related to any subject if the disclosure of the information:

4893 (i) would conflict with fiduciary obligations; or  
4894 (ii) is prohibited by insider trading provisions; or  
4895 (b) of a commercial nature, including information related to:  
4896 (i) account owners or borrowers;  
4897 (ii) demographic data;  
4898 (iii) contracts and related payments;  
4899 (iv) negotiations;  
4900 (v) proposals or bids;  
4901 (vi) investments;  
4902 (vii) the investment and management of funds;  
4903 (viii) fees and charges;  
4904 (ix) plan and program design;  
4905 (x) investment options and underlying investments offered to account owners;  
4906 (xi) marketing and outreach efforts;  
4907 (xii) lending criteria;  
4908 (xiii) the structure and terms of bonding;  
4909 (xiv) financial plans; or  
4910 (xv) reviews and audits, except the final report of the annual audit of financial  
4911 statements required under Section 53B-8a-111.

4912 (2) The duties, responsibilities, funds, liabilities, and expenses of the board as the Utah  
4913 Higher Education Assistance Authority shall be maintained separate and apart from its other  
4914 duties, responsibilities, funds, liabilities, and expenses.

4915 (3) (a) In order to carry out the obligation of separation of functions required under  
4916 Subsection (2), the board may appoint a board of directors of the authority, and designate its  
4917 chairman to govern and manage the authority.

4918 (b) The board of directors consists of not less than five persons, not more than  
4919 two-thirds of whom may be members of the ~~[State Board of Regents]~~ board.

4920 (c) The board of directors reports to and serves at the pleasure of the ~~[State Board of~~  
4921 ~~Regents]~~ board, and has all of the powers, duties, and responsibilities of the Utah Higher  
4922 Education Assistance Authority except for those expressly retained by the ~~[State Board of~~  
4923 ~~Regents]~~ board.

(4) All meetings of the Utah Higher Education Assistance Authority and its appointed board of directors shall be open to the public, except those meetings or portions of meetings that are closed as authorized by Sections 52-4-204 and 52-4-205, including to discuss fiduciary or commercial information.

(5) An obligation incurred under this chapter does not constitute a debt of the state or any of its political subdivisions.

(6) (a) A person who would otherwise qualify for a loan guaranteed by the authority is not disqualified because that person is a minor.

(b) For the purpose of applying for, receiving, and repaying a loan, a minor has full legal capacity to act and has all the rights, powers, privileges, and obligations of a person of full age with respect to the loan.

Section 102. Section **53B-16-101** is amended to read:

**53B-16-101. Establishment of institutional roles and general courses of study.**

(1) Except as institutional roles are specifically assigned by the Legislature, the board:

(a) ~~[may]~~ shall establish and define the roles of the various institutions of higher education ~~[under the board's control and management]~~; and

(b) shall, within each institution of higher education's primary role, prescribe the general course of study to be offered at the institution of higher education, including for:

(i) research universities, which provide undergraduate, graduate, and research programs and include:

(A) the University of Utah; and

(B) Utah State University;

(ii) regional universities, which provide career and technical education, undergraduate associate and baccalaureate programs, and select master's degree programs to fill regional demands and include:

(A) Weber State University;

(B) Southern Utah University;

(C) Dixie State University; and

(D) Utah Valley University; ~~[and]~~

(iii) comprehensive community colleges, which provide associate programs and include:



4955 (A) Salt Lake Community College; and  
 4956 (B) Snow College[-]; and  
 4957 (iv) technical colleges and degree-granting institutions that provide technical  
 4958 education, and include:  
 4959 (A) each technical college;  
 4960 (B) Salt Lake Community College's School of Applied Technology's technical  
 4961 education role described in Section 53B-16-209;  
 4962 (C) each Utah State University regional institution's technical education role described  
 4963 in Section 53B-16-207; and  
 4964 (D) Snow College's technical education role described in Section 53B-16-205.  
 4965 (2) (a) Except for the University of Utah, and subject to Subsection (2)(b), each  
 4966 institution of higher education described in [Subsection] Subsections (1)(b)(i) through (iii) has  
 4967 career and technical education included in the institution of higher education's primary role.  
 4968 (b) The board shall determine the extent to which an institution described in  
 4969 Subsection (2)(a) provides career and technical education within the institution's primary role.  
 4970 (3) The board [~~may~~] shall further clarify each institution of higher education's primary  
 4971 role[-] by clarifying:  
 4972 (a) the level of program that the institution of higher education generally offers;  
 4973 (b) broad fields that are within the institution of higher education's mission; and  
 4974 (c) any special characteristics of the institution of higher education, such as being a  
 4975 land grant university.  
 4976 (4) On or before November 1, 2020, the board shall report to the Higher Education  
 4977 Strategic Planning Commission on the board's activities related to defining and clarifying each  
 4978 institution's role.  
 4979 Section 103. Section **53B-16-102** is amended to read:  
 4980 **53B-16-102. Changes in curriculum -- Substantial alterations in institutional**  
 4981 **operations -- Program approval -- Periodic review of programs -- Career and technical**  
 4982 **education curriculum changes.**  
 4983 (1) As used in this section:  
 4984 (a) "Institution of higher education" means an institution described in [~~Subsection~~  
 4985 ~~53B-1-102(1)(a)] Section 53B-1-102.~~

4986 (b) "Program of instruction" means a program of curriculum that leads to the  
4987 completion of a degree, diploma, certificate, or other credential.

4988 (2) Under procedures and policies approved by the board and developed in consultation  
4989 with each institution of higher education, each institution of higher education may make such  
4990 changes in the institution of higher education's curriculum as necessary to better effectuate the  
4991 institution of higher education's primary role.

4992 ~~[(3) An institution of higher education shall notify the board of a proposed new~~  
4993 ~~program of instruction.]~~

4994 (3) The board shall establish criteria for whether an institution of higher education may  
4995 approve a new program of instruction, including criteria related to whether:

4996 (a) the program of instruction meets identified workforce needs;

4997 (b) the institution of higher education is maximizing collaboration with other  
4998 institutions of higher education to provide for efficiency in offering the program of instruction;

4999 (c) the new program of instruction is within the institution of higher education's  
5000 mission and role; and

5001 (d) the new program of instruction meets other criteria determined by the board.

5002 (4) (a) ~~[Without]~~ Except as provided in Subsection (4)(b), without the approval of the  
5003 board, an institution of higher education may not:

5004 (i) establish a branch, extension center, college, or professional school; or

5005 (ii) establish a new program of instruction ~~[that is outside of the institution of higher~~  
5006 ~~education's primary role described in Section 53B-16-101].~~

5007 (b) An institution of higher education may, with the approval of the institution of  
5008 higher education's board of trustees, establish a new program of instruction that ~~[is within the~~  
5009 ~~institution of higher education's primary role described in Section 53B-16-101]~~ meets the  
5010 criteria described in Subsection (3).

5011 (5) (a) An institution of higher education shall notify the board of a proposed new  
5012 program of instruction, including how the proposed new program of instruction meets the  
5013 criteria described in Subsection (3).

5014 (b) The board shall establish procedures and guidelines for institutional boards of  
5015 trustees to consider an institutional proposal for a new program of instruction described in  
5016 Subsection (4)(b).

~~[(b) The guidelines described in Subsection (5)(a) shall provide that:]~~  
~~[(i) prior to seeking approval from the institution of higher education's board of trustees, an institution of higher education that proposes a new program of instruction submit the proposal to the commissioner to conduct a peer review by other institutions of higher education;]~~  
~~[(ii) the commissioner issue a report with the results of a peer review described in Subsection (5)(b)(i) to the board and the board of trustees of the institution of higher education proposing the new program of instruction; and]~~  
~~[(iii) an institution of higher education that proposes a new program of instruction include:]~~  
~~[(A) a fiscal analysis of the new program of instruction's initial and ongoing costs; and]~~  
~~[(B) the institution of higher education's source of funding for the new program of instruction.]~~

(6) (a) The board shall conduct a periodic review of all new programs of instruction, including those funded by gifts, grants, and contracts, no later than two years after the first cohort to begin the program of instruction completes the program of instruction.

(b) The board may conduct a periodic review of any program of instruction at an institution of higher education, including a program of instruction funded by a gift, grant, or contract.

(c) Following a review described in this Subsection (6), the board may recommend that the institution of higher education modify or terminate the program of instruction.

(7) Prior to requiring modification or termination of a program, the board shall give the institution of higher education adequate opportunity for a hearing before the board.

(8) In making decisions related to career and technical education curriculum changes, the board shall coordinate on behalf of the boards of trustees of higher education institutions a review of the proposed changes by the State Board of Education ~~[and the Utah System of Technical Colleges Board of Trustees]~~ to ensure an orderly and systematic career and technical education curriculum that eliminates overlap and duplication of course work with high schools and technical colleges.

Section 104. Section **53B-16-105** is amended to read:

**53B-16-105. Common course numbering -- Transferability of credits --**

**Agreement with competency-based general education provider -- Policies.**

(1) As used in this section:

(a) "Articulation agreement" means an agreement between the board and a provider that allows a student to transfer credit awarded by the provider for a general education course to any institution of higher education.

(b) "Competency-based" means a system where a student advances to higher levels of learning when the student demonstrates competency of concepts and skills regardless of time, place, or pace.

(c) "Competency-based general education provider" or "provider" means a private institution that:

(i) offers a postsecondary competency-based general education course online or in person;

(ii) awards academic credit; and

(iii) does not award degrees, including associates degrees or baccalaureate degrees.

(d) "Credit for prior learning" means the same as that term is defined in Section [53B-16-110](#).

(e) "Institution of higher education" means an institution [~~within the Utah System of Higher Education~~] described in Section [53B-1-102](#).

(f) "Regionally accredited institution" means an institution that:

(i) offers a competency-based postsecondary general education course online or in person; and

(ii) is accredited by a regional accrediting body recognized by the United States Department of Education.

~~[(g) "Utah System of Higher Education" means the institutions described in Subsection [53B-1-102\(1\)\(a\)](#).]~~

(2) The board shall:

(a) facilitate articulation and the seamless transfer of courses, programs, and credit for prior learning within the Utah [~~System of Higher Education~~] system of higher education;

(b) provide for the efficient and effective progression and transfer of students within the Utah [~~System of Higher Education~~] system of higher education;

(c) avoid the unnecessary duplication of courses;

5079 (d) communicate ways in which a student may earn credit for prior learning; and

5080 (e) allow a student to proceed toward the student's educational objectives as rapidly as  
5081 the student's circumstances permit.

5082 (3) The board shall develop, coordinate, and maintain a transfer and articulation system  
5083 ~~[within the Utah System of Higher Education]~~ that:

5084 (a) maintains a course numbering system that assigns common numbers to specified  
5085 courses of similar level with similar curricular content, rigor, and standards;

5086 (b) allows a student to track courses that transfer among institutions of higher  
5087 education to meet requirements for general education and lower division courses that transfer  
5088 to baccalaureate majors;

5089 (c) allows a student to transfer courses from a provider with which the board has an  
5090 articulation agreement to any institution of higher education;

5091 (d) allows a student to transfer competency-based general education courses from a  
5092 regionally accredited institution to an institution of higher education;

5093 (e) improves program planning;

5094 (f) increases communication and coordination between institutions of higher education;

5095 (g) facilitates student acceleration and the transfer of students and credits between  
5096 institutions of higher education; and

5097 (h) if the system includes a software or data tool:

5098 (i) provides predictive analysis that models probabilities of student success; and

5099 (ii) develops tailored strategies to best support students.

5100 (4) (a) The board shall identify general education courses in the humanities, social  
5101 sciences, arts, physical sciences, and life sciences with uniform prefixes and common course  
5102 numbers.

5103 (b) ~~[An institution of higher education]~~ A degree-granting institution shall annually  
5104 identify institution courses that satisfy requirements of courses described in Subsection (4)(a).

5105 (c) ~~[An institution of higher education]~~ A degree-granting institution shall accept a  
5106 course described in Subsection (3)(c), (3)(d), or (4)(a) toward filling specific area requirements  
5107 for general education or lower division courses that transfer to baccalaureate majors.

5108 (5) (a) The board shall identify common prerequisite courses and course substitutions  
5109 for degree programs across ~~[institutions of higher education]~~ degree-granting institutions.

(b) The commissioner shall appoint committees of faculty members from the ~~[institutions of higher education]~~ degree-granting institutions to recommend appropriate courses of similar content and numbering that will satisfy requirements for lower division courses that transfer to baccalaureate majors.

(c) ~~[An institution of higher education]~~ A degree-granting institution shall annually identify institution courses that satisfy requirements of courses described in Subsection (5)(a).

(d) ~~[An institution of higher education]~~ A degree-granting institution shall accept a course described in Subsection (3)(c), (3)(d), or (5)(a) toward filling graduation requirements.

(6) (a) (i) The board shall seek proposals from providers to enter into articulation agreements.

(ii) A proposal described in Subsection (6)(a)(i) shall include the general education courses that the provider intends to include in an articulation agreement.

(b) The board shall:

(i) evaluate each general education course included in a proposal described in Subsection (6)(a) to determine whether the course is equally rigorous and includes the same subject matter as the equivalent course offered by any institution of higher education; and

(ii) if the board determines that a course included in a provider's proposal is equally rigorous and includes the same subject matter as the equivalent course offered by any institution of higher education, enter into an articulation agreement with the provider.

(7) The board shall establish policies to administer the policies and requirements described in this section.

(8) The board shall include information demonstrating that institutions of higher education are complying with the provisions of this section and the policies established in accordance with Subsection (7) in the annual report described in Section ~~[53B-1-107]~~ 53B-1-402.

Section 105. Section **53B-16-107** is amended to read:

**53B-16-107. Credit for military service and training -- Notification -- Transferability -- Reporting.**

(1) As used in this section, "credit" includes proof of equivalent noncredit course completion awarded by a technical college.

(2) An institution of higher education listed in Section 53B-2-101 shall provide written

notification to each student applying for admission that the student is required to meet with a college counselor in order to receive credit for military service and training as recommended by a postsecondary accreditation agency or association designated by the board ~~[or the Utah System of Technical Colleges Board of Trustees]~~ if:

(a) credit for military service and training is requested by the student; and  
(b) the student has met with an advisor at an institution of higher education listed in Section [53B-2-101](#) at which the student intends to enroll to discuss applicability of credit to program requirements, possible financial aid implications, and other factors that may impact attainment of the student's educational goals.

(3) Upon transfer within the state system of higher education, a student may present a transcript to the receiving institution of higher education for evaluation and to determine the applicability of credit to the student's program of study, and the receiving institution of higher education shall evaluate the credit to be transferred in accordance with Subsection (2) and the policies described in Section [53B-16-110](#).

(4) The board ~~[and the Utah System of Technical Colleges Board of Trustees]~~ shall annually report the number of credits awarded under this section by each institution of higher education to the Department of Veterans and Military Affairs.

Section 106. Section **53B-16-110** is amended to read:

**53B-16-110. Credit for prior learning -- Board plan and policies -- Reporting.**

(1) As used in this section:

(a) "Credit for prior learning" means credit awarded by an institution to a student who demonstrates, through a prior learning assessment, that the student's prior learning meets college-level competencies.

(b) "Institution" means an institution of higher education ~~[that is within the Utah System of Higher Education]~~ described in Section [53B-1-102](#).

(c) "Prior learning" means knowledge, skills, or competencies acquired through formal or informal education outside the traditional postsecondary academic environment.

(d) "Prior learning assessment" means a method of evaluating or assessing an individual's prior learning.

~~[(e) "Utah System of Higher Education" means the institutions described in Subsection [53B-1-102](#)(1)(a).]~~

5172 (2) ~~[On or before November 1, 2019, the]~~ The board shall develop a [systemwide] plan  
5173 for advising and communicating with students and the public about credit for prior learning [~~in~~  
5174 ~~the Utah System of Higher Education]~~.

5175 (3) (a) ~~[On or before November 1, 2019, the]~~ The board shall establish policies that  
5176 provide minimum standards for all institutions regarding:

- 5177 (i) accepted forms of prior learning assessments;
- 5178 (ii) awarding credit for prior learning;
- 5179 (iii) transferability of credit for prior learning between institutions;
- 5180 (iv) transcription of credit for prior learning;
- 5181 (v) institutional procedures for maintaining transparency and consistency in awarding  
5182 credit for prior learning;
- 5183 (vi) communication to faculty, advisors, current students, and prospective students  
5184 regarding standards and cost related to credit for prior learning and prior learning assessments;
- 5185 (vii) required training of faculty and advisors on prior learning assessment standards  
5186 and processes; and
- 5187 (viii) portfolio-specific prior learning assessments.

5188 (b) The board shall ensure that accepted forms of prior learning assessments described  
5189 in Subsection (3)(a) include at least the following:

- 5190 (i) program evaluations, completed by an institution, of noncollegiate programs or  
5191 training courses to recognize proficiencies;
- 5192 (ii) nationally recognized, standardized examinations, including:
  - 5193 (A) Advanced Placement examinations;
  - 5194 (B) College Level Exam Program general examinations;
  - 5195 (C) College Level Exam Program subject examinations; and
  - 5196 (D) DANTES Subject Standardized Tests;
- 5197 (iii) customized examinations offered by an institution to verify an individual's learning  
5198 achievement that may include course final examinations or other examinations that assess  
5199 general disciplinary knowledge or skill;
- 5200 (iv) evaluations of corporate or military training; and
- 5201 (v) assessments of individuals' portfolios.

5202 (4) (a) The board shall establish minimum scores and maximum credit for each



5203 standardized examination described in Subsection (3)(b)(ii).

5204 (b) An institution shall award credit to a student who demonstrates competency by  
5205 passing a standardized examination described in Subsection (3)(b)(ii) unless the award of credit  
5206 duplicates credit already awarded.

5207 (5) The board shall:

5208 (a) create and maintain a website that provides [~~systemwide and institutional~~] statewide  
5209 information on prior learning assessments and credit for prior learning; and

5210 (b) identify a software or data tool that will support the board in:

5211 (i) implementing the plan described in Subsection (2); and

5212 (ii) fulfilling the board's requirements described in Section 53B-16-105.

5213 (6) On or before the November 2019 interim meeting, the board shall report to the  
5214 Education Interim Committee on:

5215 (a) the plan described in Subsection (2);

5216 (b) the policies described in Subsection (3); and

5217 (c) the software or data tool described in Subsection (5).

5218 (7) On or before May 1, 2020, an institution shall report to the board:

5219 (a) steps the institution will take to:

5220 (i) implement the plan described in Subsection (2) and the policies described in  
5221 Subsection (3); and

5222 (ii) communicate to students about credit for prior learning, including about the  
5223 policies described in Subsection (3);

5224 (b) a timeline for the steps described in Subsection (7)(a); and

5225 (c) each form of prior learning assessment for which the institution provides credit for  
5226 prior learning that is not described in Subsection (3)(b).

5227 (8) An institution shall annually report to the board on:

5228 (a) each form of prior learning assessment for which the institution provides credit for  
5229 prior learning; and

5230 (b) the total amount of credit for prior learning the institution provides to students.

5231 Section 107. Section 53B-16-202 is amended to read:

5232 **53B-16-202. Curricula at the community colleges.**

5233 The curricula at the colleges shall include [~~vocational~~] career and technical education,

courses of a general nature which can be transferred to other higher education institutions, adult and continuing education, and developmental education. The colleges also provide needed community service. ~~[Vocational]~~ Career and technical education continues as the highest priority role of the colleges; and to ensure ~~[its]~~ continued emphasis of career and technical education, the ~~[Board of Regents]~~ board shall develop specific funding mechanisms which will maintain the high priority treatment of these programs and address the fact that many vocational programs are more costly than general education/transfer programs.

Section 108. Section **53B-16-205** is amended to read:

**53B-16-205. Establishment of Snow College Richfield campus -- Supervision and administration -- Transition -- Institutional mission.**

(1) There is established a branch campus of Snow College in Richfield, Utah, hereafter referred to as the Snow College Richfield campus.

(2) Snow College shall administer the branch campus under the general control and supervision of the ~~[State Board of Regents]~~ board as an integrated part of Snow College's mission, programs, and curriculum.

(3) Snow College shall:

(a) maintain a strong curriculum in career and technical education courses at the Snow College Richfield campus and within the region served by Snow College which can be transferred to other institutions within the higher education system, together with lower division courses and courses required for associate degrees in science, arts, applied science, and career and technical education;

(b) work with school districts and charter schools in developing an aggressive concurrent enrollment program in cooperation with Snow College Richfield campus; and

(c) provide, through the Snow College Richfield Campus, for open-entry, open-exit competency-based career and technical education programs, at a low cost tuition rate for adults and at no tuition cost to secondary students, that emphasize short-term job training or retraining for immediate placement in the job market and serve the geographic area encompassing:

(i) the Juab School District;

(ii) the Millard School District;

(iii) the Tintic School District;

(iv) the North Sanpete School District;

5265 (v) the South Sanpete School District;

5266 (vi) the Wayne School District;

5267 (vii) the Piute School District; and

5268 (viii) the Sevier School District.

5269 (4) Snow College may not exercise any jurisdiction over career and technical education  
5270 provided by a school district or charter school independently of Snow College.

5271 (5) Snow College shall report to the [~~State Board of Regents~~] board annually on:

5272 (a) the status of and maintenance of the effort for career and technical education in the  
5273 region served by Snow College, including access to open-entry, open-exit competency-based  
5274 career and technical education programs; and

5275 (b) student tuition and fees.

5276 (6) Legislative appropriations to Snow College's career and technical education shall  
5277 be made as line items that are separate from other appropriations for Snow College.

5278 Section 109. Section **53B-16-205.5** is amended to read:

5279 **53B-16-205.5. Snow College Concurrent Education Program.**

5280 (1) As used in this section:

5281 (a) "Interactive video conferencing" means two-way, real-time transmission of audio  
5282 and video signals between devices or computers at two or more locations.

5283 (b) "Program" means the Snow College Concurrent Education Program.

5284 (2) Consistent with policies established by the [~~State Board of Regents~~] board, Snow  
5285 College shall establish and administer, subject to legislative appropriations, the Snow College  
5286 Concurrent Education Program to provide:

5287 (a) a consistent two-year schedule of concurrent enrollment courses delivered through  
5288 interactive video conferencing to secondary school students;

5289 (b) a pathway for a secondary school student to earn college credits that:

5290 (i) apply toward earning an Associate of Science or Associate of Arts degree; or

5291 (ii) satisfy scholarship requirements or other objectives that best meet the needs of an  
5292 individual student; and

5293 (c) advisory support to secondary school students who participate in the program and  
5294 the secondary school students' school counselors to ensure that students' concurrent enrollment  
5295 courses align with the students' academic and career goals.

5296 Section 110. Section **53B-16-209** is amended to read:

5297 **53B-16-209. Salt Lake Community College -- School of Applied Technology --**  
5298 **Career and technical education -- Supervision and administration -- Institutional mission.**

5299 (1) (a) There is hereby established a School of Applied Technology at Salt Lake  
5300 Community College.

5301 (b) Beginning on July 1, 2009, the Salt Lake Skills Center and the Salt Lake County  
5302 portion of the Salt Lake/Tooele Applied Technology College shall be established as Salt Lake  
5303 Community College's School of Applied Technology.

5304 (2) Salt Lake Community College's School of Applied Technology is a continuation of  
5305 the Salt Lake Skills Center and the Salt Lake County portion of the Salt Lake/Tooele Applied  
5306 Technology College and shall:

5307 (a) possess all rights, title, privileges, powers, immunities, franchises, endowments,  
5308 property, and claims of the Salt Lake Skills Center and the Salt Lake County portion of the Salt  
5309 Lake/Tooele Applied Technology College; and

5310 (b) fulfill and perform all obligations of the Salt Lake Skills Center and the Salt Lake  
5311 County portion of the Salt Lake/Tooele Applied Technology College.

5312 (3) Salt Lake Community College shall administer the School of Applied Technology.

5313 (4) Salt Lake Community College's School of Applied Technology shall:

5314 (a) provide non-credit career and technical education for both secondary and adult  
5315 students, with an emphasis primarily on open-entry, open-exit programs;

5316 (b) ensure that economically disadvantaged, educationally disadvantaged, or other  
5317 at-risk students have access to non-credit career and technical education;

5318 (c) maintain a strong curriculum in non-credit career and technical education courses  
5319 which can be articulated with credit career and technical education courses within the  
5320 institution and within the state system of higher education;

5321 (d) offer noncredit, basic instruction in areas such as reading, language arts, and  
5322 mathematics that are necessary for student success in a chosen career and technical education  
5323 or job-related program;

5324 (e) offer the curriculum at:

5325 (i) low cost to adult students, consistent with legislative appropriations to the School of  
5326 Applied Technology; and

5327 (ii) no tuition cost to secondary students;

5328 (f) provide noncredit career and technical education that will result in:

5329 (i) appropriate licensing, certification, or other evidence of completion of training; and

5330 (ii) qualification for specific employment, with an emphasis on high demand, high

5331 wage, and high skill jobs in business and industry;

5332 (g) develop cooperative agreements within the geographic area served by the School of

5333 Applied Technology with school districts, charter schools, and other higher education

5334 institutions, businesses, industries, and community and private agencies to maximize the

5335 availability of instructional facilities; and

5336 (h) after consulting with school districts and charter schools within the geographic area

5337 served:

5338 (i) ensure that secondary students in the public education system have access to

5339 non-credit career and technical education at each School of Applied Technology location; and

5340 (ii) prepare and submit an annual report to the [~~State Board of Regents~~] board

5341 detailing:

5342 (A) how the non-credit career and technical education needs of secondary students

5343 within the region are being met;

5344 (B) what access secondary students within the region have to programs offered at

5345 School of Applied Technology locations;

5346 (C) how the emphasis on high demand, high wage, and high skill jobs in business and

5347 industry is being provided; and

5348 (D) student tuition and fees.

5349 (5) Salt Lake Community College or Salt Lake Community College's School of

5350 Applied Technology may not exercise any jurisdiction over career and technical education

5351 provided by a school district or charter school independently of Salt Lake Community College

5352 or Salt Lake Community College's School of Applied Technology.

5353 (6) Legislative appropriations to Salt Lake Community College's School of Applied

5354 Technology shall be made as a line item that separates it from other appropriations for Salt

5355 Lake Community College.

5356 Section 111. Section **53B-16-303** is amended to read:

5357 **53B-16-303. Access to restricted records.**

5358 Notwithstanding any other provision of Title 63G, Chapter 2, Government Records  
5359 Access and Management Act, access to records restricted by this part shall only be permitted  
5360 upon:

5361 (1) written consent of the public institution of higher education originating, receiving,  
5362 or maintaining such records; or

5363 (2) a finding by the State Records Committee or a court that the record has not been  
5364 properly classified as restricted under Section 63G-2-302, provided that the review of a  
5365 restricted classification of a record shall not include considerations of weighing public and  
5366 private interests regarding access to a properly classified record as contained in Subsection  
5367 63G-2-403(11)(b) or 63G-2-404(7) or Section 63G-2-309. Nothing in this Subsection (2) shall  
5368 be construed to limit the authority of the [~~State Board of Regents~~] board to reclassify and  
5369 disclose a record of a public institution of higher education.

5370 Section 112. Section **53B-16-401** is amended to read:

5371 **53B-16-401. Definitions.**

5372 As used in this part:

5373 (1) "Cooperating employer" means a public or private entity which, as part of a work  
5374 experience and career exploration program offered through an institution of higher education,  
5375 provides interns with training and work experience in activities related to the entity's ongoing  
5376 business activities.

5377 (2) "Institution of higher education" means any component of the state system of higher  
5378 education as defined under Section 53B-1-102 that is authorized by the board [~~or the Utah~~  
5379 ~~System of Technical Colleges Board of Trustees~~] to offer internship programs, and any private  
5380 institution of higher education which offers internship programs under this part.

5381 (3) "Intern" means a student enrolled in a work experience and career exploration  
5382 program under Section 53B-16-402 that is sponsored by an institution of higher education,  
5383 involving both classroom instruction and work experience with a cooperating employer, for  
5384 which the student receives no compensation.

5385 (4) "Internship" means the work experience segment of an intern's work experience and  
5386 career exploration program sponsored by an institution of higher education, performed under  
5387 the direct supervision of a cooperating employer.

5388 Section 113. Section **53B-16-402** is amended to read:

5389           **53B-16-402. Higher education internships.**

5390           An institution of higher education may offer internships in connection with work  
5391 experience and career exploration programs operated in accordance with rules of the [~~State~~  
5392 ~~Board of Regents~~] board.

5393           Section 114. Section **53B-16-501** is amended to read:

5394           **53B-16-501. Nonprofit corporations or foundations -- Purpose.**

5395           (1) Dixie State University may form a nonprofit corporation or foundation controlled  
5396 by the president of the university and the [~~Board of Regents~~] board to aid and assist the  
5397 university in attaining its charitable, communications, and other related educational objectives,  
5398 including support for media innovation, film festivals, film production, print media,  
5399 broadcasting, television, and digital media.

5400           (2) The nonprofit corporation or foundation may receive and administer legislative  
5401 appropriations, government grants, contracts, and private gifts to carry out its public purposes.

5402           Section 115. Section **53B-17-101** is amended to read:

5403           **53B-17-101. Legislative findings on public broadcasting and telecommunications**  
5404 **for education.**

5405           The Legislature finds and determines the following:

5406           (1) The University of Utah's Dolores Dore' Eccles Broadcast Center is the statewide  
5407 public broadcasting and telecommunications facility for education in Utah.

5408           (2) The center shall provide services to citizens of the state in cooperation with higher  
5409 and public education, state and local government, and private industry.

5410           (3) Distribution services provided through the center shall include KUED - TV, KUER  
5411 - FM, and KUEN - TV.

5412           (4) KUED - TV and KUER - FM are licensed to the University of Utah.

5413           (5) The Utah Education and Telehealth Network's broadcast entity, KUEN - TV, is  
5414 licensed to the [~~Utah State Board of Regents~~] Utah Board of Higher Education and, together  
5415 with UETN, is operated on behalf of the state's systems of public and higher education.

5416           (6) All the entities referred to in Subsection (3) are under the administrative  
5417 supervision of the University of Utah, subject to the authority and governance of the [~~State~~  
5418 ~~Board of Regents~~] Utah Board of Higher Education.

5419           (7) This section neither regulates nor restricts a privately owned company in the

5420 distribution or dissemination of educational programs.

5421 Section 116. Section **53B-17-103** is amended to read:

5422 **53B-17-103. General powers of University of Utah related to public broadcasting**  
5423 **and telecommunication for education.**

5424 (1) Subject to applicable rules of the Federal Communications Commission and the  
5425 ~~[State Board of Regents]~~ Utah Board of Higher Education, the University of Utah shall:

5426 (a) serve as the state's provider of public television services, with programming from  
5427 the Public Broadcasting Service and other syndicated and locally produced programs;

5428 (b) serve as the state's primary provider of public radio services, with programming  
5429 from National Public Radio and other syndicated and locally produced programs; and

5430 (c) subject to Section **53B-7-103**, accept and use gifts and apply for and receive funds  
5431 from federal and other sources to carry out the purposes of this part.

5432 (2) Subject to future budget constraints, the Legislature shall provide an annual  
5433 appropriation to operate KUED - TV.

5434 (3) This section neither regulates nor restricts a privately owned company in the  
5435 distribution or dissemination of educational programs.

5436 Section 117. Section **53B-17-104** is amended to read:

5437 **53B-17-104. Responsibilities of the Utah Board of Higher Education, the State**  
5438 **Board of Education, the University of Utah, KUED - TV, KUER - FM, and UETN related**  
5439 **to public broadcasting and telecommunication for education and government.**

5440 (1) Subject to applicable rules of the Federal Communications Commission and  
5441 Section **53B-17-105**, the ~~[State Board of Regents]~~ Utah Board of Higher Education, the State  
5442 Board of Education, the University of Utah, KUED - TV, KUER - FM, and UETN shall:

5443 (a) coordinate statewide services of public radio and television;

5444 (b) develop, maintain, and operate statewide distribution systems for KUED - TV,  
5445 KUER - FM, and KUEN, the statewide distance learning service, the educational data network,  
5446 connections to the Internet, and other telecommunications services appropriate for providing  
5447 video, audio, and data telecommunication services in support of public and higher education,  
5448 state government, and public libraries;

5449 (c) support the delivery of these services to as many communities as may be  
5450 economically and technically feasible and lawfully permissible under the various operating



5451 licenses;

5452 (d) cooperate with state and local governmental and educational agencies and provide  
5453 leadership and consulting service for telecommunication for education;

5454 (e) represent the state with privately owned telecommunications systems to gain access  
5455 to their networks for the delivery of programs and services sponsored or produced by public  
5456 and higher education;

5457 (f) acquire, produce, coordinate, and distribute a variety of programs and services of an  
5458 educational, cultural, informative, and entertaining nature designed to promote the public  
5459 interest and welfare of the state;

5460 (g) coordinate with the state system of higher education to acquire, produce, and  
5461 distribute broadcast and nonbroadcast college credit telecourses, teleconferences, and other  
5462 instructional and training services;

5463 (h) coordinate with school districts and public schools to acquire, produce, and  
5464 distribute broadcast and nonbroadcast telecourses, teleconferences, and other instructional and  
5465 training services to the public schools;

5466 (i) coordinate the development of a clearing house for the materials, courses,  
5467 publications, media, software, and other applicable information related to the items addressed  
5468 in Subsections (1)(g) and (h);

5469 (j) coordinate the provision of the following services to public schools:

5470 (i) broadcast, during school hours, of educational and administrative programs  
5471 recommended by the State Board of Education;

5472 (ii) digitization of programs for broadcast purposes; and

5473 (iii) program previewing;

5474 (k) share responsibility for Instructional Television (ITV) awareness and utilization;

5475 and

5476 (l) provide teleconference and training services for state and local governmental  
5477 agencies.

5478 (2) This section neither regulates nor restricts a privately owned company in the  
5479 distribution or dissemination of education programs.

5480 Section 118. Section **53B-17-105** is amended to read:

5481 **53B-17-105. Utah Education and Telehealth Network.**

(1) There is created the Utah Education and Telehealth Network, or UETN.

(2) UETN shall:

(a) coordinate and support the telecommunications needs of public and higher education, public libraries, and entities affiliated with the state systems of public and higher education as approved by the Utah Education and Telehealth Network Board, including the statewide development and implementation of a network for education, which utilizes satellite, microwave, fiber-optic, broadcast, and other transmission media;

(b) coordinate the various telecommunications technology initiatives of public and higher education;

(c) provide high-quality, cost-effective Internet access and appropriate interface equipment for schools and school systems;

(d) procure, install, and maintain telecommunication services and equipment on behalf of public and higher education;

(e) develop or implement other programs or services for the delivery of distance learning and telehealth services as directed by law;

(f) apply for state and federal funding on behalf of:

(i) public and higher education; and

(ii) telehealth services;

(g) in consultation with health care providers from a variety of health care systems, explore and encourage the development of telehealth services as a means of reducing health care costs and increasing health care quality and access, with emphasis on assisting rural health care providers and special populations; and

(h) in consultation with the Utah Department of Health, advise the governor and the Legislature on:

(i) the role of telehealth in the state;

(ii) the policy issues related to telehealth;

(iii) the changing telehealth needs and resources in the state; and

(iv) state budgetary matters related to telehealth.

(3) In performing the duties under Subsection (2), UETN shall:

(a) provide services to schools, school districts, and the public and higher education systems through an open and competitive bidding process;

- 5513 (b) work with the private sector to deliver high-quality, cost-effective services;
- 5514 (c) avoid duplicating facilities, equipment, or services of private providers or public
- 5515 telecommunications service, as defined under Section 54-8b-2;
- 5516 (d) utilize statewide economic development criteria in the design and implementation
- 5517 of the educational telecommunications infrastructure; and
- 5518 (e) assure that public service entities, such as educators, public service providers, and
- 5519 public broadcasters, are provided access to the telecommunications infrastructure developed in
- 5520 the state.
- 5521 (4) The University of Utah shall provide administrative support for UETN.
- 5522 (5) (a) The Utah Education and Telehealth Network Board, which is the governing
- 5523 board for UETN, is created.
- 5524 (b) The Utah Education and Telehealth Network Board shall have 13 members as
- 5525 follows:
- 5526 (i) ~~[four]~~ five members representing the state system of higher education, of which at
- 5527 least one member represents technical colleges, appointed by the commissioner of higher
- 5528 education;
- 5529 (ii) four members representing the state system of public education appointed by the
- 5530 State Board of Education;
- 5531 ~~[(iii) one member representing technical colleges appointed by the Utah System of~~
- 5532 ~~Technical Colleges commissioner of technical education;]~~
- 5533 ~~[(iv)]~~ (iii) one member representing the state library appointed by the state librarian;
- 5534 ~~[(v)]~~ (iv) two members representing hospitals as follows:
- 5535 (A) the members may not be employed by the same hospital system;
- 5536 (B) one member shall represent a rural hospital;
- 5537 (C) one member shall represent an urban hospital; and
- 5538 (D) the chief administrator or the administrator's designee for each hospital licensed in
- 5539 this state shall select the two hospital representatives; and
- 5540 ~~[(vi)]~~ (v) one member representing the office of the governor, appointed by the
- 5541 governor.
- 5542 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
- 5543 appointed for the unexpired term.

5544 (d) (i) The board shall elect a chair.  
5545 (ii) The chair shall set the agenda for the board meetings.  
5546 (6) A member of the board may not receive compensation or benefits for the member's  
5547 service, but may receive per diem and travel expenses in accordance with:  
5548 (a) Section 63A-3-106;  
5549 (b) Section 63A-3-107; and  
5550 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
5551 63A-3-107.  
5552 (7) The board:  
5553 (a) shall hire an executive director for UETN who may hire staff for UETN as  
5554 permitted by the budget;  
5555 (b) may terminate the executive director's employment or assignment;  
5556 (c) shall determine the executive director's salary;  
5557 (d) shall annually conduct a performance evaluation of the executive director;  
5558 (e) shall establish policies the board determines are necessary for the operation of  
5559 UETN and the administration of UETN's duties; and  
5560 (f) shall advise UETN in:  
5561 (i) the development and operation of a coordinated, statewide, multi-option  
5562 telecommunications system to assist in the delivery of educational services and telehealth  
5563 services throughout the state; and  
5564 (ii) acquiring, producing, and distributing instructional content.  
5565 (8) The executive director of UETN shall be an at-will employee.  
5566 (9) UETN shall locate and maintain educational and telehealth telecommunication  
5567 infrastructure throughout the state.  
5568 (10) Educational institutions shall manage site operations under policy established by  
5569 UETN.  
5570 (11) Subject to future budget constraints, the Legislature shall provide an annual  
5571 appropriation to operate UETN.  
5572 (12) If the network operated by the Department of Technology Services is not  
5573 available, UETN may provide network connections to the central administration of counties  
5574 and municipalities for the sole purpose of transferring data to a secure facility for backup and

5575 disaster recovery.

5576 Section 119. Section **53B-17-503** is amended to read:

5577 **53B-17-503. Administration through nonprofit corporations or foundations --**

5578 **Control -- Authority of corporations or foundations -- Personnel considered employees of**  
5579 **university.**

5580 (1) The University of Utah may establish, develop, and administer through nonprofit  
5581 corporations or foundations controlled by the president and the [~~State Board of Regents~~] board  
5582 a research park upon the land acquired by the university under the patent.

5583 (2) The nonprofit corporations or foundations may receive and administer legislative  
5584 appropriations, government grants, contracts, and private gifts to carry out their public  
5585 purposes.

5586 (3) All salaried employees, agents, officers, faculty, and staff of the nonprofit  
5587 corporation or foundation are for the purpose of employee benefits, employees, agents, officers,  
5588 faculty, and staff of the University of Utah.

5589 Section 120. Section **53B-17-505** is amended to read:

5590 **53B-17-505. City to provide services and facilities to research park -- Fees and**  
5591 **charges -- Disallowance of special improvement district or special taxes.**

5592 (1) The Salt Lake City Council shall provide police and fire protection and furnish,  
5593 install, and maintain customary municipal services and facilities for street lighting, traffic  
5594 control, sidewalks, curb, gutter, drainage, sewage disposal, and water supply to all areas of the  
5595 research park established upon lands conveyed to the University of Utah under the patent.

5596 (2) The services and facilities are to be furnished and provided as needed and  
5597 determined by the [~~State Board of Regents~~] board subject to connection fees, use charges, and  
5598 other service fees customarily assessed against similar persons, companies, or properties within  
5599 the territorial limits of Salt Lake City.

5600 (3) No special improvement district may be created or special taxes imposed with  
5601 respect to the services and facilities provided under this section.

5602 Section 121. Section **53B-17-901** is amended to read:

5603 **53B-17-901. Admissions -- Increase authorized.**

5604 (1) Beginning with the 2013-14 school year and subject to Subsection (2), the  
5605 University of Utah School of Medicine may increase the number of students admitted by 40

5606 students for a total of 122 students admitted annually.

5607 (2) Beginning with the 2013-14 school year, no fewer than 82% of the students  
5608 admitted annually shall:

5609 (a) meet the qualifications of a resident student for the purpose of tuition in accordance  
5610 with:

5611 (i) Section ~~53B-8-102~~;

5612 (ii) ~~[State Board of Regents]~~ board policy on determining resident status; and

5613 (iii) University of Utah policy on determining resident status;

5614 (b) have graduated from a public or private college or university located in Utah; or

5615 (c) have graduated from a public or private high school located in Utah.

5616 Section 122. Section **53B-17-1203** is amended to read:

5617 **53B-17-1203. SafeUT and School Safety Commission established -- Members.**

5618 (1) There is created the SafeUT and School Safety Commission composed of the  
5619 following members:

5620 (a) one member who represents the Office of the Attorney General, appointed by the  
5621 attorney general;

5622 (b) one member who represents the Utah public education system, appointed by the  
5623 State Board of Education;

5624 (c) one member who represents the ~~[Utah System of Higher Education]~~ Utah system of  
5625 higher education, appointed by the ~~[State Board of Regents]~~ board;

5626 (d) one member who represents the Utah Department of Health, appointed by the  
5627 executive director of the Department of Health;

5628 (e) one member of the House of Representatives, appointed by the speaker of the  
5629 House of Representatives;

5630 (f) one member of the Senate, appointed by the president of the Senate;

5631 (g) one member who represents the University Neuropsychiatric Institute, appointed by  
5632 the chair of the commission;

5633 (h) one member who represents law enforcement who has extensive experience in  
5634 emergency response, appointed by the chair of the commission;

5635 (i) one member who represents the Utah Department of Human Services who has  
5636 experience in youth services or treatment services, appointed by the executive director of the

5637 Department of Human Services; and

5638 (j) two members of the public, appointed by the chair of the commission.

5639 (2) (a) Except as provided in Subsection (2)(b), members of the commission shall be  
5640 appointed to four-year terms.

5641 (b) The length of the terms of the members shall be staggered so that approximately  
5642 half of the committee is appointed every two years.

5643 (c) When a vacancy occurs in the membership of the commission, the replacement  
5644 shall be appointed for the unexpired term.

5645 (3) (a) The attorney general's designee shall serve as chair of the commission.

5646 (b) The chair shall set the agenda for commission meetings.

5647 (4) Attendance of a simple majority of the members constitutes a quorum for the  
5648 transaction of official commission business.

5649 (5) Formal action by the commission requires a majority vote of a quorum.

5650 (6) (a) Except as provided in Subsection (6)(b), a member may not receive  
5651 compensation, benefits, per diem, or travel expenses for the member's service.

5652 (b) Compensation and expenses of a member who is a legislator are governed by  
5653 Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

5654 (7) The Office of the Attorney General shall provide staff support to the commission.  
5655 Section 123. Section **53B-17-1204** is amended to read:

5656 **53B-17-1204. SafeUT and School Safety Commission duties -- LEA governing**  
5657 **board duties -- Fees.**

5658 (1) As used in this section:

5659 (a) "LEA governing board" means:

5660 (i) for a school district, the local school board;

5661 (ii) for a charter school, the charter school governing board; or

5662 (iii) for the Utah Schools for the Deaf and the Blind, the State Board of Education.

5663 (b) "Local education agency" or "LEA" means:

5664 (i) a school district;

5665 (ii) a charter school; or

5666 (iii) the Utah Schools for the Deaf and the Blind.

5667 (2) The commission shall coordinate:

5668 (a) statewide efforts related to the SafeUT Crisis Line; and

5669 (b) with the State Board of Education and the [~~State Board of Regents~~] board to  
5670 promote awareness of the services available through the SafeUT Crisis Line.

5671 (3) An LEA governing board shall inform students, parents, and school personnel  
5672 about the SafeUT Crisis Line.

5673 (4) (a) Except as provided in Subsection (4)(b), the University Neuropsychiatric  
5674 Institute may charge a fee to an institution of higher education or other entity for the use of the  
5675 SafeUT Crisis Line in accordance with the method described in Subsection (4)(c).

5676 (b) The University Neuropsychiatric Institute may not charge a fee to the State Board  
5677 of Education or a local education agency for the use of the SafeUT Crisis Line.

5678 (c) The commission shall establish a standard method for charging a fee described in  
5679 Subsection (4)(a).

5680 Section 124. Section **53B-18-501** is amended to read:

5681 **53B-18-501. Nonprofit corporations or foundations -- Purpose.**

5682 (1) In addition to any other powers which it now has, Utah State University may form  
5683 nonprofit corporations or foundations controlled by the president of the university and the  
5684 [~~State Board of Regents~~] board to aid and assist the university in attaining its charitable,  
5685 scientific, literary, research, and educational objectives.

5686 (2) The nonprofit corporations or foundations may receive and administer legislative  
5687 appropriations, government grants, contracts, and private gifts to carry out their public  
5688 purposes.

5689 Section 125. Section **53B-18-1301** is amended to read:

5690 **53B-18-1301. Veterinary education program -- Partnership agreement.**

5691 (1) With the approval of the [~~State Board of Regents~~] board, Utah State University may  
5692 enter into a partnership agreement with Washington State University to establish a veterinary  
5693 education program.

5694 (2) The partnership agreement may provide that:

5695 (a) (i) initially, up to 20 Utah resident students and 10 nonresident students may be  
5696 accepted each year into a four-year program leading to a doctorate in veterinary medicine; and

5697 (ii) if resources become available to expand the doctoral program in veterinary  
5698 medicine, additional Utah resident students and nonresident students may be accepted into the



5699 program; and

5700 (b) students accepted into the doctoral program in veterinary medicine pursuant to  
5701 Subsection (2)(a) complete the first and second years of study at Utah State University and the  
5702 third and fourth years of study at Washington State University.

5703 (3) Subject to future budget constraints, the Legislature shall annually provide an  
5704 appropriation to pay for the nonresident portion of tuition for Utah students enrolled at  
5705 Washington State University under a partnership agreement authorized by this section for the  
5706 third and fourth years of a doctoral program in veterinary medicine.

5707 Section 126. Section **53B-21-104** is amended to read:

5708 **53B-21-104. Deposit of bond proceeds -- State Building Board responsibilities --**  
5709 **Approval of Division of Facilities Construction and Management.**

5710 (1) The [~~State Board of Regents~~]<sup>1</sup> board treasurer or other fiscal officer, with the  
5711 approval of the state treasurer, deposits the proceeds from the sale of bonds under this chapter  
5712 into a special Construction Trust Fund Account established in compliance with the State  
5713 Money Management Act of 1974.

5714 (2) The proceeds are credited to the board on behalf of the institution of higher  
5715 education for which the bonds were issued.

5716 (3) The proceeds are kept in a separate fund and used solely for the purpose for which  
5717 they were authorized by the board.

5718 (4) The State Building Board makes all contracts and executes all instruments which it  
5719 considers necessary to provide for the projects referred to in Section **53B-21-101**.

5720 (5) The proceeds in the special Construction Trust Fund Account shall be disbursed  
5721 only upon receipt of written statements supported by itemized estimates and claims presented  
5722 to the Division of Facilities Construction and Management as provided in the resolution  
5723 authorizing the issuance of the bonds.

5724 Section 127. Section **53B-21-105** is amended to read:

5725 **53B-21-105. Disposition and use of income from operation of buildings --**  
5726 **Payment of principal and interest on bonds.**

5727 (1) Except for the revenues paid directly to a trustee under Subsection  
5728 **53B-21-102**(3)(f), all income and revenues from the operation of the buildings under this  
5729 chapter are deposited as collected in a fund established in compliance with the State Money

5730 Management Act.

5731 (2) (a) This money is for the payment of the principal and interest on the bonds  
5732 authorized under this chapter.

5733 (b) The money shall also be used, to the extent provided in the resolution authorizing  
5734 the bonds, to pay for the cost of maintaining and operating the building and to establish  
5735 reserves for that purpose.

5736 (3) The ~~[State Board of Regents]~~ board treasurer or other designated fiscal officer shall,  
5737 not less than 15 days prior to the date interest and principal payments are due, transmit to the  
5738 paying agent sufficient money from the fund to pay the obligation.

5739 Section 128. Section **53B-21-113** is amended to read:

5740 **53B-21-113. Limitation on issuance of bonds.**

5741 No bonds may be authorized or issued by the ~~[State Board of Regents]~~ board or the  
5742 board of any institution under this chapter without the prior approval of the Legislature.

5743 Section 129. Section **53B-22-201** is amended to read:

5744 **53B-22-201. Definitions.**

5745 As used in this part:

5746 (1) "Capital developments" means the same as that term is defined in Section  
5747 [63A-5-104](#).

5748 (2) "Consumer Price Index" means the Consumer Price Index for All Urban  
5749 Consumers as published by the Bureau of Labor Statistics of the United States Department of  
5750 Labor.

5751 (3) "Dedicated project" means a capital development project for which state funds from  
5752 an institution's allocation are requested or used.

5753 (4) "Fund" means the Higher Education Capital Projects Fund created in Section  
5754 [53B-22-202](#).

5755 (5) "Institution" means ~~[a college or university that is part of the Utah System of~~  
5756 ~~Higher Education described in Section [53B-1-102](#)]~~ a degree-granting institution.

5757 (6) "Institution's allocation" means the total amount of money in the fund that an  
5758 institution has been allocated in accordance with Section [53B-22-203](#).

5759 (7) "Nondedicated project" means a capital development project for which state funds  
5760 from a source other than an institution's allocation are requested or used.

5761 (8) "State funds" means the same as that term is defined in Section 63A-5-104.

5762 Section 130. Section 53B-23-104 is amended to read:

5763 **53B-23-104. Centers for processing requests for electronic versions of**  
5764 **instructional materials.**

5765 (1) The [~~State Board of Regents~~] board may establish one or more centers to process  
5766 requests for electronic versions of instructional materials pursuant to this chapter.

5767 (2) The institutions designated as within the jurisdiction of a center shall submit  
5768 requests for instructional material to the center, which shall transmit the request to the  
5769 publisher or manufacturer.

5770 (3) If there is more than one center, each center shall make every effort to coordinate  
5771 requests.

5772 (4) The publisher or manufacturer of instructional material shall be required to honor  
5773 and respond to only those requests submitted through a designated center.

5774 (5) If a publisher or manufacturer has responded to a request for instructional materials  
5775 by a center, all subsequent requests for those instructional materials shall be satisfied by the  
5776 center to which the request is made.

5777 Section 131. Section 53B-23-106 is amended to read:

5778 **53B-23-106. Board to make rules.**

5779 [~~The State Board of Regents shall adopt~~] In accordance with Title 63G, Chapter 3, Utah  
5780 Administrative Rulemaking Act, the board shall make rules consistent with this section for its  
5781 implementation and administration, including rules addressing:

5782 (1) the designation of materials considered "required or essential to student success";

5783 (2) the determination of the availability of technology for the conversion of nonprinted  
5784 materials pursuant to Section 53B-23-103 and the conversion of mathematics and science  
5785 materials pursuant to Section 53B-23-102; and

5786 (3) the procedures and standards relating to distribution of files and materials pursuant  
5787 to Section 53B-23-103.

5788 Section 132. Section 53B-26-103 is amended to read:

5789 **53B-26-103. GOED reporting requirement -- Proposals -- Funding.**

5790 (1) Every other year, the Governor's Office of Economic Development shall report to  
5791 the Higher Education Appropriations Subcommittee~~[- the board, and the Utah System of~~

5792 ~~Technical Colleges Board of Trustees]~~ and the board on the high demand technical jobs  
5793 projected to support economic growth in the following high need strategic industry clusters:  
5794 (a) aerospace and defense;  
5795 (b) energy and natural resources;  
5796 (c) financial services;  
5797 (d) life sciences;  
5798 (e) outdoor products;  
5799 (f) software development and information technology; and  
5800 (g) any other strategic industry cluster designated by the Governor's Office of  
5801 Economic Development.

5802 (2) To receive funding under this section, an eligible partnership shall submit a  
5803 proposal containing the elements described in Subsection (3) to the Higher Education  
5804 Appropriations Subcommittee on or before January 5 for fiscal year 2018 and any succeeding  
5805 fiscal year.

5806 (3) A proposal described in Subsection (2) shall include:  
5807 (a) a program of instruction that:  
5808 (i) is responsive to the workforce needs of a strategic industry cluster described in  
5809 Subsection (1):  
5810 (A) in one CTE region, for a proposal submitted by a regional partnership; or  
5811 (B) in at least two CTE regions, for a proposal submitted by a statewide partnership;  
5812 (ii) leads to the attainment of a stackable sequence of credentials; and  
5813 (iii) includes a non-duplicative progression of courses that include both academic and  
5814 CTE content;  
5815 (b) expected student enrollment, attainment rates, and job placement rates;  
5816 (c) evidence of input and support for the proposal from an industry advisory group;  
5817 (d) a description of any financial or in-kind contributions for the program from an  
5818 industry advisory group;  
5819 (e) a description of the job opportunities available at each exit point in the stackable  
5820 sequence of credentials;  
5821 (f) evidence of an official action in support of the proposal from[:] the board;  
5822 ~~[(i) the Utah System of Technical Colleges Board of Trustees, if the eligible~~

5823 partnership includes a technical college described in Subsection ~~53B-26-102~~(10)(a); or]

5824 [(ii) the board, if the eligible partnership includes:]

5825 [(A) an institution of higher education; or]

5826 [(B) a college described in Subsections ~~53B-26-102~~(10)(b) through (e);]

5827 (g) if the program of instruction described in Subsection (3)(a) requires board approval

5828 under Section ~~53B-16-102~~, evidence of board approval of the program of instruction; and

5829 (h) a funding request, including justification for the request.

5830 (4) The Higher Education Appropriations Subcommittee shall:

5831 (a) review a proposal submitted under this section using the following criteria:

5832 (i) the proposal contains the elements described in Subsection (3);

5833 (ii) for a proposal from a regional partnership, support for the proposal is widespread

5834 within the CTE region; and

5835 (iii) the proposal expands the capacity to meet state or regional workforce needs;

5836 (b) determine the extent to which to fund the proposal; and

5837 (c) make a recommendation to the Legislature for funding the proposal through the

5838 appropriations process.

5839 (5) An eligible partnership that receives funding under this section:

5840 (a) shall use the money to deliver the program of instruction described in the eligible

5841 partnership's proposal; and

5842 (b) may not use the money for administration.

5843 Section 133. Section ~~53B-26-202~~ is amended to read:

5844 **53B-26-202. Nursing initiative -- Medical Education Council reporting**

5845 **requirement -- Proposals -- Funding.**

5846 (1) Every even-numbered year, the Medical Education Council created in Section

5847 ~~53B-24-302~~ shall:

5848 (a) project the demand, by license classification, for individuals to enter a nursing

5849 profession in each region;

5850 (b) receive input from at least one medical association in developing the projections

5851 described in Subsection (1)(a); and

5852 (c) report the projections described in Subsection (1)(a) to:

5853 [(i) the State Board of Regents;]

5854 ~~[(ii) the Utah System of Technical Colleges Board of Trustees; and]~~  
5855 (i) the board; and  
5856 ~~[(iii)]~~ (ii) the Higher Education Appropriations Subcommittee.  
5857 (2) To receive funding under this section, on or before January 5, an eligible program  
5858 shall submit to the Higher Education Appropriations Subcommittee, through the budget  
5859 process for the ~~[State Board of Regents or the Utah System of Technical Colleges]~~ board, as  
5860 applicable, a proposal that describes:  
5861 (a) a program of instruction offered by the eligible program that is responsive to a  
5862 projection described in Subsection (1)(a);  
5863 (b) the following information about the eligible program:  
5864 (i) expected student enrollment;  
5865 (ii) attainment rates;  
5866 (iii) job placement rates; and  
5867 (iv) passage rates for exams required for licensure for a nursing profession;  
5868 (c) the instructional cost per full-time equivalent student enrolled in the eligible  
5869 program;  
5870 (d) financial or in-kind contributions to the eligible program from:  
5871 (i) the health care industry; or  
5872 (ii) an institution; and  
5873 (e) a funding request, including justification for the request.  
5874 (3) The Higher Education Appropriations Subcommittee shall:  
5875 (a) review a proposal submitted under this section using the following criteria:  
5876 (i) the proposal:  
5877 (A) contains the elements described in Subsection (2);  
5878 (B) expands the capacity to meet the projected demand described in Subsection (1)(a);  
5879 and  
5880 (C) has health care industry or institution support; and  
5881 (ii) the program of instruction described in the proposal:  
5882 (A) is cost effective;  
5883 (B) has support from the health care industry or an institution; and  
5884 (C) has high passage rates on exams required for licensure for a nursing profession;

(b) determine the extent to which to fund the proposal; and

(c) make an appropriation recommendation to the Legislature on the amount of money determined under Subsection (3)(b) to the eligible program's institution.

(4) An institution that receives funding under this section shall use the funding to increase the number of students enrolled in the eligible program for which the institution receives funding.

(5) On or before November 1, 2020, and annually thereafter, the board shall report to the Higher Education Appropriations Subcommittee on the elements described in Subsection (2) for each eligible program funded under this section.

Section 134. Section **53B-27-301** is amended to read:

**53B-27-301. Definitions.**

As used in this part:

(1) "Civil liberty" means a civil liberty enumerated in the United States Constitution or the Utah Constitution.

~~[(2) "Governing board" means:]~~

~~[(a) for an institution described in Subsections **53B-2-101**(1)(a) through (h), the board; or]~~

~~[(b) for a technical college, the Utah System of Technical Colleges Board of Trustees.]~~

~~[(3)]~~ (2) "Initiate rulemaking proceedings" means the same as that term is defined in Section **63G-3-601**.

Section 135. Section **53B-27-303** is amended to read:

**53B-27-303. Complaint process -- Reporting.**

(1) Before August 1, 2019, ~~[each governing]~~ the board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing a procedure whereby a student enrolled in an institution may submit a complaint to the ~~[institution's governing]~~ board alleging a policy of the institution directly affects one or more of the student's civil liberties.

(2) (a) When a student submits a complaint in accordance with the rules adopted under Subsection (1), the ~~[governing]~~ board shall:

(i) examine the complaint and, within 30 days after the day on which the ~~[governing]~~ board receives the complaint, determine whether the complaint is made in good faith; and

(ii) (A) if the [governing] board determines that the complaint is made in good faith, direct the institution against which the complaint is made to initiate rulemaking proceedings for the challenged policy; or

(B) if the [governing] board determines that the complaint is made in bad faith, dismiss the complaint.

(b) Before November 30 of each year, [~~each governing~~] the board shall submit a report to the Administrative Rules Review Committee detailing:

(i) the number of complaints the [governing] board received during the preceding year;

(ii) the number of complaints the [governing] board found to be made in good faith during the preceding year; and

(iii) each policy that is the subject of a good-faith complaint that the [governing] board received during the preceding year.

(3) If [~~a governing~~] the board directs an institution to initiate rulemaking proceedings for a challenged policy in accordance with this section, the institution shall initiate rulemaking proceedings for the policy within 60 days after the day on which the [governing] board directs the institution.

Section 136. Section **53B-28-401** is amended to read:

**53B-28-401. Campus safety plans and training -- Institution duties -- Governing board duties.**

(1) As used in this section:

(a) "Covered offense" means:

(i) sexual assault;

(ii) domestic violence;

(iii) dating violence; or

(iv) stalking.

~~[(b) "Governing board" means:]~~

~~[(i) for a college or university that is part of the Utah System of Higher Education described in Section ~~53B-1-102~~, the board; or]~~

~~[(ii) for a technical college, the Utah System of Technical Colleges Board of Trustees.]~~

~~[(c)]~~ (b) "Institution" means an institution of higher education described in Section 53B-1-102.



5947           ~~[(d)]~~ (c) "Student organization" means a club, group, sports team, fraternity or sorority,  
5948 or other organization:

5949           (i) of which the majority of members is composed of students enrolled in an institution;  
5950 and

5951           (ii) (A) that is officially recognized by the institution; or  
5952           (B) seeks to be officially recognized by the institution.

5953           (2) An institution shall develop a campus safety plan that addresses:

5954           (a) where an individual can locate the institution's policies and publications related to a  
5955 covered offense;

5956           (b) institution and community resources for a victim of a covered offense;

5957           (c) the rights of a victim of a covered offense, including the measures the institution  
5958 takes to ensure, unless otherwise provided by law, victim confidentiality throughout all steps in  
5959 the reporting and response to a covered offense;

5960           (d) how the institution informs the campus community of a crime that presents a threat  
5961 to the campus community;

5962           (e) availability, locations, and methods for requesting assistance of security personnel  
5963 on the institution's campus;

5964           (f) guidance on how a student may contact law enforcement for incidents that occur off  
5965 campus;

5966           (g) institution efforts related to increasing campus safety, including efforts related to  
5967 the institution's increased response in providing services to victims of a covered offense, that:

5968           (i) the institution made in the preceding 18 months; and  
5969           (ii) the institution expects to make in the upcoming 24 months;

5970           (h) coordination and communication between institution resources and organizations,  
5971 including campus law enforcement;

5972           (i) institution coordination with local law enforcement or community resources,  
5973 including coordination related to a student's safety at an off-campus location; and

5974           (j) how the institution requires a student organization to provide the campus safety  
5975 training as described in Subsection (5).

5976           (3) An institution shall:

5977           (a) prominently post the institution's campus safety plan on the institution's website and

5978 each of the institution's campuses; and

5979 (b) annually update the institution's campus safety plan.

5980 (4) An institution shall develop a campus safety training curriculum that addresses:

5981 (a) awareness and prevention of covered offenses, including information on institution

5982 and community resources for a victim of a covered offense;

5983 (b) bystander intervention; and

5984 (c) sexual consent.

5985 (5) An institution shall require a student organization, in order for the student

5986 organization to receive or maintain official recognition by the institution, to annually provide

5987 campus safety training, using the curriculum described in Subsection (4), to the student

5988 organization's members.

5989 (6) ~~[Each governing]~~ The board shall:

5990 (a) on or before July 1, 2019, establish minimum requirements for an institution's

5991 campus safety plan described in Subsection (2);

5992 (b) identify resources an institution may use to develop a campus safety training

5993 curriculum as described in Subsection (4); and

5994 (c) report annually to the Education Interim Committee and the Law Enforcement and

5995 Criminal Justice Interim Committee, at or before the committees' November meetings, on the

5996 implementation of the requirements described in this section.

5997 Section 137. Section **53E-1-201** is amended to read:

5998 **53E-1-201. Reports to and action required of the Education Interim Committee.**

5999 (1) In accordance with applicable provisions and Section [68-3-14](#), the following

6000 recurring reports are due to the Education Interim Committee:

6001 (a) the prioritized list of data research described in Section [35A-14-302](#) and the report

6002 on research described in Section [35A-14-304](#) by the Utah Data Research Center;

6003 (b) the report described in Section [35A-15-303](#) by the State Board of Education on

6004 preschool programs;

6005 (c) the report described in Section ~~[53B-1-103]~~ [53B-1-402](#) by the ~~[State Board of~~

6006 ~~Regents]~~ Utah Board of Higher Education on career and technical education issues and

6007 addressing workforce needs;

6008 ~~[(d) the report described in Section [53B-1-107](#) by the State Board of Regents on the~~

6009 activities of the State Board of Regents;]  
6010 [~~(e)~~] the report described in Section ~~53B-2a-104~~ by the Utah System of Technical  
6011 Colleges Board of Trustees on career and technical education issues;]  
6012 (d) the annual report of the Utah Board of Higher Education described in Section  
6013 53B-1-402;  
6014 [~~(f)~~] (e) the reports described in Section ~~53B-28-401~~ by the [~~State Board of Regents~~  
6015 ~~and the Utah System of Technical Colleges Board of Trustees~~] Utah Board of Higher  
6016 Education regarding activities related to campus safety;  
6017 [~~(g)~~] (f) the State Superintendent's Annual Report by the state board described in  
6018 Section ~~53E-1-203~~;  
6019 [~~(h)~~] (g) the annual report described in Section ~~53E-2-202~~ by the state board on the  
6020 strategic plan to improve student outcomes;  
6021 [~~(i)~~] (h) the report described in Section ~~53E-8-204~~ by the state board on the Utah  
6022 Schools for the Deaf and the Blind;  
6023 [~~(j)~~] (i) the report described in Section ~~53E-10-703~~ by the Utah Leading through  
6024 Effective, Actionable, and Dynamic Education director on research and other activities;  
6025 [~~(k)~~] (j) the report described in Section ~~53F-4-203~~ by the state board and the  
6026 independent evaluator on an evaluation of early interactive reading software;  
6027 [~~(l)~~] (k) the report described in Section ~~53F-4-407~~ by the state board on UPSTART;  
6028 [~~(m)~~] (l) the report described in Section ~~53F-5-405~~ by an independent evaluator of a  
6029 partnership that receives a grant to improve educational outcomes for students who are low  
6030 income; and  
6031 [~~(n)~~] (m) the report described in Section ~~63N-12-208~~ by the STEM Action Center  
6032 Board, including the information described in Section ~~63N-12-213~~ on the status of the  
6033 computer science initiative and Section ~~63N-12-214~~ on the Computing Partnerships Grants  
6034 Program.  
6035 (2) In accordance with applicable provisions and Section ~~68-3-14~~, the following  
6036 occasional reports are due to the Education Interim Committee:  
6037 (a) the report described in Section ~~35A-15-303~~ by the School Readiness Board by  
6038 November 30, 2020, on benchmarks for certain preschool programs;  
6039 (b) the report described in Section ~~53E-3-519~~ by the state board regarding counseling

6040 services in schools;

6041 (c) the reports described in Section 53E-3-520 by the state board regarding cost centers  
6042 and implementing activity based costing;

6043 (d) if required, the report described in Section 53E-4-309 by the state board explaining  
6044 the reasons for changing the grade level specification for the administration of specific  
6045 assessments;

6046 (e) if required, the report described in Section 53E-5-210 by the state board of an  
6047 adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

6048 (f) the report described in Section 53E-10-702 by Utah Leading through Effective,  
6049 Actionable, and Dynamic Education;

6050 (g) the report described in Section 53F-2-502 by the state board on the program  
6051 evaluation of the dual language immersion program;

6052 (h) if required, the report described in Section 53F-2-513 by the state board evaluating  
6053 the effects of salary bonuses on the recruitment and retention of effective teachers in high  
6054 poverty schools;

6055 (i) upon request, the report described in Section 53F-5-207 by the state board on the  
6056 Intergenerational Poverty Intervention Grants Program;

6057 (j) the report described in Section 53F-5-210 by the state board on the Educational  
6058 Improvement Opportunities Outside of the Regular School Day Grant Program;

6059 (k) the reports described in Section 53G-11-304 by the state board regarding proposed  
6060 rules and results related to educator exit surveys;

6061 (l) upon request, the report described in Section 53G-11-505 by the state board on  
6062 progress in implementing employee evaluations;

6063 (m) the report described in Section 62A-15-117 by the Division of Substance Abuse  
6064 and Mental Health, the State Board of Education, and the Department of Health regarding  
6065 recommendations related to Medicaid reimbursement for school-based health services; and

6066 (n) the reports described in Section 63C-19-202 by the Higher Education Strategic  
6067 Planning Commission.

6068 (3) In accordance with Section 53B-7-705, the Education Interim Committee shall  
6069 complete the review of the implementation of performance funding.

6070 Section 138. Section 53E-1-203 is amended to read:

6071 **53E-1-203. State Superintendent's Annual Report.**

6072 (1) The state board shall prepare and submit to the governor, the Education Interim  
6073 Committee, and the Public Education Appropriations Subcommittee, by January 15 of each  
6074 year, an annual written report known as the State Superintendent's Annual Report that includes:

6075 (a) the operations, activities, programs, and services of the state board;  
6076 (b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and  
6077 (c) data on the general condition of the schools with recommendations considered  
6078 desirable for specific programs, including:

6079 (i) a complete statement of fund balances;  
6080 (ii) a complete statement of revenues by fund and source;  
6081 (iii) a complete statement of adjusted expenditures by fund, the status of bonded  
6082 indebtedness, the cost of new school plants, and school levies;  
6083 (iv) a complete statement of state funds allocated to each school district and charter  
6084 school by source, including supplemental appropriations, and a complete statement of  
6085 expenditures by each school district and charter school, including supplemental appropriations,  
6086 by function and object as outlined in the United States Department of Education publication  
6087 "Financial Accounting for Local and State School Systems";

6088 (v) a statement that includes data on:

6089 (A) fall enrollments;

6090 (B) average membership;

6091 (C) high school graduates;

6092 (D) licensed and classified employees, including data reported by school districts on  
6093 educator ratings described in Section [53G-11-511](#);

6094 (E) pupil-teacher ratios;

6095 (F) average class sizes;

6096 (G) average salaries;

6097 (H) applicable private school data; and

6098 (I) data from statewide assessments described in Section [53E-4-301](#) for each school  
6099 and school district;

6100 (vi) statistical information regarding incidents of delinquent activity in the schools or at  
6101 school-related activities; and

6102 (vii) other statistical and financial information about the school system that the state  
6103 superintendent considers pertinent.

6104 (2) (a) For the purposes of Subsection (1)(c)(v):

6105 (i) the pupil-teacher ratio for a school shall be calculated by dividing the number of  
6106 students enrolled in a school by the number of full-time equivalent teachers assigned to the  
6107 school, including regular classroom teachers, school-based specialists, and special education  
6108 teachers;

6109 (ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of  
6110 the schools within a school district;

6111 (iii) the pupil-teacher ratio for charter schools aggregated shall be the median  
6112 pupil-teacher ratio of charter schools in the state; and

6113 (iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median  
6114 pupil-teacher ratio of public schools in the state.

6115 (b) The report shall:

6116 (i) include the pupil-teacher ratio for:

6117 (A) each school district;

6118 (B) the charter schools aggregated; and

6119 (C) the state's public schools aggregated; and

6120 (ii) identify a website where pupil-teacher ratios for each school in the state may be  
6121 accessed.

6122 (3) For each operation, activity, program, or service provided by the state board, the  
6123 annual report shall include:

6124 (a) a description of the operation, activity, program, or service;

6125 (b) data and metrics:

6126 (i) selected and used by the state board to measure progress, performance,  
6127 effectiveness, and scope of the operation, activity, program, or service, including summary  
6128 data; and

6129 (ii) that are consistent and comparable for each state operation, activity, program, or  
6130 service;

6131 (c) budget data, including the amount and source of funding, expenses, and allocation  
6132 of full-time employees for the operation, activity, program, or service;

6133 (d) historical data from previous years for comparison with data reported under  
6134 Subsections (3)(b) and (c);

6135 (e) goals, challenges, and achievements related to the operation, activity, program, or  
6136 service;

6137 (f) relevant federal and state statutory references and requirements;

6138 (g) contact information of officials knowledgeable and responsible for each operation,  
6139 activity, program, or service; and

6140 (h) other information determined by the state board that:

6141 (i) may be needed, useful, or of historical significance; or

6142 (ii) promotes accountability and transparency for each operation, activity, program, or  
6143 service with the public and elected officials.

6144 (4) (a) Except as provided in Subsection (4)(b), the annual report shall also include:

6145 (i) the report described in Section 53E-3-507 by the state board on career and technical  
6146 education needs and program access;

6147 (ii) through October 1, 2022, the report described in Section 53E-3-515 by the state  
6148 board on the Hospitality and Tourism Management Career and Technical Education Pilot  
6149 Program;

6150 (iii) beginning on July 1, 2020, the report described in Section 53E-3-516 by the state  
6151 board on certain incidents that occur on school grounds;

6152 (iv) the report described in Section 53E-4-202 by the state board on the development  
6153 and implementation of the core standards for Utah public schools;

6154 (v) the report described in Section 53E-5-310 by the state board on school turnaround  
6155 and leadership development;

6156 (vi) the report described in Section 53E-10-308 by the state board and [~~State Board of~~  
6157 ~~Regents~~] Utah Board of Higher Education on student participation in the concurrent enrollment  
6158 program;

6159 (vii) the report described in Section 53F-2-503 by the state board on early literacy;

6160 (viii) the report described in Section 53F-5-506 by the state board on information  
6161 related to competency-based education;

6162 (ix) the report described in Section 53G-9-802 by the state board on dropout prevention  
6163 and recovery services; and

6164 (x) the report described in Section 53G-10-204 by the state board on methods used, and  
6165 the results being achieved, to instruct and prepare students to become informed and responsible  
6166 citizens.

6167 (b) The Education Interim Committee or the Public Education Appropriations  
6168 Subcommittee may request a report described in Subsection (4)(a) to be reported separately  
6169 from the State Superintendent's Annual Report.

6170 (5) The annual report shall be designed to provide clear, accurate, and accessible  
6171 information to the public, the governor, and the Legislature.

6172 (6) The state board shall:

6173 (a) submit the annual report in accordance with Section 68-3-14; and

6174 (b) make the annual report, and previous annual reports, accessible to the public by  
6175 placing a link to the reports on the state board's website.

6176 (7) (a) Upon request of the Education Interim Committee or Public Education  
6177 Appropriations Subcommittee, the state board shall present the State Superintendent's Annual  
6178 Report to either committee.

6179 (b) After submitting the State Superintendent's Annual Report in accordance with this  
6180 section, the state board may supplement the report at a later time with updated data,  
6181 information, or other materials as necessary or upon request by the governor, the Education  
6182 Interim Committee, or the Public Education Appropriations Subcommittee.

6183 Section 139. Section 53E-2-302 is amended to read:

6184 **53E-2-302. Characteristics of public education system.**

6185 The Legislature shall assist in maintaining a public education system that has the  
6186 following characteristics:

6187 (1) assumes that all students have the ability to learn and that each student departing  
6188 the system will be prepared to achieve success in productive employment, further education, or  
6189 both;

6190 (2) provides a personalized education plan or personalized education occupation plan  
6191 for each student, which involves the student, the student's parent, and school personnel in  
6192 establishing the plan;

6193 (3) provides students with the knowledge and skills to take responsibility for their  
6194 decisions and to make appropriate choices;



(4) provides opportunities for students to exhibit the capacity to learn, think, reason, and work effectively, individually and in groups;

(5) offers world-class core standards that enable students to successfully compete in a global society, and to succeed as citizens of a constitutional republic;

(6) incorporates an information retrieval system that provides students, parents, and educators with reliable, useful, and timely data on the progress of each student;

(7) attracts, prepares, inducts, and retains excellent teachers for every classroom in large part through collaborative efforts among the state board, the ~~[State Board of Regents]~~ Utah Board of Higher Education, and school districts, provides effective ongoing professional development opportunities for teachers to improve their teaching skills, and provides recognition, rewards, and compensation for their excellence;

(8) empowers each school district and public school to create its own vision and plan to achieve results consistent with the objectives outlined in this part;

(9) uses technology to improve teaching and learning processes and for the delivery of educational services;

(10) promotes ongoing research and development projects at the district and the school level that are directed at improving or enhancing public education;

(11) offers a public school choice program, which gives students and their parents options to best meet the student's personalized education needs;

(12) emphasizes the involvement of educators, parents, business partnerships, and the community at large in the educational process by allowing them to be involved in establishing and implementing educational goals and participating in decision-making at the school site; and

(13) emphasizes competency-based standards and progress-based assessments, including tracking and measurement systems.

Section 140. Section **53E-3-502** is amended to read:

**53E-3-502. State Board of Education assistance to districts and schools.**

In order to assist school districts and individual schools in acquiring and maintaining the characteristics set forth in Section **53E-2-302**, the State Board of Education shall:

(1) provide the framework for an education system, including core competency standards and their assessment, in which school districts and public schools permit students to

advance by demonstrating competency in subject matter and mastery of skills;

(2) conduct a statewide public awareness program on competency-based educational systems;

(3) compile and publish, for the state as a whole, a set of educational performance indicators describing trends in student performance;

(4) promote a public education climate of high expectations and academic excellence;

(5) disseminate successful site-based decision-making models to districts and schools and provide teacher professional development opportunities and evaluation programs for site-based plans consistent with Subsections 53E-2-302(7) and 53E-6-103(2)(a) and (b);

(6) provide a mechanism for widespread dissemination of information about strategic planning for public education, including involvement of business and industry in the education process, in order to ensure the understanding and support of all the individuals and groups concerned with the mission of public education as outlined in Section 53E-2-301;

(7) provide for a research and development clearing house at the state level to receive and share with school districts and public schools information on effective and innovative practices and programs in education;

(8) help school districts develop and implement guidelines, strategies, and professional development programs for administrators and teachers consistent with Subsections 53E-2-302(7) and 53E-6-103(2)(a) and (b) focused on improving interaction with parents and promoting greater parental involvement in the public schools; and

(9) in concert with the [~~State Board of Regents~~] Utah Board of Higher Education and the state's colleges of education review and revise teacher licensing requirements to be consistent with teacher preparation for participation in personalized education programs within the public schools.

Section 141. Section 53E-3-505 is amended to read:

**53E-3-505. Financial and economic literacy education.**

(1) As used in this section:

(a) "Financial and economic activities" include activities related to the topics listed in Subsection (1)(b).

(b) "Financial and economic literacy concepts" include concepts related to the following topics:

6257 (i) basic budgeting;  
6258 (ii) saving and financial investments;  
6259 (iii) banking and financial services, including balancing a checkbook or a bank account  
6260 and online banking services;  
6261 (iv) career management, including earning an income;  
6262 (v) rights and responsibilities of renting or buying a home;  
6263 (vi) retirement planning;  
6264 (vii) loans and borrowing money, including interest, credit card debt, predatory  
6265 lending, and payday loans;  
6266 (viii) insurance;  
6267 (ix) federal, state, and local taxes;  
6268 (x) charitable giving;  
6269 (xi) identity fraud and theft;  
6270 (xii) negative financial consequences of gambling;  
6271 (xiii) bankruptcy;  
6272 (xiv) economic systems, including a description of:  
6273 (A) a command system such as socialism or communism, a market system such as  
6274 capitalism, and a mixed system; and  
6275 (B) historic and current examples of the effects of each economic system on economic  
6276 growth;  
6277 (xv) supply and demand;  
6278 (xvi) monetary and fiscal policy;  
6279 (xvii) effective business plan creation, including using economic analysis in creating a  
6280 plan;  
6281 (xviii) scarcity and choices;  
6282 (xix) opportunity cost and tradeoffs;  
6283 (xx) productivity;  
6284 (xxi) entrepreneurism; and  
6285 (xxii) economic reasoning.  
6286 (c) "General financial literacy course" means the course of instruction administered by  
6287 the state board under Subsection (3).

6288           (2) The state board shall:

6289           (a) more fully integrate existing and new financial and economic literacy education into

6290 instruction in kindergarten through grade 12 by:

6291           (i) coordinating financial and economic literacy instruction with existing instruction in

6292 other areas of the core standards for Utah public schools, such as mathematics and social

6293 studies;

6294           (ii) using curriculum mapping;

6295           (iii) creating training materials and staff development programs that:

6296           (A) highlight areas of potential coordination between financial and economic literacy

6297 education and other core standards for Utah public schools concepts; and

6298           (B) demonstrate specific examples of financial and economic literacy concepts as a

6299 way of teaching other core standards for Utah public schools concepts; and

6300           (iv) using appropriate financial and economic literacy assessments to improve financial

6301 and economic literacy education and, if necessary, developing assessments;

6302           (b) work with interested public, private, and nonprofit entities to:

6303           (i) identify, and make available to teachers, online resources for financial and

6304 economic literacy education, including modules with interactive activities and turnkey

6305 instructor resources;

6306           (ii) coordinate school use of existing financial and economic literacy education

6307 resources;

6308           (iii) develop simple, clear, and consistent messaging to reinforce and link existing

6309 financial literacy resources;

6310           (iv) coordinate the efforts of school, work, private, nonprofit, and other financial

6311 education providers in implementing methods of appropriately communicating to teachers,

6312 students, and parents key financial and economic literacy messages; and

6313           (v) encourage parents and students to establish higher education savings, including a

6314 Utah Educational Savings Plan account;

6315           (c) make rules to develop guidelines and methods for school districts and charter

6316 schools to more fully integrate financial and economic literacy education into other core

6317 standards for Utah public schools courses; and

6318           (d) in cooperation with school districts, charter schools, and interested private and

6319 nonprofit entities, provide opportunities for professional development in financial and  
6320 economic literacy concepts to teachers, including:

- 6321 (i) a statewide learning community for financial and economic literacy;
- 6322 (ii) summer workshops; and
- 6323 (iii) online videos of experts in the field of financial and economic literacy education.

6324 (3) The state board shall:

- 6325 (a) administer a general financial literacy course in the same manner that the state  
6326 board administers other core standards for Utah public school courses for grades 9 through 12;
- 6327 (b) adopt standards and objectives for the general financial literacy course that address:
  - 6328 (i) financial and economic literacy concepts;
  - 6329 (ii) the costs of going to college, student loans, scholarships, and the Free Application  
6330 for Federal Student Aid;
  - 6331 (iii) financial benefits of pursuing concurrent enrollment as defined in Section  
6332 [53E-10-301](#); and
  - 6333 (iv) technology that relates to banking, savings, and financial products; and
- 6334 (c) (i) contract with a provider, through a request for proposals process, to develop an  
6335 online, end-of-course assessment for the general financial literacy course;
- 6336 (ii) require a school district or charter school to administer an online, end-of-course  
6337 assessment to a student who takes the general financial literacy course; and
- 6338 (iii) develop a plan, through the state superintendent, to analyze the results of an  
6339 online, end-of-course assessment in general financial literacy that includes:
  - 6340 (A) an analysis of assessment results by standard; and
  - 6341 (B) average scores statewide and by school district and school.
- 6342 (4) (a) The state board shall establish a task force to study and make recommendations  
6343 to the state board on how to improve financial and economic literacy education in the public  
6344 school system.
- 6345 (b) The task force membership shall include representatives of:
  - 6346 (i) the state board;
  - 6347 (ii) school districts and charter schools;
  - 6348 (iii) the ~~[State Board of Regents]~~ Utah Board of Higher Education; and
  - 6349 (iv) private or public entities that teach financial education and share a commitment to

6350 empower individuals and families to achieve economic stability, opportunity, and upward  
6351 mobility.

6352 (c) The state board shall convene the task force at least once every three years to  
6353 review and recommend adjustments to the standards and objectives of the general financial  
6354 literacy course.

6355 Section 142. Section **53E-3-507** is amended to read:

6356 **53E-3-507. Powers of the state board.**

6357 The state board:

6358 (1) shall establish minimum standards for career and technical education programs in  
6359 the public education system;

6360 (2) may apply for, receive, administer, and distribute funds made available through  
6361 programs of federal and state governments to promote and aid career and technical education;

6362 (3) shall cooperate with federal and state governments to administer programs that  
6363 promote and maintain career and technical education;

6364 (4) shall cooperate with the Utah [~~System of Technical Colleges Board of Trustees~~]  
6365 Board of Higher Education, technical colleges, Salt Lake Community College's School of  
6366 Applied Technology, Snow College, Utah State University Eastern, and Utah State University  
6367 Blanding to ensure that students in the public education system have access to career and  
6368 technical education at [~~Utah System of Technical Colleges~~] technical colleges, Salt Lake  
6369 Community College's School of Applied Technology, Snow College, Utah State University  
6370 Eastern, and Utah State University Blanding;

6371 (5) shall require that before a minor student may participate in clinical experiences as  
6372 part of a health care occupation program at a high school or other institution to which the  
6373 student has been referred, the student's parent has:

6374 (a) been first given written notice through appropriate disclosure when registering and  
6375 prior to participation that the program contains a clinical experience segment in which the  
6376 student will observe and perform specific health care procedures that may include personal  
6377 care, patient bathing, and bathroom assistance; and

6378 (b) provided specific written consent for the student's participation in the program and  
6379 clinical experience; and

6380 (6) shall, after consulting with school districts, charter schools, the Utah [~~System of~~

6381 ~~Technical Colleges Board of Trustees]~~ Board of Higher Education, technical colleges, Salt  
6382 Lake Community College's School of Applied Technology, Snow College, Utah State  
6383 University Eastern, and Utah State University Blanding, prepare and submit an annual report in  
6384 accordance with Section 53E-1-203 detailing:

6385 (a) how the career and technical education needs of secondary students are being met;  
6386 and

6387 (b) the access secondary students have to programs offered:

6388 (i) at technical colleges; and

6389 (ii) within the regions served by Salt Lake Community College's School of Applied  
6390 Technology, Snow College, Utah State University Eastern, and Utah State University Blanding.

6391 Section 143. Section 53E-4-206 is amended to read:

6392 **53E-4-206. Career and college readiness mathematics competency standards.**

6393 (1) As used in this section, "qualifying score" means a score established as described in  
6394 Subsection (4), that, if met by a student, qualifies the student to receive college credit for a  
6395 mathematics course that satisfies the state system of higher education quantitative literacy  
6396 requirement.

6397 (2) The state board shall make rules that:

6398 (a) (i) establish the mathematics competency standards described in Subsection (3) as a  
6399 graduation requirement beginning with the 2016-17 school year; and

6400 (ii) include the qualifying scores described in Subsection (4); and

6401 (b) establish systematic reporting of college and career ready mathematics  
6402 achievement.

6403 (3) In addition to other graduation requirements established by the state board, a  
6404 student shall fulfill one of the following requirements to demonstrate mathematics competency  
6405 that supports the student's future college and career goals as outlined in the student's college  
6406 and career plan:

6407 (a) for a student pursuing a college degree after graduation:

6408 (i) receive a score that at least meets the qualifying score for:

6409 (A) an Advanced Placement calculus or statistics exam;

6410 (B) an International Baccalaureate higher level mathematics exam;

6411 (C) a college-level math placement test described in Subsection (5);

6412 (D) a College Level Examination Program precalculus or calculus exam; or  
6413 (E) the ACT Mathematics Test; or  
6414 (ii) receive at least a "C" grade in a concurrent enrollment mathematics course that  
6415 satisfies the state system of higher education quantitative literacy requirement;  
6416 (b) for a non college degree-seeking student, the student shall complete appropriate  
6417 math competencies for the student's career goals as described in the student's college and career  
6418 plan;  
6419 (c) for a student with an individualized education program prepared in accordance with  
6420 the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., the student shall  
6421 meet the mathematics standards described in the student's individualized education program; or  
6422 (d) for a senior student with special circumstances as described in state board rule, the  
6423 student shall fulfill a requirement associated with the student's special circumstances, as  
6424 established in state board rule.  
6425 (4) The ~~[State Board of Regents]~~ Utah Board of Higher Education shall, in consultation  
6426 with the state board, determine qualifying scores for the tests and exams described in  
6427 Subsection (3)(a)(i).  
6428 (5) The ~~[State Board of Regents, established in Section 53B-1-103,]~~ Utah Board of  
6429 Higher Education shall make a policy to select at least two tests for college-level math  
6430 placement.  
6431 (6) The ~~[State Board of Regents]~~ Utah Board of Higher Education shall, in consultation  
6432 with the state board, make policies to:  
6433 (a) develop mechanisms for a student who completes a math competency requirement  
6434 described in Subsection (3)(a) to:  
6435 (i) receive college credit; and  
6436 (ii) satisfy the state system of higher education quantitative literacy requirement;  
6437 (b) allow a student, upon completion of required high school mathematics courses with  
6438 at least a "C" grade, entry into a mathematics concurrent enrollment course;  
6439 (c) increase access to a range of mathematics concurrent enrollment courses;  
6440 (d) establish a consistent concurrent enrollment course approval process; and  
6441 (e) establish a consistent process to qualify high school teachers with an upper level  
6442 mathematics endorsement to teach entry level mathematics concurrent enrollment courses.



6443 Section 144. Section **53E-4-308** is amended to read:

6444 **53E-4-308. Unique student identifier -- Coordination of higher education and**  
6445 **public education information technology systems -- Coordination of preschool and public**  
6446 **education information technology systems.**

6447 (1) As used in this section, "unique student identifier" means an alphanumeric code  
6448 assigned to each public education student for identification purposes, which:

6449 (a) is not assigned to any former or current student; and

6450 (b) does not incorporate personal information, including a birth date or Social Security  
6451 number.

6452 (2) The state board, through the state superintendent, shall assign each public education  
6453 student a unique student identifier, which shall be used to track individual student performance  
6454 on achievement tests administered under this part.

6455 (3) The state board and the [~~State Board of Regents~~] Utah Board of Higher Education  
6456 shall coordinate public education and higher education information technology systems to  
6457 allow individual student academic achievement to be tracked through both education systems  
6458 in accordance with this section and Section **53B-1-109**.

6459 (4) The state board and the [~~State Board of Regents~~] Utah Board of Higher Education  
6460 shall coordinate access to the unique student identifier of a public education student who later  
6461 attends an institution within the state system of higher education.

6462 (5) (a) The state board and the Department of Workforce Services shall coordinate  
6463 assignment of a unique student identifier to each student enrolled in a program described in  
6464 Title 35A, Chapter 15, Preschool Programs.

6465 (b) A unique student identifier assigned to a student under Subsection (5)(a) shall  
6466 remain the student's unique student identifier used by the state board when the student enrolls  
6467 in a public school in kindergarten or a later grade.

6468 (c) The state board, the Department of Workforce Services, and a contractor as defined  
6469 in Section **53F-4-401**, shall coordinate access to the unique student identifier of a preschool  
6470 student who later attends an LEA.

6471 Section 145. Section **53E-6-201** is amended to read:

6472 **53E-6-201. State board licensure.**

6473 (1) To be fully implemented by July 1, 2020, and, if technology and funds are

6474 available, the state board shall establish in rule a system for educator licensing that includes:

6475 (a) an associate educator license that permits an individual to provide educational  
6476 services in a public school while working to meet the requirements of a professional educator  
6477 license;

6478 (b) a professional educator license that permits an individual to provide educational  
6479 services in a public school after demonstrating that the individual meets licensure requirements  
6480 established in state board rule; and

6481 (c) an LEA-specific educator license issued by the state board at the request of an  
6482 LEA's governing body that is valid for an individual to provide educational services in the  
6483 requesting LEA's schools.

6484 (2) An individual employed in a position that requires licensure by the state board shall  
6485 hold the license that is appropriate to the position.

6486 (3) (a) The state board may by rule rank, endorse, or otherwise classify licenses and  
6487 establish the criteria for obtaining, retaining, and reinstating licenses.

6488 (b) An educator who is enrolling in a course of study at an institution within the state  
6489 system of higher education to satisfy the state board requirements for retaining a license is  
6490 exempt from tuition, except for a semester registration fee established by the [~~State Board of~~  
6491 ~~Regents~~] Utah Board of Higher Education, if:

6492 (i) the educator is enrolled on the basis of surplus space in the class after regularly  
6493 enrolled students have been assigned and admitted to the class in accordance with regular  
6494 procedures, normal teaching loads, and the institution's approved budget; and

6495 (ii) enrollments are determined by each institution under rules and guidelines  
6496 established by the [~~State Board of Regents~~] Utah Board of Higher Education in accordance  
6497 with findings of fact that space is available for the educator's enrollment.

6498 Section 146. Section **53E-10-301** is amended to read:

6499 **53E-10-301. Definitions.**

6500 As used in this part:

6501 (1) "Career and technical education course" means a concurrent enrollment course in  
6502 career and technical education, as determined by the policy established by the [~~State Board of~~  
6503 ~~Regents~~] Utah Board of Higher Education under Section [53E-10-302](#).

6504 (2) "Concurrent enrollment" means enrollment in a course offered through the

6505 concurrent enrollment program described in Section 53E-10-302.

6506 (3) "Educator" means the same as that term is defined in Section 53E-6-102.

6507 (4) "Eligible instructor" means an instructor who meets the requirements described in  
6508 Subsection 53E-10-302(5).

6509 (5) "Eligible student" means a student who:

6510 (a) is enrolled in, and counted in average daily membership in, a public school within  
6511 the state;

6512 (b) has on file a plan for college and career readiness as described in Section  
6513 53E-2-304; and

6514 (c) is in grade 9, 10, 11, or 12.

6515 (6) "Institution of higher education" means an institution [~~that is part of the Utah~~  
6516 ~~System of Higher Education~~] described in Subsection 53B-1-102(1)(a).

6517 (7) "License" means the same as that term is defined in Section 53E-6-102.

6518 (8) "Local education agency" or "LEA" means a school district or charter school.

6519 (9) "Qualifying experience" means an LEA employee's experience in an academic field  
6520 that:

6521 (a) qualifies the LEA employee to teach a concurrent enrollment course in the  
6522 academic field; and

6523 (b) may include the LEA employee's:

6524 (i) number of years teaching in the academic field;

6525 (ii) holding a higher level secondary teaching credential issued by the state board;

6526 (iii) research, publications, or other scholarly work in the academic field;

6527 (iv) continuing professional education in the academic field;

6528 (v) portfolio of work related to the academic field; or

6529 (vi) professional work experience or certifications in the academic field.

6530 (10) "Value of the weighted pupil unit" means the amount established each year in the  
6531 enacted public education budget that is multiplied by the number of weighted pupil units to  
6532 yield the funding level for the basic state-supported school program.

6533 Section 147. Section 53E-10-302 is amended to read:

6534 **53E-10-302. Concurrent enrollment program.**

6535 (1) The state board and the [~~State Board of Regents~~] Utah Board of Higher Education

6536 shall establish and maintain a concurrent enrollment program that:

6537 (a) provides an eligible student the opportunity to enroll in a course that allows the  
6538 eligible student to earn credit concurrently:

6539 (i) toward high school graduation; and

6540 (ii) at an institution of higher education;

6541 (b) includes only a course that:

6542 (i) leads to a degree or certificate offered by an institution of higher education; and

6543 (ii) is one of the following:

6544 (A) a general education course;

6545 (B) a career and technical education course;

6546 (C) a pre-major college level course; or

6547 (D) a foreign language concurrent enrollment course described in Section 53E-10-307;

6548 (c) requires that the instructor of a concurrent enrollment course is an eligible  
6549 instructor; and

6550 (d) is designed and implemented to take full advantage of the most current available  
6551 education technology.

6552 (2) The state board and the [~~State Board of Regents~~] Utah Board of Higher Education  
6553 shall coordinate to:

6554 (a) establish a concurrent enrollment course approval process that ensures:

6555 (i) credit awarded for concurrent enrollment is consistent and transferable to all  
6556 institutions of higher education; and

6557 (ii) learning outcomes for a concurrent enrollment course align with:

6558 (A) core standards for Utah public schools adopted by the state board; and

6559 (B) except for a foreign language concurrent enrollment course described in Section  
6560 53E-10-307, an institution of higher education lower division course numbered at or above the  
6561 1000 level; and

6562 (b) provide advising to an eligible student, including information on:

6563 (i) general education requirements at institutions of higher education; and

6564 (ii) how to choose concurrent enrollment courses to avoid duplication or excess credit  
6565 hours.

6566 (3) After consultation with institution of higher education concurrent enrollment

6567 directors, the ~~[State Board of Regents]~~ Utah Board of Higher Education shall:

6568 (a) provide guidelines to an institution of higher education for establishing qualifying  
6569 academic criteria for an eligible student to enroll in a concurrent enrollment course; and

6570 (b) on or before July 1, 2019, establish a policy that:

6571 (i) determines which concurrent enrollment courses are career and technical education  
6572 courses; and

6573 (ii) creates a process for:

6574 (A) an LEA to appeal an institution of higher education's decision under Subsection (6)  
6575 if the institution of higher education does not approve an LEA employee as an eligible  
6576 instructor; and

6577 (B) an LEA or institution of higher education to determine whether an eligible  
6578 instructor who previously taught a concurrent enrollment course is no longer qualified to teach  
6579 the concurrent enrollment course.

6580 (4) To qualify for funds under Section [53F-2-409](#), an LEA and an institution of higher  
6581 education shall:

6582 (a) enter into a contract, in accordance with Section [53E-10-303](#), to provide one or  
6583 more concurrent enrollment courses that are approved under the course approval process  
6584 described in Subsection (2);

6585 (b) ensure that an instructor who teaches a concurrent enrollment course is an eligible  
6586 instructor;

6587 (c) establish qualifying academic criteria for an eligible student to enroll in a  
6588 concurrent enrollment course, in accordance with the guidelines described in Subsection (3)(a);

6589 (d) ensure that a student who enrolls in a concurrent enrollment course is an eligible  
6590 student; and

6591 (e) coordinate advising to eligible students.

6592 (5) (a) An institution of higher education faculty member is an eligible instructor.

6593 (b) An LEA employee is an eligible instructor if the LEA employee:

6594 (i) is licensed under Chapter 6, Education Professional Licensure;

6595 (ii) is supervised by an institution of higher education; and

6596 (iii) (A) as described in Subsection (6), is approved as an eligible instructor by the  
6597 institution of higher education that provides the concurrent enrollment course taught by the

6598 LEA employee;  
6599 (B) has an upper level mathematics credential issued by the state board;  
6600 (C) is approved as adjunct faculty by the institution of higher education that provides  
6601 the concurrent enrollment course taught by the LEA employee; or  
6602 (D) teaches a concurrent enrollment course that the LEA employee taught during the  
6603 2018-19 or 2019-20 school year.

6604 (6) An institution of higher education shall approve an LEA employee as an eligible  
6605 instructor:

6606 (a) for a career and technical education concurrent enrollment course, if the LEA  
6607 employee has:

6608 (i) a degree, certificate, or industry certification in the concurrent enrollment course's  
6609 academic field; or

6610 (ii) qualifying experience, as determined by the institution of higher education; or

6611 (b) for a concurrent enrollment course other than a career and technical education  
6612 course, if the LEA employee has:

6613 (i) a master's degree or higher in the concurrent enrollment course's academic field;

6614 (ii) (A) a master's degree or higher in any academic field; and

6615 (B) at least 18 completed credit hours of graduate course work in an academic field  
6616 that is relevant to the concurrent enrollment course; or

6617 (iii) qualifying experience, as determined by the institution of higher education.

6618 (7) An institution of higher education shall accept credits earned by a student who  
6619 completes a concurrent enrollment course on the same basis as credits earned by a full-time or  
6620 part-time student enrolled at the institution of higher education.

6621 Section 148. Section **53E-10-303** is amended to read:

6622 **53E-10-303. Designated institution of higher education -- Concurrent enrollment**  
6623 **course right of first refusal.**

6624 (1) As used in this section, "designated institution of higher education" means an  
6625 institution of higher education that is designated by the [~~State Board of Regents~~] Utah Board of  
6626 Higher Education to provide a course or program of study within a specific geographic region.

6627 (2) To offer a concurrent enrollment course, an LEA shall contact the LEA's designated  
6628 institution of higher education to request that the designated institution of higher education

6629 contract with the LEA to provide the concurrent enrollment course.

6630 (3) If the LEA's designated institution of higher education chooses to offer the  
6631 concurrent enrollment course, the LEA shall contract with the LEA's designated institution of  
6632 higher education to provide the concurrent enrollment course.

6633 (4) An LEA may contract with an institution of higher education that is not the LEA's  
6634 designated institution of higher education to provide a concurrent enrollment course if the  
6635 LEA's designated institution of higher education:

6636 (a) chooses not to offer the concurrent enrollment course proposed by the LEA; or

6637 (b) fails to respond to the LEA's request under Subsection (2) within 30 days after the  
6638 day on which the LEA contacts the designated institution of higher education.

6639 Section 149. Section **53E-10-304** is amended to read:

6640 **53E-10-304. Concurrent enrollment participation form -- Parental permission.**

6641 (1) The [~~State Board of Regents~~] Utah Board of Higher Education shall create a higher  
6642 education concurrent enrollment participation form that includes a parental permission form.

6643 (2) Before allowing an eligible student to participate in concurrent enrollment, an LEA  
6644 and an institution of higher education shall ensure that the eligible student has, for the current  
6645 school year:

6646 (a) submitted the participation form described in Subsection (1);

6647 (b) signed an acknowledgment of program participation requirements; and

6648 (c) obtained parental permission as indicated by the signature of a student's parent on  
6649 the parental permission form.

6650 Section 150. Section **53E-10-305** is amended to read:

6651 **53E-10-305. Tuition and fees.**

6652 (1) Except as provided in this section, the [~~State Board of Regents~~] Utah Board of  
6653 Higher Education or an institution of higher education may not charge tuition or fees for a  
6654 concurrent enrollment course.

6655 (2) (a) The [~~State Board of Regents~~] Utah Board of Higher Education may charge a  
6656 one-time fee for a student to participate in the concurrent enrollment program.

6657 (b) A student who pays a fee described in Subsection (2)(a) does not satisfy a general  
6658 admission application fee requirement for a full-time or part-time student at an institution of  
6659 higher education.

6660 (3) (a) An institution of higher education may charge a one-time admission application  
6661 fee for concurrent enrollment course credit offered by the institution of higher education.

6662 (b) Payment of the fee described in Subsection (3)(a) satisfies the general admission  
6663 application fee requirement for a full-time or part-time student at an institution of higher  
6664 education.

6665 (4) (a) Except as provided in Subsection (4)(b), an institution of higher education may  
6666 charge partial tuition of no more than \$30 per credit hour for a concurrent enrollment course  
6667 for which a student earns college credit.

6668 (b) An institution of higher education may not charge more than:

6669 (i) \$5 per credit hour for an eligible student who qualifies for free or reduced price  
6670 school lunch;

6671 (ii) \$10 per credit hour for a concurrent enrollment course that is taught at an LEA by  
6672 an eligible instructor described in Subsection 53E-10-302(5)(b); or

6673 (iii) \$15 per credit hour for a concurrent enrollment course that is taught through video  
6674 conferencing.

6675 (5) In accordance with Section 53G-7-603, an LEA may charge a fee for a textbook, as  
6676 defined in Section 53G-7-601, that is required for a concurrent enrollment course.

6677 Section 151. Section 53E-10-308 is amended to read:

6678 **53E-10-308. Reporting.**

6679 The state board and the [~~State Board of Regents~~] Utah Board of Higher Education shall  
6680 submit an annual written report to the Higher Education Appropriations Subcommittee and in  
6681 accordance with Section 53E-1-203 on student participation in the concurrent enrollment  
6682 program, including:

6683 (1) data on the higher education tuition not charged due to the hours of higher  
6684 education credit granted through concurrent enrollment;

6685 (2) tuition or fees charged under Section 53E-10-305;

6686 (3) an accounting of the money appropriated for concurrent enrollment; and

6687 (4) a justification of the distribution method described in Subsections 53F-2-409(3)(d)  
6688 and (e).

6689 Section 152. Section 53E-10-704 is amended to read:

6690 **53E-10-704. Director Selection Committee -- Membership -- Powers and duties --**



6691 **Compensation.**

6692 (1) There is created the Director Selection Committee to appoint the director.

6693 (2) The selection committee shall consist of the following nine members each  
6694 appointed for two-year staggered terms, with the initial terms of the members described in  
6695 Subsections (2)(a), (b), and (c) to be three years:6696 (a) one member of the office of the governor, who is the chair of the selection  
6697 committee and appointed by the governor;6698 (b) one member of the House of Representatives, appointed by the speaker of the  
6699 House of Representatives;

6700 (c) one member of the Senate, appointed by the president of the Senate;

6701 (d) one member of the state board, appointed by the chair of the state board;

6702 (e) one member of the ~~[Board of Regents]~~ Utah Board of Higher Education, appointed  
6703 by the chair of the ~~[Board of Regents]~~ Utah Board of Higher Education;

6704 (f) one member appointed by the state superintendent;

6705 (g) one member of the State Charter School Board, appointed by the chair of the State  
6706 Charter School Board;6707 (h) one member of the Utah School Boards Association recognized in Section  
6708 [53G-4-502](#), appointed by the association executive director; and6709 (i) one member of a state association that represents school superintendents, appointed  
6710 by the association executive director.

6711 (3) (a) A member of the selection committee may be appointed for more than one term.

6712 (b) If a midterm vacancy occurs on the selection committee, the appointing individual,  
6713 as described in Subsection (2), for the vacant position shall appoint an individual for the  
6714 remainder of the term.6715 (4) A majority of the members shall constitute a quorum for the transaction of selection  
6716 committee business.

6717 (5) (a) The selection committee shall select and appoint a director for a four-year term.

6718 (b) The director may be appointed for more than one term.

6719 (6) (a) In a year in which the director is appointed, the selection committee shall:

6720 (i) solicit applications for the director position to be submitted no later than June 1;

6721 (ii) hold at least two meetings to discuss candidates for the open director position; and

6722 (iii) select and appoint by majority vote a candidate to fill the director position to begin  
6723 employment no later than August 1.

6724 (b) Notwithstanding Subsection (6)(a), if a midterm vacancy in the director position  
6725 occurs, the selection committee shall:

6726 (i) no later than 25 business days after the day on which the position is vacated, solicit  
6727 applications for the director position;

6728 (ii) hold at least two meetings to discuss candidates for the vacant position; and

6729 (iii) no later than 60 business days after the day on which the position is vacated, select  
6730 a candidate to fill the director position for the remainder of the term.

6731 (7) (a) The selection committee:

6732 (i) may remove a director before the completion of the director's term only by a  
6733 majority vote of the selection committee; and

6734 (ii) is the only person empowered to remove the director.

6735 (b) The chair shall hold a meeting to consider removing the director upon request of  
6736 two or more selection committee members.

6737 (8) A member of the selection committee may not receive compensation except a  
6738 member who is a legislator shall receive compensation for travel and other expense  
6739 reimbursements in accordance with Section 36-2-2.

6740 (9) The selection committee shall:

6741 (a) establish criteria for evaluation of the ULEAD program, including the degree of  
6742 participation by participating institutions and practitioners; and

6743 (b) evaluate the effectiveness of ULEAD every four years for purposes of continuing  
6744 the program.

6745 (10) The selection committee shall hold a meeting described in this section in  
6746 accordance with Title 52, Chapter 4, Open and Public Meetings Act.

6747 Section 153. Section 53F-2-409 is amended to read:

6748 **53F-2-409. Concurrent enrollment funding.**

6749 (1) The terms defined in Section 53E-10-301 apply to this section.

6750 (2) The state board shall allocate money appropriated for concurrent enrollment in  
6751 accordance with this section.

6752 (3) (a) The state board shall allocate money appropriated for concurrent enrollment in

6753 proportion to the number of credit hours earned for courses taken where:

6754 (i) an LEA primarily bears the cost of instruction; and

6755 (ii) an institution of higher education primarily bears the cost of instruction.

6756 (b) From the money allocated under Subsection (3)(a)(i), the state board shall

6757 distribute:

6758 (i) 60% of the money to LEAs; and

6759 (ii) 40% of the money to the [~~State Board of Regents~~] Utah Board of Higher Education.

6760 (c) From the money allocated under Subsection (3)(a)(ii), the state board shall

6761 distribute:

6762 (i) 40% of the money to LEAs; and

6763 (ii) 60% of the money to the [~~State Board of Regents~~] Utah Board of Higher Education.

6764 (d) The state board shall make rules providing for the distribution of the money to

6765 LEAs under Subsections (3)(b)(i) and (3)(c)(i).

6766 (e) The [~~State Board of Regents~~] Utah Board of Higher Education shall make rules

6767 providing for the distribution of the money allocated to institutions of higher education under

6768 Subsections (3)(b)(ii) and (3)(c)(ii).

6769 (4) Subject to budget constraints, the Legislature shall annually increase the money

6770 appropriated for concurrent enrollment in proportion to the percentage increase over the

6771 previous school year in:

6772 (a) kindergarten through grade 12 student enrollment; and

6773 (b) the value of the weighted pupil unit.

6774 (5) If an LEA receives an allocation of less than \$10,000 under this section, the LEA

6775 may use the allocation as described in Section [53F-2-206](#).

6776 Section 154. Section **53F-2-501** is amended to read:

6777 **53F-2-501. Early graduation incentives -- Incentive to school district -- Partial**  
6778 **tuition scholarship for student -- Payments.**

6779 (1) A secondary public school student who has completed all required courses or  
6780 demonstrated mastery of required skills and competencies may graduate at any time with the

6781 approval of:

6782 (a) the student;

6783 (b) the student's parent; and

6784 (c) a local school official who is authorized by the school's principal or director to  
6785 approve early graduation.

6786 (2) The state board shall make a payment to a public high school in an amount equal to  
6787 1/2 of the scholarship awarded to each student under this section who graduates from the  
6788 school at or before the conclusion of grade 11, or a proportionately lesser amount for a student  
6789 who graduates after the conclusion of grade 11 but before the conclusion of grade 12.

6790 (3) (a) The state board shall award to each student who graduates from high school at  
6791 or before the conclusion of grade 11 a centennial scholarship in the amount of the greater of  
6792 30% of the previous year's value of the weighted pupil unit or \$1,000, subject to this  
6793 Subsection (3) through Subsection (6).

6794 (b) A student who is awarded a centennial scholarship may use the scholarship for full  
6795 time enrollment at:

6796 (i) a Utah public college, university, or community college;

6797 (ii) a technical college described in Section 53B-2a-105; or

6798 (iii) any other institution in the state of Utah that:

6799 (A) is accredited by an accrediting organization recognized by the [~~State Board of~~  
6800 ~~Regents~~] Utah Board of Higher Education; and

6801 (B) offers postsecondary courses of the student's choice.

6802 (c) Before making a payment of a centennial scholarship, the state board shall verify  
6803 that the student has registered at an institution described in Subsection (3)(b):

6804 (i) during the fiscal year following the student's graduation from high school; or

6805 (ii) at the end of the student's deferral period, in accordance with Subsection (4).

6806 (d) If a student graduates after the conclusion of grade 11 but before the conclusion of  
6807 grade 12, the state board shall award the student a centennial scholarship of a proportionately  
6808 lesser amount than the scholarship amount described in Subsection (3)(a).

6809 (4) (a) A student who is eligible for a centennial scholarship under Subsection (3) may  
6810 make a request to the state board that the state board defer consideration of the student for the  
6811 scholarship for a set period of time.

6812 (b) A student who makes a request under Subsection (4)(a) shall state in the request the  
6813 reason for which the student wishes not to be considered for the scholarship until the end of the  
6814 deferral period, which may include:

6815 (i) health reasons;  
6816 (ii) religious reasons;  
6817 (iii) military service; or  
6818 (iv) humanitarian service.  
6819 (c) If a student makes a request under Subsection (4)(a), the state board shall:  
6820 (i) (A) review the student's request; and  
6821 (B) approve or reject the student's request; and  
6822 (ii) if the state board approves the student's request, in consultation with the student, set  
6823 the length of the deferral period, ensuring that the deferral period is sufficient to meet the  
6824 student's needs under Subsection (4)(b).  
6825 (d) At the end of the deferral period, and upon request of the student, the state board  
6826 shall:  
6827 (i) determine a student to be eligible for the scholarship if the student was eligible at  
6828 the time of the student's request for deferral; and  
6829 (ii) if found eligible, make a payment to the student in an amount equal to the amount  
6830 described in Subsection (4)(e).  
6831 (e) The amount of a student's deferred scholarship payment shall be determined by the  
6832 state board based on the amount of the scholarship the student would have been entitled to as  
6833 described in Subsection (3) and based on the fiscal year prior to the student's request for  
6834 deferral.  
6835 (5) Except as provided in Subsection (4)(b), the state board:  
6836 (a) shall make the payments authorized in Subsections (2) and (3)(a) during the fiscal  
6837 year that follows the student's graduation; and  
6838 (b) may make the payments authorized in Subsection (3)(b) during the fiscal year:  
6839 (i) in which the student graduates; or  
6840 (ii) following the student's graduation.  
6841 (6) Subject to future budget constraints, the Legislature shall adjust the appropriation  
6842 for the Centennial Scholarship Program based on:  
6843 (a) the anticipated increase of students awarded a centennial scholarship; and  
6844 (b) the percent increase of the prior year's weighted pupil unit value, as provided in  
6845 Subsection (3).

6846 Section 155. Section **53F-5-204** is amended to read:

6847 **53F-5-204. Initiative to strengthen college and career readiness.**

6848 (1) As used in this section:

6849 (a) "College and career counseling" means:

6850 (i) nurturing college and career aspirations;

6851 (ii) assisting students in planning an academic program that connects to college and  
6852 career goals;

6853 (iii) providing early and ongoing exposure to information necessary to make informed  
6854 decisions when selecting a college and career;

6855 (iv) promoting participation in college and career assessments;

6856 (v) providing financial aid information; and

6857 (vi) increasing understanding about college admission processes.

6858 (b) "LEA" or "local education agency" means a school district or charter school.

6859 (2) There is created the Strengthening College and Career Readiness Program, a grant  
6860 program for LEAs, to improve students' college and career readiness through enhancing the  
6861 skill level of school counselors to provide college and career counseling.

6862 (3) The state board shall:

6863 (a) on or before August 1, 2015, collaborate with the [~~State Board of Regents~~] Utah  
6864 Board of Higher Education, and business, community, and education stakeholders to develop a  
6865 certificate for school counselors that:

6866 (i) certifies that a school counselor is highly skilled at providing college and career  
6867 counseling; and

6868 (ii) is aligned with the Utah Comprehensive Counseling and Guidance Program as  
6869 defined in rules established by the state board;

6870 (b) subject to legislative appropriations, award grants to LEAs, on a competitive basis,  
6871 for payment of course fees for courses required to earn the certificate developed by the state  
6872 board under Subsection (3)(a); and

6873 (c) make rules specifying:

6874 (i) procedures for applying for and awarding grants under this section;

6875 (ii) criteria for awarding grants; and

6876 (iii) reporting requirements for grantees.

(4) An LEA that receives a grant under this section shall use the grant for payment of course fees for courses required to attain the certificate as determined by the state board under Subsection (3)(a).

Section 156. Section **53F-5-205** is amended to read:

**53F-5-205. Paraeducator to Teacher Scholarship Program -- Grants for math teacher training programs.**

(1) (a) The terms defined in Section **53E-6-102** apply to this section.

(b) As used in this section, "paraeducator" means a school employee who:

(i) delivers instruction under the direct supervision of a teacher; and

(ii) works in an area where there is a shortage of qualified teachers, such as special education, Title I, ESL, reading remediation, math, or science.

(2) The Paraeducator to Teacher Scholarship Program is created to award scholarships to paraeducators for education and training to become licensed teachers.

(3) The state board shall use money appropriated for the Paraeducator to Teacher Scholarship Program to award scholarships of up to \$5,000 to paraeducators employed by school districts and charter schools who are pursuing an associate's degree or bachelor's degree program to become a licensed teacher.

(4) A paraeducator is eligible to receive a scholarship if:

(a) the paraeducator is employed by a school district or charter school;

(b) is admitted to, or has made an application to, an associate's degree program or bachelor's degree program that will prepare the paraeducator for teacher licensure; and

(c) the principal at the school where the paraeducator is employed has nominated the paraeducator for a scholarship.

(5) (a) The state board shall establish a committee to select scholarship recipients from nominations submitted by school principals.

(b) The committee shall include representatives of the state board, ~~[State Board of Regents]~~ the Utah Board of Higher Education, and the general public, excluding school district and charter school employees.

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

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

- 6908 (ii) Section 63A-3-107; and  
6909 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
6910 63A-3-107.
- 6911 (d) The committee shall select scholarship recipients based on the following criteria:  
6912 (i) test scores, grades, or other evidence demonstrating the applicant's ability to  
6913 successfully complete a teacher education program; and  
6914 (ii) the applicant's record of success as a paraeducator.
- 6915 (6) The maximum scholarship amount is \$5,000.  
6916 (7) Scholarship money may only be used to pay for tuition costs:  
6917 (a) of:  
6918 (i) an associate's degree program that fulfills credit requirements for the first two years  
6919 of a bachelor's degree program leading to teacher licensure; or  
6920 (ii) the first two years of a bachelor's degree program leading to teacher licensure; and  
6921 (b) at a higher education institution:  
6922 (i) located in Utah; and  
6923 (ii) accredited by the Northwest Commission on Colleges and Universities.
- 6924 (8) A scholarship recipient must be continuously employed as a paraeducator by a  
6925 school district or charter school while pursuing a degree using scholarship money.
- 6926 (9) The state board shall make rules in accordance with this section to administer the  
6927 Paraeducator to Teacher Scholarship Program, including rules establishing:  
6928 (a) scholarship application procedures;  
6929 (b) the number of, and qualifications for, committee members who select scholarship  
6930 recipients; and  
6931 (c) procedures for distributing scholarship money.
- 6932 (10) If the state obtains matching funds of equal sums from private contributors, the  
6933 state board may award grants to institutions of higher education or nonprofit educational  
6934 organizations for programs that provide:  
6935 (a) mentoring and training leading to a secondary education license with a certificate in  
6936 mathematics for an individual who:  
6937 (i) is not a teacher in a public or private school;  
6938 (ii) does not have a teaching license;



- 6939 (iii) has a bachelor's degree or higher; and  
6940 (iv) demonstrates a high level of mathematics competency by:  
6941 (A) successfully completing substantial course work in mathematics; and  
6942 (B) passing a mathematics content exam; or  
6943 (b) a stipend, professional development, and leadership opportunities to an experienced  
6944 mathematics teacher who demonstrates high content knowledge and exemplary teaching and  
6945 leadership skills to assist the teacher in becoming a teacher leader.
- 6946 (11) (a) The state board shall make rules that establish criteria for awarding grants  
6947 under this section.
- 6948 (b) In awarding grants, the state board shall consider the amount or percent of matching  
6949 funds provided by the grant recipient.
- 6950 Section 157. Section **53G-5-102** is amended to read:  
6951 **53G-5-102. Definitions.**  
6952 As used in this chapter:  
6953 (1) "Asset" means property of all kinds, real and personal, tangible and intangible, and  
6954 includes:  
6955 (a) cash;  
6956 (b) stock or other investments;  
6957 (c) real property;  
6958 (d) equipment and supplies;  
6959 (e) an ownership interest;  
6960 (f) a license;  
6961 (g) a cause of action; and  
6962 (h) any similar property.
- 6963 (2) "Board of trustees of a higher education institution" or "board of trustees" means:  
6964 (a) the board of trustees of:  
6965 (i) the University of Utah;  
6966 (ii) Utah State University;  
6967 (iii) Weber State University;  
6968 (iv) Southern Utah University;  
6969 (v) Snow College;

6970 (vi) Dixie State University;  
6971 (vii) Utah Valley University; or  
6972 (viii) Salt Lake Community College; or  
6973 (b) [~~the board of directors of~~] a technical college board of trustees described in Section  
6974 53B-2a-108.

6975 (3) "Charter school authorizer" or "authorizer" means an entity listed in Section  
6976 53G-5-205 that authorizes a charter school.

6977 Section 158. Section **53G-5-306** is amended to read:

6978 **53G-5-306. Charter schools authorized by a board of trustees of a higher**  
6979 **education institution -- Application process -- Board of trustees responsibilities.**

6980 (1) Except as provided in Subsection (6), an applicant identified in Section 53G-5-302  
6981 may enter into an agreement with a board of trustees of a higher education institution  
6982 authorizing the applicant to establish and operate a charter school.

6983 (2) (a) An applicant applying for authorization from a board of trustees to establish and  
6984 operate a charter school shall provide a copy of the application to the State Charter School  
6985 Board and the local school board of the school district in which the proposed charter school  
6986 will be located either before or at the same time the applicant files the application with the  
6987 board of trustees.

6988 (b) The State Charter School Board and the local school board may review the  
6989 application and offer suggestions or recommendations to the applicant or the board of trustees  
6990 before acting on the application.

6991 (c) The board of trustees shall give due consideration to suggestions or  
6992 recommendations made by the State Charter School Board or the local school board under  
6993 Subsection (2)(b).

6994 (3) The state board shall make a rule providing a timeline for the opening of a charter  
6995 school following the approval of a charter school application by a board of trustees.

6996 (4) After approval of a charter school application, the applicant and the board of  
6997 trustees shall set forth the terms and conditions for the operation of the charter school in a  
6998 written charter agreement.

6999 (5) (a) The school's charter agreement may include a provision that the charter school  
7000 pay an annual fee for the board of trustees' costs in providing oversight of, and technical

support to, the charter school in accordance with Section 53G-5-205.

(b) In the first two years that a charter school is in operation, an annual fee described in Subsection (5)(a) may not exceed the product of 3% of the revenue the charter school receives from the state in the current fiscal year.

(c) Beginning with the third year that a charter school is in operation, an annual fee described in Subsection (5)(a) may not exceed the product of 1% of the revenue a charter school receives from the state in the current fiscal year.

(d) An annual fee described in Subsection (5)(a) shall be:

- (i) paid to the board of trustees' higher education institution; and
- (ii) expended as directed by the board of trustees.

(6) (a) In addition to complying with the requirements of this section, a technical college board of [~~directors~~] trustees described in Section 53B-2a-108 shall obtain the approval of the [~~Utah System of Technical Colleges Board of Trustees~~] Utah Board of Higher Education before entering into an agreement to establish and operate a charter school.

(b) If a technical college board of [~~directors~~] trustees approves an application to establish and operate a charter school, the technical college board of [~~directors~~] trustees shall submit the application to the [~~Utah System of Technical Colleges Board of Trustees~~] Utah Board of Higher Education.

(c) The [~~Utah System of Technical Colleges Board of Trustees~~] Utah Board of Higher Education shall, by majority vote, within 60 days of receipt of an application described in Subsection (6)(b), approve or deny the application.

(d) The [~~Utah System of Technical Colleges Board of Trustees~~] Utah Board of Higher Education may deny an application approved by a technical college board of [~~directors~~] trustees if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53G-5-104.

(e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

- (i) an enrollment decline;
- (ii) a decrease in funding; or
- (iii) a modification of programs or services.

(7) (a) Subject to the requirements of this chapter and other related provisions, a technical college board of [~~directors~~] trustees may establish:

- (i) procedures for submitting applications to establish and operate a charter school; or
- (ii) criteria for approval of an application to establish and operate a charter school.

(b) The [~~Utah System of Technical Colleges Board of Trustees~~] Utah Board of Higher Education may not establish policy governing the procedures or criteria described in Subsection (7)(a).

(8) Before a technical college board of [~~directors~~] trustees accepts a charter school application, the technical college board of [~~directors~~] trustees shall, in accordance with state board rules, establish and make public:

- (a) application requirements, in accordance with Section [53G-5-302](#);
- (b) the application process, including timelines, in accordance with this section; and
- (c) minimum academic, financial, and enrollment standards.

Section 159. Section **53G-10-303** is amended to read:

**53G-10-303. Teaching of American sign language.**

(1) The Legislature recognizes that American sign language is a fully developed, autonomous, natural language with distinct grammar, syntax, and art forms.

(2) American sign language shall be accorded equal status with other linguistic systems in the state's public and higher education systems.

(3) The state board, in consultation with the state's school districts and members of the deaf and hard of hearing community, shall develop and implement policies and procedures for the teaching of American sign language in the state's public education system at least at the middle school or high school level.

(4) A student may count credit received for completion of a course in American sign language at the middle school or high school level toward the satisfaction of a foreign language requirement in the public education system under rules made by the state board.

(5) The [~~State Board of Regents~~] Utah Board of Higher Education, in consultation with the state's public institutions of higher education and members of the state's deaf and hard of hearing community, shall develop and implement policies and procedures for offering instruction in American sign language in the state's system of higher education.

(6) The Joint Liaison Committee, in consultation with members of the state's deaf and

hard of hearing community, shall review any policies and procedures developed under this section and make recommendations to either or both boards regarding the policies.

Section 160. Section **54-8b-10** is amended to read:

**54-8b-10. Imposing a surcharge to provide deaf, hard of hearing, and speech impaired individuals with telecommunication devices -- Definitions -- Procedures for establishing program -- Surcharge -- Administration and disposition of surcharge money.**

(1) As used in this section:

(a) "Certified deaf, hard of hearing, or severely speech impaired individual" means any state resident who:

(i) is so certified by:

(A) a licensed physician;

(B) a licensed physician assistant;

(C) an otolaryngologist;

(D) a speech language pathologist;

(E) an audiologist; or

(F) a qualified state agency; and

(ii) qualifies for assistance under any low income public assistance program administered by a state agency.

(b) "Certified interpreter" means a person who is a certified interpreter under Title 35A, Chapter 13, Part 6, Interpreter Services for the Deaf and Hard of Hearing Act.

(c) (i) "Telecommunication device" means any mechanical adaptation device that enables a deaf, hard of hearing, or severely speech impaired individual to use the telephone.

(ii) "Telecommunication device" includes:

(A) telecommunication devices for the deaf (TDD);

(B) telephone amplifiers;

(C) telephone signal devices;

(D) artificial larynxes; and

(E) adaptive equipment for TDD keyboard access.

(2) The commission shall establish a program whereby a certified deaf, hard of hearing, or severely speech impaired customer of a telecommunications corporation that provides service through a local exchange or of a wireless telecommunications provider may obtain a

7094 telecommunication device capable of serving the customer at no charge to the customer beyond  
7095 the rate for basic service.

7096 (3) (a) The program described in Subsection (2) shall provide a dual party relay system  
7097 using third party intervention to connect a certified deaf, hard of hearing, or severely speech  
7098 impaired individual with a normal hearing individual by way of telecommunication devices  
7099 designed for that purpose.

7100 (b) The commission may, by rule, establish the type of telecommunications device to  
7101 be provided to ensure functional equivalence.

7102 (4) The commission shall cover the costs of the program described in this section from  
7103 the Universal Public Telecommunications Service Support Fund created in Section 54-8b-15.

7104 (5) In administering the program described in this section, the commission may use  
7105 funds from the Universal Public Telecommunications Service Support Fund:

7106 (a) for the purchase, maintenance, repair, and distribution of telecommunication  
7107 devices;

7108 (b) for the acquisition, operation, maintenance, and repair of a dual party relay system;

7109 (c) for the general administration of the program;

7110 (d) to train individuals in the use of telecommunications devices; and

7111 (e) to contract, in compliance with Title 63G, Chapter 6a, Utah Procurement Code,  
7112 with:

7113 (i) an institution within the state system of higher education listed in Section  
7114 53B-1-102 for a program approved by the ~~[Board of Regents]~~ Utah Board of Higher Education  
7115 that trains persons to qualify as certified interpreters; or

7116 (ii) the Utah State Office of Rehabilitation created in Section 35A-1-202 for a program  
7117 that trains persons to qualify as certified interpreters.

7118 (6) The commission may create disbursement criteria and procedures by rule made  
7119 under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for administering funds  
7120 under Subsection (5).

7121 (7) The commission shall solicit advice, counsel, and physical assistance from deaf,  
7122 hard of hearing, or severely speech impaired individuals and the organizations serving deaf,  
7123 hard of hearing, or severely speech impaired individuals in the design and implementation of  
7124 the program.

7125 Section 161. Section **58-22-302** is amended to read:

7126 **58-22-302. Qualifications for licensure.**

7127 (1) Each applicant for licensure as a professional engineer shall:

7128 (a) submit an application in a form prescribed by the division;

7129 (b) pay a fee determined by the department under Section [63J-1-504](#);

7130 (c) provide satisfactory evidence of good moral character;

7131 (d) (i) have graduated and received a bachelors or masters degree from an engineering  
7132 program meeting criteria established by rule by the division in collaboration with the board; or

7133 (ii) have completed the Transportation Engineering Technology and Fundamental  
7134 Engineering College Program before July 1, 1998, under the direction of the Utah Department  
7135 of Transportation and as certified by the Utah Department of Transportation;

7136 (e) have successfully completed a program of qualifying experience established by rule  
7137 by the division in collaboration with the board;

7138 (f) have successfully passed examinations established by rule by the division in  
7139 collaboration with the board; and

7140 (g) meet with the board or representative of the division upon request for the purpose  
7141 of evaluating the applicant's qualification for licensure.

7142 (2) Each applicant for licensure as a professional structural engineer shall:

7143 (a) submit an application in a form prescribed by the division;

7144 (b) pay a fee determined by the department under Section [63J-1-504](#);

7145 (c) provide satisfactory evidence of good moral character;

7146 (d) have graduated and received an earned bachelors or masters degree from an  
7147 engineering program meeting criteria established by rule by the division in collaboration with  
7148 the board;

7149 (e) have successfully completed three years of licensed professional engineering  
7150 experience established by rule by the division in collaboration with the board, except that prior  
7151 to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form  
7152 prescribed by the division stating that the applicant is currently engaged in the practice of  
7153 structural engineering;

7154 (f) have successfully passed examinations established by rule by the division in  
7155 collaboration with the board, except that prior to January 1, 2009, an applicant for licensure

may submit a signed affidavit in a form prescribed by the division stating that the applicant is currently engaged in the practice of structural engineering; and

(g) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(3) Each applicant for licensure as a professional land surveyor shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory evidence of good moral character;

(d) (i) have graduated and received an associates, bachelors, or masters degree from a land surveying program, or an equivalent land surveying program, such as a program offered by a technical college described in Section 53B-2a-105, as approved by the ~~[State Board of Regents]~~ Utah Board of Higher Education, established by rule by the division in collaboration with the board, and have successfully completed a program of qualifying experience in land surveying established by rule by the division in collaboration with the board; or

(ii) have successfully completed a program of qualifying experience in land surveying prior to January 1, 2007, in accordance with rules established by the division in collaboration with the board;

(e) have successfully passed examinations established by rule by the division in collaboration with the board; and

(f) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(4) Each applicant for licensure by endorsement shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory evidence of good moral character;

(d) submit satisfactory evidence of:

(i) current licensure in good standing in a jurisdiction recognized by rule by the division in collaboration with the board;

(ii) having successfully passed an examination established by rule by the division in collaboration with the board; and

(iii) full-time employment as a principal for at least five of the last seven years



7187 immediately preceding the date of the application as a:

7188 (A) licensed professional engineer for licensure as a professional engineer;

7189 (B) licensed professional structural engineer for licensure as a structural engineer; or

7190 (C) licensed professional land surveyor for licensure as a professional land surveyor;

7191 and

7192 (e) meet with the board or representative of the division upon request for the purpose

7193 of evaluating the applicant's qualifications for license.

7194 (5) The rules made to implement this section shall be in accordance with Title 63G,

7195 Chapter 3, Utah Administrative Rulemaking Act.

7196 Section 162. Section **59-12-102** is amended to read:

7197 **59-12-102. Definitions.**

7198 As used in this chapter:

7199 (1) "800 service" means a telecommunications service that:

7200 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

7201 (b) is typically marketed:

7202 (i) under the name 800 toll-free calling;

7203 (ii) under the name 855 toll-free calling;

7204 (iii) under the name 866 toll-free calling;

7205 (iv) under the name 877 toll-free calling;

7206 (v) under the name 888 toll-free calling; or

7207 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

7208 Federal Communications Commission.

7209 (2) (a) "900 service" means an inbound toll telecommunications service that:

7210 (i) a subscriber purchases;

7211 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to

7212 the subscriber's:

7213 (A) prerecorded announcement; or

7214 (B) live service; and

7215 (iii) is typically marketed:

7216 (A) under the name 900 service; or

7217 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

7218 Communications Commission.

7219 (b) "900 service" does not include a charge for:

7220 (i) a collection service a seller of a telecommunications service provides to a  
7221 subscriber; or

7222 (ii) the following a subscriber sells to the subscriber's customer:

7223 (A) a product; or

7224 (B) a service.

7225 (3) (a) "Admission or user fees" includes season passes.

7226 (b) "Admission or user fees" does not include annual membership dues to private  
7227 organizations.

7228 (4) "Affiliate" or "affiliated person" means a person that, with respect to another  
7229 person:

7230 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other  
7231 person; or

7232 (b) is related to the other person because a third person, or a group of third persons who  
7233 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,  
7234 whether direct or indirect, in the related persons.

7235 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on  
7236 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax  
7237 Agreement after November 12, 2002.

7238 (6) "Agreement combined tax rate" means the sum of the tax rates:

7239 (a) listed under Subsection (7); and

7240 (b) that are imposed within a local taxing jurisdiction.

7241 (7) "Agreement sales and use tax" means a tax imposed under:

7242 (a) Subsection 59-12-103(2)(a)(i)(A);

7243 (b) Subsection 59-12-103(2)(b)(i);

7244 (c) Subsection 59-12-103(2)(c)(i);

7245 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

7246 (e) Section 59-12-204;

7247 (f) Section 59-12-401;

7248 (g) Section 59-12-402;

- 7249 (h) Section 59-12-402.1;
- 7250 (i) Section 59-12-703;
- 7251 (j) Section 59-12-802;
- 7252 (k) Section 59-12-804;
- 7253 (l) Section 59-12-1102;
- 7254 (m) Section 59-12-1302;
- 7255 (n) Section 59-12-1402;
- 7256 (o) Section 59-12-1802;
- 7257 (p) Section 59-12-2003;
- 7258 (q) Section 59-12-2103;
- 7259 (r) Section 59-12-2213;
- 7260 (s) Section 59-12-2214;
- 7261 (t) Section 59-12-2215;
- 7262 (u) Section 59-12-2216;
- 7263 (v) Section 59-12-2217;
- 7264 (w) Section 59-12-2218;
- 7265 (x) Section 59-12-2219; or
- 7266 (y) Section 59-12-2220.
- 7267 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 7268 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 7269 (a) except for:
- 7270 (i) an airline as defined in Section 59-2-102; or
- 7271 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 7272 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 7273 state, of an airline; and
- 7274 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 7275 whether the business entity performs the following in this state:
- 7276 (i) check, diagnose, overhaul, and repair:
- 7277 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 7278 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 7279 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft

- 7280 engine;
- 7281 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 7282 aircraft:
- 7283 (A) an inspection;
- 7284 (B) a repair, including a structural repair or modification;
- 7285 (C) changing landing gear; and
- 7286 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 7287 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 7288 completely apply new paint to the fixed wing turbine powered aircraft; and
- 7289 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 7290 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 7291 authority that certifies the fixed wing turbine powered aircraft.
- 7292 (10) "Alcoholic beverage" means a beverage that:
- 7293 (a) is suitable for human consumption; and
- 7294 (b) contains .5% or more alcohol by volume.
- 7295 (11) "Alternative energy" means:
- 7296 (a) biomass energy;
- 7297 (b) geothermal energy;
- 7298 (c) hydroelectric energy;
- 7299 (d) solar energy;
- 7300 (e) wind energy; or
- 7301 (f) energy that is derived from:
- 7302 (i) coal-to-liquids;
- 7303 (ii) nuclear fuel;
- 7304 (iii) oil-impregnated diatomaceous earth;
- 7305 (iv) oil sands;
- 7306 (v) oil shale;
- 7307 (vi) petroleum coke; or
- 7308 (vii) waste heat from:
- 7309 (A) an industrial facility; or
- 7310 (B) a power station in which an electric generator is driven through a process in which

7311 water is heated, turns into steam, and spins a steam turbine.

7312 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production  
7313 facility" means a facility that:

7314 (i) uses alternative energy to produce electricity; and

7315 (ii) has a production capacity of two megawatts or greater.

7316 (b) A facility is an alternative energy electricity production facility regardless of  
7317 whether the facility is:

7318 (i) connected to an electric grid; or

7319 (ii) located on the premises of an electricity consumer.

7320 (13) (a) "Ancillary service" means a service associated with, or incidental to, the  
7321 provision of telecommunications service.

7322 (b) "Ancillary service" includes:

7323 (i) a conference bridging service;

7324 (ii) a detailed communications billing service;

7325 (iii) directory assistance;

7326 (iv) a vertical service; or

7327 (v) a voice mail service.

7328 (14) "Area agency on aging" means the same as that term is defined in Section  
7329 [62A-3-101](#).

7330 (15) "Assisted amusement device" means an amusement device, skill device, or ride  
7331 device that is started and stopped by an individual:

7332 (a) who is not the purchaser or renter of the right to use or operate the amusement  
7333 device, skill device, or ride device; and

7334 (b) at the direction of the seller of the right to use the amusement device, skill device,  
7335 or ride device.

7336 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or  
7337 washing of tangible personal property if the cleaning or washing labor is primarily performed  
7338 by an individual:

7339 (a) who is not the purchaser of the cleaning or washing of the tangible personal  
7340 property; and

7341 (b) at the direction of the seller of the cleaning or washing of the tangible personal

7342 property.

7343 (17) "Authorized carrier" means:

7344 (a) in the case of vehicles operated over public highways, the holder of credentials  
7345 indicating that the vehicle is or will be operated pursuant to both the International Registration  
7346 Plan and the International Fuel Tax Agreement;

7347 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating  
7348 certificate or air carrier's operating certificate; or

7349 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling  
7350 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling  
7351 stock in more than one state.

7352 (18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the  
7353 following that is used as the primary source of energy to produce fuel or electricity:

7354 (i) material from a plant or tree; or

7355 (ii) other organic matter that is available on a renewable basis, including:

7356 (A) slash and brush from forests and woodlands;

7357 (B) animal waste;

7358 (C) waste vegetable oil;

7359 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of  
7360 wastewater residuals, or through the conversion of a waste material through a nonincineration,  
7361 thermal conversion process;

7362 (E) aquatic plants; and

7363 (F) agricultural products.

7364 (b) "Biomass energy" does not include:

7365 (i) black liquor; or

7366 (ii) treated woods.

7367 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal  
7368 property, products, or services if the tangible personal property, products, or services are:

7369 (i) distinct and identifiable; and

7370 (ii) sold for one nonitemized price.

7371 (b) "Bundled transaction" does not include:

7372 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on

7373 the basis of the selection by the purchaser of the items of tangible personal property included in  
7374 the transaction;

7375 (ii) the sale of real property;

7376 (iii) the sale of services to real property;

7377 (iv) the retail sale of tangible personal property and a service if:

7378 (A) the tangible personal property:

7379 (I) is essential to the use of the service; and

7380 (II) is provided exclusively in connection with the service; and

7381 (B) the service is the true object of the transaction;

7382 (v) the retail sale of two services if:

7383 (A) one service is provided that is essential to the use or receipt of a second service;

7384 (B) the first service is provided exclusively in connection with the second service; and

7385 (C) the second service is the true object of the transaction;

7386 (vi) a transaction that includes tangible personal property or a product subject to

7387 taxation under this chapter and tangible personal property or a product that is not subject to

7388 taxation under this chapter if the:

7389 (A) seller's purchase price of the tangible personal property or product subject to

7390 taxation under this chapter is de minimis; or

7391 (B) seller's sales price of the tangible personal property or product subject to taxation

7392 under this chapter is de minimis; and

7393 (vii) the retail sale of tangible personal property that is not subject to taxation under

7394 this chapter and tangible personal property that is subject to taxation under this chapter if:

7395 (A) that retail sale includes:

7396 (I) food and food ingredients;

7397 (II) a drug;

7398 (III) durable medical equipment;

7399 (IV) mobility enhancing equipment;

7400 (V) an over-the-counter drug;

7401 (VI) a prosthetic device; or

7402 (VII) a medical supply; and

7403 (B) subject to Subsection (19)(f):

7404 (I) the seller's purchase price of the tangible personal property subject to taxation under  
7405 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

7406 (II) the seller's sales price of the tangible personal property subject to taxation under  
7407 this chapter is 50% or less of the seller's total sales price of that retail sale.

7408 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a  
7409 service that is distinct and identifiable does not include:

7410 (A) packaging that:

7411 (I) accompanies the sale of the tangible personal property, product, or service; and

7412 (II) is incidental or immaterial to the sale of the tangible personal property, product, or  
7413 service;

7414 (B) tangible personal property, a product, or a service provided free of charge with the  
7415 purchase of another item of tangible personal property, a product, or a service; or

7416 (C) an item of tangible personal property, a product, or a service included in the  
7417 definition of "purchase price."

7418 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a  
7419 product, or a service is provided free of charge with the purchase of another item of tangible  
7420 personal property, a product, or a service if the sales price of the purchased item of tangible  
7421 personal property, product, or service does not vary depending on the inclusion of the tangible  
7422 personal property, product, or service provided free of charge.

7423 (d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price  
7424 does not include a price that is separately identified by tangible personal property, product, or  
7425 service on the following, regardless of whether the following is in paper format or electronic  
7426 format:

7427 (A) a binding sales document; or

7428 (B) another supporting sales-related document that is available to a purchaser.

7429 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another  
7430 supporting sales-related document that is available to a purchaser includes:

7431 (A) a bill of sale;

7432 (B) a contract;

7433 (C) an invoice;

7434 (D) a lease agreement;



7435 (E) a periodic notice of rates and services;

7436 (F) a price list;

7437 (G) a rate card;

7438 (H) a receipt; or

7439 (I) a service agreement.

7440 (e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal  
7441 property or a product subject to taxation under this chapter is de minimis if:

7442 (A) the seller's purchase price of the tangible personal property or product is 10% or  
7443 less of the seller's total purchase price of the bundled transaction; or

7444 (B) the seller's sales price of the tangible personal property or product is 10% or less of  
7445 the seller's total sales price of the bundled transaction.

7446 (ii) For purposes of Subsection (19)(b)(vi), a seller:

7447 (A) shall use the seller's purchase price or the seller's sales price to determine if the  
7448 purchase price or sales price of the tangible personal property or product subject to taxation  
7449 under this chapter is de minimis; and

7450 (B) may not use a combination of the seller's purchase price and the seller's sales price  
7451 to determine if the purchase price or sales price of the tangible personal property or product  
7452 subject to taxation under this chapter is de minimis.

7453 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service  
7454 contract to determine if the sales price of tangible personal property or a product is de minimis.

7455 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of  
7456 the seller's purchase price and the seller's sales price to determine if tangible personal property  
7457 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales  
7458 price of that retail sale.

7459 (20) "Certified automated system" means software certified by the governing board of  
7460 the agreement that:

7461 (a) calculates the agreement sales and use tax imposed within a local taxing  
7462 jurisdiction:

7463 (i) on a transaction; and

7464 (ii) in the states that are members of the agreement;

7465 (b) determines the amount of agreement sales and use tax to remit to a state that is a

7466 member of the agreement; and

7467 (c) maintains a record of the transaction described in Subsection (20)(a)(i).

7468 (21) "Certified service provider" means an agent certified:

7469 (a) by the governing board of the agreement; and

7470 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,  
7471 as outlined in the contract between the governing board of the agreement and the certified  
7472 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the  
7473 seller's own purchases.

7474 (22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel  
7475 suitable for general use.

7476 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
7477 commission shall make rules:

7478 (i) listing the items that constitute "clothing"; and

7479 (ii) that are consistent with the list of items that constitute "clothing" under the  
7480 agreement.

7481 (23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

7482 (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
7483 fuels that does not constitute industrial use under Subsection (57) or residential use under  
7484 Subsection (111).

7485 (25) (a) "Common carrier" means a person engaged in or transacting the business of  
7486 transporting passengers, freight, merchandise, or other property for hire within this state.

7487 (b) (i) "Common carrier" does not include a person that, at the time the person is  
7488 traveling to or from that person's place of employment, transports a passenger to or from the  
7489 passenger's place of employment.

7490 (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3,  
7491 Utah Administrative Rulemaking Act, the commission may make rules defining what  
7492 constitutes a person's place of employment.

7493 (c) "Common carrier" does not include a person that provides transportation network  
7494 services, as defined in Section 13-51-102.

7495 (26) "Component part" includes:

7496 (a) poultry, dairy, and other livestock feed, and their components;

- 7497 (b) baling ties and twine used in the baling of hay and straw;  
7498 (c) fuel used for providing temperature control of orchards and commercial  
7499 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
7500 off-highway type farm machinery; and  
7501 (d) feed, seeds, and seedlings.
- 7502 (27) "Computer" means an electronic device that accepts information:  
7503 (a) (i) in digital form; or  
7504 (ii) in a form similar to digital form; and  
7505 (b) manipulates that information for a result based on a sequence of instructions.
- 7506 (28) "Computer software" means a set of coded instructions designed to cause:  
7507 (a) a computer to perform a task; or  
7508 (b) automatic data processing equipment to perform a task.
- 7509 (29) "Computer software maintenance contract" means a contract that obligates a seller  
7510 of computer software to provide a customer with:  
7511 (a) future updates or upgrades to computer software;  
7512 (b) support services with respect to computer software; or  
7513 (c) a combination of Subsections (29)(a) and (b).
- 7514 (30) (a) "Conference bridging service" means an ancillary service that links two or  
7515 more participants of an audio conference call or video conference call.  
7516 (b) "Conference bridging service" may include providing a telephone number as part of  
7517 the ancillary service described in Subsection (30)(a).  
7518 (c) "Conference bridging service" does not include a telecommunications service used  
7519 to reach the ancillary service described in Subsection (30)(a).
- 7520 (31) "Construction materials" means any tangible personal property that will be  
7521 converted into real property.
- 7522 (32) "Delivered electronically" means delivered to a purchaser by means other than  
7523 tangible storage media.
- 7524 (33) (a) "Delivery charge" means a charge:  
7525 (i) by a seller of:  
7526 (A) tangible personal property;  
7527 (B) a product transferred electronically; or

- 7528 (C) a service; and
- 7529 (ii) for preparation and delivery of the tangible personal property, product transferred
- 7530 electronically, or services described in Subsection (33)(a)(i) to a location designated by the
- 7531 purchaser.
- 7532 (b) "Delivery charge" includes a charge for the following:
- 7533 (i) transportation;
- 7534 (ii) shipping;
- 7535 (iii) postage;
- 7536 (iv) handling;
- 7537 (v) crating; or
- 7538 (vi) packing.
- 7539 (34) "Detailed telecommunications billing service" means an ancillary service of
- 7540 separately stating information pertaining to individual calls on a customer's billing statement.
- 7541 (35) "Dietary supplement" means a product, other than tobacco, that:
- 7542 (a) is intended to supplement the diet;
- 7543 (b) contains one or more of the following dietary ingredients:
- 7544 (i) a vitamin;
- 7545 (ii) a mineral;
- 7546 (iii) an herb or other botanical;
- 7547 (iv) an amino acid;
- 7548 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 7549 dietary intake; or
- 7550 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 7551 described in Subsections (35)(b)(i) through (v);
- 7552 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 7553 (A) tablet form;
- 7554 (B) capsule form;
- 7555 (C) powder form;
- 7556 (D) softgel form;
- 7557 (E) gelcap form; or
- 7558 (F) liquid form; or

- 7559 (ii) if the product is not intended for ingestion in a form described in Subsections  
7560 (35)(c)(i)(A) through (F), is not represented:
- 7561 (A) as conventional food; and  
7562 (B) for use as a sole item of:
- 7563 (I) a meal; or  
7564 (II) the diet; and  
7565 (d) is required to be labeled as a dietary supplement:
- 7566 (i) identifiable by the "Supplemental Facts" box found on the label; and  
7567 (ii) as required by 21 C.F.R. Sec. 101.36.
- 7568 (36) (a) "Digital audio work" means a work that results from the fixation of a series of  
7569 musical, spoken, or other sounds.
- 7570 (b) "Digital audio work" includes a ringtone.
- 7571 (37) "Digital audio-visual work" means a series of related images which, when shown  
7572 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 7573 (38) "Digital book" means a work that is generally recognized in the ordinary and usual  
7574 sense as a book.
- 7575 (39) (a) "Direct mail" means printed material delivered or distributed by United States  
7576 mail or other delivery service:
- 7577 (i) to:
- 7578 (A) a mass audience; or  
7579 (B) addressees on a mailing list provided:
- 7580 (I) by a purchaser of the mailing list; or  
7581 (II) at the discretion of the purchaser of the mailing list; and  
7582 (ii) if the cost of the printed material is not billed directly to the recipients.
- 7583 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a  
7584 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 7585 (c) "Direct mail" does not include multiple items of printed material delivered to a  
7586 single address.
- 7587 (40) "Directory assistance" means an ancillary service of providing:
- 7588 (a) address information; or  
7589 (b) telephone number information.

7590 (41) (a) "Disposable home medical equipment or supplies" means medical equipment  
7591 or supplies that:

7592 (i) cannot withstand repeated use; and

7593 (ii) are purchased by, for, or on behalf of a person other than:

7594 (A) a health care facility as defined in Section 26-21-2;

7595 (B) a health care provider as defined in Section 78B-3-403;

7596 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

7597 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

7598 (b) "Disposable home medical equipment or supplies" does not include:

7599 (i) a drug;

7600 (ii) durable medical equipment;

7601 (iii) a hearing aid;

7602 (iv) a hearing aid accessory;

7603 (v) mobility enhancing equipment; or

7604 (vi) tangible personal property used to correct impaired vision, including:

7605 (A) eyeglasses; or

7606 (B) contact lenses.

7607 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
7608 commission may by rule define what constitutes medical equipment or supplies.

7609 (42) "Drilling equipment manufacturer" means a facility:

7610 (a) located in the state;

7611 (b) with respect to which 51% or more of the manufacturing activities of the facility  
7612 consist of manufacturing component parts of drilling equipment;

7613 (c) that uses pressure of 800,000 or more pounds per square inch as part of the  
7614 manufacturing process; and

7615 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the  
7616 manufacturing process.

7617 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a  
7618 compound, substance, or preparation that is:

7619 (i) recognized in:

7620 (A) the official United States Pharmacopoeia;

- 7621 (B) the official Homeopathic Pharmacopoeia of the United States;  
7622 (C) the official National Formulary; or  
7623 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);  
7624 (ii) intended for use in the:  
7625 (A) diagnosis of disease;  
7626 (B) cure of disease;  
7627 (C) mitigation of disease;  
7628 (D) treatment of disease; or  
7629 (E) prevention of disease; or  
7630 (iii) intended to affect:  
7631 (A) the structure of the body; or  
7632 (B) any function of the body.  
7633 (b) "Drug" does not include:  
7634 (i) food and food ingredients;  
7635 (ii) a dietary supplement;  
7636 (iii) an alcoholic beverage; or  
7637 (iv) a prosthetic device.  
7638 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means  
7639 equipment that:  
7640 (i) can withstand repeated use;  
7641 (ii) is primarily and customarily used to serve a medical purpose;  
7642 (iii) generally is not useful to a person in the absence of illness or injury; and  
7643 (iv) is not worn in or on the body.  
7644 (b) "Durable medical equipment" includes parts used in the repair or replacement of the  
7645 equipment described in Subsection (44)(a).  
7646 (c) "Durable medical equipment" does not include mobility enhancing equipment.  
7647 (45) "Electronic" means:  
7648 (a) relating to technology; and  
7649 (b) having:  
7650 (i) electrical capabilities;  
7651 (ii) digital capabilities;

- 7652 (iii) magnetic capabilities;  
7653 (iv) wireless capabilities;  
7654 (v) optical capabilities;  
7655 (vi) electromagnetic capabilities; or  
7656 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).  
7657 (46) "Electronic financial payment service" means an establishment:  
7658 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and  
7659 Clearinghouse Activities, of the 2012 North American Industry Classification System of the  
7660 federal Executive Office of the President, Office of Management and Budget; and  
7661 (b) that performs electronic financial payment services.  
7662 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).  
7663 (48) "Fixed guideway" means a public transit facility that uses and occupies:  
7664 (a) rail for the use of public transit; or  
7665 (b) a separate right-of-way for the use of public transit.  
7666 (49) "Fixed wing turbine powered aircraft" means an aircraft that:  
7667 (a) is powered by turbine engines;  
7668 (b) operates on jet fuel; and  
7669 (c) has wings that are permanently attached to the fuselage of the aircraft.  
7670 (50) "Fixed wireless service" means a telecommunications service that provides radio  
7671 communication between fixed points.  
7672 (51) (a) "Food and food ingredients" means substances:  
7673 (i) regardless of whether the substances are in:  
7674 (A) liquid form;  
7675 (B) concentrated form;  
7676 (C) solid form;  
7677 (D) frozen form;  
7678 (E) dried form; or  
7679 (F) dehydrated form; and  
7680 (ii) that are:  
7681 (A) sold for:  
7682 (I) ingestion by humans; or



7683 (II) chewing by humans; and  
7684 (B) consumed for the substance's:  
7685 (I) taste; or  
7686 (II) nutritional value.  
7687 (b) "Food and food ingredients" includes an item described in Subsection (95)(b)(iii).  
7688 (c) "Food and food ingredients" does not include:  
7689 (i) an alcoholic beverage;  
7690 (ii) tobacco; or  
7691 (iii) prepared food.  
7692 (52) (a) "Fundraising sales" means sales:  
7693 (i) (A) made by a school; or  
7694 (B) made by a school student;  
7695 (ii) that are for the purpose of raising funds for the school to purchase equipment,  
7696 materials, or provide transportation; and  
7697 (iii) that are part of an officially sanctioned school activity.  
7698 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"  
7699 means a school activity:  
7700 (i) that is conducted in accordance with a formal policy adopted by the school or school  
7701 district governing the authorization and supervision of fundraising activities;  
7702 (ii) that does not directly or indirectly compensate an individual teacher or other  
7703 educational personnel by direct payment, commissions, or payment in kind; and  
7704 (iii) the net or gross revenues from which are deposited in a dedicated account  
7705 controlled by the school or school district.  
7706 (53) "Geothermal energy" means energy contained in heat that continuously flows  
7707 outward from the earth that is used as the sole source of energy to produce electricity.  
7708 (54) "Governing board of the agreement" means the governing board of the agreement  
7709 that is:  
7710 (a) authorized to administer the agreement; and  
7711 (b) established in accordance with the agreement.  
7712 (55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:  
7713 (i) the executive branch of the state, including all departments, institutions, boards,

7714 divisions, bureaus, offices, commissions, and committees;

7715       (ii) the judicial branch of the state, including the courts, the Judicial Council, the

7716 Administrative Office of the Courts, and similar administrative units in the judicial branch;

7717       (iii) the legislative branch of the state, including the House of Representatives, the

7718 Senate, the Legislative Printing Office, the Office of Legislative Research and General

7719 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal

7720 Analyst;

7721       (iv) the National Guard;

7722       (v) an independent entity as defined in Section 63E-1-102; or

7723       (vi) a political subdivision as defined in Section 17B-1-102.

7724       (b) "Governmental entity" does not include the state systems of public and higher

7725 education, including:

7726       (i) a school;

7727       (ii) the State Board of Education;

7728       (iii) the [~~State Board of Regents~~] Utah Board of Higher Education; or

7729       (iv) an institution of higher education described in Section 53B-1-102.

7730       (56) "Hydroelectric energy" means water used as the sole source of energy to produce

7731 electricity.

7732       (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or

7733 other fuels:

7734       (a) in mining or extraction of minerals;

7735       (b) in agricultural operations to produce an agricultural product up to the time of

7736 harvest or placing the agricultural product into a storage facility, including:

7737       (i) commercial greenhouses;

7738       (ii) irrigation pumps;

7739       (iii) farm machinery;

7740       (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered

7741 under Title 41, Chapter 1a, Part 2, Registration; and

7742       (v) other farming activities;

7743       (c) in manufacturing tangible personal property at an establishment described in:

7744       (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of

7745 the federal Executive Office of the President, Office of Management and Budget; or  
7746 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
7747 American Industry Classification System of the federal Executive Office of the President,  
7748 Office of Management and Budget;  
7749 (d) by a scrap recycler if:  
7750 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
7751 one or more of the following items into prepared grades of processed materials for use in new  
7752 products:  
7753 (A) iron;  
7754 (B) steel;  
7755 (C) nonferrous metal;  
7756 (D) paper;  
7757 (E) glass;  
7758 (F) plastic;  
7759 (G) textile; or  
7760 (H) rubber; and  
7761 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with  
7762 nonrecycled materials; or  
7763 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a  
7764 cogeneration facility as defined in Section 54-2-1.  
7765 (58) (a) Except as provided in Subsection (58)(b), "installation charge" means a charge  
7766 for installing:  
7767 (i) tangible personal property; or  
7768 (ii) a product transferred electronically.  
7769 (b) "Installation charge" does not include a charge for:  
7770 (i) repairs or renovations of:  
7771 (A) tangible personal property; or  
7772 (B) a product transferred electronically; or  
7773 (ii) attaching tangible personal property or a product transferred electronically:  
7774 (A) to other tangible personal property; and  
7775 (B) as part of a manufacturing or fabrication process.

7776 (59) "Institution of higher education" means an institution of higher education listed in  
7777 Section 53B-2-101.

7778 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
7779 personal property or a product transferred electronically for:

7780 (i) (A) a fixed term; or

7781 (B) an indeterminate term; and

7782 (ii) consideration.

7783 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the  
7784 amount of consideration may be increased or decreased by reference to the amount realized  
7785 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue  
7786 Code.

7787 (c) "Lease" or "rental" does not include:

7788 (i) a transfer of possession or control of property under a security agreement or  
7789 deferred payment plan that requires the transfer of title upon completion of the required  
7790 payments;

7791 (ii) a transfer of possession or control of property under an agreement that requires the  
7792 transfer of title:

7793 (A) upon completion of required payments; and

7794 (B) if the payment of an option price does not exceed the greater of:

7795 (I) \$100; or

7796 (II) 1% of the total required payments; or

7797 (iii) providing tangible personal property along with an operator for a fixed period of  
7798 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
7799 designed.

7800 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to  
7801 perform as designed if the operator's duties exceed the:

7802 (i) set-up of tangible personal property;

7803 (ii) maintenance of tangible personal property; or

7804 (iii) inspection of tangible personal property.

7805 (61) "Life science establishment" means an establishment in this state that is classified  
7806 under the following NAICS codes of the 2007 North American Industry Classification System

7807 of the federal Executive Office of the President, Office of Management and Budget:

7808 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

7809 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

7810 Manufacturing; or

7811 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

7812 (62) "Life science research and development facility" means a facility owned, leased,

7813 or rented by a life science establishment if research and development is performed in 51% or

7814 more of the total area of the facility.

7815 (63) "Load and leave" means delivery to a purchaser by use of a tangible storage media

7816 if the tangible storage media is not physically transferred to the purchaser.

7817 (64) "Local taxing jurisdiction" means a:

7818 (a) county that is authorized to impose an agreement sales and use tax;

7819 (b) city that is authorized to impose an agreement sales and use tax; or

7820 (c) town that is authorized to impose an agreement sales and use tax.

7821 (65) "Manufactured home" means the same as that term is defined in Section

7822 [15A-1-302](#).

7823 (66) "Manufacturing facility" means:

7824 (a) an establishment described in:

7825 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of

7826 the federal Executive Office of the President, Office of Management and Budget; or

7827 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North

7828 American Industry Classification System of the federal Executive Office of the President,

7829 Office of Management and Budget;

7830 (b) a scrap recycler if:

7831 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

7832 one or more of the following items into prepared grades of processed materials for use in new

7833 products:

7834 (A) iron;

7835 (B) steel;

7836 (C) nonferrous metal;

7837 (D) paper;

7838 (E) glass;  
7839 (F) plastic;  
7840 (G) textile; or  
7841 (H) rubber; and  
7842 (ii) the new products under Subsection (66)(b)(i) would otherwise be made with  
7843 nonrecycled materials; or  
7844 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is  
7845 placed in service on or after May 1, 2006.  
7846 (67) (a) "Marketplace" means a physical or electronic place, platform, or forum where  
7847 tangible personal property, a product transferred electronically, or a service is offered for sale.  
7848 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a  
7849 dedicated sales software application.  
7850 (68) (a) "Marketplace facilitator" means a person, including an affiliate of the person,  
7851 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to  
7852 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or  
7853 controls and that directly or indirectly:  
7854 (i) does any of the following:  
7855 (A) lists, makes available, or advertises tangible personal property, a product  
7856 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the  
7857 person owns, operates, or controls;  
7858 (B) facilitates the sale of a marketplace seller's tangible personal property, product  
7859 transferred electronically, or service by transmitting or otherwise communicating an offer or  
7860 acceptance of a retail sale between the marketplace seller and a purchaser using the  
7861 marketplace;  
7862 (C) owns, rents, licenses, makes available, or operates any electronic or physical  
7863 infrastructure or any property, process, method, copyright, trademark, or patent that connects a  
7864 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal  
7865 property, a product transferred electronically, or a service;  
7866 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible  
7867 personal property, a product transferred electronically, or a service, regardless of ownership or  
7868 control of the tangible personal property, the product transferred electronically, or the service

7869 that is the subject of the retail sale;

7870 (E) provides software development or research and development activities related to  
7871 any activity described in this Subsection (68)(a)(i), if the software development or research and  
7872 development activity is directly related to the person's marketplace;

7873 (F) provides or offers fulfillment or storage services for a marketplace seller;

7874 (G) sets prices for the sale of tangible personal property, a product transferred  
7875 electronically, or a service by a marketplace seller;

7876 (H) provides or offers customer service to a marketplace seller or a marketplace seller's  
7877 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal  
7878 property, a product transferred electronically, or a service sold by a marketplace seller on the  
7879 person's marketplace; or

7880 (I) brands or otherwise identifies sales as those of the person; and

7881 (ii) does any of the following:

7882 (A) collects the sales price or purchase price of a retail sale of tangible personal  
7883 property, a product transferred electronically, or a service;

7884 (B) provides payment processing services for a retail sale of tangible personal property,  
7885 a product transferred electronically, or a service;

7886 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing  
7887 fee, a fee for inserting or making available tangible personal property, a product transferred  
7888 electronically, or a service on the person's marketplace, or other consideration for the  
7889 facilitation of a retail sale of tangible personal property, a product transferred electronically, or  
7890 a service, regardless of ownership or control of the tangible personal property, the product  
7891 transferred electronically, or the service that is the subject of the retail sale;

7892 (D) through terms and conditions, an agreement, or another arrangement with a third  
7893 person, collects payment from a purchase for a retail sale of tangible personal property, a  
7894 product transferred electronically, or a service and transmits that payment to the marketplace  
7895 seller, regardless of whether the third person receives compensation or other consideration in  
7896 exchange for the service; or

7897 (E) provides a virtual currency for a purchaser to use to purchase tangible personal  
7898 property, a product transferred electronically, or service offered for sale.

7899 (b) "Marketplace facilitator" does not include a person that only provides payment

7900 processing services.

7901 (69) "Marketplace seller" means a seller that makes one or more retail sales through a  
7902 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the  
7903 seller is required to be registered to collect and remit the tax under this part.

7904 (70) "Member of the immediate family of the producer" means a person who is related  
7905 to a producer described in Subsection 59-12-104(20)(a) as a:

7906 (a) child or stepchild, regardless of whether the child or stepchild is:

7907 (i) an adopted child or adopted stepchild; or

7908 (ii) a foster child or foster stepchild;

7909 (b) grandchild or stepgrandchild;

7910 (c) grandparent or stepgrandparent;

7911 (d) nephew or stepnephew;

7912 (e) niece or stepniece;

7913 (f) parent or stepparent;

7914 (g) sibling or stepsibling;

7915 (h) spouse;

7916 (i) person who is the spouse of a person described in Subsections (70)(a) through (g);

7917 or

7918 (j) person similar to a person described in Subsections (70)(a) through (i) as  
7919 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
7920 Administrative Rulemaking Act.

7921 (71) "Mobile home" means the same as that term is defined in Section 15A-1-302.

7922 (72) "Mobile telecommunications service" means the same as that term is defined in  
7923 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

7924 (73) (a) "Mobile wireless service" means a telecommunications service, regardless of  
7925 the technology used, if:

7926 (i) the origination point of the conveyance, routing, or transmission is not fixed;

7927 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

7928 (iii) the origination point described in Subsection (73)(a)(i) and the termination point  
7929 described in Subsection (73)(a)(ii) are not fixed.

7930 (b) "Mobile wireless service" includes a telecommunications service that is provided



7931 by a commercial mobile radio service provider.

7932 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
7933 commission may by rule define "commercial mobile radio service provider."

7934 (74) (a) Except as provided in Subsection (74)(c), "mobility enhancing equipment"  
7935 means equipment that is:

7936 (i) primarily and customarily used to provide or increase the ability to move from one  
7937 place to another;

7938 (ii) appropriate for use in a:

7939 (A) home; or

7940 (B) motor vehicle; and

7941 (iii) not generally used by persons with normal mobility.

7942 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
7943 the equipment described in Subsection (74)(a).

7944 (c) "Mobility enhancing equipment" does not include:

7945 (i) a motor vehicle;

7946 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
7947 vehicle manufacturer;

7948 (iii) durable medical equipment; or

7949 (iv) a prosthetic device.

7950 (75) "Model 1 seller" means a seller registered under the agreement that has selected a  
7951 certified service provider as the seller's agent to perform the seller's sales and use tax functions  
7952 for agreement sales and use taxes, as outlined in the contract between the governing board of  
7953 the agreement and the certified service provider, other than the seller's obligation under Section  
7954 [59-12-124](#) to remit a tax on the seller's own purchases.

7955 (76) "Model 2 seller" means a seller registered under the agreement that:

7956 (a) except as provided in Subsection (76)(b), has selected a certified automated system  
7957 to perform the seller's sales tax functions for agreement sales and use taxes; and

7958 (b) retains responsibility for remitting all of the sales tax:

7959 (i) collected by the seller; and

7960 (ii) to the appropriate local taxing jurisdiction.

7961 (77) (a) Subject to Subsection (77)(b), "model 3 seller" means a seller registered under

the agreement that has:

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

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

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

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

(B) due to each local taxing jurisdiction; and

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

(b) For purposes of Subsection (77)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

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

(79) "Modular home" means a modular unit as defined in Section 15A-1-302.

(80) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(81) "Oil sands" means impregnated bituminous sands that:

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

(b) yield mixtures of liquid hydrocarbon; and

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

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

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

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

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

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

(b) For purposes of Subsection (85)(a), the transmission of a coded radio signal

7993 includes a transmission by message or sound.

7994 (86) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

7995 (87) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

7996 (88) (a) "Permanently attached to real property" means that for tangible personal

7997 property attached to real property:

7998 (i) the attachment of the tangible personal property to the real property:

7999 (A) is essential to the use of the tangible personal property; and

8000 (B) suggests that the tangible personal property will remain attached to the real

8001 property in the same place over the useful life of the tangible personal property; or

8002 (ii) if the tangible personal property is detached from the real property, the detachment

8003 would:

8004 (A) cause substantial damage to the tangible personal property; or

8005 (B) require substantial alteration or repair of the real property to which the tangible

8006 personal property is attached.

8007 (b) "Permanently attached to real property" includes:

8008 (i) the attachment of an accessory to the tangible personal property if the accessory is:

8009 (A) essential to the operation of the tangible personal property; and

8010 (B) attached only to facilitate the operation of the tangible personal property;

8011 (ii) a temporary detachment of tangible personal property from real property for a

8012 repair or renovation if the repair or renovation is performed where the tangible personal

8013 property and real property are located; or

8014 (iii) property attached to oil, gas, or water pipelines, except for the property listed in

8015 Subsection (88)(c)(iii) or (iv).

8016 (c) "Permanently attached to real property" does not include:

8017 (i) the attachment of portable or movable tangible personal property to real property if

8018 that portable or movable tangible personal property is attached to real property only for:

8019 (A) convenience;

8020 (B) stability; or

8021 (C) for an obvious temporary purpose;

8022 (ii) the detachment of tangible personal property from real property except for the

8023 detachment described in Subsection (88)(b)(ii);

8024 (iii) an attachment of the following tangible personal property to real property if the  
8025 attachment to real property is only through a line that supplies water, electricity, gas,  
8026 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
8027 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

8028 (A) a computer;

8029 (B) a telephone;

8030 (C) a television; or

8031 (D) tangible personal property similar to Subsections (88)(c)(iii)(A) through (C) as  
8032 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
8033 Administrative Rulemaking Act; or

8034 (iv) an item listed in Subsection (129)(c).

8035 (89) "Person" includes any individual, firm, partnership, joint venture, association,  
8036 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
8037 municipality, district, or other local governmental entity of the state, or any group or  
8038 combination acting as a unit.

8039 (90) "Place of primary use":

8040 (a) for telecommunications service other than mobile telecommunications service,  
8041 means the street address representative of where the customer's use of the telecommunications  
8042 service primarily occurs, which shall be:

8043 (i) the residential street address of the customer; or

8044 (ii) the primary business street address of the customer; or

8045 (b) for mobile telecommunications service, means the same as that term is defined in  
8046 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

8047 (91) (a) "Postpaid calling service" means a telecommunications service a person  
8048 obtains by making a payment on a call-by-call basis:

8049 (i) through the use of a:

8050 (A) bank card;

8051 (B) credit card;

8052 (C) debit card; or

8053 (D) travel card; or

8054 (ii) by a charge made to a telephone number that is not associated with the origination

8055 or termination of the telecommunications service.

8056 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
8057 service, that would be a prepaid wireless calling service if the service were exclusively a  
8058 telecommunications service.

8059 (92) "Postproduction" means an activity related to the finishing or duplication of a  
8060 medium described in Subsection 59-12-104(54)(a).

8061 (93) "Prepaid calling service" means a telecommunications service:

8062 (a) that allows a purchaser access to telecommunications service that is exclusively  
8063 telecommunications service;

8064 (b) that:

8065 (i) is paid for in advance; and

8066 (ii) enables the origination of a call using an:

8067 (A) access number; or

8068 (B) authorization code;

8069 (c) that is dialed:

8070 (i) manually; or

8071 (ii) electronically; and

8072 (d) sold in predetermined units or dollars that decline:

8073 (i) by a known amount; and

8074 (ii) with use.

8075 (94) "Prepaid wireless calling service" means a telecommunications service:

8076 (a) that provides the right to utilize:

8077 (i) mobile wireless service; and

8078 (ii) other service that is not a telecommunications service, including:

8079 (A) the download of a product transferred electronically;

8080 (B) a content service; or

8081 (C) an ancillary service;

8082 (b) that:

8083 (i) is paid for in advance; and

8084 (ii) enables the origination of a call using an:

8085 (A) access number; or

8086 (B) authorization code;  
8087 (c) that is dialed:  
8088 (i) manually; or  
8089 (ii) electronically; and  
8090 (d) sold in predetermined units or dollars that decline:  
8091 (i) by a known amount; and  
8092 (ii) with use.  
8093 (95) (a) "Prepared food" means:  
8094 (i) food:  
8095 (A) sold in a heated state; or  
8096 (B) heated by a seller;  
8097 (ii) two or more food ingredients mixed or combined by the seller for sale as a single  
8098 item; or  
8099 (iii) except as provided in Subsection (95)(c), food sold with an eating utensil provided  
8100 by the seller, including a:  
8101 (A) plate;  
8102 (B) knife;  
8103 (C) fork;  
8104 (D) spoon;  
8105 (E) glass;  
8106 (F) cup;  
8107 (G) napkin; or  
8108 (H) straw.  
8109 (b) "Prepared food" does not include:  
8110 (i) food that a seller only:  
8111 (A) cuts;  
8112 (B) repackages; or  
8113 (C) pasteurizes; or  
8114 (ii) (A) the following:  
8115 (I) raw egg;  
8116 (II) raw fish;

8117 (III) raw meat;  
8118 (IV) raw poultry; or  
8119 (V) a food containing an item described in Subsections (95)(b)(ii)(A)(I) through (IV);  
8120 and  
8121 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the  
8122 Food and Drug Administration's Food Code that a consumer cook the items described in  
8123 Subsection (95)(b)(ii)(A) to prevent food borne illness; or  
8124 (iii) the following if sold without eating utensils provided by the seller:  
8125 (A) food and food ingredients sold by a seller if the seller's proper primary  
8126 classification under the 2002 North American Industry Classification System of the federal  
8127 Executive Office of the President, Office of Management and Budget, is manufacturing in  
8128 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla  
8129 Manufacturing;  
8130 (B) food and food ingredients sold in an unheated state:  
8131 (I) by weight or volume; and  
8132 (II) as a single item; or  
8133 (C) a bakery item, including:  
8134 (I) a bagel;  
8135 (II) a bar;  
8136 (III) a biscuit;  
8137 (IV) bread;  
8138 (V) a bun;  
8139 (VI) a cake;  
8140 (VII) a cookie;  
8141 (VIII) a croissant;  
8142 (IX) a danish;  
8143 (X) a donut;  
8144 (XI) a muffin;  
8145 (XII) a pastry;  
8146 (XIII) a pie;  
8147 (XIV) a roll;

8148 (XV) a tart;  
8149 (XVI) a torte; or  
8150 (XVII) a tortilla.  
8151 (c) An eating utensil provided by the seller does not include the following used to  
8152 transport the food:  
8153 (i) a container; or  
8154 (ii) packaging.  
8155 (96) "Prescription" means an order, formula, or recipe that is issued:  
8156 (a) (i) orally;  
8157 (ii) in writing;  
8158 (iii) electronically; or  
8159 (iv) by any other manner of transmission; and  
8160 (b) by a licensed practitioner authorized by the laws of a state.  
8161 (97) (a) Except as provided in Subsection (97)(b)(ii) or (iii), "prewritten computer  
8162 software" means computer software that is not designed and developed:  
8163 (i) by the author or other creator of the computer software; and  
8164 (ii) to the specifications of a specific purchaser.  
8165 (b) "Prewritten computer software" includes:  
8166 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer  
8167 software is not designed and developed:  
8168 (A) by the author or other creator of the computer software; and  
8169 (B) to the specifications of a specific purchaser;  
8170 (ii) computer software designed and developed by the author or other creator of the  
8171 computer software to the specifications of a specific purchaser if the computer software is sold  
8172 to a person other than the purchaser; or  
8173 (iii) except as provided in Subsection (97)(c), prewritten computer software or a  
8174 prewritten portion of prewritten computer software:  
8175 (A) that is modified or enhanced to any degree; and  
8176 (B) if the modification or enhancement described in Subsection (97)(b)(iii)(A) is  
8177 designed and developed to the specifications of a specific purchaser.  
8178 (c) "Prewritten computer software" does not include a modification or enhancement



8179 described in Subsection (97)(b)(iii) if the charges for the modification or enhancement are:

8180 (i) reasonable; and

8181 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the  
8182 invoice or other statement of price provided to the purchaser at the time of sale or later, as  
8183 demonstrated by:

8184 (A) the books and records the seller keeps at the time of the transaction in the regular  
8185 course of business, including books and records the seller keeps at the time of the transaction in  
8186 the regular course of business for nontax purposes;

8187 (B) a preponderance of the facts and circumstances at the time of the transaction; and

8188 (C) the understanding of all of the parties to the transaction.

8189 (98) (a) "Private communications service" means a telecommunications service:

8190 (i) that entitles a customer to exclusive or priority use of one or more communications  
8191 channels between or among termination points; and

8192 (ii) regardless of the manner in which the one or more communications channels are  
8193 connected.

8194 (b) "Private communications service" includes the following provided in connection  
8195 with the use of one or more communications channels:

8196 (i) an extension line;

8197 (ii) a station;

8198 (iii) switching capacity; or

8199 (iv) another associated service that is provided in connection with the use of one or  
8200 more communications channels as defined in Section 59-12-215.

8201 (99) (a) Except as provided in Subsection (99)(b), "product transferred electronically"  
8202 means a product transferred electronically that would be subject to a tax under this chapter if  
8203 that product was transferred in a manner other than electronically.

8204 (b) "Product transferred electronically" does not include:

8205 (i) an ancillary service;

8206 (ii) computer software; or

8207 (iii) a telecommunications service.

8208 (100) (a) "Prosthetic device" means a device that is worn on or in the body to:

8209 (i) artificially replace a missing portion of the body;

- 8210 (ii) prevent or correct a physical deformity or physical malfunction; or  
8211 (iii) support a weak or deformed portion of the body.  
8212 (b) "Prosthetic device" includes:  
8213 (i) parts used in the repairs or renovation of a prosthetic device;  
8214 (ii) replacement parts for a prosthetic device;  
8215 (iii) a dental prosthesis; or  
8216 (iv) a hearing aid.  
8217 (c) "Prosthetic device" does not include:  
8218 (i) corrective eyeglasses; or  
8219 (ii) contact lenses.  
8220 (101) (a) "Protective equipment" means an item:  
8221 (i) for human wear; and  
8222 (ii) that is:  
8223 (A) designed as protection:  
8224 (I) to the wearer against injury or disease; or  
8225 (II) against damage or injury of other persons or property; and  
8226 (B) not suitable for general use.  
8227 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
8228 commission shall make rules:  
8229 (i) listing the items that constitute "protective equipment"; and  
8230 (ii) that are consistent with the list of items that constitute "protective equipment"  
8231 under the agreement.  
8232 (102) (a) For purposes of Subsection 59-12-104(41), "publication" means any written  
8233 or printed matter, other than a photocopy:  
8234 (i) regardless of:  
8235 (A) characteristics;  
8236 (B) copyright;  
8237 (C) form;  
8238 (D) format;  
8239 (E) method of reproduction; or  
8240 (F) source; and

8241 (ii) made available in printed or electronic format.

8242 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

8243 commission may by rule define the term "photocopy."

8244 (103) (a) "Purchase price" and "sales price" mean the total amount of consideration:

8245 (i) valued in money; and

8246 (ii) for which tangible personal property, a product transferred electronically, or

8247 services are:

8248 (A) sold;

8249 (B) leased; or

8250 (C) rented.

8251 (b) "Purchase price" and "sales price" include:

8252 (i) the seller's cost of the tangible personal property, a product transferred

8253 electronically, or services sold;

8254 (ii) expenses of the seller, including:

8255 (A) the cost of materials used;

8256 (B) a labor cost;

8257 (C) a service cost;

8258 (D) interest;

8259 (E) a loss;

8260 (F) the cost of transportation to the seller; or

8261 (G) a tax imposed on the seller;

8262 (iii) a charge by the seller for any service necessary to complete the sale; or

8263 (iv) consideration a seller receives from a person other than the purchaser if:

8264 (A) (I) the seller actually receives consideration from a person other than the purchaser;

8265 and

8266 (II) the consideration described in Subsection (103)(b)(iv)(A)(I) is directly related to a

8267 price reduction or discount on the sale;

8268 (B) the seller has an obligation to pass the price reduction or discount through to the

8269 purchaser;

8270 (C) the amount of the consideration attributable to the sale is fixed and determinable by

8271 the seller at the time of the sale to the purchaser; and

8272 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the  
8273 seller to claim a price reduction or discount; and

8274 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,  
8275 coupon, or other documentation with the understanding that the person other than the seller  
8276 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

8277 (II) the purchaser identifies that purchaser to the seller as a member of a group or  
8278 organization allowed a price reduction or discount, except that a preferred customer card that is  
8279 available to any patron of a seller does not constitute membership in a group or organization  
8280 allowed a price reduction or discount; or

8281 (III) the price reduction or discount is identified as a third party price reduction or  
8282 discount on the:

8283 (Aa) invoice the purchaser receives; or

8284 (Bb) certificate, coupon, or other documentation the purchaser presents.

8285 (c) "Purchase price" and "sales price" do not include:

8286 (i) a discount:

8287 (A) in a form including:

8288 (I) cash;

8289 (II) term; or

8290 (III) coupon;

8291 (B) that is allowed by a seller;

8292 (C) taken by a purchaser on a sale; and

8293 (D) that is not reimbursed by a third party; or

8294 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately  
8295 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of  
8296 sale or later, as demonstrated by the books and records the seller keeps at the time of the  
8297 transaction in the regular course of business, including books and records the seller keeps at the  
8298 time of the transaction in the regular course of business for nontax purposes, by a  
8299 preponderance of the facts and circumstances at the time of the transaction, and by the  
8300 understanding of all of the parties to the transaction:

8301 (A) the following from credit extended on the sale of tangible personal property or  
8302 services:

- 8303 (I) a carrying charge;  
8304 (II) a financing charge; or  
8305 (III) an interest charge;  
8306 (B) a delivery charge;  
8307 (C) an installation charge;  
8308 (D) a manufacturer rebate on a motor vehicle; or  
8309 (E) a tax or fee legally imposed directly on the consumer.
- 8310 (104) "Purchaser" means a person to whom:  
8311 (a) a sale of tangible personal property is made;  
8312 (b) a product is transferred electronically; or  
8313 (c) a service is furnished.
- 8314 (105) "Qualifying enterprise data center" means an establishment that will:  
8315 (a) own and operate a data center facility that will house a group of networked server  
8316 computers in one physical location in order to centralize the dissemination, management, and  
8317 storage of data and information;  
8318 (b) be located in the state;  
8319 (c) be a new operation constructed on or after July 1, 2016;  
8320 (d) consist of one or more buildings that total 150,000 or more square feet;  
8321 (e) be owned or leased by:  
8322 (i) the establishment; or  
8323 (ii) a person under common ownership, as defined in Section 59-7-101, of the  
8324 establishment; and  
8325 (f) be located on one or more parcels of land that are owned or leased by:  
8326 (i) the establishment; or  
8327 (ii) a person under common ownership, as defined in Section 59-7-101, of the  
8328 establishment.
- 8329 (106) "Regularly rented" means:  
8330 (a) rented to a guest for value three or more times during a calendar year; or  
8331 (b) advertised or held out to the public as a place that is regularly rented to guests for  
8332 value.
- 8333 (107) "Rental" means the same as that term is defined in Subsection (60).

8334 (108) (a) Except as provided in Subsection (108)(b), "repairs or renovations of tangible  
8335 personal property" means:

8336 (i) a repair or renovation of tangible personal property that is not permanently attached  
8337 to real property; or

8338 (ii) attaching tangible personal property or a product transferred electronically to other  
8339 tangible personal property or detaching tangible personal property or a product transferred  
8340 electronically from other tangible personal property if:

8341 (A) the other tangible personal property to which the tangible personal property or  
8342 product transferred electronically is attached or from which the tangible personal property or  
8343 product transferred electronically is detached is not permanently attached to real property; and

8344 (B) the attachment of tangible personal property or a product transferred electronically  
8345 to other tangible personal property or detachment of tangible personal property or a product  
8346 transferred electronically from other tangible personal property is made in conjunction with a  
8347 repair or replacement of tangible personal property or a product transferred electronically.

8348 (b) "Repairs or renovations of tangible personal property" does not include:

8349 (i) attaching prewritten computer software to other tangible personal property if the  
8350 other tangible personal property to which the prewritten computer software is attached is not  
8351 permanently attached to real property; or

8352 (ii) detaching prewritten computer software from other tangible personal property if the  
8353 other tangible personal property from which the prewritten computer software is detached is  
8354 not permanently attached to real property.

8355 (109) "Research and development" means the process of inquiry or experimentation  
8356 aimed at the discovery of facts, devices, technologies, or applications and the process of  
8357 preparing those devices, technologies, or applications for marketing.

8358 (110) (a) "Residential telecommunications services" means a telecommunications  
8359 service or an ancillary service that is provided to an individual for personal use:

8360 (i) at a residential address; or

8361 (ii) at an institution, including a nursing home or a school, if the telecommunications  
8362 service or ancillary service is provided to and paid for by the individual residing at the  
8363 institution rather than the institution.

8364 (b) For purposes of Subsection (110)(a)(i), a residential address includes an:

8365 (i) apartment; or  
8366 (ii) other individual dwelling unit.  
8367 (111) "Residential use" means the use in or around a home, apartment building,  
8368 sleeping quarters, and similar facilities or accommodations.  
8369 (112) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
8370 than:  
8371 (a) resale;  
8372 (b) sublease; or  
8373 (c) subrent.  
8374 (113) (a) "Retailer" means any person, unless prohibited by the Constitution of the  
8375 United States or federal law, that is engaged in a regularly organized business in tangible  
8376 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is  
8377 selling to the user or consumer and not for resale.  
8378 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
8379 engaged in the business of selling to users or consumers within the state.  
8380 (114) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
8381 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
8382 Subsection 59-12-103(1), for consideration.  
8383 (b) "Sale" includes:  
8384 (i) installment and credit sales;  
8385 (ii) any closed transaction constituting a sale;  
8386 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
8387 chapter;  
8388 (iv) any transaction if the possession of property is transferred but the seller retains the  
8389 title as security for the payment of the price; and  
8390 (v) any transaction under which right to possession, operation, or use of any article of  
8391 tangible personal property is granted under a lease or contract and the transfer of possession  
8392 would be taxable if an outright sale were made.  
8393 (115) "Sale at retail" means the same as that term is defined in Subsection (112).  
8394 (116) "Sale-leaseback transaction" means a transaction by which title to tangible  
8395 personal property or a product transferred electronically that is subject to a tax under this

8396 chapter is transferred:

8397 (a) by a purchaser-lessee;

8398 (b) to a lessor;

8399 (c) for consideration; and

8400 (d) if:

8401 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase

8402 of the tangible personal property or product transferred electronically;

8403 (ii) the sale of the tangible personal property or product transferred electronically to the

8404 lessor is intended as a form of financing:

8405 (A) for the tangible personal property or product transferred electronically; and

8406 (B) to the purchaser-lessee; and

8407 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

8408 is required to:

8409 (A) capitalize the tangible personal property or product transferred electronically for

8410 financial reporting purposes; and

8411 (B) account for the lease payments as payments made under a financing arrangement.

8412 (117) "Sales price" means the same as that term is defined in Subsection (103).

8413 (118) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

8414 amounts charged by a school:

8415 (i) sales that are directly related to the school's educational functions or activities

8416 including:

8417 (A) the sale of:

8418 (I) textbooks;

8419 (II) textbook fees;

8420 (III) laboratory fees;

8421 (IV) laboratory supplies; or

8422 (V) safety equipment;

8423 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

8424 that:

8425 (I) a student is specifically required to wear as a condition of participation in a

8426 school-related event or school-related activity; and



8427 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
8428 place of ordinary clothing;

8429 (C) sales of the following if the net or gross revenues generated by the sales are  
8430 deposited into a school district fund or school fund dedicated to school meals:

8431 (I) food and food ingredients; or

8432 (II) prepared food; or

8433 (D) transportation charges for official school activities; or

8434 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
8435 event or school-related activity.

8436 (b) "Sales relating to schools" does not include:

8437 (i) bookstore sales of items that are not educational materials or supplies;

8438 (ii) except as provided in Subsection (118)(a)(i)(B):

8439 (A) clothing;

8440 (B) clothing accessories or equipment;

8441 (C) protective equipment; or

8442 (D) sports or recreational equipment; or

8443 (iii) amounts paid to or amounts charged by a school for admission to a school-related  
8444 event or school-related activity if the amounts paid or charged are passed through to a person:

8445 (A) other than a:

8446 (I) school;

8447 (II) nonprofit organization authorized by a school board or a governing body of a  
8448 private school to organize and direct a competitive secondary school activity; or

8449 (III) nonprofit association authorized by a school board or a governing body of a  
8450 private school to organize and direct a competitive secondary school activity; and

8451 (B) that is required to collect sales and use taxes under this chapter.

8452 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
8453 commission may make rules defining the term "passed through."

8454 (119) For purposes of this section and Section 59-12-104, "school" means:

8455 (a) an elementary school or a secondary school that:

8456 (i) is a:

8457 (A) public school; or

8458 (B) private school; and  
 8459 (ii) provides instruction for one or more grades kindergarten through 12; or  
 8460 (b) a public school district.  
 8461 (120) (a) "Seller" means a person that makes a sale, lease, or rental of:  
 8462 (i) tangible personal property;  
 8463 (ii) a product transferred electronically; or  
 8464 (iii) a service.  
 8465 (b) "Seller" includes a marketplace facilitator.  
 8466 (121) (a) "Semiconductor fabricating, processing, research, or development materials"  
 8467 means tangible personal property or a product transferred electronically if the tangible personal  
 8468 property or product transferred electronically is:  
 8469 (i) used primarily in the process of:  
 8470 (A) (I) manufacturing a semiconductor;  
 8471 (II) fabricating a semiconductor; or  
 8472 (III) research or development of a:  
 8473 (Aa) semiconductor; or  
 8474 (Bb) semiconductor manufacturing process; or  
 8475 (B) maintaining an environment suitable for a semiconductor; or  
 8476 (ii) consumed primarily in the process of:  
 8477 (A) (I) manufacturing a semiconductor;  
 8478 (II) fabricating a semiconductor; or  
 8479 (III) research or development of a:  
 8480 (Aa) semiconductor; or  
 8481 (Bb) semiconductor manufacturing process; or  
 8482 (B) maintaining an environment suitable for a semiconductor.  
 8483 (b) "Semiconductor fabricating, processing, research, or development materials"  
 8484 includes:  
 8485 (i) parts used in the repairs or renovations of tangible personal property or a product  
 8486 transferred electronically described in Subsection (121)(a); or  
 8487 (ii) a chemical, catalyst, or other material used to:  
 8488 (A) produce or induce in a semiconductor a:

- 8489 (I) chemical change; or  
8490 (II) physical change;  
8491 (B) remove impurities from a semiconductor; or  
8492 (C) improve the marketable condition of a semiconductor.  
8493 (122) "Senior citizen center" means a facility having the primary purpose of providing  
8494 services to the aged as defined in Section [62A-3-101](#).  
8495 (123) (a) Subject to Subsections (123)(b) and (c), "short-term lodging consumable"  
8496 means tangible personal property that:  
8497 (i) a business that provides accommodations and services described in Subsection  
8498 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services  
8499 to a purchaser;  
8500 (ii) is intended to be consumed by the purchaser; and  
8501 (iii) is:  
8502 (A) included in the purchase price of the accommodations and services; and  
8503 (B) not separately stated on an invoice, bill of sale, or other similar document provided  
8504 to the purchaser.  
8505 (b) "Short-term lodging consumable" includes:  
8506 (i) a beverage;  
8507 (ii) a brush or comb;  
8508 (iii) a cosmetic;  
8509 (iv) a hair care product;  
8510 (v) lotion;  
8511 (vi) a magazine;  
8512 (vii) makeup;  
8513 (viii) a meal;  
8514 (ix) mouthwash;  
8515 (x) nail polish remover;  
8516 (xi) a newspaper;  
8517 (xii) a notepad;  
8518 (xiii) a pen;  
8519 (xiv) a pencil;

8520 (xv) a razor;  
8521 (xvi) saline solution;  
8522 (xvii) a sewing kit;  
8523 (xviii) shaving cream;  
8524 (xix) a shoe shine kit;  
8525 (xx) a shower cap;  
8526 (xxi) a snack item;  
8527 (xxii) soap;  
8528 (xxiii) toilet paper;  
8529 (xxiv) a toothbrush;  
8530 (xxv) toothpaste; or  
8531 (xxvi) an item similar to Subsections (123)(b)(i) through (xxv) as the commission may  
8532 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
8533 Rulemaking Act.  
8534 (c) "Short-term lodging consumable" does not include:  
8535 (i) tangible personal property that is cleaned or washed to allow the tangible personal  
8536 property to be reused; or  
8537 (ii) a product transferred electronically.  
8538 (124) "Simplified electronic return" means the electronic return:  
8539 (a) described in Section 318(C) of the agreement; and  
8540 (b) approved by the governing board of the agreement.  
8541 (125) "Solar energy" means the sun used as the sole source of energy for producing  
8542 electricity.  
8543 (126) (a) "Sports or recreational equipment" means an item:  
8544 (i) designed for human use; and  
8545 (ii) that is:  
8546 (A) worn in conjunction with:  
8547 (I) an athletic activity; or  
8548 (II) a recreational activity; and  
8549 (B) not suitable for general use.  
8550 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

8551 commission shall make rules:

8552 (i) listing the items that constitute "sports or recreational equipment"; and

8553 (ii) that are consistent with the list of items that constitute "sports or recreational  
8554 equipment" under the agreement.

8555 (127) "State" means the state of Utah, its departments, and agencies.

8556 (128) "Storage" means any keeping or retention of tangible personal property or any  
8557 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except  
8558 sale in the regular course of business.

8559 (129) (a) Except as provided in Subsection (129)(d) or (e), "tangible personal property"  
8560 means personal property that:

8561 (i) may be:

8562 (A) seen;

8563 (B) weighed;

8564 (C) measured;

8565 (D) felt; or

8566 (E) touched; or

8567 (ii) is in any manner perceptible to the senses.

8568 (b) "Tangible personal property" includes:

8569 (i) electricity;

8570 (ii) water;

8571 (iii) gas;

8572 (iv) steam; or

8573 (v) prewritten computer software, regardless of the manner in which the prewritten  
8574 computer software is transferred.

8575 (c) "Tangible personal property" includes the following regardless of whether the item  
8576 is attached to real property:

8577 (i) a dishwasher;

8578 (ii) a dryer;

8579 (iii) a freezer;

8580 (iv) a microwave;

8581 (v) a refrigerator;

8582 (vi) a stove;  
8583 (vii) a washer; or  
8584 (viii) an item similar to Subsections (129)(c)(i) through (vii) as determined by the  
8585 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
8586 Rulemaking Act.

8587 (d) "Tangible personal property" does not include a product that is transferred  
8588 electronically.

8589 (e) "Tangible personal property" does not include the following if attached to real  
8590 property, regardless of whether the attachment to real property is only through a line that  
8591 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
8592 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
8593 Rulemaking Act:

8594 (i) a hot water heater;  
8595 (ii) a water filtration system; or  
8596 (iii) a water softener system.

8597 (130) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
8598 software" means an item listed in Subsection (130)(b) if that item is purchased or leased  
8599 primarily to enable or facilitate one or more of the following to function:

8600 (i) telecommunications switching or routing equipment, machinery, or software; or  
8601 (ii) telecommunications transmission equipment, machinery, or software.

8602 (b) The following apply to Subsection (130)(a):

8603 (i) a pole;  
8604 (ii) software;  
8605 (iii) a supplementary power supply;  
8606 (iv) temperature or environmental equipment or machinery;  
8607 (v) test equipment;  
8608 (vi) a tower; or  
8609 (vii) equipment, machinery, or software that functions similarly to an item listed in  
8610 Subsections (130)(b)(i) through (vi) as determined by the commission by rule made in  
8611 accordance with Subsection (130)(c).

8612 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

8613 commission may by rule define what constitutes equipment, machinery, or software that  
8614 functions similarly to an item listed in Subsections (130)(b)(i) through (vi).

8615 (131) "Telecommunications equipment, machinery, or software required for 911  
8616 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
8617 Sec. 20.18.

8618 (132) "Telecommunications maintenance or repair equipment, machinery, or software"  
8619 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
8620 one or more of the following, regardless of whether the equipment, machinery, or software is  
8621 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
8622 following:

8623 (a) telecommunications enabling or facilitating equipment, machinery, or software;

8624 (b) telecommunications switching or routing equipment, machinery, or software; or

8625 (c) telecommunications transmission equipment, machinery, or software.

8626 (133) (a) "Telecommunications service" means the electronic conveyance, routing, or  
8627 transmission of audio, data, video, voice, or any other information or signal to a point, or  
8628 among or between points.

8629 (b) "Telecommunications service" includes:

8630 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
8631 processing application is used to act:

8632 (A) on the code, form, or protocol of the content;

8633 (B) for the purpose of electronic conveyance, routing, or transmission; and

8634 (C) regardless of whether the service:

8635 (I) is referred to as voice over Internet protocol service; or

8636 (II) is classified by the Federal Communications Commission as enhanced or value  
8637 added;

8638 (ii) an 800 service;

8639 (iii) a 900 service;

8640 (iv) a fixed wireless service;

8641 (v) a mobile wireless service;

8642 (vi) a postpaid calling service;

8643 (vii) a prepaid calling service;

- 8644 (viii) a prepaid wireless calling service; or  
8645 (ix) a private communications service.  
8646 (c) "Telecommunications service" does not include:  
8647 (i) advertising, including directory advertising;  
8648 (ii) an ancillary service;  
8649 (iii) a billing and collection service provided to a third party;  
8650 (iv) a data processing and information service if:  
8651 (A) the data processing and information service allows data to be:  
8652 (I) (Aa) acquired;  
8653 (Bb) generated;  
8654 (Cc) processed;  
8655 (Dd) retrieved; or  
8656 (Ee) stored; and  
8657 (II) delivered by an electronic transmission to a purchaser; and  
8658 (B) the purchaser's primary purpose for the underlying transaction is the processed data  
8659 or information;  
8660 (v) installation or maintenance of the following on a customer's premises:  
8661 (A) equipment; or  
8662 (B) wiring;  
8663 (vi) Internet access service;  
8664 (vii) a paging service;  
8665 (viii) a product transferred electronically, including:  
8666 (A) music;  
8667 (B) reading material;  
8668 (C) a ring tone;  
8669 (D) software; or  
8670 (E) video;  
8671 (ix) a radio and television audio and video programming service:  
8672 (A) regardless of the medium; and  
8673 (B) including:  
8674 (I) furnishing conveyance, routing, or transmission of a television audio and video



8675 programming service by a programming service provider;  
8676 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or  
8677 (III) audio and video programming services delivered by a commercial mobile radio  
8678 service provider as defined in 47 C.F.R. Sec. 20.3;  
8679 (x) a value-added nonvoice data service; or  
8680 (xi) tangible personal property.  
8681 (134) (a) "Telecommunications service provider" means a person that:  
8682 (i) owns, controls, operates, or manages a telecommunications service; and  
8683 (ii) engages in an activity described in Subsection (134)(a)(i) for the shared use with or  
8684 resale to any person of the telecommunications service.  
8685 (b) A person described in Subsection (134)(a) is a telecommunications service provider  
8686 whether or not the Public Service Commission of Utah regulates:  
8687 (i) that person; or  
8688 (ii) the telecommunications service that the person owns, controls, operates, or  
8689 manages.  
8690 (135) (a) "Telecommunications switching or routing equipment, machinery, or  
8691 software" means an item listed in Subsection (135)(b) if that item is purchased or leased  
8692 primarily for switching or routing:  
8693 (i) an ancillary service;  
8694 (ii) data communications;  
8695 (iii) voice communications; or  
8696 (iv) telecommunications service.  
8697 (b) The following apply to Subsection (135)(a):  
8698 (i) a bridge;  
8699 (ii) a computer;  
8700 (iii) a cross connect;  
8701 (iv) a modem;  
8702 (v) a multiplexer;  
8703 (vi) plug in circuitry;  
8704 (vii) a router;  
8705 (viii) software;

8706 (ix) a switch; or  
8707 (x) equipment, machinery, or software that functions similarly to an item listed in  
8708 Subsections (135)(b)(i) through (ix) as determined by the commission by rule made in  
8709 accordance with Subsection (135)(c).  
8710 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
8711 commission may by rule define what constitutes equipment, machinery, or software that  
8712 functions similarly to an item listed in Subsections (135)(b)(i) through (ix).  
8713 (136) (a) "Telecommunications transmission equipment, machinery, or software"  
8714 means an item listed in Subsection (136)(b) if that item is purchased or leased primarily for  
8715 sending, receiving, or transporting:  
8716 (i) an ancillary service;  
8717 (ii) data communications;  
8718 (iii) voice communications; or  
8719 (iv) telecommunications service.  
8720 (b) The following apply to Subsection (136)(a):  
8721 (i) an amplifier;  
8722 (ii) a cable;  
8723 (iii) a closure;  
8724 (iv) a conduit;  
8725 (v) a controller;  
8726 (vi) a duplexer;  
8727 (vii) a filter;  
8728 (viii) an input device;  
8729 (ix) an input/output device;  
8730 (x) an insulator;  
8731 (xi) microwave machinery or equipment;  
8732 (xii) an oscillator;  
8733 (xiii) an output device;  
8734 (xiv) a pedestal;  
8735 (xv) a power converter;  
8736 (xvi) a power supply;

8737 (xvii) a radio channel;  
8738 (xviii) a radio receiver;  
8739 (xix) a radio transmitter;  
8740 (xx) a repeater;  
8741 (xxi) software;  
8742 (xxii) a terminal;  
8743 (xxiii) a timing unit;  
8744 (xxiv) a transformer;  
8745 (xxv) a wire; or  
8746 (xxvi) equipment, machinery, or software that functions similarly to an item listed in  
8747 Subsections (136)(b)(i) through (xxv) as determined by the commission by rule made in  
8748 accordance with Subsection (136)(c).  
8749 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
8750 commission may by rule define what constitutes equipment, machinery, or software that  
8751 functions similarly to an item listed in Subsections (136)(b)(i) through (xxv).  
8752 (137) (a) "Textbook for a higher education course" means a textbook or other printed  
8753 material that is required for a course:  
8754 (i) offered by an institution of higher education; and  
8755 (ii) that the purchaser of the textbook or other printed material attends or will attend.  
8756 (b) "Textbook for a higher education course" includes a textbook in electronic format.  
8757 (138) "Tobacco" means:  
8758 (a) a cigarette;  
8759 (b) a cigar;  
8760 (c) chewing tobacco;  
8761 (d) pipe tobacco; or  
8762 (e) any other item that contains tobacco.  
8763 (139) "Unassisted amusement device" means an amusement device, skill device, or  
8764 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
8765 the amusement device, skill device, or ride device.  
8766 (140) (a) "Use" means the exercise of any right or power over tangible personal  
8767 property, a product transferred electronically, or a service under Subsection 59-12-103(1),

8768 incident to the ownership or the leasing of that tangible personal property, product transferred  
8769 electronically, or service.

8770 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
8771 property, a product transferred electronically, or a service in the regular course of business and  
8772 held for resale.

8773 (141) "Value-added nonvoice data service" means a service:

8774 (a) that otherwise meets the definition of a telecommunications service except that a  
8775 computer processing application is used to act primarily for a purpose other than conveyance,  
8776 routing, or transmission; and

8777 (b) with respect to which a computer processing application is used to act on data or  
8778 information:

- 8779 (i) code;
- 8780 (ii) content;
- 8781 (iii) form; or
- 8782 (iv) protocol.

8783 (142) (a) Subject to Subsection (142)(b), "vehicle" means the following that are  
8784 required to be titled, registered, or titled and registered:

- 8785 (i) an aircraft as defined in Section 72-10-102;
- 8786 (ii) a vehicle as defined in Section 41-1a-102;
- 8787 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 8788 (iv) a vessel as defined in Section 41-1a-102.

8789 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 8790 (i) a vehicle described in Subsection (142)(a); or
- 8791 (ii) (A) a locomotive;
- 8792 (B) a freight car;
- 8793 (C) railroad work equipment; or
- 8794 (D) other railroad rolling stock.

8795 (143) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
8796 exchanging a vehicle as defined in Subsection (142).

8797 (144) (a) "Vertical service" means an ancillary service that:

- 8798 (i) is offered in connection with one or more telecommunications services; and

8799 (ii) offers an advanced calling feature that allows a customer to:

8800 (A) identify a caller; and

8801 (B) manage multiple calls and call connections.

8802 (b) "Vertical service" includes an ancillary service that allows a customer to manage a

8803 conference bridging service.

8804 (145) (a) "Voice mail service" means an ancillary service that enables a customer to

8805 receive, send, or store a recorded message.

8806 (b) "Voice mail service" does not include a vertical service that a customer is required

8807 to have in order to utilize a voice mail service.

8808 (146) (a) Except as provided in Subsection (146)(b), "waste energy facility" means a

8809 facility that generates electricity:

8810 (i) using as the primary source of energy waste materials that would be placed in a

8811 landfill or refuse pit if it were not used to generate electricity, including:

8812 (A) tires;

8813 (B) waste coal;

8814 (C) oil shale; or

8815 (D) municipal solid waste; and

8816 (ii) in amounts greater than actually required for the operation of the facility.

8817 (b) "Waste energy facility" does not include a facility that incinerates:

8818 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

8819 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

8820 (147) "Watercraft" means a vessel as defined in Section [73-18-2](#).

8821 (148) "Wind energy" means wind used as the sole source of energy to produce

8822 electricity.

8823 (149) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic

8824 location by the United States Postal Service.

8825 Section 163. Section **63A-3-103** is amended to read:

8826 **63A-3-103. Duties of director of division -- Application to institutions of higher**

8827 **education.**

8828 (1) The director of the Division of Finance shall:

8829 (a) define fiscal procedures relating to approval and allocation of funds;

- 8830 (b) provide for the accounting control of funds;
- 8831 (c) promulgate rules that:
- 8832 (i) establish procedures for maintaining detailed records of all types of leases;
- 8833 (ii) account for all types of leases in accordance with generally accepted accounting
- 8834 principles;
- 8835 (iii) require the performance of a lease with an option to purchase study by state
- 8836 agencies prior to any lease with an option to purchase acquisition of capital equipment; and
- 8837 (iv) require that the completed lease with an option to purchase study be approved by
- 8838 the director of the Division of Finance;
- 8839 (d) if the department operates the Division of Finance as an internal service fund
- 8840 agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in
- 8841 Section 63A-1-114:
- 8842 (i) the proposed rate and fee schedule as required by Section 63A-1-114; and
- 8843 (ii) other information or analysis requested by the Rate Committee;
- 8844 (e) oversee the Office of State Debt Collection;
- 8845 (f) publish the state's current constitutional debt limit on the Utah Public Finance
- 8846 Website, created in Section 63A-1-202; and
- 8847 (g) prescribe other fiscal functions required by law or under the constitutional authority
- 8848 of the governor to transact all executive business for the state.
- 8849 (2) (a) Institutions of higher education are subject to the provisions of Title 63A,
- 8850 Chapter 3, Part 1, General Provisions, and Title 63A, Chapter 3, Part 2, Accounting System,
- 8851 only to the extent expressly authorized or required by the [~~State Board of Regents~~] Utah Board
- 8852 of Higher Education under Title 53B, State System of Higher Education.
- 8853 (b) Institutions of higher education shall submit financial data for the past fiscal year
- 8854 conforming to generally accepted accounting principles to the director of the Division of
- 8855 Finance.
- 8856 (3) The Division of Finance shall prepare financial statements and other reports in
- 8857 accordance with legal requirements and generally accepted accounting principles for the state
- 8858 auditor's examination and certification:
- 8859 (a) not later than 60 days after a request from the state auditor; and
- 8860 (b) at the end of each fiscal year.

8861 Section 164. Section **63A-3-110** is amended to read:

8862 **63A-3-110. Personal use expenditures for state officers and employees.**

8863 (1) As used in this section:

8864 (a) "Employee" means a person who is not an elected or appointed officer and who is  
8865 employed on a full- or part-time basis by a governmental entity.

8866 (b) "Governmental entity" means:

8867 (i) an executive branch agency of the state, the offices of the governor, lieutenant  
8868 governor, state auditor, attorney general, and state treasurer, the State Board of Education, and  
8869 the ~~[State Board of Regents]~~ Utah Board of Higher Education;

8870 (ii) the Office of the Legislative Auditor General, the Office of the Legislative Fiscal  
8871 Analyst, the Office of Legislative Research and General Counsel, the Legislature, and  
8872 legislative committees;

8873 (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar  
8874 administrative units in the judicial branch;

8875 (iv) independent state entities created under Title 63H, Independent State Entities; or

8876 (v) the Utah Science Technology and Research Governing Authority created under  
8877 Section 63M-2-301.

8878 (c) "Officer" means a person who is elected or appointed to an office or position within  
8879 a governmental entity.

8880 (d) (i) "Personal use expenditure" means an expenditure made without the authority of  
8881 law that:

8882 (A) is not directly related to the performance of an activity as a state officer or  
8883 employee;

8884 (B) primarily furthers a personal interest of a state officer or employee or a state  
8885 officer's or employee's family, friend, or associate; and

8886 (C) would constitute taxable income under federal law.

8887 (ii) "Personal use expenditure" does not include:

8888 (A) a de minimis or incidental expenditure; or

8889 (B) a state vehicle or a monthly stipend for a vehicle that an officer or employee uses to  
8890 travel to and from the officer or employee's official duties, including a minimal allowance for a  
8891 detour as provided by the state.

8892 (e) "Public funds" means the same as that term is defined in Section 51-7-3.  
8893 (2) A state officer or employee may not:  
8894 (a) use public funds for a personal use expenditure; or  
8895 (b) incur indebtedness or liability on behalf of, or payable by, a governmental entity for  
8896 a personal use expenditure.  
8897 (3) If the Division of Finance or the responsible governmental entity determines that a  
8898 state officer or employee has intentionally made a personal use expenditure in violation of  
8899 Subsection (2), the governmental entity shall:  
8900 (a) require the state officer or employee to deposit the amount of the personal use  
8901 expenditure into the fund or account from which:  
8902 (i) the personal use expenditure was disbursed; or  
8903 (ii) payment for the indebtedness or liability for a personal use expenditure was  
8904 disbursed;  
8905 (b) require the state officer or employee to remit an administrative penalty in an  
8906 amount equal to 50% of the personal use expenditure to the Division of Finance; and  
8907 (c) deposit the money received under Subsection (3)(b) into the General Fund.  
8908 (4) (a) Any state officer or employee who has been found by a governmental entity to  
8909 have made a personal use expenditure in violation of Subsection (2) may appeal the finding of  
8910 the governmental entity.  
8911 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
8912 Division of Finance shall make rules regarding an appeal process for an appeal made under  
8913 Subsection (4)(a), including the designation of an appeal authority.  
8914 (5) (a) Subject to Subsection (5)(b), the Division of Finance may withhold all or a  
8915 portion of the wages of a state officer or employee who has violated Subsection (2) until the  
8916 requirements of Subsection (3) have been met.  
8917 (b) If the state officer or employee has requested an appeal under Subsection (4), the  
8918 Division of Finance may only withhold the wages of the officer or employee after the appeal  
8919 authority described in Subsection (4)(b) has confirmed that the officer or employee violated  
8920 Subsection (2).  
8921 (6) Nothing in this chapter immunizes a state officer or employee from or precludes  
8922 any criminal prosecution or civil or employment action for an unlawful personal use



8923 expenditure.

8924 (7) A state officer or employee who is convicted of misusing public money or public  
8925 property under Section 76-8-402 may not disburse public funds or access public accounts.

8926 Section 165. Section 63A-4-103 is amended to read:

8927 **63A-4-103. Risk management -- Duties of state agencies.**

8928 (1) (a) Unless specifically authorized by statute to do so, a state agency may not:

8929 (i) purchase insurance or self-fund any risk unless authorized by the risk manager; or

8930 (ii) procure or provide liability insurance for the state.

8931 (b) (i) Notwithstanding the provisions of Subsection (1)(a), the [~~State Board of~~

8932 ~~Regents~~] Utah Board of Higher Education may authorize higher education institutions to

8933 purchase insurance for, or self-fund, risks associated with their programs and activities that are  
8934 not covered through the risk manager.

8935 (ii) The [~~State Board of Regents~~] Utah Board of Higher Education shall provide copies  
8936 of those purchased policies to the risk manager.

8937 (iii) The [~~State Board of Regents~~] Utah Board of Higher Education shall ensure that the  
8938 state is named as additional insured on any of those policies.

8939 (2) Each state agency shall:

8940 (a) comply with reasonable risk related recommendations made by the risk manager;

8941 (b) participate in risk management training activities conducted or sponsored by the  
8942 risk manager;

8943 (c) include the insurance and liability provisions prescribed by the risk manager in all  
8944 state contracts, together with a statement certifying to the other party to the contract that the  
8945 insurance and liability provisions in the contract are those prescribed by the risk manager;

8946 (d) at each principal design stage, provide written notice to the risk manager that  
8947 construction and major remodeling plans relating to agency buildings and facilities to be  
8948 covered by the fund are available for review, for risk control purposes, and make them  
8949 available to the risk manager for his review and recommendations; and

8950 (e) cooperate fully with requests from the risk manager for agency planning, program,  
8951 or risk related information, and allow the risk manager to attend agency planning and  
8952 management meetings.

8953 (3) Failure to include in the contract the provisions required by Subsection (2)(c) does

8954 not make the contract unenforceable by the state.

8955 Section 166. Section **63A-5-104** is amended to read:

8956 **63A-5-104. Definitions -- Capital development and capital improvement process**

8957 **-- Approval requirements -- Limitations on new projects -- Emergencies.**

8958 (1) As used in this section:

8959 (a) (i) "Capital developments" means a:

8960 (A) remodeling, site, or utility project with a total cost of \$3,500,000 or more;

8961 (B) new facility with a construction cost of \$500,000 or more; or

8962 (C) purchase of real property where an appropriation is requested to fund the purchase.

8963 (ii) "Capital developments" does not include a project described in Subsection

8964 (1)(b)(iii).

8965 (b) "Capital improvements" means:

8966 (i) a remodeling, alteration, replacement, or repair project with a total cost of less than  
8967 \$3,500,000;

8968 (ii) a site or utility improvement with a total cost of less than \$3,500,000;

8969 (iii) a utility infrastructure improvement project that:

8970 (A) has a total cost of less than \$7,000,000;

8971 (B) consists of two or more projects that, if done separately, would each cost less than  
8972 \$3,500,000; and

8973 (C) the State Building Board determines is more cost effective or feasible to be  
8974 completed as a single project; or

8975 (iv) a new facility with a total construction cost of less than \$500,000.

8976 (c) (i) "New facility" means the construction of a new building on state property  
8977 regardless of funding source.

8978 (ii) "New facility" includes:

8979 (A) an addition to an existing building; and

8980 (B) the enclosure of space that was not previously fully enclosed.

8981 (iii) "New facility" does not include:

8982 (A) the replacement of state-owned space that is demolished or that is otherwise  
8983 removed from state use, if the total construction cost of the replacement space is less than  
8984 \$3,500,000; or

8985 (B) the construction of facilities that do not fully enclose a space.

8986 (d) "Replacement cost of existing state facilities and infrastructure" means the  
8987 replacement cost, as determined by the Division of Risk Management, of state facilities,  
8988 excluding auxiliary facilities as defined by the State Building Board and the replacement cost  
8989 of infrastructure as defined by the State Building Board.

8990 (e) "State funds" means public money appropriated by the Legislature.

8991 (2) (a) Except as provided in Subsection (2)(f), the board shall, on behalf of all state  
8992 agencies, submit capital development recommendations and priorities to the Legislature for  
8993 approval and prioritization.

8994 (b) In developing the board's capital development recommendations and priorities, the  
8995 board shall require each state agency that requests an appropriation for a capital development  
8996 project to:

8997 (i) submit to the board a capital development project request; and

8998 (ii) complete and submit to the board a study that demonstrates the feasibility of the  
8999 capital development project, including:

9000 (A) the need for the capital development project;

9001 (B) the appropriateness of the scope of the capital development project;

9002 (C) any private funding for the capital development project; and

9003 (D) the economic and community impacts of the capital development project.

9004 (c) The board shall verify the completion and accuracy of a feasibility study that a state  
9005 agency submits to the board under Subsection (2)(b).

9006 (d) The board shall require that an institution of higher education described in Section  
9007 53B-1-102 that submits a request for a capital development project address whether and how,  
9008 as a result of the project, the institution will:

9009 (i) offer courses or other resources that will help meet demand for jobs, training, and  
9010 employment in the current market and the projected market for the next five years;

9011 (ii) respond to individual skilled and technical job demand over the next 3, 5, and 10  
9012 years;

9013 (iii) respond to industry demands for trained workers;

9014 (iv) help meet commitments made by the Governor's Office of Economic  
9015 Development, including relating to training and incentives;

- 9016 (v) respond to changing needs in the economy; and
- 9017 (vi) based on demographics, respond to demands for on-line or in-class instruction.
- 9018 (e) The board shall give more weight in the board's scoring process to a request that is
- 9019 designated as a higher priority by the ~~[State Board of Regents]~~ Utah Board of Higher Education
- 9020 than a request that is designated as a lower priority by the ~~[State Board of Regents]~~ Utah Board
- 9021 of Higher Education only when determining the order of prioritization among requests
- 9022 submitted by the ~~[State Board of Regents]~~ Utah Board of Higher Education.
- 9023 (f) (i) For a dedicated project as defined in Section 53B-2a-101 or 53B-22-201, the
- 9024 board shall submit recommendations to the Legislature in accordance with this section.
- 9025 (ii) A dedicated project as defined in Section 53B-2a-101 or 53B-22-201 is not subject
- 9026 to prioritization by the board.
- 9027 (3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development
- 9028 project may not be constructed on state property without legislative approval.
- 9029 (b) Legislative approval is not required for a capital development project that consists
- 9030 of the design or construction of a new facility if:
- 9031 (i) the board determines that the requesting state agency has provided adequate
- 9032 assurance that state funds will not be used for the design or construction of the facility;
- 9033 (ii) the state agency provides to the board a written document, signed by the head of the
- 9034 state agency:
- 9035 (A) stating that funding or a revenue stream is in place, or will be in place before the
- 9036 project is completed, to ensure that increased state funding will not be required to cover the
- 9037 cost of operations and maintenance to the resulting facility for immediate or future capital
- 9038 improvements; and
- 9039 (B) detailing the source of the funding that will be used for the cost of operations and
- 9040 maintenance for immediate and future capital improvements to the resulting facility; and
- 9041 (iii) the board determines that the use of the state property is:
- 9042 (A) appropriate and consistent with the master plan for the property; and
- 9043 (B) will not create an adverse impact on the state.
- 9044 (c) (i) The Division of Facilities Construction and Management shall maintain a record
- 9045 of facilities constructed under the exemption provided in Subsection (3)(b).
- 9046 (ii) For facilities constructed under the exemption provided in Subsection (3)(b), a state

9047 agency may not request:

9048 (A) increased state funds for operations and maintenance; or

9049 (B) state capital improvement funding.

9050 (d) Legislative approval is not required for:

9051 (i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds  
9052 that has been approved by the board;

9053 (ii) a facility to be built with nonstate funds and owned by nonstate entities within  
9054 research park areas at the University of Utah and Utah State University;

9055 (iii) a facility to be built at This is the Place State Park by This is the Place Foundation  
9056 with funds of the foundation, including grant money from the state, or with donated services or  
9057 materials;

9058 (iv) a capital project that:

9059 (A) is funded by the Uintah Basin Revitalization Fund or the Navajo Revitalization  
9060 Fund; and

9061 (B) does not provide a new facility for a state agency or higher education institution; or

9062 (v) a capital project on school and institutional trust lands that is funded by the School  
9063 and Institutional Trust Lands Administration from the Land Grant Management Fund and that  
9064 does not fund construction of a new facility for a state agency or higher education institution.

9065 (e) (i) Legislative approval is not required for capital development projects to be built  
9066 for the Department of Transportation:

9067 (A) as a result of an exchange of real property under Section [72-5-111](#); or

9068 (B) as a result of a sale or exchange of real property from a maintenance facility if the  
9069 real property is exchanged for, or the proceeds from the sale of the real property are used for,  
9070 another maintenance facility, including improvements for a maintenance facility and real  
9071 property.

9072 (ii) When the Department of Transportation approves a sale or exchange under  
9073 Subsection (3)(e), it shall notify the president of the Senate, the speaker of the House, and the  
9074 cochairs of the Infrastructure and General Government Appropriations Subcommittee of the  
9075 Legislature's Joint Appropriation Committee about any new facilities to be built or improved  
9076 under this exemption.

9077 (4) The Legislature may authorize:

9078 (a) the total square feet to be occupied by each state agency; and  
9079 (b) the total square feet and total cost of lease space for each agency.  
9080 (5) If construction of a new building or facility will require an immediate or future  
9081 increase in state funding for operations and maintenance or for capital improvements, the  
9082 Legislature may not authorize the new building or facility until the Legislature appropriates  
9083 funds for:  
9084 (a) the portion of operations and maintenance, if any, that will require an immediate or  
9085 future increase in state funding; and  
9086 (b) the portion of capital improvements, if any, that will require an immediate or future  
9087 increase in state funding.  
9088 (6) (a) Except as provided in Subsections (6)(b) and (c), the Legislature may not fund  
9089 the design or construction of any new capital development projects, except to complete the  
9090 funding of projects for which partial funding has been previously provided, until the  
9091 Legislature has appropriated 1.1% of the replacement cost of existing state facilities and  
9092 infrastructure to capital improvements.  
9093 (b) If the Legislature determines that there exists an Education Fund budget deficit or a  
9094 General Fund budget deficit as those terms are defined in Section [63J-1-312](#), the Legislature  
9095 may, in eliminating the deficit, reduce the amount appropriated to capital improvements to  
9096 0.9% of the replacement cost of state buildings and infrastructure.  
9097 (c) Subsection (6)(a) does not apply to a dedicated project as defined in Section  
9098 [53B-2a-101](#) or [53B-22-201](#).  
9099 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), the Legislature may not fund the  
9100 design and construction of a new facility in phases over more than one year unless the  
9101 Legislature approves the funding for both the design and construction by a vote of two-thirds of  
9102 all the members elected to each house.  
9103 (ii) Subsection (7)(a)(i) does not apply to a dedicated project as defined in Section  
9104 [53B-2a-101](#) or [53B-22-201](#).  
9105 (b) An agency is required to receive approval from the board before the agency begins  
9106 programming for a new facility that requires legislative approval under Subsection (3).  
9107 (c) The board or an agency may fund the programming of a new facility before the  
9108 Legislature makes an appropriation for the new facility under Subsection (7)(a).

9109 (8) (a) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures  
9110 Act, after the Legislature approves capital development and capital improvement priorities  
9111 under this section and Section 63A-5-228, if an emergency arises that creates an unforeseen  
9112 and critical need for a capital improvement project, the board may reallocate capital  
9113 improvement funds to address the project.

9114 (b) The board shall report any changes the board makes in capital improvement  
9115 allocations approved by the Legislature to:

9116 (i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and

9117 (ii) the Legislature at its next annual general session.

9118 Section 167. Section 63A-5-303 is amended to read:

9119 **63A-5-303. Lease reporting and coordination.**

9120 (1) The director shall:

9121 (a) prepare a standard form upon which agencies and other state institutions and  
9122 entities can report their current and proposed lease activity, including any lease renewals; and

9123 (b) develop procedures and mechanisms within the division to:

9124 (i) obtain and share information about each agency's real property needs; and

9125 (ii) provide oversight and review of lessors and lessees during the term of each lease.

9126 (2) Each agency, the Judicial Council, and the [~~Board of Regents~~] board of trustees for  
9127 each institution of higher education shall report all current and proposed lease activity on the  
9128 standard form prepared by the division to:

9129 (a) the State Building Board; and

9130 (b) the Office of Legislative Fiscal Analyst.

9131 Section 168. Section 63A-5-305 is amended to read:

9132 **63A-5-305. Leasing by higher education institutions.**

9133 (1) The [~~Board of Regents~~] Utah Board of Higher Education shall establish written  
9134 policies and procedures governing leasing by higher education institutions.

9135 (2) Except as provided in Sections 53B-2a-113 and 63M-2-602, a higher education  
9136 institution shall comply with the procedures and requirements of the [~~Board of Regents~~] Utah  
9137 Board of Higher Education policies before signing or renewing a lease.

9138 Section 169. Section 63A-5-501 is amended to read:

9139 **63A-5-501. Making keys to buildings of the state, political subdivisions, or**

9140 colleges and universities without permission prohibited.

9141 No person shall knowingly make or cause to be made any key or duplicate key for any  
9142 building, laboratory, facility, room, dormitory, hall or any other structure or part thereof owned  
9143 by the state, by any political subdivision thereof or by the ~~[board of regents]~~ Utah Board of  
9144 Higher Education or other governing body of any college or university ~~[which]~~ that is  
9145 supported wholly or in part by the state without the prior written consent of the state, political  
9146 subdivision, ~~[board of regents]~~ Utah Board of Higher Education, or other governing body.

9147 Section 170. Section **63C-19-102** is amended to read:

9148 **63C-19-102. Definitions.**

9149 As used in this chapter:

9150 (1) "Commission" means the Higher Education Strategic Planning Commission created  
9151 in Section 63C-19-201.

9152 (2) "Institution of higher education" means an institution described in ~~[Subsections~~  
9153 ~~53B-1-102(1)(a)(ii) through (ix)]~~ Subsection 53B-1-102(1)(a).

9154 (3) "Institutional role" means an institution of higher education's role described in  
9155 Section 53B-16-101.

9156 (4) "State system of higher education" means the state system of higher education  
9157 described in Section 53B-1-102.

9158 (5) "Strategic plan" means the strategic plan described in Section 63C-19-202.

9159 (6) "Technical college" means the same as that term is defined in Section 53B-1-101.5.

9160 Section 171. Section **63C-19-201** is amended to read:

9161 **63C-19-201. Higher Education Strategic Planning Commission -- Membership --**  
9162 **Quorum and voting requirements -- Compensation -- Staff support.**

9163 (1) There is created the Higher Education Strategic Planning Commission consisting of  
9164 the following ~~[22]~~ members:

9165 (a) two members of the Senate, appointed by the president of the Senate;

9166 (b) two members of the House of Representatives, appointed by the speaker of the  
9167 House of Representatives;

9168 ~~[(c) two members of the State Board of Regents, appointed by the chair of the State~~  
9169 ~~Board of Regents;]~~

9170 ~~[(d) two members of the Utah System of Technical Colleges Board of Trustees;~~



9171 ~~appointed by the chair of the Utah System of Technical Colleges Board of Trustees;]~~  
 9172 (c) four members of the Utah Board of Higher Education, appointed by the chair of the  
 9173 Utah Board of Higher Education;  
 9174 ~~[(e)]~~ (d) four individuals, appointed by the chair of the ~~[State Board of Regents]~~ Utah  
 9175 Board of Higher Education, who represent degree-granting institutions of higher education  
 9176 from a range of geographic areas and with varied institutional roles;  
 9177 ~~[(f)]~~ (e) two individuals, appointed by the chair of the ~~[Utah System of Technical~~  
 9178 ~~Colleges Board of Trustees]~~ Utah Board of Higher Education, who represent technical colleges  
 9179 from a range of geographic areas;  
 9180 ~~[(g)]~~ (f) the commissioner of higher education or the commissioner's designee;  
 9181 ~~[(h) the commissioner of technical education or the commissioner's designee;]~~  
 9182 ~~[(i)]~~ (g) (i) a member of the governor's staff who is responsible for advising the  
 9183 governor on education issues, appointed by the governor; or  
 9184 (ii) a member of the governor's staff designated by the individual described in  
 9185 Subsection (1)(g)(i);  
 9186 ~~[(j)]~~ (h) the executive director of the Governor's Office of Economic Development or  
 9187 the executive director's designee;  
 9188 ~~[(k)]~~ (i) the executive director of the Department of Workforce Services or the  
 9189 executive director's designee;  
 9190 ~~[(l)]~~ (j) the state superintendent of public instruction or the superintendent's designee;  
 9191 and  
 9192 ~~[(m)]~~ (k) two Utah business leaders, one appointed by the president of the Senate and  
 9193 one appointed by the speaker of the House of Representatives.  
 9194 (2) (a) The president of the Senate shall appoint one of the members described in  
 9195 Subsection (1)(a) as a cochair of the commission.  
 9196 (b) The speaker of the House of Representatives shall appoint one of the members  
 9197 described in Subsection (1)(b) as a cochair of the commission.  
 9198 (c) The chair of the ~~[State Board of Regents]~~ Utah Board of Higher Education shall  
 9199 appoint ~~[one]~~ two of the members described in Subsection (1)(c) as ~~[a vice chair]~~ vice chairs of  
 9200 the commission.  
 9201 ~~[(d) The chair of the Utah System of Technical Colleges Board of Trustees shall~~

9202 ~~appoint one of the members described in Subsection (1)(d) as a vice chair of the commission.]~~

9203 (3) (a) The salary and expenses of a commission member who is a legislator shall be  
9204 paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3,  
9205 Legislator Compensation.

9206 (b) A commission member who is not a legislator may not receive compensation or  
9207 benefits for the member's service on the commission, but may receive per diem and  
9208 reimbursement for travel expenses incurred as a commission member at the rates established by  
9209 the Division of Finance under:

9210 (i) Sections 63A-3-106 and 63A-3-107; and

9211 (ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
9212 63A-3-107.

9213 (4) (a) A majority of the commission members constitutes a quorum.

9214 (b) The action of a majority of a quorum constitutes an action of the commission.

9215 (5) The Office of Legislative Research and General Counsel and the Office of the  
9216 Legislative Fiscal Analyst shall provide staff support to the commission.

9217 Section 172. Section 63C-19-202 is amended to read:

9218 **63C-19-202. Commission powers and duties -- Strategic plan -- Reports.**

9219 (1) (a) ~~[The]~~ During calendar year 2019, the commission shall develop a strategic plan  
9220 aimed at meeting the future challenges of the state system of higher education.

9221 (b) The strategic plan shall address:

9222 (i) providing quality, accessible, and innovative postsecondary education that prepares  
9223 Utahns for the twenty-first century;

9224 (ii) cost-effective and affordable modes of higher education delivery;

9225 (iii) the integration of prior learning and competency-based experiences to meet degree  
9226 or certificate requirements;

9227 (iv) maximizing the role of the state system of higher education in workforce and  
9228 economic development;

9229 (v) a statewide campus and technology master plan that reflects regional differences in  
9230 projected student enrollment growth in the state system of higher education;

9231 (vi) governance of the state system of higher education, including studying best  
9232 practices and recommending modifications; and

9233 (vii) other issues related to the state system of higher education as determined by the  
9234 commission.

9235 ~~[(2)(a) The commission shall:]~~

9236 ~~[(i) select a consultant to manage the strategic planning process in accordance with~~  
9237 ~~Subsection (3);]~~

9238 ~~[(ii) guide the analytical work of a consultant described in Subsection (2)(a)(i) and~~  
9239 ~~review the results of the work;]~~

9240 ~~[(iii) coordinate with a consultant described in Subsection (2)(a)(i) to engage in a~~  
9241 ~~strategic planning process and create a strategic plan;]~~

9242 ~~[(iv) conduct regional meetings to gather stakeholder input during the strategic~~  
9243 ~~planning process; and]~~

9244 ~~[(v) report to the Legislature and the governor in accordance with Subsection (5).]~~

9245 ~~[(b) The commission may designate and assign working groups within the commission~~  
9246 ~~to address, study, evaluate, or discuss issues related to the commission's work.]~~

9247 ~~[(3) Subject to direction from the commission, a consultant selected under Subsection~~  
9248 ~~(2)(a) shall:]~~

9249 ~~[(a) collect and analyze data related to the current and future projected conditions of~~  
9250 ~~the state system of higher education, including:]~~

9251 ~~[(i) relevant demographics and educational attainment;]~~

9252 ~~[(ii) the state's economy, including workforce supply and demand;]~~

9253 ~~[(iii) affordability and financing of higher education through tuition, state funding, and~~  
9254 ~~other sources;]~~

9255 ~~[(iv) innovation by institutions of higher education, including research and research~~  
9256 ~~commercialization;]~~

9257 ~~[(v) operational and capital facility efficiencies;]~~

9258 ~~[(vi) accountability measures to assess the performance of the state system of higher~~  
9259 ~~education; and]~~

9260 ~~[(vii) any other data collection or analysis requested by the commission;]~~

9261 ~~[(b) based on the data described in Subsection (3)(a), make comparisons between~~  
9262 ~~higher education in Utah and higher education in other states or countries;]~~

9263 ~~[(c) project the condition of the state system of higher education in the future under the~~

9264 ~~state's current system based on the projected:]~~  
9265 ~~[(i) population;]~~  
9266 ~~[(ii) workforce needs; and]~~  
9267 ~~[(iii) funding requirements through tuition and state funding;]~~  
9268 ~~[(d) develop alternatives to the projection described in Subsection (3)(c) by modeling~~  
9269 ~~potential changes to:]~~  
9270 ~~[(i) industry and economic growth;]~~  
9271 ~~[(ii) student enrollment patterns;]~~  
9272 ~~[(iii) the portion of funding for the state system of higher education that comes from~~  
9273 ~~tuition and the portion of funding that comes from state funding; and]~~  
9274 ~~[(iv) investments in capital facilities or technology infrastructure;]~~  
9275 ~~[(e) recommend accountability or performance measures to assess the effectiveness of~~  
9276 ~~the state system of higher education;]~~  
9277 ~~[(f) in coordination with the commission, conduct the regional meetings described in~~  
9278 ~~Subsection (2)(a)(iv) to share information and seek input from a range of stakeholders;]~~  
9279 ~~[(g) recommend changes to the governance system for the state system of higher~~  
9280 ~~education that would facilitate implementation of the strategic plan; and]~~  
9281 ~~[(h) produce for the commission:]~~  
9282 ~~[(i) a draft report, including findings, observations, and strategic priorities; and]~~  
9283 ~~[(ii) a final report, incorporating feedback from the commission on the draft report~~  
9284 ~~described in Subsection (3)(h)(i), regarding the future of the state system of higher education.]~~  
9285 ~~[(4) The State Board of Regents and the Utah System of Technical Colleges Board of~~  
9286 ~~Trustees shall provide the commission and a consultant selected under Subsection (2)(a) with~~  
9287 ~~data and data analysis as requested by the commission.]~~  
9288 (2) During calendar year 2020, the commission shall:  
9289 (a) develop a statewide attainment goal and subgoals for higher education;  
9290 (b) define affordability for higher education in the state; and  
9291 (c) assist in facilitating the transition to the Utah Board of Higher Education.  
9292 ~~[5)]~~ (3) (a) On or before November 30, 2018, the commission shall report on the  
9293 commission's progress to:  
9294 (i) the Education Interim Committee;

- 9295 (ii) the Higher Education Appropriations Subcommittee;  
9296 (iii) the Legislative Management Committee; and  
9297 (iv) the governor.

9298 (b) On or before November 30, 2019, the commission shall provide a [final] report,  
9299 including a strategic plan and any recommendations, to:

- 9300 (i) the Education Interim Committee;  
9301 (ii) the Higher Education Appropriations Subcommittee;  
9302 (iii) the Legislative Management Committee; and  
9303 (iv) the governor.

9304 (c) On or before November 30, 2020, the commission shall report on the duties  
9305 described in Subsection (2) to:

- 9306 (i) the Education Interim Committee;  
9307 (ii) the Higher Education Appropriations Subcommittee;  
9308 (iii) the Legislative Management Committee; and  
9309 (iv) the governor.

9310 Section 173. Section **63D-2-102** is amended to read:

9311 **63D-2-102. Definitions.**

9312 As used in this chapter:

9313 (1) (a) "Collect" means the gathering of personally identifiable information:

9314 (i) from a user of a governmental website; or

9315 (ii) about a user of the governmental website.

9316 (b) "Collect" includes use of any identifying code linked to a user of a governmental  
9317 website.

9318 (2) "Court website" means a website on the Internet that is operated by or on behalf of  
9319 any court created in Title 78A, Chapter 1, Judiciary.

9320 (3) "Governmental entity" means:

9321 (a) an executive branch agency as defined in Section [63F-1-102](#);

9322 (b) the legislative branch;

9323 (c) the judicial branch;

9324 (d) the State Board of Education;

9325 (e) the ~~[Board of Regents]~~ Utah Board of Higher Education;

- 9326 (f) an institution of higher education; and  
9327 (g) a political subdivision of the state:  
9328 (i) as defined in Section 17B-1-102; and  
9329 (ii) including a school district.
- 9330 (4) (a) "Governmental website" means a website on the Internet that is operated by or  
9331 on behalf of a governmental entity.
- 9332 (b) "Governmental website" includes a court website.
- 9333 (5) "Governmental website operator" means a governmental entity or person acting on  
9334 behalf of the governmental entity that:
- 9335 (a) operates a governmental website; and  
9336 (b) collects or maintains personally identifiable information from or about a user of  
9337 that website.
- 9338 (6) "Personally identifiable information" means information that identifies:  
9339 (a) a user by:  
9340 (i) name;  
9341 (ii) account number;  
9342 (iii) physical address;  
9343 (iv) email address;  
9344 (v) telephone number;  
9345 (vi) Social Security number;  
9346 (vii) credit card information; or  
9347 (viii) bank account information;
- 9348 (b) a user as having requested or obtained specific materials or services from a  
9349 governmental website;
- 9350 (c) Internet sites visited by a user; or  
9351 (d) any of the contents of a user's data-storage device.
- 9352 (7) "User" means a person who accesses a governmental website.
- 9353 Section 174. Section 63F-1-102 is amended to read:  
9354 **63F-1-102. Definitions.**  
9355 As used in this title:  
9356 (1) "Chief information officer" means the chief information officer appointed under

9357 Section 63F-1-201.

9358 (2) "Data center" means a centralized repository for the storage, management, and  
9359 dissemination of data.

9360 (3) "Department" means the Department of Technology Services.

9361 (4) "Enterprise architecture" means:

9362 (a) information technology that can be applied across state government; and

9363 (b) support for information technology that can be applied across state government,  
9364 including:

9365 (i) technical support;

9366 (ii) master software licenses; and

9367 (iii) hardware and software standards.

9368 (5) (a) "Executive branch agency" means an agency or administrative subunit of state  
9369 government.

9370 (b) "Executive branch agency" does not include:

9371 (i) the legislative branch;

9372 (ii) the judicial branch;

9373 (iii) the State Board of Education;

9374 (iv) the ~~[Board of Regents]~~ Utah Board of Higher Education;

9375 (v) institutions of higher education;

9376 (vi) independent entities as defined in Section 63E-1-102; and

9377 (vii) elective constitutional offices of the executive department which includes:

9378 (A) the state auditor;

9379 (B) the state treasurer; and

9380 (C) the attorney general.

9381 (6) "Executive branch strategic plan" means the executive branch strategic plan created  
9382 under Section 63F-1-203.

9383 (7) "Individual with a disability" means an individual with a condition that meets the  
9384 definition of "disability" in 42 U.S.C. Sec. 12102.

9385 (8) "Information technology" means all computerized and auxiliary automated  
9386 information handling, including:

9387 (a) systems design and analysis;

- 9388 (b) acquisition, storage, and conversion of data;  
9389 (c) computer programming;  
9390 (d) information storage and retrieval;  
9391 (e) voice, video, and data communications;  
9392 (f) requisite systems controls;  
9393 (g) simulation; and  
9394 (h) all related interactions between people and machines.
- 9395 (9) "State information architecture" means a logically consistent set of principles,  
9396 policies, and standards that guide the engineering of state government's information technology  
9397 and infrastructure in a way that ensures alignment with state government's business and service  
9398 needs.
- 9399 Section 175. Section **63F-1-206** is amended to read:
- 9400 **63F-1-206. Rulemaking -- Policies.**
- 9401 (1) (a) Except as provided in Subsection (2), the chief information officer shall, by rule  
9402 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 9403 (i) provide standards that impose requirements on executive branch agencies that:  
9404 (A) are related to the security of the statewide area network; and  
9405 (B) establish standards for when an agency must obtain approval before obtaining  
9406 items listed in Subsection **63F-1-205**(1);
- 9407 (ii) specify the detail and format required in an agency information technology plan  
9408 submitted in accordance with Section **63F-1-204**;
- 9409 (iii) provide for standards related to the privacy policies of websites operated by or on  
9410 behalf of an executive branch agency;
- 9411 (iv) provide for the acquisition, licensing, and sale of computer software;
- 9412 (v) specify the requirements for the project plan and business case analysis required by  
9413 Section **63F-1-205**;
- 9414 (vi) provide for project oversight of agency technology projects when required by  
9415 Section **63F-1-205**;
- 9416 (vii) establish, in accordance with Subsection **63F-1-205**(2), the implementation of the  
9417 needs assessment for information technology purchases;
- 9418 (viii) establish telecommunications standards and specifications in accordance with



9419 Section 63F-1-404; and

9420 (ix) establish standards for accessibility of information technology by individuals with  
9421 disabilities in accordance with Section 63F-1-210.

9422 (b) The rulemaking authority granted by this Subsection (1) is in addition to any other  
9423 rulemaking authority granted by this title.

9424 (2) (a) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
9425 and subject to Subsection (2)(b), the chief information officer may adopt a policy that outlines  
9426 procedures to be followed by the chief information officer in facilitating the implementation of  
9427 this title by executive branch agencies if the policy:

9428 (i) is consistent with the executive branch strategic plan; and

9429 (ii) is not required to be made by rule under Subsection (1) or Section 63G-3-201.

9430 (b) (i) A policy adopted by the chief information officer under Subsection (2)(a) may  
9431 not take effect until 30 days after the day on which the chief information officer submits the  
9432 policy to:

9433 (A) the governor; and

9434 (B) all cabinet level officials.

9435 (ii) During the 30-day period described in Subsection (2)(b)(i), cabinet level officials  
9436 may review and comment on a policy submitted under Subsection (2)(b)(i).

9437 (3) (a) Notwithstanding Subsection (1) or (2) or Title 63G, Chapter 3, Utah  
9438 Administrative Rulemaking Act, without following the procedures of Subsection (1) or (2), the  
9439 chief information officer may adopt a security procedure to be followed by executive branch  
9440 agencies to protect the statewide area network if:

9441 (i) broad communication of the security procedure would create a significant potential  
9442 for increasing the vulnerability of the statewide area network to breach or attack; and

9443 (ii) after consultation with the chief information officer, the governor agrees that broad  
9444 communication of the security procedure would create a significant potential increase in the  
9445 vulnerability of the statewide area network to breach or attack.

9446 (b) A security procedure described in Subsection (3)(a) is classified as a protected  
9447 record under Title 63G, Chapter 2, Government Records Access and Management Act.

9448 (c) The chief information officer shall provide a copy of the security procedure as a  
9449 protected record to:

9450 (i) the chief justice of the Utah Supreme Court for the judicial branch;  
9451 (ii) the speaker of the House of Representatives and the president of the Senate for the  
9452 legislative branch;

9453 (iii) the chair of the [~~Board of Regents~~] Utah Board of Higher Education; and

9454 (iv) the chair of the State Board of Education.

9455 Section 176. Section **63F-1-303** is amended to read:

9456 **63F-1-303. Executive branch agencies -- Subscription by institutions.**

9457 (1) An executive branch agency in accordance with its agency information technology  
9458 plan approved by the chief information officer shall:

9459 (a) subscribe to the information technology services provided by the department; or

9460 (b) contract with one or more alternate private providers of information technology  
9461 services if the chief information officer determines that the purchase of the services from a  
9462 private provider will:

9463 (i) result in:

9464 (A) cost savings;

9465 (B) increased efficiency; or

9466 (C) improved quality of services; and

9467 (ii) not impair the interoperability of the state's information technology services.

9468 (2) An institution of higher education may subscribe to the services provided by the  
9469 department if:

9470 (a) the president of the institution recommends that the institution subscribe to the  
9471 services of the department; and

9472 (b) the [~~Board of Regents~~] Utah Board of Higher Education determines that  
9473 subscription to the services of the department will result in cost savings or increased efficiency  
9474 to the institution.

9475 (3) The following may subscribe to information technology services by requesting that  
9476 the services be provided from the department:

9477 (a) the legislative branch;

9478 (b) the judicial branch;

9479 (c) the State Board of Education;

9480 (d) a political subdivision of the state;

9481 (e) an agency of the federal government;

9482 (f) an independent entity as defined in Section 63E-1-102; and

9483 (g) an elective constitutional officer of the executive department as defined in

9484 Subsection 63F-1-102(5)(b)(vii).

9485 Section 177. Section 63F-2-102 is amended to read:

9486 **63F-2-102. Data Security Management Council -- Membership -- Duties.**

9487 (1) There is created the Data Security Management Council composed of ~~[nine]~~ eight

9488 members as follows:

9489 (a) the chief information officer appointed under Section 63F-1-201, or the chief

9490 information officer's designee;

9491 (b) one individual appointed by the governor;

9492 (c) one individual appointed by the speaker of the House of Representatives and the

9493 president of the Senate from the Legislative Information Technology Steering Committee; and

9494 (d) the highest ranking information technology official, or the highest ranking

9495 information technology official's designee, from each of:

9496 (i) the Judicial Council;

9497 (ii) the ~~[State Board of Regents]~~ Utah Board of Higher Education;

9498 (iii) the State Board of Education;

9499 ~~[(iv) the Utah System of Technical Colleges Board of Trustees;]~~

9500 ~~[(v)]~~ (iv) the State Tax Commission; and

9501 ~~[(vi)]~~ (v) the Office of the Attorney General.

9502 (2) The council shall elect a chair of the council by majority vote.

9503 (3) (a) A majority of the members of the council constitutes a quorum.

9504 (b) Action by a majority of a quorum of the council constitutes an action of the council.

9505 (4) The Department of Technology Services shall provide staff to the council.

9506 (5) The council shall meet quarterly, or as often as necessary, to:

9507 (a) review existing state government data security policies;

9508 (b) assess ongoing risks to state government information technology;

9509 (c) create a method to notify state and local government entities of new risks;

9510 (d) coordinate data breach simulation exercises with state and local government

9511 entities; and

9512 (e) develop data security best practice recommendations for state government that  
9513 include recommendations regarding:

- 9514 (i) hiring and training a chief information security officer for each government entity;
- 9515 (ii) continuous risk monitoring;
- 9516 (iii) password management;
- 9517 (iv) using the latest technology to identify and respond to vulnerabilities;
- 9518 (v) protecting data in new and old systems; and
- 9519 (vi) best procurement practices.

9520 (6) A member who is not a member of the Legislature may not receive compensation  
9521 or benefits for the member's service but may receive per diem and travel expenses as provided  
9522 in:

- 9523 (a) Section 63A-3-106;
- 9524 (b) Section 63A-3-107; and
- 9525 (c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

9526 Section 178. Section 63G-2-103 is amended to read:

9527 **63G-2-103. Definitions.**

9528 As used in this chapter:

9529 (1) "Audit" means:

9530 (a) a systematic examination of financial, management, program, and related records  
9531 for the purpose of determining the fair presentation of financial statements, adequacy of  
9532 internal controls, or compliance with laws and regulations; or

9533 (b) a systematic examination of program procedures and operations for the purpose of  
9534 determining their effectiveness, economy, efficiency, and compliance with statutes and  
9535 regulations.

9536 (2) "Chronological logs" mean the regular and customary summary records of law  
9537 enforcement agencies and other public safety agencies that show:

9538 (a) the time and general nature of police, fire, and paramedic calls made to the agency;  
9539 and

9540 (b) any arrests or jail bookings made by the agency.

9541 (3) "Classification," "classify," and their derivative forms mean determining whether a  
9542 record series, record, or information within a record is public, private, controlled, protected, or

9543 exempt from disclosure under Subsection [63G-2-201](#)(3)(b).

9544 (4) (a) "Computer program" means:

9545 (i) a series of instructions or statements that permit the functioning of a computer  
9546 system in a manner designed to provide storage, retrieval, and manipulation of data from the  
9547 computer system; and

9548 (ii) any associated documentation and source material that explain how to operate the  
9549 computer program.

9550 (b) "Computer program" does not mean:

9551 (i) the original data, including numbers, text, voice, graphics, and images;

9552 (ii) analysis, compilation, and other manipulated forms of the original data produced by  
9553 use of the program; or

9554 (iii) the mathematical or statistical formulas, excluding the underlying mathematical  
9555 algorithms contained in the program, that would be used if the manipulated forms of the  
9556 original data were to be produced manually.

9557 (5) (a) "Contractor" means:

9558 (i) any person who contracts with a governmental entity to provide goods or services  
9559 directly to a governmental entity; or

9560 (ii) any private, nonprofit organization that receives funds from a governmental entity.

9561 (b) "Contractor" does not mean a private provider.

9562 (6) "Controlled record" means a record containing data on individuals that is controlled  
9563 as provided by Section [63G-2-304](#).

9564 (7) "Designation," "designate," and their derivative forms mean indicating, based on a  
9565 governmental entity's familiarity with a record series or based on a governmental entity's  
9566 review of a reasonable sample of a record series, the primary classification that a majority of  
9567 records in a record series would be given if classified and the classification that other records  
9568 typically present in the record series would be given if classified.

9569 (8) "Elected official" means each person elected to a state office, county office,  
9570 municipal office, school board or school district office, local district office, or special service  
9571 district office, but does not include judges.

9572 (9) "Explosive" means a chemical compound, device, or mixture:

9573 (a) commonly used or intended for the purpose of producing an explosion; and

9574 (b) that contains oxidizing or combustive units or other ingredients in proportions,  
9575 quantities, or packing so that:

9576 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the  
9577 compound or mixture may cause a sudden generation of highly heated gases; and

9578 (ii) the resultant gaseous pressures are capable of:

9579 (A) producing destructive effects on contiguous objects; or

9580 (B) causing death or serious bodily injury.

9581 (10) "Government audit agency" means any governmental entity that conducts an audit.

9582 (11) (a) "Governmental entity" means:

9583 (i) executive department agencies of the state, the offices of the governor, lieutenant  
9584 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,  
9585 the Board of Examiners, the National Guard, the Career Service Review Office, the State  
9586 Board of Education, the [~~State Board of Regents~~] Utah Board of Higher Education, and the  
9587 State Archives;

9588 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal  
9589 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative  
9590 committees, except any political party, group, caucus, or rules or sifting committee of the  
9591 Legislature;

9592 (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar  
9593 administrative units in the judicial branch;

9594 (iv) any state-funded institution of higher education or public education; or

9595 (v) any political subdivision of the state, but, if a political subdivision has adopted an  
9596 ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this  
9597 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or  
9598 as specified in any other section of this chapter that specifically refers to political subdivisions.

9599 (b) "Governmental entity" also means:

9600 (i) every office, agency, board, bureau, committee, department, advisory board, or  
9601 commission of an entity listed in Subsection (11)(a) that is funded or established by the  
9602 government to carry out the public's business;

9603 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative  
9604 undertaking;

- 9605 (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;  
9606 (iv) an association as defined in Section 53G-7-1101;  
9607 (v) the Utah Independent Redistricting Commission; and  
9608 (vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or  
9609 more law enforcement officers, as defined in Section 53-13-103.
- 9610 (c) "Governmental entity" does not include the Utah Educational Savings Plan created  
9611 in Section 53B-8a-103.
- 9612 (12) "Gross compensation" means every form of remuneration payable for a given  
9613 period to an individual for services provided including salaries, commissions, vacation pay,  
9614 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any  
9615 similar benefit received from the individual's employer.
- 9616 (13) "Individual" means a human being.
- 9617 (14) (a) "Initial contact report" means an initial written or recorded report, however  
9618 titled, prepared by peace officers engaged in public patrol or response duties describing official  
9619 actions initially taken in response to either a public complaint about or the discovery of an  
9620 apparent violation of law, which report may describe:
- 9621 (i) the date, time, location, and nature of the complaint, the incident, or offense;  
9622 (ii) names of victims;  
9623 (iii) the nature or general scope of the agency's initial actions taken in response to the  
9624 incident;  
9625 (iv) the general nature of any injuries or estimate of damages sustained in the incident;  
9626 (v) the name, address, and other identifying information about any person arrested or  
9627 charged in connection with the incident; or  
9628 (vi) the identity of the public safety personnel, except undercover personnel, or  
9629 prosecuting attorney involved in responding to the initial incident.
- 9630 (b) Initial contact reports do not include follow-up or investigative reports prepared  
9631 after the initial contact report. However, if the information specified in Subsection (14)(a)  
9632 appears in follow-up or investigative reports, it may only be treated confidentially if it is  
9633 private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).
- 9634 (15) "Legislative body" means the Legislature.
- 9635 (16) "Notice of compliance" means a statement confirming that a governmental entity

9636 has complied with an order of the State Records Committee.

9637 (17) "Person" means:

9638 (a) an individual;

9639 (b) a nonprofit or profit corporation;

9640 (c) a partnership;

9641 (d) a sole proprietorship;

9642 (e) other type of business organization; or

9643 (f) any combination acting in concert with one another.

9644 (18) "Private provider" means any person who contracts with a governmental entity to  
9645 provide services directly to the public.

9646 (19) "Private record" means a record containing data on individuals that is private as  
9647 provided by Section 63G-2-302.

9648 (20) "Protected record" means a record that is classified protected as provided by  
9649 Section 63G-2-305.

9650 (21) "Public record" means a record that is not private, controlled, or protected and that  
9651 is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

9652 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,  
9653 card, tape, recording, electronic data, or other documentary material regardless of physical form  
9654 or characteristics:

9655 (i) that is prepared, owned, received, or retained by a governmental entity or political  
9656 subdivision; and

9657 (ii) where all of the information in the original is reproducible by photocopy or other  
9658 mechanical or electronic means.

9659 (b) "Record" does not mean:

9660 (i) a personal note or personal communication prepared or received by an employee or  
9661 officer of a governmental entity:

9662 (A) in a capacity other than the employee's or officer's governmental capacity; or

9663 (B) that is unrelated to the conduct of the public's business;

9664 (ii) a temporary draft or similar material prepared for the originator's personal use or  
9665 prepared by the originator for the personal use of an individual for whom the originator is  
9666 working;



- 9667 (iii) material that is legally owned by an individual in the individual's private capacity;  
9668 (iv) material to which access is limited by the laws of copyright or patent unless the  
9669 copyright or patent is owned by a governmental entity or political subdivision;  
9670 (v) proprietary software;  
9671 (vi) junk mail or a commercial publication received by a governmental entity or an  
9672 official or employee of a governmental entity;  
9673 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections  
9674 of a library open to the public;  
9675 (viii) material that is cataloged, indexed, or inventoried and contained in the collections  
9676 of a library open to the public, regardless of physical form or characteristics of the material;  
9677 (ix) a daily calendar or other personal note prepared by the originator for the  
9678 originator's personal use or for the personal use of an individual for whom the originator is  
9679 working;  
9680 (x) a computer program that is developed or purchased by or for any governmental  
9681 entity for its own use;  
9682 (xi) a note or internal memorandum prepared as part of the deliberative process by:  
9683 (A) a member of the judiciary;  
9684 (B) an administrative law judge;  
9685 (C) a member of the Board of Pardons and Parole; or  
9686 (D) a member of any other body, other than an association or appeals panel as defined  
9687 in Section 53G-7-1101, charged by law with performing a quasi-judicial function;  
9688 (xii) a telephone number or similar code used to access a mobile communication  
9689 device that is used by an employee or officer of a governmental entity, provided that the  
9690 employee or officer of the governmental entity has designated at least one business telephone  
9691 number that is a public record as provided in Section 63G-2-301;  
9692 (xiii) information provided by the Public Employees' Benefit and Insurance Program,  
9693 created in Section 49-20-103, to a county to enable the county to calculate the amount to be  
9694 paid to a health care provider under Subsection 17-50-319(2)(e)(ii);  
9695 (xiv) information that an owner of unimproved property provides to a local entity as  
9696 provided in Section 11-42-205;  
9697 (xv) a video or audio recording of an interview, or a transcript of the video or audio

9698 recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

9699 (xvi) child pornography, as defined by Section 76-5b-103; or

9700 (xvii) before final disposition of an ethics complaint occurs, a video or audio recording  
9701 of the closed portion of a meeting or hearing of:

9702 (A) a Senate or House Ethics Committee;

9703 (B) the Independent Legislative Ethics Commission;

9704 (C) the Independent Executive Branch Ethics Commission, created in Section  
9705 63A-14-202; or

9706 (D) the Political Subdivisions Ethics Review Commission established in Section  
9707 63A-15-201.

9708 (23) "Record series" means a group of records that may be treated as a unit for  
9709 purposes of designation, description, management, or disposition.

9710 (24) "Records officer" means the individual appointed by the chief administrative  
9711 officer of each governmental entity, or the political subdivision to work with state archives in  
9712 the care, maintenance, scheduling, designation, classification, disposal, and preservation of  
9713 records.

9714 (25) "Schedule," "scheduling," and their derivative forms mean the process of  
9715 specifying the length of time each record series should be retained by a governmental entity for  
9716 administrative, legal, fiscal, or historical purposes and when each record series should be  
9717 transferred to the state archives or destroyed.

9718 (26) "Sponsored research" means research, training, and other sponsored activities as  
9719 defined by the federal Executive Office of the President, Office of Management and Budget:

9720 (a) conducted:

9721 (i) by an institution within the state system of higher education defined in Section  
9722 53B-1-102; and

9723 (ii) through an office responsible for sponsored projects or programs; and

9724 (b) funded or otherwise supported by an external:

9725 (i) person that is not created or controlled by the institution within the state system of  
9726 higher education; or

9727 (ii) federal, state, or local governmental entity.

9728 (27) "State archives" means the Division of Archives and Records Service created in

9729 Section [63A-12-101](#).

9730 (28) "State archivist" means the director of the state archives.

9731 (29) "State Records Committee" means the State Records Committee created in

9732 Section [63G-2-501](#).

9733 (30) "Summary data" means statistical records and compilations that contain data  
9734 derived from private, controlled, or protected information but that do not disclose private,  
9735 controlled, or protected information.

9736 Section 179. Section **63G-6a-103** is amended to read:

9737 **63G-6a-103. Definitions.**

9738 As used in this chapter:

9739 (1) "Applicable rulemaking authority" means:

9740 (a) for a legislative procurement unit, the Legislative Management Committee;

9741 (b) for a judicial procurement unit, the Judicial Council;

9742 (c) (i) only to the extent of the procurement authority expressly granted to the  
9743 procurement unit by statute:

9744 (A) for the building board or the Division of Facilities Construction and Management,  
9745 created in Section [63A-5-201](#), the building board;

9746 (B) for the Office of the Attorney General, the attorney general; and

9747 (C) for the Department of Transportation created in Section [72-1-201](#), the executive  
9748 director of the Department of Transportation; and

9749 (ii) for each other executive branch procurement unit, the board;

9750 (d) for a local government procurement unit:

9751 (i) the legislative body of the local government procurement unit; or

9752 (ii) an individual or body designated by the legislative body of the local government  
9753 procurement unit;

9754 (e) for a school district or a public school, the board, except to the extent of a school  
9755 district's own nonadministrative rules that do not conflict with the provisions of this chapter;

9756 (f) for a state institution of higher education [~~described in~~], the Utah Board of Higher  
9757 Education;

9758 [~~(i) Subsections [53B-1-102](#)(1)(a) and (c), the State Board of Regents; or]~~

9759 [~~(ii) Subsection [53B-1-102](#)(1)(b), the Utah System of Technical Colleges Board of~~

9760 ~~Trustees;~~  
9761 (g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the  
9762 State Board of Education;  
9763 (h) for a public transit district, the chief executive of the public transit district;  
9764 (i) for a local district other than a public transit district or for a special service district:  
9765 (i) before January 1, 2015, the board of trustees of the local district or the governing  
9766 body of the special service district; or  
9767 (ii) on or after January 1, 2015, the board, except to the extent that the board of trustees  
9768 of the local district or the governing body of the special service district makes its own rules:  
9769 (A) with respect to a subject addressed by board rules; or  
9770 (B) that are in addition to board rules;  
9771 (j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the board of  
9772 directors of the Utah Educational Savings Plan;  
9773 (k) for the School and Institutional Trust Lands Administration, created in Section  
9774 53C-1-201, the School and Institutional Trust Lands Board of Trustees;  
9775 (l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201,  
9776 the School and Institutional Trust Fund Board of Trustees;  
9777 (m) for the Utah Communications Authority, established in Section 63H-7a-201, the  
9778 Utah Communications Authority Board, created in Section 63H-7a-203; or  
9779 (n) for any other procurement unit, the board.  
9780 (2) "Approved vendor" means a person who has been approved for inclusion on an  
9781 approved vendor list through the approved vendor list process.  
9782 (3) "Approved vendor list" means a list of approved vendors established under Section  
9783 63G-6a-507.  
9784 (4) "Approved vendor list process" means the procurement process described in  
9785 Section 63G-6a-507.  
9786 (5) "Bidder" means a person who submits a bid or price quote in response to an  
9787 invitation for bids.  
9788 (6) "Bidding process" means the procurement process described in Part 6, Bidding.  
9789 (7) "Board" means the Utah State Procurement Policy Board, created in Section  
9790 63G-6a-202.

9791 (8) "Building board" means the State Building Board, created in Section 63A-5-101.

9792 (9) "Change directive" means a written order signed by the procurement officer that  
9793 directs the contractor to suspend work or make changes, as authorized by contract, without the  
9794 consent of the contractor.

9795 (10) "Change order" means a written alteration in specifications, delivery point, rate of  
9796 delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual  
9797 agreement of the parties to the contract.

9798 (11) "Chief procurement officer" means the chief procurement officer appointed under  
9799 Subsection 63G-6a-302(1).

9800 (12) "Conducting procurement unit" means a procurement unit that conducts all  
9801 aspects of a procurement:

9802 (a) except:

9803 (i) reviewing a solicitation to verify that it is in proper form; and

9804 (ii) causing the publication of a notice of a solicitation; and

9805 (b) including:

9806 (i) preparing any solicitation document;

9807 (ii) appointing an evaluation committee;

9808 (iii) conducting the evaluation process, except as provided in Subsection

9809 63G-6a-707(6)(b) relating to scores calculated for costs of proposals;

9810 (iv) selecting and recommending the person to be awarded a contract;

9811 (v) negotiating the terms and conditions of a contract, subject to the issuing  
9812 procurement unit's approval; and

9813 (vi) contract administration.

9814 (13) "Conservation district" means the same as that term is defined in Section  
9815 17D-3-102.

9816 (14) "Construction":

9817 (a) means services, including work, and supplies for a project for the construction,  
9818 renovation, alteration, improvement, or repair of a public facility on real property; and

9819 (b) does not include services and supplies for the routine, day-to-day operation, repair,  
9820 or maintenance of an existing public facility.

9821 (15) "Construction manager/general contractor":

- 9822 (a) means a contractor who enters into a contract:  
9823 (i) for the management of a construction project; and  
9824 (ii) that allows the contractor to subcontract for additional labor and materials that are  
9825 not included in the contractor's cost proposal submitted at the time of the procurement of the  
9826 contractor's services; and  
9827 (b) does not include a contractor whose only subcontract work not included in the  
9828 contractor's cost proposal submitted as part of the procurement of the contractor's services is to  
9829 meet subcontracted portions of change orders approved within the scope of the project.
- 9830 (16) "Construction subcontractor":  
9831 (a) means a person under contract with a contractor or another subcontractor to provide  
9832 services or labor for the design or construction of a construction project;  
9833 (b) includes a general contractor or specialty contractor licensed or exempt from  
9834 licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and  
9835 (c) does not include a supplier who provides only materials, equipment, or supplies to a  
9836 contractor or subcontractor for a construction project.
- 9837 (17) "Contract" means an agreement for a procurement.
- 9838 (18) "Contract administration" means all functions, duties, and responsibilities  
9839 associated with managing, overseeing, and carrying out a contract between a procurement unit  
9840 and a contractor, including:  
9841 (a) implementing the contract;  
9842 (b) ensuring compliance with the contract terms and conditions by the conducting  
9843 procurement unit and the contractor;  
9844 (c) executing change orders;  
9845 (d) processing contract amendments;  
9846 (e) resolving, to the extent practicable, contract disputes;  
9847 (f) curing contract errors and deficiencies;  
9848 (g) terminating a contract;  
9849 (h) measuring or evaluating completed work and contractor performance;  
9850 (i) computing payments under the contract; and  
9851 (j) closing out a contract.
- 9852 (19) "Contractor" means a person who is awarded a contract with a procurement unit.

9853 (20) "Cooperative procurement" means procurement conducted by, or on behalf of:

9854 (a) more than one procurement unit; or

9855 (b) a procurement unit and a cooperative purchasing organization.

9856 (21) "Cooperative purchasing organization" means an organization, association, or

9857 alliance of purchasers established to combine purchasing power in order to obtain the best

9858 value for the purchasers by engaging in procurements in accordance with Section [63G-6a-2105](#).

9859 (22) "Cost-plus-a-percentage-of-cost contract" means a contract under which the

9860 contractor is paid a percentage of the total actual expenses or costs in addition to the

9861 contractor's actual expenses or costs.

9862 (23) "Cost-reimbursement contract" means a contract under which a contractor is

9863 reimbursed for costs which are allowed and allocated in accordance with the contract terms and

9864 the provisions of this chapter, and a fee, if any.

9865 (24) "Days" means calendar days, unless expressly provided otherwise.

9866 (25) "Definite quantity contract" means a fixed price contract that provides for a

9867 specified amount of supplies over a specified period, with deliveries scheduled according to a

9868 specified schedule.

9869 (26) "Design professional" means:

9870 (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects

9871 Licensing Act;

9872 (b) an individual licensed as a professional engineer or professional land surveyor

9873 under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing

9874 Act; or

9875 (c) an individual certified as a commercial interior designer under Title 58, Chapter 86,

9876 State Certification of Commercial Interior Designers Act.

9877 (27) "Design professional procurement process" means the procurement process

9878 described in Part 15, Design Professional Services.

9879 (28) "Design professional services" means:

9880 (a) professional services within the scope of the practice of architecture as defined in

9881 Section [58-3a-102](#);

9882 (b) professional engineering as defined in Section [58-22-102](#);

9883 (c) master planning and programming services; or

9884 (d) services within the scope of the practice of commercial interior design, as defined  
9885 in Section 58-86-102.

9886 (29) "Design-build" means the procurement of design professional services and  
9887 construction by the use of a single contract.

9888 (30) "Director" means the director of the division.

9889 (31) "Division" means the Division of Purchasing and General Services, created in  
9890 Section 63A-2-101.

9891 (32) "Educational procurement unit" means:

9892 (a) a school district;

9893 (b) a public school, including a local school board or a charter school;

9894 (c) the Utah Schools for the Deaf and the Blind;

9895 (d) the Utah Education and Telehealth Network;

9896 (e) an institution of higher education of the state described in Section 53B-1-102; or

9897 (f) the State Board of Education.

9898 (33) "Established catalogue price" means the price included in a catalogue, price list,  
9899 schedule, or other form that:

9900 (a) is regularly maintained by a manufacturer or contractor;

9901 (b) is published or otherwise available for inspection by customers; and

9902 (c) states prices at which sales are currently or were last made to a significant number  
9903 of any category of buyers or buyers constituting the general buying public for the supplies or  
9904 services involved.

9905 (34) "Executive branch procurement unit" means a department, division, office,  
9906 bureau, agency, or other organization within the state executive branch.

9907 (35) "Fixed price contract" means a contract that provides a price, for each  
9908 procurement item obtained under the contract, that is not subject to adjustment except to the  
9909 extent that:

9910 (a) the contract provides, under circumstances specified in the contract, for an  
9911 adjustment in price that is not based on cost to the contractor; or

9912 (b) an adjustment is required by law.

9913 (36) "Fixed price contract with price adjustment" means a fixed price contract that  
9914 provides for an upward or downward revision of price, precisely described in the contract, that:



9915 (a) is based on the consumer price index or another commercially acceptable index,  
9916 source, or formula; and

9917 (b) is not based on a percentage of the cost to the contractor.

9918 (37) "Grant" means an expenditure of public funds or other assistance, or an agreement  
9919 to expend public funds or other assistance, for a public purpose authorized by law, without  
9920 acquiring a procurement item in exchange.

9921 (38) "Head of a procurement unit" means:

9922 (a) for a legislative procurement unit, any person designated by rule made by the  
9923 applicable rulemaking authority;

9924 (b) for an executive branch procurement unit:

9925 (i) the director of the division; or

9926 (ii) any other person designated by the board, by rule;

9927 (c) for a judicial procurement unit:

9928 (i) the Judicial Council; or

9929 (ii) any other person designated by the Judicial Council, by rule;

9930 (d) for a local government procurement unit:

9931 (i) the legislative body of the local government procurement unit; or

9932 (ii) any other person designated by the local government procurement unit;

9933 (e) for a local district other than a public transit district, the board of trustees of the  
9934 local district or a designee of the board of trustees;

9935 (f) for a special service district, the governing body of the special service district or a  
9936 designee of the governing body;

9937 (g) for a local building authority, the board of directors of the local building authority  
9938 or a designee of the board of directors;

9939 (h) for a conservation district, the board of supervisors of the conservation district or a  
9940 designee of the board of supervisors;

9941 (i) for a public corporation, the board of directors of the public corporation or a  
9942 designee of the board of directors;

9943 (j) for a school district or any school or entity within a school district, the board of the  
9944 school district, or the board's designee;

9945 (k) for a charter school, the individual or body with executive authority over the charter

9946 school, or the individual's or body's designee;

9947 (l) for an institution of higher education described in Section 53B-2-101, the president  
9948 of the institution of higher education, or the president's designee;

9949 (m) for a public transit district, the board of trustees or a designee of the board of  
9950 trustees;

9951 (n) for the State Board of Education, the State Board of Education or a designee of the  
9952 State Board of Education; or

9953 (o) for the Utah Communications Authority, established in Section 63H-7a-201, the  
9954 executive director of the Utah Communications Authority or a designee of the executive  
9955 director.

9956 (39) "Immaterial error":

9957 (a) means an irregularity or abnormality that is:

9958 (i) a matter of form that does not affect substance; or

9959 (ii) an inconsequential variation from a requirement of a solicitation that has no, little,  
9960 or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

9961 (b) includes:

9962 (i) a missing signature, missing acknowledgment of an addendum, or missing copy of a  
9963 professional license, bond, or insurance certificate;

9964 (ii) a typographical error;

9965 (iii) an error resulting from an inaccuracy or omission in the solicitation; and

9966 (iv) any other error that the chief procurement officer or the head of a procurement unit  
9967 with independent procurement authority reasonably considers to be immaterial.

9968 (40) "Indefinite quantity contract" means a fixed price contract that:

9969 (a) is for an indefinite amount of procurement items to be supplied as ordered by a  
9970 procurement unit; and

9971 (b) (i) does not require a minimum purchase amount; or

9972 (ii) provides a maximum purchase limit.

9973 (41) "Independent procurement authority" means authority granted to a procurement  
9974 unit under Subsection 63G-6a-106(4)(a).

9975 (42) "Invitation for bids":

9976 (a) means a document used to solicit:

9977 (i) bids to provide a procurement item to a procurement unit; or  
9978 (ii) quotes for a price of a procurement item to be provided to a procurement unit; and  
9979 (b) includes all documents attached to or incorporated by reference in a document  
9980 described in Subsection (42)(a).

9981 (43) "Issuing procurement unit" means a procurement unit that:

9982 (a) reviews a solicitation to verify that it is in proper form;  
9983 (b) causes the notice of a solicitation to be published; and  
9984 (c) negotiates and approves the terms and conditions of a contract.

9985 (44) "Judicial procurement unit" means:

9986 (a) the Utah Supreme Court;  
9987 (b) the Utah Court of Appeals;  
9988 (c) the Judicial Council;  
9989 (d) a state judicial district; or  
9990 (e) an office, committee, subcommittee, or other organization within the state judicial  
9991 branch.

9992 (45) "Labor hour contract" is a contract under which:

9993 (a) the supplies and materials are not provided by, or through, the contractor; and  
9994 (b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and  
9995 profit for a specified number of labor hours or days.

9996 (46) "Legislative procurement unit" means:

9997 (a) the Legislature;  
9998 (b) the Senate;  
9999 (c) the House of Representatives;  
10000 (d) a staff office of the Legislature, the Senate, or the House of Representatives; or  
10001 (e) a committee, subcommittee, commission, or other organization:  
10002 (i) within the state legislative branch; or  
10003 (ii) (A) that is created by statute to advise or make recommendations to the Legislature;  
10004 (B) the membership of which includes legislators; and  
10005 (C) for which the Office of Legislative Research and General Counsel provides staff  
10006 support.  
10007 (47) "Local building authority" means the same as that term is defined in Section

10008 17D-2-102.

10009 (48) "Local district" means the same as that term is defined in Section 17B-1-102.

10010 (49) "Local government procurement unit" means:

10011 (a) a county or municipality, and each office or agency of the county or municipality,

10012 unless the county or municipality adopts its own procurement code by ordinance;

10013 (b) a county or municipality that has adopted this entire chapter by ordinance, and each

10014 office or agency of that county or municipality; or

10015 (c) a county or municipality that has adopted a portion of this chapter by ordinance, to

10016 the extent that a term in the ordinance is used in the adopted portion of this chapter, and each

10017 office or agency of that county or municipality.

10018 (50) "Multiple award contracts" means the award of a contract for an indefinite

10019 quantity of a procurement item to more than one person.

10020 (51) "Multiyear contract" means a contract that extends beyond a one-year period,

10021 including a contract that permits renewal of the contract, without competition, beyond the first

10022 year of the contract.

10023 (52) "Municipality" means a city, town, or metro township.

10024 (53) "Nonadopting local government procurement unit" means:

10025 (a) a county or municipality that has not adopted Part 16, Protests, Part 17,

10026 Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19,

10027 General Provisions Related to Protest or Appeal; and

10028 (b) each office or agency of a county or municipality described in Subsection (53)(a).

10029 (54) "Offeror" means a person who submits a proposal in response to a request for

10030 proposals.

10031 (55) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference

10032 under the requirements of this chapter.

10033 (56) "Procure" means to acquire a procurement item through a procurement.

10034 (57) "Procurement":

10035 (a) means a procurement unit's acquisition of a procurement item through an

10036 expenditure of public funds, or an agreement to expend public funds, including an acquisition

10037 through a public-private partnership;

10038 (b) includes all functions that pertain to the acquisition of a procurement item,

10039 including:

10040 (i) preparing and issuing a solicitation; and

10041 (ii) (A) conducting a standard procurement process; or

10042 (B) conducting a procurement process that is an exception to a standard procurement

10043 process under Part 8, Exceptions to Procurement Requirements; and

10044 (c) does not include a grant.

10045 (58) "Procurement item" means a supply, a service, or construction.

10046 (59) "Procurement officer" means:

10047 (a) for a procurement unit with independent procurement authority:

10048 (i) the head of the procurement unit;

10049 (ii) a designee of the head of the procurement unit; or

10050 (iii) a person designated by rule made by the applicable rulemaking authority; or

10051 (b) for the division or a procurement unit without independent procurement authority,

10052 the chief procurement officer.

10053 (60) "Procurement unit":

10054 (a) means:

10055 (i) a legislative procurement unit;

10056 (ii) an executive branch procurement unit;

10057 (iii) a judicial procurement unit;

10058 (iv) an educational procurement unit;

10059 (v) the Utah Communications Authority, established in Section [63H-7a-201](#);

10060 (vi) a local government procurement unit;

10061 (vii) a local district;

10062 (viii) a special service district;

10063 (ix) a local building authority;

10064 (x) a conservation district;

10065 (xi) a public corporation; or

10066 (xii) a public transit district; and

10067 (b) does not include a political subdivision created under Title 11, Chapter 13,

10068 Interlocal Cooperation Act.

10069 (61) "Professional service" means labor, effort, or work that requires an elevated

10070 degree of specialized knowledge and discretion, including labor, effort, or work in the field of:

10071 (a) accounting;

10072 (b) administrative law judge service;

10073 (c) architecture;

10074 (d) construction design and management;

10075 (e) engineering;

10076 (f) financial services;

10077 (g) information technology;

10078 (h) the law;

10079 (i) medicine;

10080 (j) psychiatry; or

10081 (k) underwriting.

10082 (62) "Protest officer" means:

10083 (a) for the division or a procurement unit with independent procurement authority:

10084 (i) the head of the procurement unit;

10085 (ii) the head of the procurement unit's designee who is an employee of the procurement

10086 unit; or

10087 (iii) a person designated by rule made by the applicable rulemaking authority; or

10088 (b) for a procurement unit without independent procurement authority, the chief

10089 procurement officer or the chief procurement officer's designee who is an employee of the

10090 division.

10091 (63) "Public corporation" means the same as that term is defined in Section [63E-1-102](#).

10092 (64) "Public entity" means any government entity of the state or political subdivision of

10093 the state, including:

10094 (a) a procurement unit;

10095 (b) a municipality or county, regardless of whether the municipality or county has

10096 adopted this chapter or any part of this chapter; and

10097 (c) any other government entity located in the state that expends public funds.

10098 (65) "Public facility" means a building, structure, infrastructure, improvement, or other

10099 facility of a public entity.

10100 (66) "Public funds" means money, regardless of its source, including from the federal

10101 government, that is owned or held by a procurement unit.

10102 (67) "Public transit district" means a public transit district organized under Title 17B,  
10103 Chapter 2a, Part 8, Public Transit District Act.

10104 (68) "Public-private partnership" means an arrangement or agreement, occurring on or  
10105 after January 1, 2017, between a procurement unit and one or more contractors to provide for a  
10106 public need through the development or operation of a project in which the contractor or  
10107 contractors share with the procurement unit the responsibility or risk of developing, owning,  
10108 maintaining, financing, or operating the project.

10109 (69) "Qualified vendor" means a vendor who:

10110 (a) is responsible; and

10111 (b) submits a responsive statement of qualifications under Section 63G-6a-410 that  
10112 meets the minimum mandatory requirements, evaluation criteria, and any applicable score  
10113 thresholds set forth in the request for statement of qualifications.

10114 (70) "Real property" means land and any building, fixture, improvement, appurtenance,  
10115 structure, or other development that is permanently affixed to land.

10116 (71) "Request for information" means a nonbinding process through which a  
10117 procurement unit requests information relating to a procurement item.

10118 (72) "Request for proposals" means a document used to solicit proposals to provide a  
10119 procurement item to a procurement unit, including all other documents that are attached to that  
10120 document or incorporated in that document by reference.

10121 (73) "Request for proposals process" means the procurement process described in Part  
10122 7, Request for Proposals.

10123 (74) "Request for statement of qualifications" means a document used to solicit  
10124 information about the qualifications of a person interested in responding to a potential  
10125 procurement, including all other documents attached to that document or incorporated in that  
10126 document by reference.

10127 (75) "Requirements contract" means a contract:

10128 (a) under which a contractor agrees to provide a procurement unit's entire requirements  
10129 for certain procurement items at prices specified in the contract during the contract period; and

10130 (b) that:

10131 (i) does not require a minimum purchase amount; or

10132 (ii) provides a maximum purchase limit.

10133 (76) "Responsible" means being capable, in all respects, of:

10134 (a) meeting all the requirements of a solicitation; and

10135 (b) fully performing all the requirements of the contract resulting from the solicitation,

10136 including being financially solvent with sufficient financial resources to perform the contract.

10137 (77) "Responsive" means conforming in all material respects to the requirements of a

10138 solicitation.

10139 (78) "Sealed" means manually or electronically secured to prevent disclosure.

10140 (79) "Service":

10141 (a) means labor, effort, or work to produce a result that is beneficial to a procurement

10142 unit;

10143 (b) includes a professional service; and

10144 (c) does not include labor, effort, or work provided under an employment agreement or

10145 a collective bargaining agreement.

10146 (80) "Small purchase process" means the procurement process described in Section

10147 [63G-6a-506](#).

10148 (81) "Sole source contract" means a contract resulting from a sole source procurement.

10149 (82) "Sole source procurement" means a procurement without competition pursuant to

10150 a determination under Subsection [63G-6a-802\(1\)\(a\)](#) that there is only one source for the

10151 procurement item.

10152 (83) "Solicitation" means an invitation for bids, request for proposals, request for

10153 statement of qualifications, or request for information.

10154 (84) "Solicitation response" means:

10155 (a) a bid submitted in response to an invitation for bids;

10156 (b) a proposal submitted in response to a request for proposals; or

10157 (c) a statement of qualifications submitted in response to a request for statement of

10158 qualifications.

10159 (85) "Special service district" means the same as that term is defined in Section

10160 [17D-1-102](#).

10161 (86) "Specification" means any description of the physical or functional characteristics

10162 or of the nature of a procurement item included in an invitation for bids or a request for



10163 proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

10164 (a) a requirement for inspecting or testing a procurement item; or

10165 (b) preparing a procurement item for delivery.

10166 (87) "Standard procurement process" means:

10167 (a) the bidding process;

10168 (b) the request for proposals process;

10169 (c) the approved vendor list process;

10170 (d) the small purchase process; or

10171 (e) the design professional procurement process.

10172 (88) "State cooperative contract" means a contract awarded by the division for and in  
10173 behalf of all public entities.

10174 (89) "Statement of qualifications" means a written statement submitted to a  
10175 procurement unit in response to a request for statement of qualifications.

10176 (90) "Subcontractor":

10177 (a) means a person under contract to perform part of a contractual obligation under the  
10178 control of the contractor, whether the person's contract is with the contractor directly or with  
10179 another person who is under contract to perform part of a contractual obligation under the  
10180 control of the contractor; and

10181 (b) includes a supplier, distributor, or other vendor that furnishes supplies or services  
10182 to a contractor.

10183 (91) "Supply" means a good, material, technology, piece of equipment, or any other  
10184 item of personal property.

10185 (92) "Tie bid" means that the lowest responsive bids of responsible bidders are  
10186 identical in price.

10187 (93) "Time and materials contract" means a contract under which the contractor is paid:

10188 (a) the actual cost of direct labor at specified hourly rates;

10189 (b) the actual cost of materials and equipment usage; and

10190 (c) an additional amount, expressly described in the contract, to cover overhead and  
10191 profit, that is not based on a percentage of the cost to the contractor.

10192 (94) "Transitional costs":

10193 (a) means the costs of changing:

- 10194 (i) from an existing provider of a procurement item to another provider of that  
10195 procurement item; or
- 10196 (ii) from an existing type of procurement item to another type;
- 10197 (b) includes:
- 10198 (i) training costs;
- 10199 (ii) conversion costs;
- 10200 (iii) compatibility costs;
- 10201 (iv) costs associated with system downtime;
- 10202 (v) disruption of service costs;
- 10203 (vi) staff time necessary to implement the change;
- 10204 (vii) installation costs; and
- 10205 (viii) ancillary software, hardware, equipment, or construction costs; and
- 10206 (c) does not include:
- 10207 (i) the costs of preparing for or engaging in a procurement process; or
- 10208 (ii) contract negotiation or drafting costs.
- 10209 (95) "Trial use contract" means a contract for a procurement item that the procurement  
10210 unit acquires for a trial use or testing to determine whether the procurement item will benefit  
10211 the procurement unit.
- 10212 (96) "Vendor":
- 10213 (a) means a person who is seeking to enter into a contract with a procurement unit to  
10214 provide a procurement item; and
- 10215 (b) includes:
- 10216 (i) a bidder;
- 10217 (ii) an offeror;
- 10218 (iii) an approved vendor;
- 10219 (iv) a design professional; and
- 10220 (v) a person who submits an unsolicited proposal under Section [63G-6a-712](#).
- 10221 Section 180. Section **63G-6a-202** is amended to read:
- 10222 **63G-6a-202. Creation of Utah State Procurement Policy Board.**
- 10223 (1) There is created the Utah State Procurement Policy Board.
- 10224 (2) The board consists of up to 15 members as follows:

- 10225 (a) two representatives of state institutions of higher education, appointed by the [board  
10226 of regents] Utah Board of Higher Education;
- 10227 (b) a representative of the Department of Human Services, appointed by the executive  
10228 director of that department;
- 10229 (c) a representative of the Department of Transportation, appointed by the executive  
10230 director of that department;
- 10231 (d) two representatives of school districts, appointed by the State Board of Education;
- 10232 (e) a representative of the Division of Facilities Construction and Management,  
10233 appointed by the director of that division;
- 10234 (f) one representative of a county, appointed by the Utah Association of Counties;
- 10235 (g) one representative of a city or town, appointed by the Utah League of Cities and  
10236 Towns;
- 10237 (h) two representatives of local districts or special service districts, appointed by the  
10238 Utah Association of Special Districts;
- 10239 (i) the executive director of the Department of Technology Services or the executive  
10240 director's designee;
- 10241 (j) the chief procurement officer or the chief procurement officer's designee; and
- 10242 (k) two representatives of state agencies, other than a state agency already represented  
10243 on the board, appointed by the executive director of the Department of Administrative  
10244 Services, with the approval of the executive director of the state agency that employs the  
10245 employee.
- 10246 (3) Members of the board shall be knowledgeable and experienced in, and have  
10247 supervisory responsibility for, procurement in their official positions.
- 10248 (4) A board member may serve as long as the member meets the description in  
10249 Subsection (2) unless removed by the person or entity with the authority to appoint the board  
10250 member.
- 10251 (5) (a) The board shall:
- 10252 (i) adopt rules of procedure for conducting its business; and
- 10253 (ii) elect a chair to serve for one year.
- 10254 (b) The chair of the board shall be selected by a majority of the members of the board  
10255 and may be elected to succeeding terms.

(c) The chief procurement officer shall designate an employee of the division to serve as the nonvoting secretary to the policy board.

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

(a) Section 63A-3-106;

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

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

Section 181. Section 63G-7-301 is amended to read:

**63G-7-301. Waivers of immunity.**

(1) (a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of Sections 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Subsection 63G-7-302(1), as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the

governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;

(e) subject to Subsection 63G-7-302(2), as to any action brought to recover attorney fees under Sections 63G-2-405 and 63G-2-802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;

(h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;

(i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment;

(j) as to any action or suit brought under Section 20A-19-301 and as to any compensation or expenses awarded under Section 20A-19-301(5); and

(k) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section 76-9-702.1, committed:

(i) against a student of a public elementary or secondary school, including a charter school; and

(ii) by an employee of a public elementary or secondary school or charter school who:

(A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;

(B) is criminally charged in connection with the sexual battery; and

(C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, as defined in Section 77-41-102, required to register under Title 77, Chapter 41, Sex and Kidnap Offender Registry, whose status as a sex offender would have been revealed in a

10318 background check under Section 53G-11-402.

10319 (3) (a) As used in this Subsection (3):

10320 (i) "Appropriate behavior policy" means a policy that:

10321 (A) is not less stringent than a model policy, created by the State Board of Education,  
10322 establishing a professional standard of care for preventing the conduct described in Subsection  
10323 (3)(a)(i)(D);

10324 (B) is adopted by the applicable local education governing body;

10325 (C) regulates behavior of a school employee toward a student; and

10326 (D) includes a prohibition against any sexual conduct between an employee and a  
10327 student and against the employee and student sharing any sexually explicit or lewd  
10328 communication, image, or photograph.

10329 (ii) "Local education agency" means:

10330 (A) a school district;

10331 (B) a charter school; or

10332 (C) the Utah Schools for the Deaf and the Blind.

10333 (iii) "Local education governing board" means:

10334 (A) for a school district, the local school board;

10335 (B) for a charter school, the charter school governing board; or

10336 (C) for the Utah Schools for the Deaf and the Blind, the state board.

10337 (iv) "Public school" means a public elementary or secondary school.

10338 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

10339 (vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering  
10340 the term "child" in that section to include an individual under age 18.

10341 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a  
10342 claim against a local education agency for an injury resulting from a sexual battery or sexual  
10343 abuse committed against a student of a public school by a paid employee of the public school  
10344 who is criminally charged in connection with the sexual battery or sexual abuse, unless:

10345 (i) at the time of the sexual battery or sexual abuse, the public school was subject to an  
10346 appropriate behavior policy; and

10347 (ii) before the sexual battery or sexual abuse occurred, the public school had:

10348 (A) provided training on the policy to the employee; and

10349 (B) required the employee to sign a statement acknowledging that the employee has  
10350 read and understands the policy.

10351 (4) (a) As used in this Subsection (4):

10352 (i) "Higher education institution" means an institution included within the state system  
10353 of higher education under Section 53B-1-102.

10354 (ii) "Policy governing behavior" means a policy adopted by a higher education  
10355 institution or the [~~State Board of Regents~~] Utah Board of Higher Education that:

10356 (A) establishes a professional standard of care for preventing the conduct described in  
10357 Subsections (4)(a)(ii)(C) and (D);

10358 (B) regulates behavior of a special trust employee toward a subordinate student;

10359 (C) includes a prohibition against any sexual conduct between a special trust employee  
10360 and a subordinate student; and

10361 (D) includes a prohibition against a special trust employee and subordinate student  
10362 sharing any sexually explicit or lewd communication, image, or photograph.

10363 (iii) "Sexual battery" means the offense described in Section 76-9-702.1.

10364 (iv) "Special trust employee" means an employee of a higher education institution who  
10365 is in a position of special trust, as defined in Section 76-5-404.1, with a higher education  
10366 student.

10367 (v) "Subordinate student" means a student:

10368 (A) of a higher education institution; and

10369 (B) whose educational opportunities could be adversely impacted by a special trust  
10370 employee.

10371 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a  
10372 claim for an injury resulting from a sexual battery committed against a subordinate student by a  
10373 special trust employee, unless:

10374 (i) the institution proves that the special trust employee's behavior that otherwise would  
10375 constitute a sexual battery was:

10376 (A) with a subordinate student who was at least 18 years old at the time of the  
10377 behavior; and

10378 (B) with the student's consent; or

10379 (ii) (A) at the time of the sexual battery, the higher education institution was subject to

10380 a policy governing behavior; and

10381 (B) before the sexual battery occurred, the higher education institution had taken steps  
10382 to implement and enforce the policy governing behavior.

10383 Section 182. Section **63G-10-102** is amended to read:

10384 **63G-10-102. Definitions.**

10385 As used in this chapter:

10386 (1) (a) "Action settlement agreement" includes a stipulation, consent decree, settlement  
10387 agreement, or any other legally binding document or representation that resolves a threatened  
10388 or pending lawsuit between the state and another party by requiring the state to take legally  
10389 binding action.

10390 (b) "Action settlement agreement" includes stipulations, consent decrees, settlement  
10391 agreements, and other legally binding documents or representations resolving a dispute  
10392 between the state and another party when the state is required to pay money and required to  
10393 take legally binding action.

10394 (c) "Action settlement agreement" does not include:

10395 (i) the internal process established by the Department of Transportation to resolve  
10396 construction contract claims;

10397 (ii) any resolution of an employment dispute or claim made by an employee of the state  
10398 of Utah against the state as employer;

10399 (iii) adjudicative orders issued by the State Tax Commission, the Public Service  
10400 Commission, the Labor Commission, or the Department of Workforce Services; or

10401 (iv) the settlement of disputes arising from audits, defaults, or breaches of permits,  
10402 contracts of sale, easements, or leases by the School and Institutional Trust Lands  
10403 Administration.

10404 (2) (a) "Agency" means each department, commission, board, council, agency,  
10405 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,  
10406 unit, bureau, panel, or other administrative unit of the state.

10407 (b) "Agency" includes the legislative branch, the judicial branch, the attorney general's  
10408 office, the State Board of Education, the ~~[Board of Regents]~~ Utah Board of Higher Education,  
10409 the institutional councils of each higher education institution, and each higher education  
10410 institution.



(3) (a) "Financial settlement agreement" includes a stipulation, consent decree, settlement agreement, and any other legally binding document or representation that resolves a dispute between the state and another party exclusively by requiring the payment of money from one party to the other.

(b) "Financial settlement agreement" does not include:

(i) agreements made under the internal process established by the Department of Transportation to resolve construction contract claims;

(ii) adjudicative orders issued by the State Tax Commission, Public Service Commission, Labor Commission, or the Department of Workforce Services;

(iii) the settlement of disputes arising from audits, defaults, or breaches of permits, contracts of sale, easements, or leases by the School and Institutional Trust Lands Administration; or

(iv) agreements made under the internal processes established by the Division of Facilities Construction and Management or by law to resolve construction contract claims made against the state by contractors or subcontractors.

(4) "Government entities" means the state and its political subdivisions.

Section 183. Section **63I-2-253** is amended to read:

**63I-2-253. Repeal dates -- Titles 53 through 53G.**

~~[(1)(a) Subsections 53B-2a-103(2) and (4), regarding the composition of the UTech Board of Trustees and the transition to that composition, are repealed July 1, 2019.]~~

~~[(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.]~~

(1) Section 53B-2a-103 is repealed July 1, 2021.

(2) Section 53B-2a-104 is repealed July 1, 2021.

~~[(2)]~~ (3) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of ~~[directors]~~ trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(3)]~~ (4) Section 53B-6-105.7 is repealed July 1, 2024.

10442           ~~[(4)]~~ (5) (a) Subsection [53B-7-705](#)(6)(b)(ii)(A), the language that states "Except as  
10443 provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

10444           (b) Subsection [53B-7-705](#)(6)(b)(ii)(B), regarding comparing a technical college's  
10445 change in performance with the technical college's average performance, is repealed July 1,  
10446 2021.

10447           ~~[(5)]~~ (6) (a) Subsection [53B-7-707](#)(3)(a)(ii), the language that states "Except as  
10448 provided in Subsection (3)(b)," is repealed July 1, 2021.

10449           (b) Subsection [53B-7-707](#)(3)(b), regarding performance data of a technical college  
10450 during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

10451           ~~[(6)]~~ (7) Section [53B-8-112](#) is repealed July 1, 2024.

10452           ~~[(7)]~~ (8) Section [53B-8-114](#) is repealed July 1, 2024.

10453           ~~[(8)]~~ (9) (a) The following sections, regarding the Regents' scholarship program, are  
10454 repealed on July 1, 2023:

10455           (i) Section [53B-8-202](#);

10456           (ii) Section [53B-8-203](#);

10457           (iii) Section [53B-8-204](#); and

10458           (iv) Section [53B-8-205](#).

10459           (b) (i) Subsection [53B-8-201](#)(2), regarding the Regents' scholarship program for  
10460 students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

10461           (ii) When repealing Subsection [53B-8-201](#)(2), the Office of Legislative Research and  
10462 General Counsel shall, in addition to its authority under Subsection [36-12-12](#)(3), make  
10463 necessary changes to subsection numbering and cross references.

10464           ~~[(9)]~~ (10) Section [53B-10-101](#) is repealed on July 1, 2027.

10465           ~~[(10)]~~ (11) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project,  
10466 is repealed July 1, 2023.

10467           ~~[(11)]~~ (12) Section [53E-3-519](#) regarding school counselor services is repealed July 1,  
10468 2020.

10469           ~~[(12)]~~ (13) Section [53E-3-520](#) is repealed July 1, 2021.

10470           ~~[(13)]~~ (14) Subsection [53E-5-306](#)(3)(b)(ii)(B), related to improving school  
10471 performance and continued funding relating to the School Recognition and Reward Program, is  
10472 repealed July 1, 2020.

10473           ~~[(14)]~~ (15) Section 53E-5-307 is repealed July 1, 2020.

10474           ~~[(15)]~~ (16) In Subsections 53F-2-205(4) and (5), regarding the State Board of

10475 Education's duties if contributions from the minimum basic tax rate are overestimated or

10476 underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1,

10477 2023.

10478           ~~[(16)]~~ (17) Subsection 53F-2-301(1), relating to the years the section is not in effect, is

10479 repealed July 1, 2023.

10480           ~~[(17)]~~ (18) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as

10481 applicable" is repealed July 1, 2023.

10482           ~~[(18) Section 53F-4-204 is repealed July 1, 2019.]~~

10483           (19) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as

10484 applicable" is repealed July 1, 2023.

10485           (20) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as

10486 applicable" is repealed July 1, 2023.

10487           (21) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as

10488 applicable" is repealed July 1, 2023.

10489           (22) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as

10490 applicable" is repealed July 1, 2023.

10491           (23) On July 1, 2023, when making changes in this section, the Office of Legislative

10492 Research and General Counsel shall, in addition to the office's authority under Subsection

10493 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in

10494 this section are complete sentences and accurately reflect the office's perception of the

10495 Legislature's intent.

10496           Section 184. Section 63I-2-263 is amended to read:

10497           **63I-2-263. Repeal dates, Title 63A to Title 63N.**

10498           (1) On July 1, 2020:

10499           (a) Subsection 63A-1-203(5)(a)(i) is repealed; and

10500           (b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after

10501 May 8, 2018," is repealed.

10502           (2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.

10503           (3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission, is

10504 repealed July 1, [2020] 2021.

10505 (4) The following sections regarding the World War II Memorial Commission are  
10506 repealed on July 1, 2020:

10507 (a) Section [63G-1-801](#);

10508 (b) Section [63G-1-802](#);

10509 (c) Section [63G-1-803](#); and

10510 (d) Section [63G-1-804](#).

10511 (5) In relation to the State Fair Park Committee, on January 1, 2021:

10512 (a) Section [63H-6-104.5](#) is repealed; and

10513 (b) Subsections [63H-6-104](#)(8) and (9) are repealed.

10514 (6) Section [63H-7a-303](#) is repealed on July 1, 2022.

10515 (7) In relation to the Employability to Careers Program Board, on July 1, 2022:

10516 (a) Subsection [63J-1-602.1](#)(52) is repealed;

10517 (b) Subsection [63J-4-301](#)(1)(h), related to the review of data and metrics, is repealed;

10518 and

10519 (c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

10520 (8) Section [63J-4-708](#) is repealed January 1, 2023.

10521 Section 185. Section **63I-5-102** is amended to read:

10522 **63I-5-102. Definitions.**

10523 As used in this chapter:

10524 (1) "Agency governing board" is any board or commission that has policy making and  
10525 oversight responsibility over the agency, including the authority to appoint and remove the  
10526 agency director.

10527 (2) "Agency head" means a cabinet officer, an elected official, an executive director, or  
10528 a board or commission vested with responsibility to administer or make policy for a state  
10529 agency.

10530 (3) "Agency internal audit director" or "audit director" means the person who:

10531 (a) directs the internal audit program for the state agency; and

10532 (b) is appointed by the audit committee or, if no audit committee has been established,  
10533 by the agency head.

10534 (4) "Appointing authority" means:

- 10535 (a) the governor, for state agencies other than the State Tax Commission;  
10536 (b) the Judicial Council, for judicial branch agencies;  
10537 (c) the ~~[Board of Regents]~~ Utah Board of Higher Education, for higher education  
10538 entities;  
10539 (d) the State Board of Education, for entities administered by the State Board of  
10540 Education; or  
10541 (e) the four tax commissioners, for the State Tax Commission.
- 10542 (5) "Audit committee" means a standing committee composed of members who:  
10543 (a) are appointed by an appointing authority;  
10544 (b) (i) do not have administrative responsibilities within the agency; and  
10545 (ii) are not an agency contractor or other service provider; and  
10546 (c) have the expertise to provide effective oversight of and advice about internal audit  
10547 activities and services.
- 10548 (6) "Audit plan" means a prioritized list of audits to be performed by an internal audit  
10549 program within a specified period of time.
- 10550 (7) "Higher education entity" means the ~~[Board of Regents, the institutional councils of~~  
10551 ~~each higher education institution]~~ Utah Board of Higher Education, an institution of higher  
10552 education board of trustees, or each higher education institution.
- 10553 (8) "Internal audit" means an independent appraisal activity established within a state  
10554 agency as a control system to examine and evaluate the adequacy and effectiveness of other  
10555 internal control systems within the agency.
- 10556 (9) "Internal audit program" means an audit function that:  
10557 (a) is conducted by an agency, division, bureau, or office, independent of the agency,  
10558 division, bureau, or office operations;  
10559 (b) objectively evaluates the effectiveness of agency, division, bureau, or office  
10560 governance, risk management, internal controls, and the efficiency of operations; and  
10561 (c) is conducted in accordance with the current:  
10562 (i) International Standards for the Professional Practice of Internal Auditing; or  
10563 (ii) The Government Auditing Standards, issued by the Comptroller General of the  
10564 United States.
- 10565 (10) "Judicial branch agency" means each administrative entity of the judicial branch.

10566 (11) (a) "State agency" means:

10567 (i) each department, commission, board, council, agency, institution, officer,  
10568 corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel,  
10569 or other administrative unit of the state; or

10570 (ii) each state public education entity.

10571 (b) "State agency" does not mean:

10572 (i) a legislative branch agency;

10573 (ii) an independent state agency as defined in Section 63E-1-102;

10574 (iii) a county, municipality, school district, local district, or special service district; or

10575 (iv) any administrative subdivision of a county, municipality, school district, local  
10576 district, or special service district.

10577 Section 186. Section **63I-5-201** is amended to read:

10578 **63I-5-201. Internal auditing programs -- State agencies.**

10579 (1) (a) The departments of Administrative Services, Agriculture, Commerce, Heritage  
10580 and Arts, Corrections, Workforce Services, Environmental Quality, Health, Human Services,  
10581 Natural Resources, Public Safety, and Transportation, and the State Tax Commission shall  
10582 conduct various types of auditing procedures as determined by the agency head or governor.

10583 (b) The governor may, by executive order, require a state agency not described in  
10584 Subsection (1)(a) to establish an internal audit program.

10585 (c) The governor shall ensure that each state agency that reports to the governor has  
10586 adequate internal audit coverage.

10587 (2) (a) The Administrative Office of the Courts shall establish an internal audit  
10588 program under the direction of the Judicial Council, including auditing procedures for courts  
10589 not of record.

10590 (b) The Judicial Council may, by rule, require other judicial agencies to establish an  
10591 internal audit program.

10592 (3) (a) Dixie State University, the University of Utah, Utah State University, Salt Lake  
10593 Community College, Southern Utah University, Utah Valley University, Weber State  
10594 University, and Snow College shall establish an internal audit program under the direction of  
10595 the ~~[Board of Regents]~~ Utah Board of Higher Education.

10596 (b) The ~~[State Board of Regents]~~ Utah Board of Higher Education may issue policies

requiring other higher education entities or programs to establish an internal audit program.

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

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

Section 187. Section **63J-1-210** is amended to read:

**63J-1-210. Restrictions on agency expenditures of money -- Lobbyists.**

(1) As used in this section:

(a) (i) "Agency" means:

(A) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state; or

(B) a school, a school district, or a charter school.

(ii) "Agency" includes the legislative branch, the judicial branch, the ~~[Board of Regents]~~ Utah Board of Higher Education, the board of trustees of each higher education institution, or a higher education institution.

(b) "Contract lobbyist" means a person who is not an employee of an agency who is hired as an independent contractor by the agency to communicate with legislators or the governor for the purpose of influencing the passage, defeat, amendment, or postponement of a legislative action or an executive action.

(c) "Executive action" means action undertaken by the governor, including signing or vetoing legislation, and action undertaken by any official in the executive branch of state government.

(d) "Legislative action" means action undertaken by the Utah Legislature or any part of it.

(2) An agency to which money is appropriated by the Legislature may not expend any money to pay a contract lobbyist.

(3) This section does not affect the provisions of Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

Section 188. Section **63J-1-219** is amended to read:

**63J-1-219. Definitions -- Federal receipts reporting requirements.**

(1) As used in this section:

(a) (i) "Designated state agency" means the Department of Administrative Services, the Department of Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Resource Management, the Department of Human Services, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Department of Technology Services, the Department of Transportation, the Department of Veterans and Military Affairs, the Department of Workforce Services, the Labor Commission, the Office of Economic Development, the Public Service Commission, the ~~[State Board of Regents]~~ Utah Board of Higher Education, the State Board of Education, the State Tax Commission, or the Utah National Guard.

(ii) "Designated state agency" does not include the judicial branch, the legislative branch, or an office or other entity within the judicial branch or the legislative branch.

(b) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.

(c) "Single audit" is as defined in 31 U.S.C. Sec. 7501.

(2) Subject to Subsections (3) and (4), a designated state agency shall each year, on or before October 31, prepare a report that:

(a) reports the aggregate value of federal receipts the designated state agency received for the preceding fiscal year;

(b) reports the aggregate amount of federal funds appropriated by the Legislature to the designated state agency for the preceding fiscal year;

(c) calculates the percentage of the designated state agency's total budget for the preceding fiscal year that constitutes federal receipts that the designated state agency received for that fiscal year; and

(d) develops plans for operating the designated state agency if there is a reduction of:

(i) 5% or more in the federal receipts that the designated state agency receives; and

(ii) 25% or more in the federal receipts that the designated state agency receives.



(3) (a) The report required by Subsection (2) that the ~~[Board of Regents]~~ Utah Board of Higher Education prepares shall include the information required by Subsections (2)(a) through (c) for each state institution of higher education listed in Section **53B-2-101**.

(b) The report required by Subsection (2) that the State Board of Education prepares shall include the information required by Subsections (2)(a) through (c) for each school district and each charter school within the public education system.

(4) A designated state agency that prepares a report in accordance with Subsection (2) shall submit the report to the Division of Finance on or before November 1 of each year.

(5) (a) The Division of Finance shall, on or before November 30 of each year, prepare a report that:

(i) compiles and summarizes the reports the Division of Finance receives in accordance with Subsection (4); and

(ii) compares the aggregate value of federal receipts each designated state agency received for the previous fiscal year to the aggregate amount of federal funds appropriated by the Legislature to that designated state agency for that fiscal year.

(b) The Division of Finance shall, as part of the report required by Subsection (5)(a), compile a list of designated state agencies that do not submit a report as required by this section.

(6) The Division of Finance shall submit the report required by Subsection (5) to the Executive Appropriations Committee on or before December 1 of each year.

(7) Upon receipt of the report required by Subsection (5), the chairs of the Executive Appropriations Committee shall place the report on the agenda for review and consideration at the next Executive Appropriations Committee meeting.

(8) When considering the report required by Subsection (5), the Executive Appropriations Committee may elect to:

(a) recommend that the Legislature reduce or eliminate appropriations for a designated state agency;

(b) take no action; or

(c) take another action that a majority of the committee approves.

Section 189. Section **63J-1-602.2** is amended to read:

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

- 10690 Appropriations made to the following programs are nonlapsing:
- 10691 (1) The Legislature and its committees.
- 10692 (2) The Percent-for-Art Program created in Section 9-6-404.
- 10693 (3) The LeRay McAllister Critical Land Conservation Program created in Section
- 10694 11-38-301.
- 10695 (4) Dedicated credits accrued to the Utah Marriage Commission as provided under
- 10696 Subsection 17-16-21(2)(d)(ii).
- 10697 (5) The Trip Reduction Program created in Section 19-2a-104.
- 10698 (6) The Division of Wildlife Resources for the appraisal and purchase of lands under
- 10699 the Pelican Management Act, as provided in Section 23-21a-6.
- 10700 (7) The primary care grant program created in Section 26-10b-102.
- 10701 (8) Sanctions collected as dedicated credits from Medicaid provider under Subsection
- 10702 26-18-3(7).
- 10703 (9) The Utah Health Care Workforce Financial Assistance Program created in Section
- 10704 26-46-102.
- 10705 (10) The Rural Physician Loan Repayment Program created in Section 26-46a-103.
- 10706 (11) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.
- 10707 (12) Funds that the Department of Alcoholic Beverage Control retains in accordance
- 10708 with Subsection 32B-2-301(7)(a) or (b).
- 10709 (13) The General Assistance program administered by the Department of Workforce
- 10710 Services, as provided in Section 35A-3-401.
- 10711 (14) A new program or agency that is designated as nonlapsing under Section
- 10712 36-24-101.
- 10713 (15) The Utah National Guard, created in Title 39, Militia and Armories.
- 10714 (16) The State Tax Commission under Section 41-1a-1201 for the:
- 10715 (a) purchase and distribution of license plates and decals; and
- 10716 (b) administration and enforcement of motor vehicle registration requirements.
- 10717 (17) The Search and Rescue Financial Assistance Program, as provided in Section
- 10718 53-2a-1102.
- 10719 (18) The Motorcycle Rider Education Program, as provided in Section 53-3-905.
- 10720 (19) The ~~[State Board of Regents]~~ Utah Board of Higher Education for teacher

- 10721 preparation programs, as provided in Section [53B-6-104](#).
- 10722 (20) The Medical Education Program administered by the Medical Education Council,  
10723 as provided in Section [53B-24-202](#).
- 10724 (21) The State Board of Education, as provided in Section [53F-2-205](#).
- 10725 (22) The Division of Services for People with Disabilities, as provided in Section  
10726 [62A-5-102](#).
- 10727 (23) The Division of Fleet Operations for the purpose of upgrading underground  
10728 storage tanks under Section [63A-9-401](#).
- 10729 (24) The Utah Seismic Safety Commission, as provided in Section [63C-6-104](#).
- 10730 (25) Appropriations to the Department of Technology Services for technology  
10731 innovation as provided under Section [63F-4-202](#).
- 10732 (26) The Office of Administrative Rules for publishing, as provided in Section  
10733 [63G-3-402](#).
- 10734 (27) The Utah Science Technology and Research Initiative created in Section  
10735 [63M-2-301](#).
- 10736 (28) The Governor's Office of Economic Development to fund the Enterprise Zone  
10737 Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.
- 10738 (29) Appropriations to fund the Governor's Office of Economic Development's Rural  
10739 Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural  
10740 Employment Expansion Program.
- 10741 (30) The Department of Human Resource Management user training program, as  
10742 provided in Section [67-19-6](#).
- 10743 (31) A public safety answering point's emergency telecommunications service fund, as  
10744 provided in Section [69-2-301](#).
- 10745 (32) The Traffic Noise Abatement Program created in Section [72-6-112](#).
- 10746 (33) The Judicial Council for compensation for special prosecutors, as provided in  
10747 Section [77-10a-19](#).
- 10748 (34) A state rehabilitative employment program, as provided in Section [78A-6-210](#).
- 10749 (35) The Utah Geological Survey, as provided in Section [79-3-401](#).
- 10750 (36) The Bonneville Shoreline Trail Program created under Section [79-5-503](#).
- 10751 (37) Adoption document access as provided in Sections [78B-6-141](#), [78B-6-144](#), and

78B-6-144.5.

(38) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(39) The program established by the Division of Facilities Construction and Management under Subsection 63A-5-228(3) under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

Section 190. Section 63J-2-102 is amended to read:

**63J-2-102. Definitions.**

As used in this chapter:

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

(b) "Agency" does not include the legislative branch, the ~~[board of regents]~~ Utah Board of Higher Education, the Utah Higher Education Assistance Authority, the board of trustees of each higher education institution, each higher education institution and its associated branches, centers, divisions, institutes, foundations, hospitals, colleges, schools, or departments, a public education entity, or an independent agency.

(2) "Dedicated credits" means the same as that term is defined in Section 63J-1-102.

(3) "Fees" means revenue collected by an agency for performing a service or providing a function that the agency deposits or accounts for as dedicated credits.

(4) (a) "Governmental fund" means funds used to account for the acquisition, use, and balances of expendable financial resources and related liabilities using a measurement focus that emphasizes the flow of financial resources.

(b) "Governmental fund" does not include internal service funds, enterprise funds, capital projects funds, debt service funds, or trust and agency funds as established in Section 51-5-4.

(5) "Independent agency" means the Utah State Retirement Office and the Utah Housing Corporation.

(6) "Program" means the same as that term is defined in Section 63J-1-102.

(7) "Revenue types" means the categories established by the Division of Finance under

the authority of this chapter that classify revenue according to the purpose for which it is collected.

Section 191. Section **63J-3-103** is amended to read:

**63J-3-103. Definitions.**

As used in this chapter:

(1) (a) "Appropriations" means actual unrestricted capital and operating appropriations from unrestricted General Fund and Education Fund sources.

(b) "Appropriations" includes appropriations that are contingent upon available surpluses in the General Fund and Education Fund.

(c) "Appropriations" does not mean:

(i) public education expenditures;

(ii) Utah Education and Telehealth Network expenditures in support of public education;

(iii) [~~Utah System of Technical Colleges~~] Utah Board of Higher Education expenditures in support of public education;

(iv) State Tax Commission expenditures related to collection of income taxes in support of public education;

(v) debt service expenditures;

(vi) emergency expenditures;

(vii) expenditures from all other fund or subfund sources;

(viii) transfers or appropriations from the Education Fund to the Uniform School Fund;

(ix) transfers into, or appropriations made to, the General Fund Budget Reserve Account established in Section **63J-1-312**;

(x) transfers into, or appropriations made to, the Education Budget Reserve Account established in Section **63J-1-313**;

(xi) transfers in accordance with Section **63J-1-314** into, or appropriations made to the Wildland Fire Suppression Fund created in Section **65A-8-204** or the State Disaster Recovery Restricted Account created in Section **53-2a-603**;

(xii) money appropriated to fund the total one-time project costs for the construction of capital developments as defined in Section **63A-5-104**;

(xiii) transfers or deposits into or appropriations made to the Centennial Highway Fund

- 10814 created by Section [72-2-118](#);
- 10815 (xiv) transfers or deposits into or appropriations made to the Transportation Investment
- 10816 Fund of 2005 created by Section [72-2-124](#);
- 10817 (xv) transfers or deposits into or appropriations made to:
- 10818 (A) the Department of Transportation from any source; or
- 10819 (B) any transportation-related account or fund from any source; or
- 10820 (xvi) supplemental appropriations from the General Fund to the Division of Forestry,
- 10821 Fire, and State Lands to provide money for wildland fire control expenses incurred during the
- 10822 current or previous fire years.
- 10823 (2) "Base year real per capita appropriations" means the result obtained for the state by
- 10824 dividing the fiscal year 1985 actual appropriations of the state less debt money by:
- 10825 (a) the state's July 1, 1983 population; and
- 10826 (b) the fiscal year 1983 inflation index divided by 100.
- 10827 (3) "Calendar year" means the time period beginning on January 1 of any given year
- 10828 and ending on December 31 of the same year.
- 10829 (4) "Fiscal emergency" means an extraordinary occurrence requiring immediate
- 10830 expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session,
- 10831 Chapter 4.
- 10832 (5) "Fiscal year" means the time period beginning on July 1 of any given year and
- 10833 ending on June 30 of the subsequent year.
- 10834 (6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual
- 10835 capital and operations appropriations from General Fund and non-Uniform School Fund
- 10836 income tax revenue sources, less debt money.
- 10837 (7) "Inflation index" means the change in the general price level of goods and services
- 10838 as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic
- 10839 Analysis, U.S. Department of Commerce calculated as provided in Section [63J-3-202](#).
- 10840 (8) (a) "Maximum allowable appropriations limit" means the appropriations that could
- 10841 be, or could have been, spent in any given year under the limitations of this chapter.
- 10842 (b) "Maximum allowable appropriations limit" does not mean actual appropriations
- 10843 spent or actual expenditures.
- 10844 (9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two

fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(10) "Most recent fiscal year's population" means the fiscal year population two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(11) "Population" means the number of residents of the state as of July 1 of each year as calculated by the Governor's Office of Management and Budget according to the procedures and requirements of Section [63J-3-202](#).

(12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and other monetary exaction and interest connected with it that are recorded as unrestricted revenue of the General Fund and from non-Uniform School Fund income tax revenues, except as specifically exempted by this chapter.

(13) "Security" means any bond, note, warrant, or other evidence of indebtedness, whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an "indebtedness" within the meaning of any provision of the constitution or laws of this state.

Section 192. Section **63N-1-301** is amended to read:

**63N-1-301. Annual report -- Content -- Format -- Strategic plan.**

(1) The office shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the office, including the divisions, sections, boards, commissions, councils, and committees established under this title, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the office, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the office to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement as determined by the executive directors of the office, the Department of Workforce Services, and the Governor's Office of Management and Budget;



(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the office that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The office shall:

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

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the office's website; and

(c) provide the data and metrics described in Subsection (2)(b) to the Talent Ready Utah Board created in Section 63N-12-503.

(5) (a) On or before October 1, 2019, the office shall:

(i) in consultation with the organizations described in Subsection (5)(c), coordinate the development of a written strategic plan that contains a coordinated economic development strategy for the state; and

(ii) provide the strategic plan to the president of the Senate, the speaker of the House of Representatives, and the Economic Development and Workforce Services Interim Committee.

(b) The strategic plan shall:

(i) establish a statewide economic development strategy that consists of a limited set of clear, concise, and defined principles and goals;

(ii) recommend targeted economic development policies that will further the



10907 implementation of the economic development strategy described in this section;  
10908           (iii) identify each of the relevant state-level economic development agencies, including  
10909 the agencies described in Subsection (5)(c);  
10910           (iv) outline the functional role in furthering the state's economic development strategy  
10911 for each relevant state-level economic development agency;  
10912           (v) establish specific principles and make specific recommendations to decrease  
10913 competition and increase communication and cooperation among state-level economic  
10914 development agencies, providers and administrators of economic development programs in the  
10915 state, nonprofit entities that participate in economic development in the state, and local  
10916 governments;  
10917           (vi) recommend a fundamental realignment of economic development programs in the  
10918 state to ensure each program's purpose is congruent with the mission of the organization within  
10919 which the program is located;  
10920           (vii) address rural economic development by:  
10921           (A) establishing goals and principles to ensure the state's economic development  
10922 strategy works for both urban and rural areas of the state; and  
10923           (B) providing recommendations on how existing rural economic development  
10924 programs should be restructured or realigned;  
10925           (viii) assess the effectiveness of the state's economic development incentives and make  
10926 recommendations regarding:  
10927           (A) how incentive policies could be improved; and  
10928           (B) how incentives could be better coordinated among state-level economic  
10929 development agencies and local governments;  
10930           (ix) make recommendations regarding how to align the state's economic development  
10931 strategy and policies in order to take advantage of the strengths and address the weaknesses of  
10932 the state's current and projected urban and rural workforce;  
10933           (x) make recommendations regarding how to monitor and assess whether certain  
10934 economic development policies further the statewide economic development strategy described  
10935 in this section, including recommendations on performance metrics to measure results; and  
10936           (xi) align the strategic plan with each element of the statewide economic development  
10937 strategy.

(c) The office shall coordinate the development of the strategic plan by working in coordination with and obtaining information from other state agencies, including:

(i) the Department of Workforce Services;

(ii) the Office of Energy Development;

(iii) the State Board of Education; and

~~[(iv) the State Board of Regents; and]~~

~~[(v) the Utah System of Technical Colleges Board of Trustees.]~~

(iv) the Utah Board of Higher Education.

(d) If contacted by the office, other state agencies, including those described in Subsection (5)(c), shall, in accordance with state and federal law, share information and cooperate with the office in coordinating the development of the strategic plan.

Section 193. Section **63N-12-503** is amended to read:

**63N-12-503. Talent Ready Utah Board.**

(1) There is created within GOED the Talent Ready Utah Board composed of the following ~~[15]~~ 14 members:

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

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

~~[(c) the commissioner of technical education or the commissioner of technical education's designee;]~~

~~[(d)]~~ (c) the chair of the State Board of Education or the chair's designee;

~~[(e)]~~ (d) the executive director of the Department of Workforce Services or the executive director of the department's designee;

~~[(f)]~~ (e) the executive director of GOED or the executive director's designee;

~~[(g)]~~ (f) the director of the Division of Occupational and Professional Licensing or the director's designee;

~~[(h)]~~ (g) the governor's education advisor or the advisor's designee;

~~[(i)]~~ (h) one member of the Senate, appointed by the president of the Senate;

~~[(j)]~~ (i) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

~~[(k)]~~ (j) the president of the Salt Lake Chamber or the president's designee;

10969           ~~[(f)]~~ (k) three representatives of private industry chosen by the talent ready board; and  
10970           ~~[(m)]~~ (l) a representative of the technology industry chosen by the talent ready board.

10971           (2) The talent ready board shall select a chair and vice chair from among the members  
10972 of the talent ready board.

10973           (3) The talent ready board shall meet at least quarterly.

10974           (4) Attendance of a majority of the members of the talent ready board constitutes a  
10975 quorum for the transaction of official talent ready board business.

10976           (5) Formal action by the talent ready board requires the majority vote of a quorum.

10977           (6) A member of the talent ready board:

10978           (a) may not receive compensation or benefits for the member's service; and

10979           (b) who is not a legislator may receive per diem and travel expenses in accordance  
10980 with:

10981           (i) Section [63A-3-106](#);

10982           (ii) Section [63A-3-107](#); and

10983           (iii) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and  
10984 [63A-3-107](#).

10985           (7) The talent ready board shall:

10986           (a) (i) review and develop metrics to measure the progress, performance, effectiveness,  
10987 and scope of any state operation, activity, program, or service that primarily involves  
10988 employment training or placement; and

10989           (ii) ensure that the metrics described in Subsection (7)(a) are consistent and  
10990 comparable for each state operation, activity, program, or service that primarily involves  
10991 employment training or placement;

10992           (b) make recommendations to the center regarding how to better align training and  
10993 education in the state with industry demand;

10994           (c) make recommendations to the center regarding how to better align technical  
10995 education with current and future workforce needs; and

10996           (d) coordinate with the center to meet the responsibilities described in Subsection  
10997 [63N-12-502](#)(4).

10998           Section 194. Section **63N-12-508** is amended to read:

10999           **63N-12-508. Utah Works.**

- 11000 (1) There is created within the center the Utah Works Program.
- 11001 (2) The program, under the direction of the center and the talent ready board, shall
- 11002 develop workforce solutions that meet the needs of businesses that are creating jobs and
- 11003 economic growth in the state by:
- 11004 (a) partnering with the office, the Department of Workforce Services, [~~the Utah System~~
- 11005 ~~of Higher Education, and the Utah System of Technical Colleges~~] and the Utah system of
- 11006 higher education;
- 11007 (b) identifying businesses that have significant hiring demands in the state;
- 11008 (c) coordinating with the Department of Workforce Services to create effective
- 11009 recruitment initiatives to attract student and workforce participants and business participants to
- 11010 the program;
- 11011 (d) coordinating with the [~~Utah System of Higher Education and the Utah System of~~
- 11012 ~~Technical Colleges~~] Utah system of higher education to develop educational and training
- 11013 resources to provide student participants in the program qualifications to be hired by business
- 11014 participants in the program; and
- 11015 (e) coordinating with the State Board of Education and local education agencies when
- 11016 appropriate to develop educational and training resources to provide student participants in the
- 11017 program qualifications to be hired by business participants in the program.
- 11018 (3) The office, in consultation with the talent ready board, may, in accordance with
- 11019 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the
- 11020 provisions of this section, make rules regarding the development and administration of the
- 11021 Utah Works Program.
- 11022 (4) The center shall report the following metrics to the office for inclusion in the
- 11023 office's annual report described in Section [63N-1-301](#):
- 11024 (a) the number of participants in the program;
- 11025 (b) the number of participants who have completed training offered by the program;
- 11026 and
- 11027 (c) the number of participants who have been hired by a business participating in the
- 11028 program.
- 11029 Section 195. Section **67-8-3** is amended to read:
- 11030 **67-8-3. Compensation plan for appointive officers -- Exceptions -- Legislative**

11031 **approval -- Career status attorneys.**

11032 (1) (a) The executive director of the Department of Human Resource Management,  
11033 based upon recommendations of the Executive and Judicial Compensation Commission shall,  
11034 before October 31 of each year, recommend to the governor a compensation plan for appointed  
11035 officers of the state except those officers whose compensation is set under Section ~~49-11-203~~,  
11036 ~~53E-3-302~~, [~~53B-1-105~~] 53B-1-408, or 53C-1-301.

11037 (b) The plan shall include salaries and wages, paid leave, group insurance plans,  
11038 retirement programs, and any other benefits that may be offered to state officers.

11039 (2) The governor shall include in each annual budget proposal to the Legislature  
11040 specific recommendations on compensation for those appointed state officers in Subsection (1).

11041 (3) (a) After consultation with the attorney general, the executive director of the  
11042 Department of Human Resource Management shall place career status attorneys on a state  
11043 salary schedule at a range comparable with salaries paid attorneys in private and other public  
11044 employment.

11045 (b) The attorney general and the executive director shall take into consideration the  
11046 experience of the attorney, length of service with the Office of the Attorney General, quality of  
11047 performance, and responsibility involved in legal assignments.

11048 (c) The attorney general and the executive director shall periodically adjust the salary  
11049 levels for attorneys in a career status to reasonably compensate them for full-time employment  
11050 and the restrictions placed on the private practice of law.

11051 Section 196. Section ~~67-19c-101~~ is amended to read:

11052 **~~67-19c-101. Department award program.~~**

11053 (1) As used in this section:

11054 (a) "Department" means the Department of Administrative Services, the Department of  
11055 Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of  
11056 Commerce, the Department of Heritage and Arts, the Department of Corrections, the  
11057 Department of Workforce Services, the Department of Environmental Quality, the Department  
11058 of Financial Institutions, the Department of Health, the Department of Human Resource  
11059 Management, the Department of Human Services, the Insurance Department, the National  
11060 Guard, the Department of Natural Resources, the Department of Public Safety, the Public  
11061 Service Commission, the Labor Commission, the State Board of Education, the ~~[State Board of~~

11062 ~~Regents]~~ Utah Board of Higher Education, the State Tax Commission, the Department of  
11063 Technology Services, and the Department of Transportation.

11064 (b) "Department head" means the individual or body of individuals in whom the  
11065 ultimate legal authority of the department is vested by law.

11066 (2) There is created a department awards program to award an outstanding employee in  
11067 each department of state government.

11068 (3) (a) By April 1 of each year, each department head shall solicit nominations for  
11069 outstanding employee of the year for his department from the employees in his department.

11070 (b) By July 1 of each year, the department head shall:

11071 (i) select a person from the department to receive the outstanding employee of the year  
11072 award using the criteria established in Subsection (3)(c); and

11073 (ii) announce the recipient of the award to his employees.

11074 (c) Department heads shall make the award to a person who demonstrates:

11075 (i) extraordinary competence in performing his function;

11076 (ii) creativity in identifying problems and devising workable, cost-effective solutions to  
11077 them;

11078 (iii) excellent relationships with the public and other employees;

11079 (iv) a commitment to serving the public as the client; and

11080 (v) a commitment to economy and efficiency in government.

11081 (4) (a) The Department of Human Resource Management shall divide any  
11082 appropriation for outstanding department employee awards that it receives from the Legislature  
11083 equally among the departments.

11084 (b) If the department receives money from the Department of Human Resource  
11085 Management or if the department budget allows, the department head shall provide the  
11086 employee with a bonus, a plaque, or some other suitable acknowledgement of the award.

11087 (5) (a) The department head may name the award after an exemplary present or former  
11088 employee of the department.

11089 (b) A department head may not name the award for himself or for any relative as  
11090 defined in Section [52-3-1](#).

11091 (c) Any awards or award programs existing in any department as of May 3, 1993, shall  
11092 be modified to conform to the requirements of this section.

11093 Section 197. Section **67-21-3** is amended to read:

11094 **67-21-3. Reporting of governmental waste or violations of law -- Employer action**

11095 **-- Exceptions.**

11096 (1) (a) An employer may not take adverse action against an employee because the  
11097 employee, or a person authorized to act on behalf of the employee, communicates in good  
11098 faith:

11099 (i) the waste or misuse of public funds, property, or manpower;

11100 (ii) a violation or suspected violation of a law, rule, or regulation adopted under the law  
11101 of this state, a political subdivision of this state, or any recognized entity of the United States;  
11102 or

11103 (iii) as it relates to a state government employer:

11104 (A) gross mismanagement;

11105 (B) abuse of authority; or

11106 (C) unethical conduct.

11107 (b) For purposes of Subsection (1)(a), an employee is presumed to have communicated  
11108 in good faith if the employee gives written notice or otherwise formally communicates the  
11109 conduct described in Subsection (1)(a) to:

11110 (i) a person in authority over the person alleged to have engaged in the conduct  
11111 described in Subsection (1)(a);

11112 (ii) the attorney general's office;

11113 (iii) law enforcement, if the conduct is criminal in nature;

11114 (iv) if the employee is a public entity employee, public body employee, legislative  
11115 employee, or a judicial employee:

11116 (A) the state auditor's office;

11117 (B) the president of the Senate;

11118 (C) the speaker of the House of Representatives;

11119 (D) the Office of Legislative Auditor General;

11120 (E) the governor's office;

11121 (F) the state court administrator; or

11122 (G) the Division of Finance;

11123 (v) if the employee is a public entity employee, but not an employee of a state

11124 institution of higher education, the director of the Division of Purchasing and General Services;  
 11125 (vi) if the employee is a political subdivision employee:  
 11126 (A) the legislative body, or a member of the legislative body, of the political  
 11127 subdivision;  
 11128 (B) the governing body, or a member of the governing body, of the political  
 11129 subdivision;  
 11130 (C) the top executive of the political subdivision; or  
 11131 (D) any government official with authority to audit the political subdivision or the  
 11132 applicable part of the political subdivision; or  
 11133 (vii) if the employee is an employee of a state institution of higher education:  
 11134 [~~(A) the State Board of Regents or a member of the State Board of Regents;~~]  
 11135 (A) the Utah Board of Higher Education or a member of the Utah Board of Higher  
 11136 Education;  
 11137 (B) the commissioner of higher education;  
 11138 (C) the president of the state institution of higher education where the employee is  
 11139 employed; or  
 11140 (D) the entity that conducts audits of the state institution of higher education where the  
 11141 employee is employed.  
 11142 (c) The presumption described in Subsection (1)(b) may be rebutted by showing that  
 11143 the employee knew or reasonably ought to have known that the report is malicious, false, or  
 11144 frivolous.  
 11145 (2) An employer may not take adverse action against an employee because an  
 11146 employee participates or gives information in an investigation, hearing, court proceeding,  
 11147 legislative or other inquiry, or other form of administrative review held by the public body.  
 11148 (3) An employer may not take adverse action against an employee because the  
 11149 employee has objected to or refused to carry out a directive that the employee reasonably  
 11150 believes violates a law of this state, a political subdivision of this state, or the United States, or  
 11151 a rule or regulation adopted under the authority of the laws of this state, a political subdivision  
 11152 of this state, or the United States.  
 11153 (4) An employer may not implement rules or policies that unreasonably restrict an  
 11154 employee's ability to document:



- 11155 (a) the waste or misuse of public funds, property, or manpower;  
 11156 (b) a violation or suspected violation of any law, rule, or regulation; or  
 11157 (c) as it relates to a state government employer:  
 11158 (i) gross mismanagement;  
 11159 (ii) abuse of authority; or  
 11160 (iii) unethical conduct.

11161 Section 198. **Repealer.**

11162 This bill repeals:

11163 Section **53B-1-101, Purpose of title.**

11164 Section **53B-1-106, Appointment and hiring of staff -- Transfer of functions,**  
 11165 **personnel, and funds.**

11166 Section **53B-1-107, Annual report of board activities.**

11167 Section **53B-2a-102, Commissioner of technical education -- Appointment --**  
 11168 **Duties.**

11169 Section **53B-2a-111, Board of Trustees -- Consultation with State Board of**  
 11170 **Regents.**

11171 Section 199. **Appropriation.**

11172 The following sums of money are appropriated for the fiscal year beginning July 1,  
 11173 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for  
 11174 fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures  
 11175 Act, the Legislature appropriates the following sums of money from the funds or accounts  
 11176 indicated for the use and support of the government of the state of Utah.

11177 ITEM 1

11178 To Legislature - Office of Legislative Research and General Counsel

11179 From General Fund, One-time \$1,200

11180 Schedule of Programs:

11181 Administration \$1,200

11182 ITEM 2

11183 To Legislature - Senate

11184 From General Fund, One-time \$4,000

11185 Schedule of Programs:

11186	<u>Administration</u>	<u>\$4,000</u>
11187	<u>ITEM 3</u>	
11188	<u>To Legislature - House of Representatives</u>	
11189	<u>From General Fund, One-time</u>	<u>\$4,000</u>
11190	<u>Schedule of Programs:</u>	
11191	<u>Administration</u>	<u>\$4,000</u>
11192	<u>The Legislature intends that an appropriation provided under items 1 through 3 be used</u>	
11193	<u>for expenses relating to the Higher Education Strategic Planning Commission, described in</u>	
11194	<u>Title 63C, Chapter 19, Higher Education Strategic Planning Commission.</u>	
11195	<u>STATE BOARD OF REGENTS</u>	
11196	<u>ITEM 4</u>	
11197	<u>To State Board of Regents - Administration</u>	
11198	<u>From Education Fund</u>	<u>\$4,742,600</u>
11199	<u>From Revenue Transfers</u>	<u>\$106,300</u>
11200	<u>From Beginning Nonlapsing Balances</u>	<u>\$380,800</u>
11201	<u>From Closing Nonlapsing Balances</u>	<u>(\$380,800)</u>
11202	<u>Schedule of Programs:</u>	
11203	<u>Administration</u>	<u>\$4,848,800</u>
11204	<u>The Legislature intends that the Division of Finance rename the "State Board of</u>	
11205	<u>Regents" agency "Utah Board of Higher Education" and the "State Board of Regents -</u>	
11206	<u>Administration" line item "Utah Board of Higher Education – Administration".</u>	
11207	<u>ITEM 5</u>	
11208	<u>To State Board of Regents - Student Assistance</u>	
11209	<u>From Education Fund</u>	<u>\$38,400</u>
11210	<u>Schedule of Programs:</u>	
11211	<u>Engineering Loan Repayment</u>	<u>\$38,400</u>
11212	<u>The Legislature intends that the Division of Finance rename the "State Board of</u>	
11213	<u>Regents -- Student Assistance" line item "Utah Board of Higher Education -- Student</u>	
11214	<u>Assistance".</u>	
11215	<u>ITEM 6</u>	
11216	<u>To State Board of Regents - Student Support</u>	

11217	<u>From Education Fund</u>	<u>\$20,190,400</u>
11218	<u>From Education Fund, One-time</u>	<u>\$862,100</u>
11219	<u>From Education Fund Restricted - Performance Funding</u>	
11220	<u>Restricted Account, One-time</u>	<u>\$381,100</u>
11221	<u>From Beginning Nonlapsing Balances</u>	<u>\$486,100</u>
11222	<u>From Closing Nonlapsing Balances</u>	<u>(\$486,100)</u>
11223	<u>Schedule of Programs:</u>	
11224	<u>Higher Education Technology Initiative</u>	<u>\$5,504,600</u>
11225	<u>Utah Academic Library Consortium</u>	<u>\$3,410,000</u>
11226	<u>Engineering Initiative</u>	<u>\$5,000,000</u>
11227	<u>Math Competency Initiative</u>	<u>\$1,926,200</u>
11228	<u>Performance Funding -- Colleges and</u>	
11229	<u>Universities</u>	<u>\$0</u>
11230	<u>Performance Funding -- Technical</u>	
11231	<u>Colleges</u>	<u>\$237,400</u>
11232	<u>Custom Fit</u>	<u>\$4,559,200</u>
11233	<u>The Legislature intends that the Division of Finance rename the "State Board of</u>	
11234	<u>Regents -- Student Support" line item "Utah Board of Higher Education -- Institutional and</u>	
11235	<u>Student Support".</u>	
11236	<u>ITEM 7</u>	
11237	<u>To State Board of Regents - Technology</u>	
11238	<u>From Education Fund</u>	<u>(\$7,983,500)</u>
11239	<u>From Education Fund, One-time</u>	<u>(\$862,100)</u>
11240	<u>From Education Fund Restricted - Performance Funding</u>	
11241	<u>Restricted Account, One-time</u>	<u>(\$143,700)</u>
11242	<u>From Beginning Nonlapsing Balances</u>	<u>(\$700)</u>
11243	<u>From Closing Nonlapsing Balances</u>	<u>\$700</u>
11244	<u>ITEM 8</u>	
11245	<u>To State Board of Regents - Economic Development</u>	
11246	<u>From Education Fund</u>	<u>(\$5,386,400)</u>
11247	<u>From Beginning Nonlapsing Balances</u>	<u>(\$127,400)</u>

11248	<u>From Closing Nonlapsing Balances</u>	<u>\$127,400</u>
11249	<u>ITEM 9</u>	
11250	<u>To State Board of Regents - Education Excellence</u>	
11251	<u>From Education Fund</u>	<u>(\$935,900)</u>
11252	<u>From Education Fund Restricted - Performance Funding</u>	
11253	<u>Restricted Account</u>	<u>(\$143,700)</u>
11254	<u>From Education Fund Restricted - Performance Funding</u>	
11255	<u>Restricted Account, One-time</u>	<u>\$143,700</u>
11256	<u>From Revenue Transfers</u>	<u>(\$106,200)</u>
11257	<u>From Beginning Nonlapsing Balances</u>	<u>(\$214,000)</u>
11258	<u>From Closing Nonlapsing Balances</u>	<u>\$214,000</u>
11259	<u>ITEM 10</u>	
11260	<u>To State Board of Regents - Math Competency Initiative</u>	
11261	<u>From Education Fund</u>	<u>(\$1,926,200)</u>
11262	<u>From Beginning Nonlapsing Balances</u>	<u>(\$485,400)</u>
11263	<u>From Closing Nonlapsing Balances</u>	<u>\$485,400</u>
11264	<u>UTAH SYSTEM OF TECHNICAL COLLEGES</u>	
11265	<u>ITEM 11</u>	
11266	<u>To Utah System of Technical Colleges - USTC Administration</u>	
11267	<u>From Education Fund</u>	<u>(\$7,154,800)</u>
11268	<u>From Education Fund Restricted - Performance Funding</u>	
11269	<u>Restricted Account</u>	<u>(\$237,400)</u>
11270	<u>From Beginning Nonlapsing Balances</u>	<u>(\$13,200)</u>
11271	<u>From Closing Nonlapsing Balances</u>	<u>\$13,200</u>
11272	<b>Section 200. Effective date.</b>	
11273	<u>(1) Except as provided in Subsection (2), this bill takes effect July 1, 2020.</u>	
11274	<u>(2) Amendments to the following sections take effect May 12, 2020:</u>	
11275	<u>(a) Section <a href="#">53B-1-401</a>;</u>	
11276	<u>(b) Section <a href="#">53B-1-403</a>;</u>	
11277	<u>(c) Section <a href="#">53B-1-501</a>;</u>	
11278	<u>(d) Section <a href="#">53B-1-502</a>;</u>	

11279 (e) Section [53B-1-503](#); and

11280 (f) Section [63C-19-202](#).

11281 Section 201. **Coordinating S.B. 111 with H.B. 68 -- Substantive and technical**  
11282 **amendments.**

11283 If this S.B. 111 and H.B. 68, Apprenticeship and Work-Based Learning Amendments,  
11284 both pass and become law, it is the intent of the Legislature that the Office of Legislative  
11285 Research and General Counsel prepare the Utah Code database for publication by modifying  
11286 Subsection [63N-12-507](#)(1), amended in H.B. 68 to read:

11287 "(1) The center in collaboration with the talent ready board may partner with one or  
11288 more of the following to facilitate and encourage apprenticeship opportunities and work-based  
11289 learning opportunities for Utah students:

11290 (a) the state board;

11291 (b) the Utah system of higher education; and

11292 (c) a participating employer in the state."

11293 Section 202. **Coordinating S.B. 111 with S.B. 60 -- Substantive and technical**  
11294 **amendments.**

11295 If this S.B. 111 and S.B. 60, Advice and Consent Amendments, both pass and become  
11296 law, it is the intent of the Legislature that the Office of Legislative Research and General  
11297 Counsel prepare the Utah Code database for publication by:

11298 (1) creating a newly enacted Subsection [53B-1-501](#)(4) to read:

11299 "(4) Notwithstanding Section [67-1-2](#), for an appointment described in this section:

11300 (a) a majority of the president of the Senate, the Senate majority leader, and the Senate  
11301 minority leader may waive the 30-day requirement described in Subsection [67-1-2](#)(1); and

11302 (b) the Senate is not required to hold a confirmation hearing."; and

11303 (2) modifying Subsections [67-1-2](#)(2)(b) and (3) amended in S.B. 60 to read:

11304 "(b) A majority of the president of the Senate, the Senate majority leader, and the  
11305 Senate minority leader may waive the 30-day requirement described in Subsection (1) for a  
11306 gubernatorial nominee other than a nominee for the following:

11307 (i) the executive director of a department;

11308 (ii) the executive director of the Governor's Office of Economic Development;

11309 (iii) the executive director of the Labor Commission;

11310 (iv) a member of the State Tax Commission;  
11311 (v) a member of the State Board of Education;  
11312 (vi) a member of the Utah Board of Higher Education; or  
11313 (vii) an individual;  
11314 (A) whose appointment requires the advice and consent of the Senate; and  
11315 (B) whom the governor designates as a member of the governor's cabinet.  
11316 (3) The Senate shall hold a confirmation hearing for a nominee for an individual  
11317 described in Subsections (2)(b)(i) through (vii)."

11318 Section 203. **Coordinating S.B. 111 with S.B. 90 -- Substantive and technical**  
11319 **amendment.**

11320 If this S.B. 111 and S.B. 90, Procurement Code Amendments, both pass and become  
11321 law, it is the intent of the Legislature that the Office of Legislative Research and General  
11322 Counsel prepare the Utah Code database for publication as follows:

11323 (1) the amendments to Section 63G-6a-103 in S.B. 90 supersede the amendments to  
11324 Section 63G-6a-103 in S.B. 111;

11325 (2) modify the definition of "Procurement official" in Subsection 63G-6a-103(57)(n) to  
11326 read:

11327 "(n) for the Utah Board of Higher Education, the Commissioner of Higher Education or  
11328 the designee of the Commissioner of Higher Education;";

11329 (3) modify the definition of "Rulemaking authority" in Subsection 63G-6a-103(77)(f)  
11330 to read:

11331 "(f) for a state institution of higher education, the Utah Board of Higher Education;";

11332 (4) (a) delete Subsection 63G-6a-103(77)(g); and

11333 (b) renumber remaining subsections accordingly;

11334 (4) modify Subsection 63G-6a-103(77)(k), which is renumbered to Subsection  
11335 63G-6a-103(77)(j), to read:

11336 "(k) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah  
11337 Board of Higher Education;".

11338 Section 204. **Coordinating S.B. 111 with S.B. 146 -- Substantive and technical**  
11339 **amendments.**

11340 If this S.B. 111 and S.B. 146, Boards and Commissions Modifications, both pass and

become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) creating a newly enacted Subsection [53B-1-501](#)(4) to read:

"(4) Notwithstanding Section [67-1-2](#), for an appointment described in this section:

(a) a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection [67-1-2](#)(1); and

(b) the Senate is not required to hold a confirmation hearing."; and

(2) modifying Subsections [67-1-2](#)(2)(b) and (3) amended in S.B. 146 to read:

"(b) A majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection (1) for a gubernatorial nominee other than a nominee for the following:

(i) a member of the State Tax Commission;

(ii) a member of the State Board of Education;

(iii) a member of the Utah Board of Higher Education; or

(iv) a member of a rulemaking board as that term is defined in Section [63G-24-202](#).

(3) The Senate shall hold a confirmation hearing for a nominee for an individual described in Subsections (2)(b)(i) through (iv)".

Section 205. **Coordinating S.B. 111 with S.B. 60 and S.B. 146 -- Substantive and technical amendments.**

If this S.B. 111, S.B. 60, Advice and Consent Amendments, and S.B. 146, Boards and Commissions Modifications, all pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) creating a newly enacted Subsection [53B-1-501](#)(4) to read:

"(4) Notwithstanding Section [67-1-2](#), for an appointment described in this section:

(a) a majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection [67-1-2](#)(1); and

(b) the Senate is not required to hold a confirmation hearing."; and

(2) modifying Subsections [67-1-2](#)(2)(b) and (3) amended in S.B. 60 and S.B. 146 to read:

"(b) A majority of the president of the Senate, the Senate majority leader, and the

Senate minority leader may waive the 30-day requirement described in Subsection (1) for a gubernatorial nominee other than a nominee for the following:

- (i) the executive director of a department;
- (ii) the executive director of the Governor's Office of Economic Development;
- (iii) the executive director of the Labor Commission;
- (iv) a member of the State Tax Commission;
- (v) a member of the State Board of Education;
- (vi) a member of the Utah Board of Higher Education;
- (vii) a member of a rulemaking board as that term is defined in Section [63G-24-202](#); or
- (viii) an individual:

- (A) whose appointment requires the advice and consent of the Senate; and
- (B) whom the governor designates as a member of the governor's cabinet.

(3) The Senate shall hold a confirmation hearing for a nominee for an individual described in Subsections (2)(b)(i) through (viii)."

Section 206. **Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, on July 1, 2020, replace "State Board of Regents" or "Board of Regents" with "Utah Board of Higher Education" in any new language added to the Utah Code by legislation passed during the 2020 General Session, except for the references to the "State Board of Regents" enacted in this bill in:

- (1) Section [53B-1-404](#); and
- (2) Title 53B, Chapter 1, Part 5, Transition to Utah Board of Higher Education.